Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu on Economic Cooperation

New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu (hereinafter referred to as "Chinese Taipei"), collectively referred to as "the Parties" and individually as "a Party":
BUILDING on their rights and obligations under the World Trade Organisation ("WTO");
MINDFUL of their commitment to the Asia-Pacific Economic Cooperation ("APEC") goals and principles, and in particular the efforts of all APEC economies to meet the APEC Bogor Goals of free and open trade;
BELIEVING that open, transparent and competitive markets are the key drivers of economic efficiency, innovation, wealth creation, employment and consumer welfare;
RECOGNISING that the strengthening of their economic partnership through an Economic Cooperation Agreement, which removes barriers on the trade of goods and services and investment flows, will produce mutual benefits for the Parties;
CONFIRMING their shared commitment to trade facilitation through removing non-tariff barriers and reducing costs to the movement of goods between New Zealand and Chinese Taipei;
RECOGNISING the significance of good governance and good regulatory practice in creating a predictable, transparent and consistent business environment to enable businesses to conduct transactions freely, and use resources efficiently and take investment and planning decisions with certainty;
DESIRING to enhance the competitiveness of their firms in global markets including through protecting and promoting the competitive process and the design of regulation that minimises distortions to competition;
CONSIDERING the benefits of enhancing communication and cooperation on labour and environment; MINDFUL that fostering innovation and the promotion and protection of intellectual property rights will encourage further trade, investment and cooperation between the Parties;
RECOGNISING their right to regulate, and to introduce new regulations on the supply of goods, services and investment in order to meet government policy objectives;
DESIRING to strengthen the cooperative framework for cultural and people-to-people contacts between indigenous peoples in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and New Zealand's Māori and expand and facilitate trade and economic relations between them;
Have agreed as follows:

Chapter 1. Initial Provisions

Article 1. Establishment of Economic Cooperation Agreement

The Parties, as members of the WTO and consistent with the provisions of the WTO Agreement, hereby agree to liberalise trade in services, duties and other regulations of commerce in this Economic Cooperation Agreement.

Article 2. Objectives

The objectives of this Agreement, as elaborated more specifically through its principles and rules, are to:
(a) encourage expansion and diversification of trade between the Parties;
(b) eliminate barriers to trade in, and facilitate the movement of, goods and services between the Parties;
(c) substantially increase investment opportunities between the Parties;
(d) promote conditions of fair competition in and between the Parties;
(e) ensure effective protection and enforcement of intellectual property rights in the Parties;
(f) encourage the use of good regulatory practices (as set out in Annex D (“Strengthening Implementation of Good Regulatory Practices”) of the 2011 APEC Leaders’ Declaration) for the planning, design, implementation and review of regulation; and

(g) provide an effective mechanism to prevent and resolve trade disputes.

Article 3. General Definitions

For the purposes of this Agreement, unless otherwise specified:
Agreement means this Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on Economic Cooperation.
customs administration means:
(a) in respect to New Zealand, the New Zealand Customs Service; and
(b) in respect to Chinese Taipei, the Taiwan Customs Administration.
customs duty includes any duty or charges of any kind imposed in connection with the importation of a good, and any surtaxes or surcharges imposed in connection with such importation, but does not include:
(a) charges equivalent to an internal tax imposed consistently with GATT 1994, including excise duties and goods and services tax;
(b) any anti-dumping or countervailing duty applied consistently with Article VI of GATT 1994, the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, and the WTO Agreement on Subsidies and Countervailing Measures; and
(c) fees or other charges that:
(i) are limited in amount to the approximate cost of services rendered; and
(ii) do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes; Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;
days means calendar days; enterprise means any entity constituted or organised under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation and a branch of an enterprise;
enterprise of a Party means an enterprise which is organised or constituted under the laws of that Party, and a branch located in a Party and carrying out business activities there;
GATS means the General Agreement on Trade in Services, which is part of the WTO Agreement; GATT 1994 means the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;
Harmonised System or HS means the Harmonized Commodity Description and Coding System of the World Customs Organization; measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;
natural person of a Party means a citizen or a permanent resident of a Party under its laws; person means a natural person or an enterprise; and WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, done on April 15, 1994.

Article 4. Interpretations

In this Agreement, unless the context otherwise requires:
(a) This Agreement shall be interpreted in accordance with the rules of interpretation applicable to the WTO Agreement, and as informed by its jurisprudence mutatis mutandis.
(b) Where anything under this Agreement is to be done within a number of days after, before or of a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.

Chapter 2. Trade In Goods

Article 1. Scope

Except as otherwise provided, this Chapter shall apply to trade in all goods between the Parties.

Article 2. National Treatment

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

Article 3. Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty above the base rate, or adopt any new customs duty, on an originating good of the other Party.
2. Except as otherwise provided in this Agreement, and subject to each Party's Tariff Schedule in Annex 1 (Tariff Schedules),

as at the date of entry into force of this Agreement each Party shall eliminate its customs duties on originating goods of the other Party.

Article 4. Fees and Charges Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with Article VIII.1 of GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III.2 of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.
2. Each Party shall make available through the internet or a comparable computer-based telecommunications network details of the fees and charges it imposes in connection with importation and exportation.
3. Neither Party may require that any documentation supplied in connection with the importation of any good of the other Party be endorsed, certified or otherwise sighted or approved by the importing Party's overseas representatives, or persons or entities with authority to act on the importing Party's behalf, nor impose any related fees or charges.

Article 5. Non-tariff Measures

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the other Party except in accordance with its WTO rights and obligations or in accordance with other provisions of this Agreement.
2. Each Party shall ensure its non-tariff measures permitted in paragraph 1 are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

Article 6. Agriculture Export Subsidies

1. For the purposes of this Article, agricultural goods means those products listed in Annex 1 of the WTO Agreement on Agriculture and export subsidies shall have the meaning assigned to that term in Article 1(e) of the WTO Agreement on Agriculture, including any amendment of that article.
2. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together toward an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.
3. Neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the other Party.

Article 7. Contact Points and Consultations

1. Each Party shall designate one or more contact points to facilitate communication between the Parties on any matter relating to this Chapter. The Parties shall notify each other promptly of any amendments to the details of their contact points.
2. Where either Party considers that any actual or proposed measure of the other Party may materially affect trade in goods between the Parties, that Party may through the contact point of the other Party request detailed information relating to that measure and, if necessary, request consultations with a view to resolving any concerns about the measure.
3. The requested Party shall respond promptly to any such request for information.
4. Any consultations requested under paragraph 2 shall be conducted through the relevant contact points and shall take place within 30 days of the receipt of the request, unless the Parties mutually determine otherwise.
5. Any action taken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 21 (Dispute Settlement) or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

Chapter 3. Rules of Origin

Article 1. Definitions

For the purpose of this Chapter:
aquaculture means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed-stock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;
CIF or CIF value means the value of the good imported inclusive of the cost of insurance and freight up to the port or place of entry in the importing Party;

FOB or FOB value means the value of the good free on board inclusive of the cost of transport to the port or site of final shipment abroad;
generally accepted accounting principles means the recognised accounting standards of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities;
the disclosure of information; and
the preparation of financial statements.
These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures; good means any merchandise, product, article or material;
material means any matter or substance used in the production or transformation of another good or physically incorporated into another good subject to a process in the production of that other good; non-originating good or non-originating material means a good or material which does not qualify as originating under this Chapter;
originating good or originating material means a good or material which qualifies as originating in accordance with the provisions of Article 2 of this Chapter;
producer means a person who grows, cultivates, mines, raises, harvests, fishes, traps, hunts, farms, captures, gathers, collects, breeds, extracts, manufactures, processes or assembles a good;
and production means methods of obtaining goods, including growing, cultivating, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, farming, trapping, hunting, manufacturing, processing or assembling a good.

Article 2. Originating Goods

For the purposes of this Chapter, a good shall be treated as an originating good if it:
(a) is wholly obtained or produced in a Party as provided for in Article 3 (Wholly Obtained or Produced Goods); or
(b) is produced entirely in one or both Parties exclusively from originating materials from one or both of the Parties; or (c) is produced in one or both Parties using non-originating materials that conform to a Change in Tariff Classification requirement (as provided for in Article 4), a Regional Value Content requirement (as provided for in Article 5) or other requirements as specified in Annex 2 (Product Specific Rules Schedule, hereinafter referred to as "PSR Schedule"); and
the good meets the other applicable provisions of this Chapter.

Article 3. Wholly Obtained or Produced Goods

For the purposes of Article 2(a) (Originating Goods), the following goods shall be considered as wholly obtained or produced:
(a) plant and plant goods, such as fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, grown and harvested, picked, or gathered in a Party;
(b) live animals born and raised in a Party;
(c) goods obtained from live animals in a Party;
(d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing in a Party;
(e) minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or subsoil, in a Party;
(f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law, by any vessel registered or recorded in a Party and entitled to fly the flag of that Party;
(g) goods processed and/or produced on board any factory ship registered or recorded in a Party and entitled to fly the flag of a Party from the goods referred to in subparagraph (f);
(h) goods extracted or taken by a Party, or a person of a Party, from the seabed or subsoil beyond national jurisdiction under exploitation rights granted in accordance with international law;
(i) goods which are:
(i) waste and scrap derived from production or consumption in a Party provided that such goods are fit only for the recovery of raw materials; or
(ii) used goods collected in a Party provided that such goods are fit only for the recovery of raw materials; and
(j) goods obtained or produced in a Party solely from products referred to in subparagraphs (a) to (i) or from their derivatives.

Article 4. Change In Tariff Classification

A change in tariff classification under Annex 2 (PSR Schedule) requires that the non-originating materials used in the production of the good undergo a change in tariff classification as a result of processes performed in one or both of the Parties.

Article 5. Regional Value Content

1. Where Annex 2 (PSR Schedule) refers to a Regional Value Content (RVC), the RVC shall be calculated as follows: RVC = FOB - VNM FOB x 100 where: - RVC is the regional value content, expressed as a percentage; - FOB is the FOB value of the goods; and - VNM is the value in CIF terms of non-originating materials (including materials of undetermined origin).
2. The value of the non-originating materials shall be:
(a) the CIF value at the time of importation of the material; or
(b) the earliest ascertained price paid or payable for the non-originating materials in the Party where the working or processing takes place. When 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 any other costs incurred in transporting the materials from the supplier to the producer.
3. Both the FOB and CIF values referred to above shall be determined pursuant to the Customs Valuation Agreement.

Article 6. Accumulation

Originating goods or materials from a Party, incorporated into a good in the other Party, shall be considered as originating in the other Party.

Article 7. Minimal Operations and Processes

1. Except as otherwise provided in Annex 2 (PSR Schedule), operations or processes undertaken by themselves or in combination with each other for purposes such as those listed below are considered to be minimal and shall not confer origin:
(a) ensuring preservation in good condition for the purposes of transport or storage;
(b) facilitating shipment or transportation;
(c) packaging or presenting goods for sale;
(d) affixing of marks, labels or other like distinguishing signs on products or their packaging;
(e) simple processes consisting of sifting, classifying, washing, cutting, slitting, bending, coiling and uncoiling and other similar operations; and
(f) mere dilution with water or other substances that do not materially alter the characteristics of the goods.

Article 8. De Minimis

Each Party shall provide that a good that does not undergo a change in tariff classification pursuant to Annex 2 (PSR Schedule) is nonetheless an originating good if:
(a) the value of all non-originating materials, including materials of undetermined origin, used or consumed in the production of the good that do not undergo the required change in tariff classification does not exceed 10 percent of the FOB value of the good; and
(b) the good meets all other applicable requirements of this Chapter.

Article 9. Direct Consignment

A good shall retain its originating status as determined under Article 2 (Originating Goods) if the following conditions have been met:
(a) the good has been transported to the importing Party without passing through any non-Party; or
(b) the good has transited through one or more non-Parties, with or without transhipment or temporary storage of up to six months in such non-Parties, provided that
(i) the good has not entered trade or commerce there; and
(ii) the good has not undergone any operation there other than unloading and reloading, repacking, or any operation required to preserve it in good condition or to transport it to the importing Party.

Article 10. Treatment of Packing Materials and Containers

1. Packing materials and containers exclusively used for transportation and shipment of a good shall not be taken into account in determining the origin of any good.
2. Packing materials and containers in which a good is packaged for retail sale, when classified together with that good, shall not be taken into account in determining whether all of the non-originating materials used in the production of the good have met the applicable change in tariff classification requirements for the good.
3. If a good is subject to a regional value content requirement, the value of the packing materials and containers in which the good is packaged for retail sale shall be taken into account as originating or non-originating materials, as the case may

be, in calculating the regional value content of the good.

Article 11. Accessories, Spare Parts, Tools and Instructional or Information Material

1. With regard to the change in tariff classification requirements for origin specified in Annex 2 (PSR Schedule), accessories, spare parts, tools and instructional or other information materials presented with the good shall be considered part of that good and shall be disregarded in determining whether all the non-originating materials used in the production of the originating good have undergone the applicable change in tariff classification, provided these are classified with and not invoiced separately from the good.
2. Notwithstanding paragraph 1 of this Article, if a good is subject to a regional value content requirement, the value of the accessories, spare parts, tools and instructional or other information materials presented with the good shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.
3. This Article applies only where the accessories, spare parts, tools and instructional or other information materials are presented with the good are not invoiced separately from the originating good; and the quantities and value of the accessories, spare parts, tools and instructional or other information materials presented with the good are customary for that good.

Article 12. Indirect Materials

1. In determining whether a good is an originating good, the origin of any indirect materials as defined in paragraph 2 shall be disregarded.
2. For the purposes of this Article, indirect material means a good used or consumed in the production, testing or inspection of a good but not physically incorporated into the good, or a good used or consumed in the maintenance of buildings or the operation of equipment associated with the production of a good, including:
(a) fuel and energy;
(b) tools, dies, and moulds;
(c) spare parts and materials used in the maintenance of equipment and buildings;
(d) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;
(e) gloves, glasses, footwear, clothing, safety equipment, and supplies;
(f) equipment, devices, and supplies used for testing or inspecting the goods;
(g) catalysts and solvents; and
(h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 13. Identical and Interchangeable Materials

1. In determining whether a good is an originating good, any interchangeable materials shall be distinguished by:
(a) physical separation of the goods; or
(b) an inventory management method recognised in the generally accepted accounting principles of the exporting Party.
2. Identical or interchangeable materials are goods or materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination.

Article 14. Compliance

Compliance with the requirements of this Section shall be determined in accordance with the provisions of Section B (Operational Procedures) as applicable.

Article 15. Definitions

For the purpose of this Section: declaration of origin means a statement made by the producer, supplier, exporter, importer or other competent person that the goods to which the declaration relates are originating goods in accordance with the provisions of Section A of this Chapter; and certificate of origin means a form identifying the goods, in which the producer, supplier, exporter, importer or other competent person certifies expressly that the goods to which the certificate relates are originating goods in accordance with the provisions of Section A of this Chapter.

Article 16. Treatment of Goods for Which Preference Is Claimed

1. Each Party shall provide that an importer may make a claim for preferential tariff treatment based on any of the following:
(a) a written or electronic declaration of origin;
(b) a written or electronic certificate of origin; or
(c) other evidence to substantiate the tariff preference claimed for the goods.
2. The declaration of origin and the certificate of origin shall be in the form set out in the Implementing Arrangement on Rules of Origin Operational Procedures attached to this Chapter. The Implementing Arrangement may be revised or modified by mutual decision of the Parties.
3. The declaration or certificate of origin shall be completed in English.
4. The declaration of origin shall include the following information in the "observations" field of the declaration (unless such information already appears on the export invoice in respect of the goods subject to the declaration):
(a) a full description of the good(s);
(b) six digit Harmonized System Code for the respective good(s);
(c) the producer's name(s) if known;
(d) the importer's name(s) in respect of imported goods, if known; and
(e) the rule of origin under which the declarant claims the good(s) qualifies.
5. Slight discrepancies as between the wording of the declaration or certificate of origin and the detail stated on the export invoice shall not, of themselves, cause any claim for preferential tariff treatment to be denied.
6. Each Party shall provide that where the competent person making a declaration or completing a certificate of origin is not the producer of the good, the competent person may complete and sign the declaration of origin on the basis of:
(a) specific knowledge that the good qualifies as an originating good; or
(b) a reasonable reliance on the producer's written representation that the good qualifies as an originating good.

Article 17. Exceptions from Declaration of Origin

1. An importing Party shall not require a declaration or certificate of origin to admit goods pursuant to tariff preference where:
(a) the customs value does not exceed US$1,000 or the equivalent amount in the importing Party's currency or a higher amount as it may establish; or
(b) in respect of specific goods, the importing Party has waived the requirement for such evidence.
2. Where an importation forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purposes of avoiding the origin requirements of this Article in accordance with paragraph 1, the customs administration of the importing Party may deny preferential tariff treatment.

Article 18. Records

Each Party shall require that producers, exporters and importers in their respective jurisdictions maintain for a period specified in its domestic law, as the case may be, all records relating to that exportation or importation which are necessary to demonstrate that a good for which a claim for tariff preference was made qualifies for preferential tariff treatment.

Article 19. Direct Consignment – Compliance

Compliance with the direct consignment provisions set out in Article 9 of this Chapter may be evidenced by providing the relevant commercial shipping or freight documents and, if the good has transited through a non-Party, providing any other documents that demonstrate the good has not undergone subsequent production in that non-Party.

Article 20. Third-party Invoicing

Where goods meet the requirements of Section A of this Chapter (Rules of Origin) the importing Party shall not reject a claim for origin if the invoice is issued in a third party.

Article 21. Verification of Origin

1. For the purposes of determining whether a good imported from the other Party qualifies as an originating good, the importing Party may, through its customs administration, conduct a verification of eligibility for preferential tariff treatment by means of:
(a) requests for information addressed to the importer;
(b) requests for information to the exporter or producer in the other Party;
(c) visits to the premises of an exporter or producer in the other Party to review the records referred to in Article 18

(Records) and to observe the facilities used in the production of the good; or
(d) such other procedures as the Parties may agree.
2. Any such verification activities shall only be undertaken if the amount of tariff duty foregone is sufficiently material to warrant the action.
3. All requests for information shall be accompanied by sufficient information to identify the good about which the request was made.

Article 22. Decision on Origin

1. If, as a result of questions put or visits made to the exporter or producer, the requesting Party is satisfied the goods about which those questions were put or visits made are originating goods pursuant to the provisions of this Chapter, it shall permit preferential tariff treatment for those goods.
2. Preferential tariff treatment may be denied if:
(a) the goods do not or did not meet the requirements of this Chapter;
(b) the verification procedures undertaken under Article 21 (Verification of Origin) are unable to verify the origin of a good.
3. In the event preferential tariff treatment is denied, the importing Party shall ensure that its customs administration provides in writing to the importer full reasons for that decision and the avenues available to the importer for review of that decision.
4. Where verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that an imported good qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by such a person until it is satisfied that the exporter or producer is no longer making false or unsupported representations as to origin.

Chapter 4. Customs Procedures and Cooperation

Article 1. Definitions

For the purposes of this Chapter: customs law means any legislation administered, applied, or enforced by the customs administration of a Party; customs procedures means the treatment applied by each customs administration to goods that are subject to customs control; and express consignments means all goods imported by an enterprise operating a consignment service for the expeditious international movement of goods who assumes liability to the customs for those goods.

Article 2. Objectives

The objectives of this Chapter are to:
(a) simplify and harmonise customs procedures of the Parties;
(b) ensure predictability, consistency and transparency in the application of customs laws and administrative procedures of the Parties;
(c) ensure the efficient, economical administration of customs procedures and expeditious clearance of goods;
(d) facilitate trade between the Parties; and
(e) promote cooperation between the customs administrations.

Article 3. Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent and facilitate trade.
2. Customs procedures of each Party shall where possible conform to the standards and recommended practices of the World Customs Organisation (WCO), including the principles of the International Convention on the Simplification and Harmonisation of Customs Procedures.
3. Customs administrations of the Parties shall facilitate the clearance of goods in administering their procedures in accordance with the provisions of this Chapter.
4. Each customs administration shall provide a single point, electronic or otherwise, through which its traders may submit all required information in order to obtain clearance of goods.

Article 4. Customs Valuation

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII

of GATT 1994 and the Customs Valuation Agreement.

Article 5. Tariff Classification

The Parties shall apply the International Convention on the Harmonized Commodity Description and Coding System to goods traded between them.

Article 6. Advance Rulings

1. Each customs administration shall provide in writing advance rulings in respect of the tariff classification and origin of goods to a person described in paragraph 2(a).
2. Each Party shall adopt or maintain procedures for advance rulings, which shall:
(a) provide that an importer in its jurisdiction or an exporter or producer in the jurisdiction of the other Party may apply for an advance ruling before the importation of goods in question;
(b) require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to issue an advance ruling;
(c) provide that its customs administration may, at any time during the course of issuing an advance ruling, request that the applicant provide additional information within a specified period;
(d) provide that any advance ruling be based on the facts and circumstances presented by the applicant, and any other relevant information in the possession of the decision-maker; and
(e) provide that the ruling be issued in the official language of the issuing customs administration to the applicant expeditiously on receipt of all necessary information, or in any case within:
(i) 40 days with respect to tariff classification; and
(ii) 90 days with respect to origin.
3. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with paragraph 2(c) is not provided within a specified time.
4. Subject to paragraph 5, each Party shall apply an advance ruling to all importations of goods described in that ruling imported within a period of at least three years from the date of that ruling.
5. A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law, the information provided is false or inaccurate, if there is a change in domestic law consistent with this Agreement, or there is a change in a material fact, or circumstances on which the ruling is based.
6. Subject to the confidentiality requirements of a Party's domestic law, each Party shall publish its advance rulings.

Article 7. Use of Automated Systems

1. The customs administrations shall use information technology that expedites procedures for the release of goods, as well as electronic or automated systems for risk management and targeting.
2. The Parties shall provide a facility that allows importers and exporters to electronically complete standardised import and export requirements at a single entry point.
3. The Parties shall endeavour to implement common standards and elements for import and export data in accordance with the WCO Data Model and other related WCO standards and recommendations, and models developed through APEC.

Article 8. Express Consignments

Each customs administration shall adopt procedures to expedite the clearance of express consignments while maintaining appropriate control, including:
(a) to provide for pre-arrival processing of information related to express consignments;
(b) to permit the submission of a single document covering all goods contained in a shipment transported by an express consignment enterprise through electronic means if possible; and
(c) to minimise, to the extent possible, the documentation required for the release of express consignments.

Article 9. Release of Goods

1. Each Party shall adopt or maintain procedures which allow goods to be released within 48 hours of arrival, unless:
(a) the importer fails to provide any information required by the importing Party at the time of first entry;
(b) the goods are selected for closer examination by the customs administration of the importing Party through the application of risk management techniques; or
(c) the goods are to be examined by any agency, other than the customs administration of the importing Party, acting under

powers conferred by the domestic legislation of the importing Party.
2. Each Party shall provide for the electronic submission of import requirements in advance of the arrival of the goods to expedite the release of goods from customs control upon arrival.

Article 10. Risk Management

1. The Parties shall administer customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods.
2. To enhance the flow of goods across their borders the customs administration of each Party shall regularly review these procedures.

Article 11. Review and Appeal

1. Each Party shall provide for the right of appeal without penalty in regard to customs administrative rulings, determinations or decisions by the importer, exporter or any other person affected by that administrative ruling, determination or decision.
2. An initial right of appeal by a person described in paragraph 1 may be to an authority within the customs administration or to an independent body, but the legislation of each Party shall provide for the right of appeal without penalty to a judicial authority.
3. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

Article 12. Customs Cooperation

1. The customs administrations of the Parties may assist each other by providing information on the following:
(a) the implementation and operation of this Chapter;
(b) the movement of goods among the Parties;
(c) investigation and prevention of prima facie customs offences;
(d) developing and implementing customs best practice and risk management techniques;
(e) simplifying and expediting customs procedures;
(f) advancing technical skills and the use of technology;
(g) application of the Customs Valuation Agreement; and
(h) additional assistance in respect to other matters.
2. Customs administrations may consult each other on any trade facilitation issues arising from procedures to secure trade and the movement of means of transport between the Parties.

Article 13. Customs Consultation

1. Either customs administration may at any time request consultations with the other customs administration on any matter arising from the operation or implementation of this Chapter. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days of the request, unless the customs administrations of the Parties mutually determine otherwise.
2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the Joint Commission for consideration.
3. Each customs administration shall designate one or more contact points for the purposes of this Chapter and provide details of such contact points to the other Party. Customs administrations of the Parties shall notify each other promptly of any amendments to the details of their contact points.
4. Customs administrations may consult each other on any trade facilitation issues arising from procedures to secure trade between the Parties.
5. Consultations pursuant to this Article are without prejudice to the rights of the Parties under Chapter 21 (Dispute Settlement) of this Agreement or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

Article 14. Enquiry Points

Each Party shall designate one or more enquiry points to address enquiries from interested persons concerning customs matters, and shall make available on the internet or in print form information concerning procedures for making such enquiries.

Article 15. Publication and Transparency

1. Each customs administration shall make available all customs laws, regulations and any administrative procedures it applies or enforces on the internet and through any other media as appropriate.
2. Each customs administration shall promptly inform the other customs administrations of any significant modification of customs law or procedures governing the movement of goods that is likely to substantially affect the operation of this Chapter.

Article 16. Review of Customs Procedures

Each customs administration shall periodically review its procedures with a view to their further simplification and the development of mutually beneficial arrangements to facilitate the flow of trade between the Parties.

Chapter 5. Trade Remedies

Article 1. General Provisions

The Parties maintain their rights and obligations under Article VI of GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures, the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

Article 2. Safeguard Measures

A Party taking any measure pursuant to Article XIX of GATT 1994 and the WTO Agreement on Safeguards shall exclude imports of an originating good from the other Party from the action if such imports do not in and of themselves cause or threaten to cause serious injury.

Article 3. Consultations

1. Each Party shall designate one or more contact points for the purposes of this Chapter and provide details of such contact points to the other Party. The Parties shall notify each other promptly of any amendments to the details of their contact points.
2. A Party may at any time request consultations with the other Party on any matter arising from the operation or implementation of this Chapter. Such consultations shall be conducted through the relevant contact points and shall take place within 30 days of the receipt of the request, unless the Parties mutually determine otherwise.
3. Any action taken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 21 (Dispute Settlement) or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

Chapter 6. Sanitary and Phytosanitary Measures

Article 1. Definitions

For the purposes of this Chapter, the definitions in Annex A of the Agreement on the Application of Sanitary and Phytosanitary Measures and the relevant definitions developed by the Codex Alimentarius Commission ("Codex"), the World Organisation for Animal Health ("OIE") and under the framework of the International Plant Protection Convention ("IPPC") shall apply to the implementation of this Chapter.
In addition: implementing arrangements means subsidiary documents to this Chapter which set out the mutually determined mechanisms for applying, or outcomes derived from applying, the principles and processes outlined in this Chapter; Joint Management Committee means the Committee established under Article 16; and SPS Agreement means the Agreement on the Application of Sanitary and Phytosanitary Measures, which is part of the WTO Agreement.

Article 2. Objectives

The objectives of this Chapter are to:
(a) uphold and enhance implementation of the SPS Agreement and the use of applicable international standards, guidelines and recommendations developed by Codex, OIE, and under the framework of the IPPC; (b) provide a mechanism for enhancing the Parties' implementation of the SPS Agreement and for enhancing the Parties' cooperation in these and other

areas;
(c) facilitate trade between the Parties through seeking to resolve trade access issues, while protecting human, animal or plant life or health in the Parties; and (d) provide a means to improve communication and consultation on sanitary and phytosanitary issues.

Article 3. Scope

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

Article 4. International Obligations

Nothing in this Chapter or implementing arrangements shall limit the rights or obligations of the Parties pursuant to the SPS Agreement.

Article 5. Implementing Arrangements

1. The Parties may conclude implementing arrangements setting out details for the implementation of this Chapter, including in relation to competent authorities, contact points, adaptation to regional conditions, equivalence, verification, certification, and import checks and as provided for in Articles 6, 7, 8, 9, 10, and 11 of this Chapter.
2. Each Party responsible for the implementation of an implementing arrangement shall take all necessary actions to do so within a reasonable period of time as mutually determined by the Parties. 3. Where implementing arrangements have been adopted, they shall be applied to trade between the Parties.

Article 6. Competent Authorities and Contact Points

1. The contact point for and the competent authorities of each Party shall be set out in an implementing arrangement. The competent authorities of the Parties are those authorities that are responsible for an implementation of matters within the scope of this Chapter.
2. The Parties shall inform each other of any significant changes to standards or to other SPS measures relevant to or affecting trade between the Parties.

Article 7. Adaptation to Regional Conditions

1. The Parties may make determinations in relation to regionalisation, pest- or disease-free areas, areas of low pest or disease prevalence, zoning and compartmentalisation which shall be consistent with the SPS Agreement, and in particular Article 6 thereof.
2. The Parties may agree the principles and procedures applicable to the determinations regarding adaptation to regional conditions made in accordance with paragraph 1 of this Article, and any such agreed principles and procedures shall be recorded in an implementing arrangement.
3. Any determinations in relation to regionalisation, pest-free or disease-free areas, areas of low pest or disease prevalence, zoning and compartmentalisation shall be recorded in an implementing arrangement.
4. When the importing Party commences a determination, the Party shall promptly upon request, explain its plan for making the determination of regional conditions, and if the determination is positive, for enabling trade.
5. Upon request, the importing Party shall inform the exporting Party of the progress of their specific determination request. The importing Party shall also inform the exporting Party of any unexpected delay that may occur during the process.
6. The Parties may also decide in advance the risk management measures that will apply to trade between them in the event of a change in status.
7. Following a determination assessment, if the evaluation of the evidence provided by the exporting Party does not result in a decision by the importing Party to recognise the pest-free and disease-free areas, or areas of low pest and disease prevalence, the importing Party shall provide the exporting Party the rationale for its decision.

Article 8. Equivalence

1. The Parties recognise that the application of equivalence is an important tool for trade facilitation. A determination of equivalence may be made in relation to partial or full equivalence of sanitary and phytosanitary measures and systems. 2. The determination of equivalence requires an objective, risk-based assessment or evaluation by the importing Party of the existing, revised or proposed measures. In recognising equivalence, the Parties shall take into account existing knowledge

and information and the performance of the relevant competent authorities.
3. The importing Party shall accept the sanitary and phytosanitary measure of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measure achieves the same level of protection as the importing Party's measure, or that its measure has the same effect in achieving the objective as the importing Party's measures. To facilitate a determination of equivalence, a Party shall on request advise the other Party of the objective of any relevant sanitary or phytosanitary measure.
4. The Parties may agree the principles and procedures applicable to the determinations of equivalence made in accordance with this Article, and any such agreed principles and procedures shall be recorded in an implementing arrangement.
5. The Parties shall take into account the relevant guidance provided by the international standard-setting organisations, the IPPC for plant health, the OIE for animal health, Codex for food safety; and by the WTO Committee on Sanitary and Phytosanitary Measures, as well as experience already acquired.
6. When an importing Party commences an equivalence assessment, the Party shall promptly upon request, explain its equivalence process and plan for making the equivalence determination and, if the determination is positive, for enabling trade.
7. Upon request, the importing Party shall inform the exporting Party of the progress of their specific determination request. The importing Party shall also inform the exporting Party of any unexpected delay that may occur during the process.
8. Following an equivalence assessment, if the evaluation of the evidence provided by the exporting Party does not result in a decision by the importing Party to recognize equivalence, the importing Party shall provide the exporting Party the rationale for its decision.
9. Equivalence decisions shall be recorded in an implementing arrangement, including any additional conditions to be applied in the case of partial equivalence. This implementing arrangement may also record any action required of either Party to facilitate progress towards full equivalence. 10. The consideration by a Party of a request from the other Party for recognition of the equivalence of its measures with regard to a specific product shall not be in itself a reason to disrupt or suspend ongoing imports from that Party of the product in question.

Article 9. Verification

1. In order to maintain confidence in the effective implementation of the provisions of this Chapter, each Party shall have the right to audit the exporting Party's competent authority and associated inspection system. Audits shall be commensurate with the associated risk and designed to check the effectiveness of the regulatory controls of the competent authorities of the exporting Party and these audits may include particular establishments in the exporting Party. The scope of the audit may include an assessment of the competent authorities' control system, including, where appropriate, reviews of inspection and verification programmes and on-site checks. These procedures shall be carried out in accordance with provisions agreed and recorded in an implementing arrangement.
2. As mutually agreed, a Party may: (a) share the results and conclusions of its audits with non-Parties to this Agreement; and (b) use the results and conclusions of the audits conducted by countries that are not parties to this Agreement.

Article 10. Certification

Each consignment of animals, animal products, plants, plant products or other related goods will be accompanied, where required, by the relevant official sanitary or phytosanitary certificate using the model in the certification implementing arrangement, where agreed, and conforming with other relevant provisions of the implementing arrangements. The Parties may jointly determine principles or guidelines for certification. Any such principles shall be included in the certification implementing arrangement.

Article 11. Import Checks

1. The import checks applied to imported animals, animal products, plants and plant products or other related goods traded between the Parties shall be based on the risk associated with such importations. They shall be carried out in a manner that is least trade-restrictive and without undue delay.
2. The frequencies of import checks on such importations shall be made available on request. The importing Party shall notify the other Party in a timely manner of any amendment to the frequency of import checks in the event of change in the import risk. On request, an explanation regarding amendments shall be given or consultations shall be undertaken.
3. The Parties may record frequencies of import checks in an implementing arrangement and in that case they shall be applied accordingly. The Parties may amend the frequencies of those import checks as a result of experience gained through import checks or otherwise, or as a result of actions or consultations provided for in this Chapter.
4. In the event that the import checks reveal non-conformity with the relevant standards and/or requirements, the action taken by the importing Party should be proportionate to the risk involved.
5. At the request of the exporting Party, the importing Party shall to the maximum extent possible ensure that officials of the

exporting Party or their representatives are given the opportunity to contribute any relevant information to assist the importing Party in taking a final decision on the action taken. On request and when mutually agreed, testing of the preserved sample may be carried out in a process jointly agreed by the Parties.

Article 12. Cooperation

Consistent with the objectives of this Chapter, the Parties shall explore opportunities for further cooperation in sanitary and phytosanitary matters of mutual interest.

Article 13. Notification

1. The Parties shall notify each other, in a timely and appropriate manner, in writing through the contact points of any significant food safety issue or change in animal health, plant health or pest status in their jurisdiction relevant to existing trade.
2. In cases of serious and immediate concern with respect to human, animal or plant life or health, notification shall be made with urgency to the contact points and formal written confirmation should follow within 24 hours.
3. Where a Party has serious concerns regarding a risk to human, animal or plant life or health, consultations regarding the situation shall, on request, take place as soon as possible, and in any case within 14 days unless otherwise agreed between the Parties. Each Party shall endeavour in such situations to provide all the information necessary to avoid a disruption in trade, and to reach a mutually acceptable solution.
4. Where there is a non-compliance of imported consignments for products subject to sanitary or phytosanitary measures, the importing Party shall notify as soon as possible the exporting Party of the non-compliance.

Article 14. Emergency Measures

A Party may, on serious human, animal or plant life or health grounds, take provisional measures necessary for the protection of human, animal or plant life or health. These measures shall be notified in writing within 48 hours to the other Party and, on request, consultations regarding the situation shall be held within 14 days unless otherwise agreed by the Parties. The Parties shall take due account of any information provided through such consultations.

Article 15. Exchange of Information

1. The Parties, through the contact points, shall exchange information relevant to the implementation of this Chapter on a uniform and systematic basis, to provide assurance, engender mutual confidence and demonstrate the efficacy of the programmes controlled. Where appropriate, achievement of these objectives may be enhanced by exchanges of officials.
2. The information exchange on changes in the respective sanitary and phytosanitary measures, and other relevant information, shall include:
(a) opportunity to consider proposals for changes in regulatory standards or requirements which may affect this Chapter in advance of their finalisation. Where either Party considers it necessary, proposals may be dealt with in accordance with Article 16;
(b) briefing on current developments affecting trade;
(c) information on the results of the verification procedures provided for in Article 10; and
(d) relevant sanitary and phytosanitary publications of the competent authorities.
3. Each Party shall facilitate the consideration in its relevant scientific forums of scientific papers or data submitted by the other Party to substantiate that Party's views or claims. Such submissions shall be evaluated by relevant scientific forums in a timely manner, and the results of that examination shall be made available to the Parties.

Article 16. Joint Management Committee

1. The Parties shall establish a Joint Management Committee which shall include representatives from the competent authorities of the Parties. The Committee shall be co-chaired by competent authorities' representatives of each Party. At the first meeting of the Committee, it will establish its rules of procedure.
2. The objective of the Committee is to facilitate bilateral trade in goods affected by sanitary or phytosanitary measures and to achieve this by giving practical effect to this Chapter, including through the establishment and monitoring of the application of implementing arrangements.
3. The Committee shall consider any matters relating to the implementation of this Chapter including:
(a) establishing, monitoring and reviewing work plans;
(b) establishing technical working groups as appropriate;

(c) initiating, developing, reviewing and modifying implementing arrangements which further elaborate the provisions of this Chapter;
(d) exchanging sanitary and phytosanitary information on bilateral trade;
(e) discussing positions on important sanitary and phytosanitary issues in the WTO Committee on Sanitary and Phytosanitary Measures and in relevant international standards setting bodies; and
(f) consulting with a view to resolving sanitary and phytosanitary issues arising in bilateral trade.
4. The Committee shall meet within one year of the entry into force of this Agreement and at least annually thereafter or as mutually determined by the Parties. It may meet in person, teleconference, video conference, or through any other means, as mutually determined by the Parties. The Committee may also address issues through correspondence. 5. The Committee may agree to establish technical working groups consisting of expert-level representatives of the Parties, which shall identify and address technical and scientific issues arising from this Chapter.
Where additional assistance is needed, these groups may decide, by mutual agreement, to request expert advice from non-Party individuals or groups.
6. Notwithstanding paragraph 5, the competent authorities may consult on and resolve issues. Where they consider it appropriate, they may discuss the establishment of a working group and the scope of its work for a possible recommendation to the Committee.

Chapter 7. Technical Barriers to Trade

Article 1. Objectives

The objectives of this Chapter are to:
(a) increase and facilitate trade through furthering the implementation of the TBT Agreement;
(b) eliminate unnecessary technical barriers to trade in goods between the Parties including to minimise unnecessary costs and delays to market for businesses;
(c) further strengthen mutual understanding of each Party's standards, technical regulations and conformity assessment procedures;
(d) promote greater regulatory cooperation to manage risks to health, safety and the environment as a means of supporting trade facilitation;
(e) establish a framework to address the impacts of technical barriers to trade affecting trade in goods between the Parties; and
(f) strengthen cooperation between the Parties in relation to international developments in the areas of standardisation and conformity assessment.

Article 2. Definitions

For the purposes of this Chapter, the definitions set out in Annex 1 of the the Agreement on Technical Barriers to Trade shall apply mutatis mutandis. In addition, the following definitions shall apply: designation means the authorisation of a conformity assessment body to perform conformity assessment procedures, by a body with the authority to designate, monitor, suspend or withdraw designation, or remove suspension of conformity assessment bodies within the Parties; technical regulations has the meaning set out in the TBT Agreement and includes standards that regulatory authorities of a Party recognise as meeting the mandatory requirements related to performance based regulations; and TBT Agreement means the Agreement on Technical Barriers to Trade, which is part of the WTO Agreement.

Article 3. Scope

1. This Chapter applies to the preparation, adoption and application of all technical regulations, standards and conformity assessment procedures that may affect the trade in goods between the Parties, except as provided in paragraphs 2 and 3 of this Article.
2. This Chapter does not apply to technical specifications prepared by governmental entities for production or consumption requirements of such entities. Such specifications are covered by Chapter 11 (Government Procurement). 3. This Chapter does not apply to sanitary and phytosanitary measures. Such measures are covered by Chapter 6 (Sanitory and Phytosanitory Measures).
4. For greater certainty, nothing in this Chapter shall prevent a Party from adopting or maintaining technical regulations, standards or conformity assessment procedures, in accordance with its rights and obligations under the TBT Agreement including those necessary to fulfil a legitimate objective taking into account the risks non-fulfilment would create. Such legitimate objectives are, inter alia: security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. In assessing such risks, relevant elements of consideration are, inter alia: available scientific and technical information, related processing technology or intended end-uses of products.

Article 4. Incorporation of Certain Articles of Tbt Agreement

Articles 1 through 9 inclusive of the TBT Agreement are incorporated into and made part of this Agreement mutatis mutandis.

Article 5. International Standards

1. The Parties acknowledge the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment amongst the Parties, good regulatory practice and reducing unnecessary barriers to trade.
2. Further to Articles 2.4 and 5.4 and Annex 3 of the TBT Agreement, in determining whether an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall base its determination on the Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations With Relation to Articles 2, 5 and Annex 3 of the Agreement, issued by the WTO Committee on Technical Barriers to Trade and contained in WTO document number G/TBT/1/Rev.10.
3. The Parties shall cooperate with each other, where feasible and appropriate, to ensure that international standards, guides and recommendations that are likely to become a basis for technical regulations and conformity assessment procedures do not create unnecessary obstacles to international trade.

Article 6. Conformity Assessment Procedures

1. Further to Article 6.4 of the TBT Agreement, each Party shall accord to conformity assessment bodies located in the other Party treatment no less favourable than that it accords to conformity assessment bodies located in its own jurisdiction. In order to ensure that it accords such treatment, each Party shall apply to conformity assessment bodies located in the other Party the same or equivalent procedures, criteria and other conditions that it may apply where it accredits, approves, licenses, or otherwise recognises conformity assessment bodies in its own jurisdiction.
2. Paragraph 1 shall not preclude a Party from undertaking solely within specified government bodies located in its own jurisdiction or in the other Party, conformity assessment in relation to specific products, subject to its obligations under the TBT Agreement.
3. Further to Article 6.4 of the TBT Agreement, where a Party maintains procedures, criteria and other conditions as set out in paragraph 1 and requires test results, certifications, and/or inspections as positive assurance that a product conforms to a standard or technical regulation, it:
(a) shall not require the conformity assessment body responsible for testing or certifying the product or conducting an inspection to be located within that Party;
(b) shall not impose requirements on conformity assessment bodies located outside that Party that would effectively require such conformity assessment bodies to operate an office in that Party; and
(c) shall permit conformity assessment bodies located in the other Party to apply to the Party for a determination that they comply with any procedures, criteria and other conditions the Party requires to deem them competent or otherwise approve them to test or certify the product or conduct an inspection.
4. Nothing in paragraphs 1 and 3 precludes a Party from verifying the results of conformity assessment procedures undertaken by such conformity assessment bodies.
5. In order to enhance confidence in the continued reliability of conformity assessment results from each other's jurisdictions, a Party may, at any time, request information and discussion on matters pertaining to conformity assessment bodies in the other Party. Such matters may include the process used to accredit, approve, license or otherwise recognise conformity assessment bodies and the technical competence of such bodies.
6. Further to Article 9.1 of the TBT Agreement, where a Party proposes to prepare or adopt procedures, criteria or other conditions to deem competent or otherwise approve conformity assessment bodies to demonstrate that a product conforms to a standard or technical regulation, it shall consider including provisions for deeming competent or otherwise approving a conformity assessment body if an accreditation body participating in an international or regional system of accreditation as agreed by the Parties has determined that the conformity assessment body:
(a) conforms to relevant international standards, guides or recommendations, pertaining to conformity assessment;
(b) is technically competent to demonstrate that the product complies with the standard or technical regulation; and
(c) holds an appropriate scope of accreditation.
7. Further to Article 9.2 of the TBT Agreement, a Party shall not refuse to accept, or take actions which have the effect of, directly or indirectly, requiring or encouraging the refusal of acceptance of conformity assessment results from a conformity assessment body because the accreditation body that accredited the conformity assessment body:
(a) operates in the other Party where there is more than one accreditation body;
(b) is a non-governmental body;

(c) is domiciled in the other Party and that Party does not maintain a procedure for recognising accreditation bodies;
(d) does not operate an office in the Party; or
(e) is a for-profit entity. 8. For greater clarity, nothing in paragraph 7 prohibits a Party from refusing to accept conformity assessment results from a conformity assessment body where it can substantiate such refusal, provided that such actions are not inconsistent with the TBT Agreement and this Chapter.
9. Where a Party accredits, approves, licenses or otherwise recognises bodies assessing conformity to a particular technical regulation or standard in its jurisdiction and refuses to accredit, approve, license or otherwise recognise a body assessing conformity with that technical regulation or standard in the other Party or declines to use a mutual recognition arrangement, it shall, on request of the other Party, explain the reasons for its refusal.
10. Where a Party does not accept the results of a conformity assessment procedure conducted in the other Party, it shall, on the request of the other Party, explain the reasons for its decision.
11. Further to Article 6.3 of the TBT Agreement, where a Party declines a request of the other Party to enter into negotiations for the conclusion of agreements for mutual recognition of results of each other's conformity assessment procedures, it shall on the request of that other Party, explain the reasons for its decision.
12. Further to Article 5.2.5 of the TBT Agreement, any conformity assessment fees imposed by a Party including any costs arising from communication, transportation, and differences between location of facilities of the applicant and the conformity assessment body, shall be limited in amount to the approximate cost of services rendered.
13. No Party shall require that any documentation supplied in connection with conformity assessment be endorsed, certified or otherwise sighted or approved by its overseas representatives nor impose any related fees and charges.

Article 7. Trade Facilitation and Cooperation

1. Further to Articles 5, 6 and 9 of the TBT Agreement, the Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of conformity assessment results. In this regard, a Party mayacceptance of conformity assessment results. In this regard, a Party mayacceptance of conformity assessment results. In this regard, a Party may
(a) implement mutual recognition of the results of conformity assessment procedures performed by bodies located in the other Party with respect to specific technical regulations;
(b) recognise existing regional, international and multilateral recognition agreements and arrangements between or among accreditation bodies or conformity assessment bodies;
(c) use accreditation to qualify conformity assessment bodies, particularly international systems of accreditation;
(d) designate conformity assessment bodies or recognise the other Party's designation of conformity assessment bodies;
(e) unilaterally recognise the results of conformity assessment procedures performed in the other Party; and (f) accept a supplier's declaration of conformity.
2. The Parties recognise that a wide range of mechanisms exist to support greater regulatory alignment and to eliminate unnecessary technical barriers to trade in the region including:
(a) regulatory dialogue and cooperation to, inter alia:
(i) exchange information on regulatory approaches and practices;
(ii) promote the use of good regulatory practices to improve the efficiency and effectiveness of technical regulations, standards and conformity assessment procedures;
(iii) provide technical advice and assistance, on mutually agreed terms and conditions, to improve practices related to the development, implementation and review of technical regulations, standards, conformity assessment procedures and metrology;
(iv) provide technical assistance and cooperation, on mutually agreed terms and conditions, to build capacity and support the implementation of this Chapter;
(b) promotion of the acceptance as equivalent technical regulations of the other Party;
(c) greater alignment of domestic standards with relevant international standards, except where inappropriate or ineffective; and (d) facilitation of the greater use of relevant international standards, guides and recommendations as the basis for technical regulations and conformity assessment procedures.
3. With respect to the elements listed in paragraphs 1 and 2, the Parties recognise that the choice of the appropriate mechanism in a given regulatory context will depend on a variety of factors, such as the product and sector involved, the volume and direction of trade, the relationship between Parties' respective regulators, the legitimate objectives pursued and the risks of non-fulfilment of those objectives.
4. The Parties shall intensify their exchange and collaboration on mechanisms to facilitate the acceptance of conformity assessment results, to support greater regulatory alignment and to eliminate unnecessary technical barriers to trade between them.
5. A Party shall, upon request of the other Party, give due consideration to any sector specific proposal to facilitate trade or for cooperation under this Chapter.
6. Further to Article 2.7 of the TBT Agreement, a Party shall, upon the request of the other Party, explain the reasons why it has not accepted a technical regulation of that Party as equivalent.

7. A Party shall give due consideration to a request from the other Party to negotiate and conclude agreements for achieving equivalence of technical regulations. Where a Party declines such a request, it shall, at the request of the other Party, explain the reasons for its decision.
8. The Parties shall encourage cooperation between their respective organisations responsible for standardisation, conformity assessment, accreditation and metrology, whether they be public or private, with a view to addressing issues covered by this Chapter.

Article 8. Transparency and Information Exchange

1. In order to enhance the opportunity for the other Party and interested persons of the other Party to provide meaningful comments on a proposal to introduce a particular technical regulation or conformity assessment procedure, a Party publishing a notice under Article 2.9 or 5.6 of the TBT Agreement shall:
(a) include in the notice a statement describing the objective of the proposal and the rationale for the approach that the Party is proposing;
(b) at the same time as it notifies WTO Members of the proposal pursuant to the TBT Agreement, transmit the notification electronically to the other Party through its enquiry point established under Article 10 of the TBT Agreement; and
(c) on request, make the text of any technical regulation and conformity assessment procedure based on a proposal available electronically to the other Party as soon as practicable after it becomes publicly available. 2. Each Party should allow at least 60 days from the transmission of the notification under paragraph 1(b) above for the other Party and interested persons of the other Party to make written comments on the proposal.
3. Where a Party makes a notification under Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit the notification to the other Party electronically, through its enquiry point referred to under paragraph 1(b).
4. A Party shall, upon the request of the other Party, provide the relevant documents and other information regarding the objective of, and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.
5. Either Party may request the other Party to provide information on any matter arising under this Chapter. The Party so requested shall provide such information within a reasonable period of time, and where possible, using electronic means.

Article 9. Technical Discussions

1. Either Party may request technical discussions with the other Party with the aim of resolving any matter arising under this Chapter. A request for technical discussions shall be directed to the other Party's contact point established under Article 10 (Committee on Technical Barriers to Trade and Contact Points). Unless the Parties mutually determine otherwise, the Parties shall hold technical discussions within 60 days from the request.
2. The Parties shall ensure that the persons and organisations in their respective jurisdictions that have responsibility for the relevant technical regulations, standards or conformity assessment procedures that are the subject of the technical discussions participate in those discussions.
3. Technical discussions may be conducted in person or via email, teleconference, video-conference or any other means, as mutually determined by the Parties.
4. Where a Party has requested technical discussions pursuant to paragraph 1, the requested Party shall:
(a) investigate the issues that gave rise to the request for discussions, including whether there are any irregularities in the implementation of its technical regulations, standards or conformity assessment procedures;
(b) give positive consideration to any request to address any irregularities identified under subparagraph (a); and
(c) report back to the requesting Party on the outcome of its investigations, stating its reasons.
5. Technical discussions held pursuant to this Article are without prejudice to the rights and obligations of the Parties under Chapter 21 (Dispute Settlement), the WTO Agreement or any other agreement to which both Parties are party.

Article 10. Committee on Technical Barriers to Trade and Contact Points

1. The Parties hereby establish the Committee on Technical Barriers to Trade ("TBT Committee"), which shall comprise representatives of each Party.
2. Through the TBT Committee, the Parties shall intensify their joint work in the fields of technical regulations, conformity assessment procedures and standards with a view to facilitating trade between and among the Parties.
3. The TBT Committee's functions may include:
(a) monitoring the implementation and operation of this Chapter and any other commitments agreed under this Chapter;
(b) monitoring any technical discussions on matters arising under this Chapter requested pursuant to Article 9 (Technical Discussions);
(c) agreeing to priority areas of mutual interest for future work under this Chapter and considering proposals for new sector specific or other initiatives;

(d) encouraging cooperation between the Parties in matters pertaining to this Chapter, including the development, review and/or modification of technical regulations, standards and conformity assessment procedures;
(e) encouraging cooperation between and among non-governmental bodies in the Parties, as well as cooperation between governmental and non-governmental bodies in the Parties in matters pertaining to this Chapter;
(f) encouraging the exchange of information between Parties and their relevant non-governmental bodies, where appropriate, on the development of common approaches regarding matters under discussion in non-governmental, regional, plurilateral and multilateral bodies or systems that develop standards, guides, recommendations, policies or other procedures relevant to this Chapter;
(g) at a Party's request, encouraging the exchange of information regarding specific technical regulations, conformity assessment procedures and standards of non-Parties with a view to fostering a common understanding and approach to such issues;
(h) taking any other steps that the Parties consider will assist them in implementing this Chapter and the TBT Agreement;
(i) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments; and
(j) reporting to the Joint Commission on the implementation and operation of this Chapter.
4. The TBT Committee may establish working groups to carry out these functions.
5. Each Party shall designate a contact point, and shall provide the other Party with the name of its designated contact point, the contact details of the relevant officials in that organisation, including telephone numbers, fax numbers, email addresses and other relevant details.
6. Each Party shall notify the other Party promptly of any change in its contact point or any amendments to the details of the relevant officials.
7. The responsibilities of each contact point shall include:
(a) communicating with the other Party's contact points, including facilitating discussions, requests and the timely exchange of information on matters arising under this Chapter;
(b) communicating with and coordinating the involvement of a Party's agencies, including regulatory authorities, on relevant matters pertaining to this Chapter;
(c) consulting and, where appropriate, coordinating with interested persons in that Party on relevant matters pertaining to this Chapter; and
(d) any additional responsibilities as the TBT Committee may specify.
8. The TBT Committee shall meet within one year of the date of entry into force of this Agreement and thereafter as agreed by the Parties. The TBT Committee shall carry out its work through communication means agreed by the Parties, which may include e-mail, teleconference, video-conference, in meetings at the margins of other regional or international fora, or other means.
9. Decisions of the TBT Committee shall be taken by consensus.
10. In determining what activities the TBT Committee shall undertake, the Parties shall consider work that is being undertaken in other fora, with a view to ensuring that any activities undertaken by the TBT Committee do not unnecessarily duplicate that work.

Article 11. Implementing Arrangements on Sectoral Initiatives

1. The Parties affirm the following existing bilateral arrangements:
(a) The Arrangement between the New Zealand Commerce and Industry Office and the Taipei Economic and Cultural Office in New Zealand in Relation to Facilitating Trade in Electrical and Electronic Products signed on 15 July 2005; and
(b) The Regulatory Cooperation Arrangement on Standards, Technical Regulations and Conformity Assessment between the Taipei Economic and Cultural Office in New Zealand and the New Zealand Commerce and Industry Office signed on 4 March 2010.
2. The Parties may conclude further implementing arrangements to this Chapter, including on specific product sectors of mutual interest to the Parties (2) as agreed by the TBT Committee established under Article 10 of this Chapter. Such implementing arrangements will set out agreed principles and procedures relating to technical regulations and conformity assessment procedures applicable to goods traded between them.
3. In developing implementing arrangements the Parties shall take account of any existing bilateral, regional and multilateral agreements or arrangements concerning technical regulations and conformity assessment procedures that both Parties already participate in.

(2) Chinese Taipei's interests in that regard include medical devices and pharmaceuticals.

Chapter 8. Competition

Article 1. Objectives

The Parties recognise the strategic importance of promoting open and competitive markets through the effective application of competition policies for the purposes of enhancing trade and investment, economic efficiency and consumer welfare.

Article 2. Promotion of Competition

1. The Parties endorse the APEC Principles to Enhance Competition and Regulatory Reform. The Parties agree to promote competition and will seek to ensure that the design of trade and competition policies and the implementation of domestic laws give due weight to their effects on competition. Accordingly, the Parties will:
(a) provide for transparency in policies, laws and rules, and their implementation;
(b) apply competition policies to economic activities, including public and private business activities, in a manner that does not discriminate between or among economic entities in like circumstances;
(c) maintain a high-level government commitment to promote competition and enhance economic efficiency, including through assessments of regulatory impacts or other appropriate means;
(d) set out clear responsibilities within their respective administrations for promoting and identifying the competition and efficiency dimensions in the development of policies and rules, and their implementation; (e) promote coherent and effective implementation of trade and competition policies within their respective jurisdictions; and
(f) foster appropriate cooperation between trade and competition officials.
2. The Parties recognise that the implementation of paragraph 1 may be subject to the different circumstances of the Parties and the different policy approaches that arise from these circumstances.

Article 3. Competition Law and Authorities

1. Recognising the objectives in Article 1 and principles in Article 2, the Parties shall adopt or maintain competition laws that proscribe anticompetitive business conduct, with the objective of facilitating economic efficiency and consumer welfare, and shall take appropriate action with respect to such conduct.
2. At the time of entry into force of this Agreement this obligation is fulfilled by:
(a) For New Zealand, the Commerce Act 1986.
(b) For Chinese Taipei, the Fair Trade Act.
3. Each Party shall maintain an authority or authorities responsible for the enforcement of its competition laws.
4. Each Party shall endeavour to apply its competition laws to all commercial activities in its jurisdiction and shall not discriminate on the basis of nationality when enforcing these laws.

Article 4. Exemptions and Exceptions

The Parties recognise that certain exemptions and exceptions from their respective competition regimes may be necessary to achieve other legitimate policy objectives. The Parties shall endeavour to identify and review these exemptions and exceptions to ensure that each is no broader than necessary to achieve a legitimate policy objective, and implemented in a transparent way that minimises distortions to fair and free competition.

Article 5. Private Rights of Action

1. For the purposes of this Article, "private right of action" means the right of a person to independently seek redress (including injunctive, monetary or other remedies) from a court or independent tribunal for injury to its business or property caused by a violation of a Party's competition laws.
2. Recognising that a private right of action is an important supplement to the public enforcement of a Party's competition laws, each Party should adopt or maintain laws or other measures that provide a private right of action.
3. A Party shall ensure that a right provided pursuant to paragraph 2 is available to persons of the other Party on terms that are no less favourable than those available to its own persons.

Article 6. Consumer Protection

1. The Parties recognise the importance of consumer protection policy and enforcement in achieving the objectives set out in Article 1 and promoting a trading environment in which consumers and businesses can participate confidently and fairly. Accordingly, the Parties affirm their commitment to provide protection from misleading and deceptive conduct that causes harm, or is likely to cause harm, to consumers.

2. Each Party shall adopt or maintain laws that proscribe misleading and deceptive conduct that causes harm, or is likely to cause harm, to consumers.
3. For the purposes of this Chapter, "misleading and deceptive conduct" refers to fraudulent commercial activities that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, such as:
(a) making misrepresentations or false claims as to the material qualities, price, suitability for purpose, quantity or any other characteristic of goods or services; or
(b) advertising goods or services for supply without intention to supply; or
(c) failing to deliver products or provide services to consumers after the consumers have been charged; or
(d) charging or debiting consumers' financial, telephone or other accounts without authorisation.
4. The Parties recognise that misleading and deceptive conduct that harms, or is likely to harm, consumers, increasingly transcends national borders. Such conduct includes international scams, the trade of goods with misleading or deceptive packaging or associated advertising and the making of false or misleading claims through the media or internet. In such circumstances cooperation and coordination between the relevant consumer protection agencies of the Parties is desirable to effectively address these activities.
5. Accordingly, the Parties shall promote, as appropriate, cooperation and coordination on matters of mutual interest.

Article 7. Cooperation and Exchange of Information

1. The Parties agree to cooperate and coordinate in the area of competition policy by exchanging information on the development of competition policy.
2. The Parties shall encourage their respective competition authorities to cooperate in the area of competition law, including through technical assistance as appropriate, consultation and exchanges of information, as permitted by the domestic law and overall policy of each Party and within the scope of the responsibilities of each competition authority.

Article 8. Consultations

At the request of either Party, the Parties shall consult on particular anti-competitive practices adversely affecting trade or investment between the Parties, consistent with the objectives of this Chapter. Consultations may be appropriate where a Party:
(a) considers that the enforcement activity is liable to substantially affect the other Party's important interests;
(b) relates to restrictions on competition which are liable to have a direct and substantial effect in the other Party; or
(c) concerns anti-competitive acts taking place principally in the other Party.

Article 9. Non-application of Dispute Settlement

Neither Party shall have recourse to Chapter 21 (Dispute Settlement) in respect of any issue arising from or relating to this Chapter.

Chapter 9. Electronic Commerce

Article 1. Objectives

The objectives of this Chapter are to:
(a) promote the use of e-commerce to assist the timeliness and reduce the cost of commercial transactions; (b) promote consumer and business confidence to support the fullest economic and social benefits from e-commerce; and
(c) minimise the extent to which e-commerce transactions are subject to particular requirements, tariffs or other limitations or costs which are additional to other transactions.

Article 2. Promotion of E-commerce

1. The Parties agree to:
(a) promote the efficient functioning of e-commerce domestically and internationally by, wherever possible: (i) developing domestic regulatory frameworks which are open;
(ii) avoiding undue restrictions and costs on e-commerce; and
(iii) providing a predictable and simple legal environment for e-commerce, taking into account international norms and practices;
(b) ensure that regulations and the development of regulations affecting e-commerce are transparent;
(c) endeavour to ensure that policy responses in respect of e-commerce:

(i) are flexible and take account of developments in a rapidly changing technology environment;
(ii) encourage the use of electronic signatures and electronic certification in order to ensure authenticity, integrity and confidentiality, and prevent fraud; and
(iii) promote interoperability of infrastructures, such as secure electronic authentication and payments; and (d) work to build consumer and business confidence in support of the wider utilisation of e-commerce between the Parties and globally by:
(i) maintaining privacy protection laws and consumer laws relating to e-commerce;
(ii) maintaining measures to minimise unsolicited commercial electronic messages; and
(iii) ensuring the protection of intellectual property rights, while also enabling the application of e-commerce and business innovation.

Article 3. Paperless Trading

1. Each Party shall work towards the implementation of initiatives which provide for the use of paperless trading.
2. In working towards the implementation of initiatives which provide for the use of paperless trading, each Party shall take into account the methods agreed by relevant international organisations, including the World Customs Organisation.

Article 4. Customs Duties

Each Party shall maintain its current practice of not imposing customs duties on electronic transmissions between the Parties.

Article 5. Consultations

At the request of either Party, the Parties agree to consult each other concerning any policies or decisions which may impact adversely on e-commerce aspects of trade between the Parties.commerce aspects of trade between the Parties.

Article 6. Non-application of Dispute Settlement

Neither Party shall have recourse to Chapter 21 (Dispute Settlement) in respect of any issue arising from or relating to this Chapter.

Chapter 10. Intellectual Property

Article 1. Objectives

The objectives of this Chapter are to:
(a) promote the importance of intellectual property rights in fostering trade in goods and services, innovation, and economic, social and cultural development;
(b) promote the effective protection, enforcement and maintenance of intellectual property rights; and
(c) recognise the need to achieve a fair balance between the rights of intellectual property rights holders, the legitimate interests of users and the wider interest of the public with regard to protected subject matter.

Article 2. Definitions

For the purposes of this Chapter: intellectual property rights refers to copyright and related rights, rights in trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits, and rights in plant varieties as defined in the TRIPS Agreement; and TRIPS Agreement means the Agreement on Trade Related Aspects of Intellectual Property Rights, which is part of the WTO Agreement.

Article 3. General Provisions

1. Each Party reaffirms its commitment to the TRIPS Agreement and any other multilateral agreement relating to intellectual property rights to which both are Parties.
2. For the purpose of this Chapter, the TRIPS Agreement is incorporated into and made part of this Agreement, mutatis mutandis.
3. Each Party shall ensure that it maintains an effective legal framework that gives effect to the rights and obligations applicable to it under the TRIPS Agreement and includes clearly defined rights and obligations that provide certainty for holders and users of intellectual property rights over the protection and enforcement of intellectual property rights.

4. Subject to the international obligations that are applicable to each Party, the Parties affirm that each Party may:
(a) provide for the international exhaustion of intellectual property rights; and
(b) establish provisions to facilitate the exercise of permitted acts where technological protection measures have been applied.
5. Each Party shall also maintain transparent regulations, efficient and non-discriminatory enforcement mechanisms, and access to expeditious remedies, in accordance with the obligations applicable to each Party under the TRIPS Agreement.
6. In line with the obligations applicable to each Party under the TRIPS Agreement, each Party shall maintain an effective framework for the enforcement of intellectual property rights, including through:
(a) the provision of fair and equitable civil judicial procedures for private enforcement of rights;
(b) the enforcement of criminal laws relating to wilful activities in respect of copyright piracy and trademark counterfeiting on a commercial scale; and
(c) the provision of effective customs control measures and procedures for right holders.
7. All issues pertaining to intellectual property rights in this Agreement shall be interpreted and applied consistent with the object and purpose of this Chapter, unless the context otherwise requires.

Article 4. Contact Points

Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Chapter, and provide details of such contact point to the other Party. The Parties shall notify each other promptly of any amendments to the details of their contact points.

Article 5. Cooperation

1. Subject to their respective domestic laws and policies, the Parties agree to cooperate, as set out in this Article, with a view to eliminating trade in goods infringing intellectual property rights and ensuring that the enforcement of intellectual property rights does not itself become a barrier to legitimate trade.
2. The Parties shall endeavour to facilitate the development of contacts and cooperation between their respective responsible agencies, educational institutions, and other organisations with an interest in the field of intellectual property rights.
3. Each Party shall, on request of the other Party, give due consideration to any specific cooperation proposal made by the other Party relating to the protection or enforcement of intellectual property rights. Cooperation activities and initiatives undertaken in this Chapter shall be subject to the availability of resources.
4. Any proposal for cooperation shall be conveyed through the contact points referred to in Article 4.

Article 6. Genetic Resources, Traditional Knowledge and Folklore

Subject to the international obligations that are applicable to each Party, each Party may establish appropriate measures to protect genetic resources, traditional knowledge and traditional cultural expressions or folklore.

Article 7. Trademarks and Geographical Indications

1. Each Party shall protect trademarks where they predate, in its jurisdiction, geographical indications in accordance with its domestic law and the TRIPS Agreement.
2. Each Party recognises that geographical indications may be protected through a trademark system.
3. Where a Party provides for the protection of a geographical indication by means of registration or designation, that Party shall provide an opportunity for interested parties to oppose such registration or designation, and seek cancellation of such registration or designation. The grounds for opposing or cancelling the registration or designation of a geographical indication shall include that:
(a) the geographical indication is likely to cause confusion with a trademark or geographical indication that is the subject of a pre-existing good faith pending application or registration in such Party;
(b) the geographical indication is likely to cause confusion with a pre-existing trademark or geographical indication, the rights to which have been acquired in the Party through use in good faith; and
(c) the claimed geographical indication is identical with a term customary in the common language, or used in legitimate and established practices of trade, for the good to which the geographical indication relates.
4. Where the protection of a geographical indication by means of registration or designation for goods other than wines and spirits extends to a translation or transliteration of the geographical indication, the Parties shall provide the opportunity for third parties to oppose such registration or designation, and seek cancellation of such registration or designation, at least on the grounds provided for in paragraph 3.

Article 8. Consultations

1. Either Party may at any time request consultations with the other Party with a view to seeking a timely and mutually satisfactory resolution in relation to any intellectual property rights issue, including enforcement, within the scope of this Chapter.
2. Such consultations shall be conducted through the contact points referred to in Article 4 and shall commence within 60 days of the receipt of the request for consultations, unless the Parties mutually determine otherwise. In the event that consultations fail to resolve any such issue, the requesting Party may refer the issue to the Joint Commission for consideration.
3. Any action taken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 21 (Dispute Settlement) or under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

Article 9. Termination of 1998 Intellectual Property Arrangements

The Parties acknowledge the advice received from the New Zealand Commerce and Industry Office and Taipei Economic and Cultural Office of their intention to terminate the following arrangements upon entry into force of this Agreement:
a. Arrangement between the New Zealand Commerce and Industry Office and the Taipei Economic and Cultural Office, New Zealand, on the Reciprocal Protection and Enforcement of Copyright, done at Auckland on 15 June 1998; and
b. Arrangement for the Protection of Industrial Property Rights between the Taipei Economic and Cultural Office in New Zealand and the New Zealand Commerce and Industry Office, done at Taipei on 20 October 1998.

Chapter 11. Government Procurement

Article 1. Objectives

The Parties recognise the importance of conducting government procurement in accordance with the fundamental principles of the APEC Non-Binding Principles on Government Procurement of transparency, value for money, open and effective competition, fair dealing, accountability and due process, and non-discrimination, in order to facilitate competitive opportunities for suppliers of the Parties.

Article 2. Scope and Coverage

1. This Chapter shall apply to measures regarding government procurement, by any contractual means, including purchase, hire purchase, rental or lease, with or without an option to buy, as well as build-operate-transfer contracts and public works concessions contracts:
(a) by entities listed in Annex 3:I (List of Entities and Covered Goods and Services);
(b) in which the contract has a value not less than the relevant threshold converted into respective currencies as set out in Annex 3:II (Thresholds) estimated at the time of, or within a reasonable time prior to, the publication of a notice in accordance with Article 10; and
(c) subject to any other conditions specified in Annex 3:I (List of Entities and Covered Goods and Services) 3
2. This Chapter shall not apply to:
(a) the purchase or acquisition of goods and services by an entity of a Party from another entity of that Party, except where tenders are called, in which case this Chapter shall apply;
(b) procurement of goods and services outside the procuring Party for consumption outside the procuring Party;
(c) non-contractual agreements or any form of assistance to persons or governmental authorities, including cooperative agreements, sponsorship arrangements, grants, loans, subsidies, equity infusions, guarantees, fiscal incentives and governmental provision of goods and services;
(d) procurement conducted:
(i) for the specific purpose of providing international assistance, including development aid;
(ii) under the particular procedure or condition of an international agreement relating to the stationing of troops;
(iii) under the particular procedure or condition of an international agreement relating to the joint implementation or exploitation of a project where that international agreement applies to a Party; or
(iv) under the particular procedure or condition of an international organisation, or funded by international grants, loans, or other assistance where the applicable procedure or conditions would be inconsistent with this Chapter;
(e) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;

(f) hiring of government employees and related employment measures;
(g) any procurement by an entity on behalf of an organisation that is not an entity;
(h) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon; or (i) procurement of goods or services in respect of contracts for construction, refurbishment or furnishing of chanceries or government offices abroad.
3. Entities of each Party shall not prepare, design or otherwise structure or divide, at any stage of the procurement, any procurement in order to avoid the obligations of this Chapter.
4. In calculating the value of contracts for the purposes of implementing this Chapter, entities shall base their valuation on the estimated maximum total value of the procurement over its entire duration, including optional purchases, premiums, fees, commissions, interest or other forms of remuneration provided for in such contracts.

(3) For greater certainty, nothing in this Chapter shall have the effect of obliging either Party to permit the supply of goods or services in relation to government procurement covered by this Chapter in a manner that is inconsistent with that Party's Schedules to Annexes 4:I and 4:II to Chapter 12 (Investment) and Chapter 13 (Cross-Border Trade in Services), and Annex 6 to Chapter 14 (Temporary Entry of Business Persons).

Article 3. Definitions

For the purposes of this Chapter:
build-operate-transfer contract and public works concession contract mean any contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plant, buildings, facilities or other publicly-owned works, not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale, and under which, as consideration for a supplier's execution of a contractual arrangement, the entity grants to the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment from the government or the public or both for the use of such works for the duration of the contract;
entity means an entity listed in Annex 3:I (List of Entities and Covered Goods and Services);
government procurement or procurement means the process by which entities obtain the use of or acquire goods or services or a combination of both for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale; government procurement measure means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;
offsets means any conditions or undertakings that require use of domestic content, domestic suppliers, the licensing of technology, technology transfer, investment, counter-trade or similar actions to encourage local development or to improve a Party's balance-of-payments accounts; open tendering means a procurement method where all interested suppliers may submit a tender;
publish means to disseminate information in an electronic or paper medium that is distributed widely and is readily accessible to the general public;
qualified supplier means a supplier that an entity recognises as having satisfied the conditions for participation; selective tendering means a procurement method where only suppliers satisfying the conditions for participation are invited by the entity to submit a tender; services includes construction services, unless otherwise specified; supplier means a natural person of a Party or an enterprise of a Party that provides or could provide goods or services to an entity; and technical specification means a tendering requirement that:
(a) sets out the characteristics of:
(i) goods to be procured, such as quality, performance, safety and dimensions, or the processes and methods for their production; or
(ii) services to be procured, or the processes and methods for their provision;
(b) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service; or
(c) sets out conformity assessment procedures prescribed by an entity.

Article 4. Exceptions to this Chapter

1. Nothing in this Chapter shall be construed to prevent either Party from taking any action or not disclosing any information which it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for security or for defence purposes.
2. Subject to the requirement 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 prevail or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent either 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 goods or services of persons with disabilities, of philanthropic institutions, of not for profit institutions, or of prison labour.
3. The Parties understand that paragraph 2(b) includes environmental measures necessary to protect human, animal or plant life or health.

Article 5. National Treatment and Non-discrimination

1. With respect to any government procurement measure regarding procurement covered by this Chapter, each Party shall grant to goods, services and suppliers of the other Party treatment no less favourable than that accorded by it to domestic goods, services and suppliers.
2. With respect to any government procurement measure regarding procurement covered by this Chapter, neither Party shall allow its entities to:
(a) treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation to, or ownership by a person of, the other Party; or
(b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier are goods or services of the other Party.
3. A Party, including its entities, shall not seek, take account of, impose or enforce offsets at any stage of a procurement.
4. This Article shall not apply to measures concerning customs duties and charges of any kind imposed on or in connection with importation, the method of levying such customs duties and charges, other import regulations, or to measures affecting trade in services other than government procurement measures specifically governing procurement covered by this Chapter.

Article 6. Rules of Origin

For procurement covered by this Chapter, each Party shall not apply rules of origin to goods or services imported from or supplied by the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the other Party.

Article 7. Non-disclosure of Information

1. The Parties, their entities and review authorities shall not, except to the extent required by law, disclose confidential information that would prejudice legitimate commercial interests of a particular supplier or that might prejudice fair competition between suppliers without the written authorisation of the supplier that provided the information.
2. Nothing in this Chapter shall be construed as requiring either Party, its entities or review authorities to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or privacy legislation.

Article 8. Publication of Information on Procurement

Each Party shall promptly publish in electronic form as set out in Annex 3:III (Single Electronic Point of Access):
(a) its laws, regulations, procedures, and administrative guidance relating to government procurement covered by this Chapter; and
(b) any modifications where possible in the same manner as the original publication.

Article 9. Procurement Procedures

Except as provided for in Article 15, entities shall award contracts by means of open or selective tendering procedures, in the course of which all interested suppliers or, in the case of selective tendering, suppliers invited to do so by an entity may submit a tender.

Article 10. Notice of Intended Procurement

1. Except as provided for in Article 15, for each procurement covered by this Chapter, entities shall publish in advance a notice of intended procurement inviting interested suppliers to submit a tender or apply to meet conditions for participation in the procurement.

2. The notice of intended procurement shall be published through means that are widely disseminated and afford non-discriminatory access to interested suppliers. Such notices shall remain readily accessible, through a single electronic point of access specified in Annex 3:III (Single Electronic Point of Access), free of charge for the entire period established for tendering.
3. Each notice of intended procurement shall include:
(a) a description of the intended procurement;
(b) a summary of any conditions that suppliers must fulfil to participate in the procurement;
(c) the time limits for submission of tenders or applications to participate; and
(d) contact details for obtaining all relevant documents.
4. Each notice of intended procurement shall be published sufficiently in advance to provide interested suppliers with a reasonable period of time, in light of the nature, circumstances and complexity of the procurement, to obtain the full tender documentation and to prepare and submit responsive tenders by the closing date, or to apply for participation in the procurement where applicable.
5. The Parties agree that entities shall in no case provide less than 10 days between the date on which the notice of intended procurement is published and the final date for the submission of tenders or applications to participate.

Article 11. Conditions for Participation

1. Where an entity requires suppliers to register, qualify, or satisfy any other conditions before being permitted to participate in a procurement, each Party shall ensure that a notice is published inviting suppliers to apply for registration or qualification or to demonstrate satisfaction of other conditions for participation.
2. The notice shall be published sufficiently in advance for interested suppliers to prepare and submit responsive applications and for the entity to evaluate and make its determinations based on such applications.
3. Any conditions for participation in the procurement, including the legal, commercial, technical and financial capacity of suppliers, as well as the verification of qualifications, shall be limited to those which are essential to ensure the supplier's capability to fulfil the contract in question.
4. The commercial, technical and financial capacity of a supplier shall be evaluated on the basis of the supplier's global business activity.
5. Entities shall consider for a particular procurement those suppliers of the other Party that request to participate in the procurement and that are not yet registered or qualified, provided there is sufficient time to complete the registration or qualification procedures within the time period allowed for the submission of tenders.
6. Nothing in this Article shall preclude an entity from excluding a supplier from a procurement on grounds such as:
(a) bankruptcy, liquidation or insolvency;
(b) false declarations relating to a procurement;
(c) significant deficiency in the performance of any obligation under a prior contract;
(d) final judgments in respect of serious crimes or other serious offences;
(e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or
(f) failure to pay taxes.

Article 12. Lists of Registered or Qualified Suppliers

1. Entities may establish for continuing use a list of suppliers registered or qualified to participate in procurements.
2. Entities shall publish annually or otherwise make available continuously in electronic form a notice inviting interested suppliers to apply for inclusion on the list. Where a list will be valid for three years or less, an entity may publish this notice only once, at the beginning of the period of validity of the list, provided that the notice:
(a) states the period of validity and that further notices will not be published; and
(b) is published by electronic means and is made available continuously during the period of its validity.
3. The notice shall include:
(a) a description of the goods and services for which the list may be used; and
(b) a summary of the conditions to be satisfied by suppliers for inclusion on the list.
4. Entities shall ensure that suppliers may apply for participation in the list at any time, and that all qualifying suppliers are included within a reasonable period, taking into account the conditions for participation and the need for verification.
5. Where entities require suppliers to qualify for such a list before being permitted to participate in a procurement, and a supplier that has not previously satisfied such requirements or conditions submits an application, the entity shall promptly start the registration or qualification process. The entity shall allow such supplier to participate in the procurement, provided there is sufficient time to complete the registration or procurement procedures within the time period allowed for the submission of tenders.
6. Entities shall notify qualified suppliers of the termination of or their removal from a list and, on request of a supplier, provide the supplier with written reasons for this action within a reasonable time.

Article 13. Technical Specifications

1. Each Party shall ensure that its entities do not prepare, adopt or apply any technical specification with the purpose or the effect of creating unnecessary obstacles to trade between the Parties.
2. Any technical specifications prescribed by an entity shall, where appropriate:
(a) be specified in terms of performance and functional requirements, rather than design or descriptive characteristics; and
(b) be based on international standards, where applicable, or otherwise on domestic technical regulations, recognised domestic standards, or building codes.
3. Each Party shall ensure that its entities do not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, design or type, specific origin or producer or supplier, unless there is no sufficiently precise or intelligible way of otherwise describing the procurement requirements and provided that, in such cases, words such as "or equivalent" are included in the tender documentation.
4. Each Party shall ensure that its entities do not seek or accept, in a manner that would have the effect of prejudicing fair competition, advice to be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in that procurement.

Article 14. Tender Documentation

1. Tender documentation provided to suppliers shall contain all information necessary to enable them to prepare and submit responsive tenders, including the essential requirements and evaluation criteria for the award of the procurement contract.
2. Where entities do not offer direct access to the tender documentation by electronic means, entities shall promptly make available the tender documentation at the request of any interested or, as applicable, qualified supplier.
3. Entities shall endeavour to reply promptly to any reasonable request for relevant information or explanation made by a supplier, provided that such information does not give that supplier an advantage over other suppliers. The information or explanation given to a supplier may be provided to all participating suppliers known to the entity, in which case it shall be provided promptly.
4. Where prior to the award of a contract, an entity modifies the tender documentation, and that modification could impact on the preparation of tenders, it shall publish or transmit all such modifications in writing:
(a) to all suppliers who have requested tender documentation at the time the criteria are modified, where such suppliers are known to the entity, and in all other cases in the same manner as the original information was transmitted by the entity; and
(b) in adequate time to allow such suppliers to modify and resubmit their tenders, as appropriate.

Article 15. Exceptions to Open or Selective Tendering

1. Provided that the tendering procedure is not used to avoid competition or to protect domestic suppliers, entities may award contracts by means other than open or selective tendering procedures in any of the following circumstances:
(a) where:
(i) no tenders were submitted or no suppliers requested participation;
(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;
(iii) no suppliers satisfied the conditions for participation; or
(iv) the tenders submitted have been collusive, provided that the requirements of the tender documentation are not substantially modified;
(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
(i) the requirement is for a work of art;
(ii) the protection of patents, copyrights or other exclusive rights; or due to an absence of competition for technical reasons;
(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:
(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and
(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;
(d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;
(e) for goods purchased on a commodity market;
(f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate

that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;
(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers; or
(h) where a contract is awarded to a winner of a design contest provided that:
(i) the contest has been organized in a manner that is consistent with the principles of this Agreement, in particular relating to the publication of a notice of intended procurement; and
(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.
2. The Parties shall ensure that where entities resort to a procedure other than open or selective tendering based on the circumstances set forth in paragraph 1, the entities shall maintain a written record or report setting out the circumstances and specific justifications for resorting to a procedure other than open or selective tendering.

Article 16. Awarding of Contracts

1. The Parties shall ensure that their entities receive, open and evaluate all tenders under procedures that guarantee the fairness and impartiality of the procurement process.
2. To be considered for award of a contract, a tender must, at the time of opening by the entity, conform to the essential requirements of the notice of intended procurement or tender documentation and be submitted by a supplier who complies with the conditions for participation.
3. Unless an entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that has been determined to be fully capable of undertaking the contract and has submitted the tender that:
(a) offers the best value for money;
(b) offers the lowest price; or
(c) is the most advantageous in terms of the essential requirements and evaluation criteria set forth in the tender documentation.
4. An entity shall not cancel a procurement covered by this Chapter, or terminate or modify awarded contracts, in order to circumvent the requirements of this Chapter.

Article 17. Post-award Information

1. Entities shall promptly inform suppliers that have submitted a tender of the contract award decision.
2. Entities shall, on request from an unsuccessful supplier, promptly explain the reasons for the rejection of its tender or the relative advantages of the tender the entity selected.
3. Entities shall, promptly after the award of a contract for a procurement covered by this Chapter, publish a notice containing at least the following information:
(a) the name and address of the successful supplier;
(b) a description of the goods or services supplied; and
(c) the value of the contract award.

Article 18. Ensuring Integrity In Procurement Practices

Each Party shall ensure that criminal or administrative penalties exist to address corruption in its government procurement, and that its entities have in place policies and procedures to address any potential conflict of interest on the part of those engaged in or having influence over a procurement.

Article 19. Domestic Review of Supplier Complaints

1. Each Party shall ensure that its entities accord impartial and timely consideration to any complaints from suppliers regarding an alleged breach of measures or government procurement measures implementing this Chapter arising in the context of a procurement in which those suppliers have, or have had, an interest. Where appropriate, a Party may encourage suppliers to seek clarification from its entities with a view to facilitating the resolution of any such complaints.
2. Each Party shall provide suppliers of the other Party with non-discriminatory, timely, transparent and effective access to an administrative or judicial body competent to hear or review complaints of alleged breaches of the procuring Party's measures or government procurement measures implementing this Chapter arising in the context of procurements in which those suppliers have, or have had, an interest.
3. Each Party shall make information on complaint mechanisms generally available.
4. Where an administrative or judicial body may award compensation for any breach of measures or government procurement measures implementing this Chapter, such compensation may be limited to the costs for tender preparation

reasonably incurred by the supplier for the purpose of the procurement.

Article 20. Electronic Communications and Contact Points

1. The Parties shall encourage their entities to provide opportunities for government procurement to be undertaken through the internet and shall encourage, to the extent possible, the use of electronic means for the provision of tender documentation and receipt of tenders.
2. The contact point or points from whom suppliers can obtain information on government procurement shall either be specified in Annex 3:IV (Contact Points), or be set out in the information on the single electronic point of access.
3. Each Party shall encourage its entities to publish on the internet information regarding the entities' indicative procurement plans as early as possible in the fiscal year.

Article 21. Modifications and Rectifications of Annexes

1. Each Party may modify its Annexes to this Chapter in conformity with the provisions of paragraph 2(c) of Article 2 (Functions of the Joint Commission) of Chapter 22 (Institutional Provisions) provided that it: (a) notifies the other Party of the proposed modification; and (b) provides the other Party appropriate compensatory adjustments to its coverage in order to maintain a level of coverage comparable to that existing prior to the modification.
2. Notwithstanding paragraph 1(b), no compensatory adjustments shall be provided to the other Party where the modification by a Party of its Annexes to this Chapter concerns: (a) rectifications of a purely formal nature and minor amendments to entity coverage and/or the single electronic point of access and/or contact points, made through an implementing arrangement in accordance with paragraph 2(b) of Article 2 (Functions of the Joint Commission) of Chapter 22 (Institutional Provisions); or (b) one or more entities over which a Party's control or influence has been effectively eliminated as a result of corporatisation and commercialisation or privatisation.

Article 22. Co-operation

The Parties shall meet as necessary for the purpose of affording Parties the opportunity to consult on the following matters:
(a) any matters relating to the operation of this Chapter;
(b) discussion of government procurement issues;
(c) exchange of government procurement information; and
(d) further government procurement negotiations.

Chapter 12. Investment

Article 1. Objectives

The objectives of this Chapter are to encourage and promote the flow of investment between the Parties on a mutually advantageous basis, under conditions of transparency within a stable framework of rules to ensure the protection and security of investments by investors of the other Party within each Party, while recognising the rights of Parties to regulate and the responsibility of governments to protect public health, safety and the environment.

Article 2. Definitions

For the purposes of this Chapter:
appointing authority means the Secretary General of the Permanent Court of Arbitration or any person as agreed by the disputing parties;
covered investment means, with respect to a Party, an investment in that Party of an investor of the other Party in existence as of the date of entry into force of this Agreement or established, acquired or expanded thereafter; disputing investor means an investor of a Party that makes a claim against the other Party on its own behalf under Section B, and where relevant includes an investor of a Party that makes a claim on behalf of an enterprise of the disputing Party that the investor owns or controls directly or indirectly;
disputing parties means the disputing investor and the disputing Party;
disputing party means either the disputing investor or the disputing Party;
disputing Party means a Party against which a claim is made under Section B;
freely usable currency means "freely usable currency" as determined by the International Monetary Fund under its Articles of Agreement and amendments thereto, or any currency that is used to make international payments and is widely traded in the international principal exchange markets;

government procurement means any measure relating to the procurement by governmental agencies of goods or services or a combination of both for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;
investment means every kind of asset that an investor owns or controls, 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.
Forms that an investment may take include, but are not limited to, the following:
(a) an enterprise;
(b) shares, stocks or other forms of equity participation in an enterprise, and rights derived therefrom;
(c) bonds, including government issued bonds, debentures, loans and other forms of debt, and rights derived therefrom; (4)
(d) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
(e) claims to money or to any contractual performance related to a business and having an economic value; 5
(f) intellectual property rights and goodwill;
(g) rights conferred pursuant to law or contract such as concessions, licences, authorisations, and permits; 6 and
(h) other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.
investor of a Party means:
(a) a Party;
(b) an enterprise of a Party; or
(c) a natural person of a Party; that attempts to make, is making or has made an investment in the other Party; measure adopted or maintained by a Party means any of those measures taken by a Party that are specified in paragraph 3(a) of Article 1 of GATS.
non-disputing Party means the Party of the disputing investor; and
protected information means confidential business information or information that is privileged or otherwise protected from disclosure under a Party's law, including classified government information.

(4) 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 to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

(5) For greater certainty, investment does not mean claims to money that arise solely from: a. commercial contracts for sale of goods or services; or b. the extension of credit in connection with such commercial contracts.

(6) The term “investment” does not include an order or judgment entered in a judicial or administrative action.

Article 3. Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to:
(a) investors of the other Party;
(b) covered investments; and
(c) with respect to Article 7 (Performance Requirements), all investments in the Party.
2. For greater certainty, the provisions of this Chapter do not bind either Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.
3. This Chapter does not apply to services supplied in the exercise of governmental authority, as defined in Article 3 (Definitions) of Chapter 13 (Cross-Border Trade in Services).

Article 4. Relation to other Chapters

1. In the event of an inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.
2. A requirement by a Party that a service supplier of the other Party post a bond or other form of financial security as a condition of the cross-border supply of a service does not of itself make this Chapter applicable to measures adopted or maintained by the Party relating to cross-border supply of the service.
This Chapter applies to measures adopted or maintained by the Party relating to the posted bond or financial security, to the extent that such bond or financial security is a covered investment.

Article 5. National Treatment

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

Article 6. Most-favoured-nation Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of any non-Party with respect to establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. For greater certainty, the obligation in this Article does not apply to dispute resolution procedures other than those set out in this Agreement.
4. Notwithstanding paragraphs 1 and 2, the Parties reserve the right to adopt or maintain any measure that accords differential 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.
5. For greater certainty, paragraph 4 includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements.
6. The Parties reserve the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:
(a) fisheries;
(b) maritime matters; or
(c) aviation.

Article 7. Performance Requirements

1. Neither Party may, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-Party, impose or enforce any requirement, or enforce any commitment or undertaking:impose or enforce any requirement, or enforce any commitment or undertaking:impose or enforce any requirement, or enforce any commitment or undertaking: (7)
(a) to export a given level or percentage of goods or services;
(b) to achieve a given level or percentage of domestic content;
(c) to purchase, use, or accord a preference to goods produced in its jurisdiction, or to purchase goods from persons in its jurisdiction;
(d) to 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) to restrict sales of goods or services in its jurisdiction that such investment produces or supplies by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
(f) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its jurisdiction; or
(g) to supply exclusively from the Party the goods that it produces or the services that it supplies to a specific regional market or to the world market.
2. Neither Party may condition the receipt or continued receipt of an advantage in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-Party on compliance with any of the following requirements:
(a) to achieve a given level or percentage of domestic content;
(b) to purchase, use, or accord a preference to goods produced in its jurisdiction, or to purchase goods from persons in its jurisdiction;
(c) to 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; or
(d) to restrict sales of goods or services in its jurisdiction that such investment produces or supplies by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.

3. (a) Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its jurisdiction of an investor of a Party on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its jurisdiction.
(b) Paragraph 1(f) does not apply:
(i) when a Party authorises use of an intellectual property right in accordance with Article 31 (8) of the TRIPS Agreement or any relevant amendment thereto, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or 8 The reference to "Article 31" includes footnote 7 to Article 31.
(ii) when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anticompetitive under the Party's competition laws. (9)
(c) Paragraphs 1(a), (b), and (c), and 2(a) and (b), do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs.
(d) Paragraphs 1(b), (c), (f), and (g), and 2(a) and (b), do not apply to government procurement.
(e) Paragraphs 2(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariff treatment or preferential quotas.
4. This Article does not preclude enforcement of any commitment, undertaking, or requirement between private parties, where a Party did not impose or require the commitment, undertaking, or requirement.

(7) For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a “commitment or undertaking” for the purposes of paragraph 1.

(8) The reference to “Article 31” includes footnote 7 to Article 31.

(9) The Parties recognise that a patent does not necessarily confer market power.

Article 8. Senior Management and Boards of Directors

1. Neither Party may require that an enterprise of that Party that is a covered investment appoint to senior management positions natural persons of any particular nationality.
2. Neither Party may require that a majority 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 Party.
3. Neither Party may require that less than a majority 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 Party, where that requirement would materially impair the ability of the investor to exercise control over its investment.

Article 9. Non-conforming Measures

1. Articles 5 (National Treatment), 6 (Most-Favoured-Nation Treatment), 7 (Performance Requirements) and 8 (Senior Management and Boards of Directors) shall not apply to:
(a) any existing non-conforming measure that is maintained by a Party:
(i) as set out by that Party in its Schedule to Annex 4:I; or
(ii) maintained by a Party at a regional or local level of government;
(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 5 (National Treatment), 6 (Most-Favoured-Nation Treatment), 7 (Performance Requirements) and 8 (Senior Management and Boards of Directors).
2. Articles 5 (National Treatment), 6 (Most-Favoured-Nation Treatment), 7 (Performance Requirements) and 8 (Senior Management and Boards of Directors) do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule to Annex 4:II.
3. Neither Party may, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex 4:II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.
4. Articles 5 (National Treatment) and 6 (Most–Favoured-Nation Treatment) do not apply to any measure that is an exception

to, or derogation from, a Party's obligations under the TRIPS Agreement.
5. Articles 5 (National Treatment), 6 (Most-Favoured-Nation Treatment) and 8 (Senior Management and Boards of Directors) do not apply to:
(a) government procurement; or
(b) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

Article 10. Minimum Standard of Treatment

1. Each Party shall accord to covered investments treatment in accordance with the customary international law minimum standard of treatment, including fair and equitable treatment and full protection and security.
2. 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;
(b) "full protection and security" requires each Party to take such measures as may be reasonably necessary to ensure the physical protection and security of covered investments.
3. The concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment, and do not create additional substantive rights.
4. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

Article 11. Treatment In Case of Armed Conflict or Civil Strife

1. Notwithstanding paragraph 5 of Article 9 (Non-conforming Measures), each Party shall accord to investors of the other Party and to investments of an investor of the other Party with respect to measures it adopts or maintains relating to losses suffered by investments in its jurisdiction owing to armed conflict or civil strife, treatment no less favourable than that it accords, in like circumstances, to:
(a) its own investors and their investments; and
(b) investors of any non-Party and their investments.
2. Notwithstanding paragraph 1, if an investor of a Party suffers a loss in the other Party resulting from:
(a) requisitioning of its covered investment or part thereof by the latter's forces or authorities; or
(b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation; the latter Party shall provide the investor with restitution, compensation, or both, as appropriate, for such loss. Any compensation shall be prompt, adequate, and effective in accordance with paragraphs 2 to 4 of Article 13 (Expropriation), mutatis mutandis.
3. Paragraph 1 does not apply to existing measures relating to subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance that would be inconsistent with Article 5 (National Treatment) but for paragraph 5(b) of Article 9 (Non-conforming Measures).

Article 12. Transfers

1. Each Party shall permit all transfers into and out of its jurisdiction relating to a covered investment to be made freely and without delay in a freely usable currency at the market rate of exchange at the time of transfer. Such transfers include:
(a) contributions to capital, including the initial contribution;
(b) profits, dividends, interest, capital gains, royalty payments, management fees, and technical assistance and other fees;
(c) proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;
(d) payments made under a contract, including payments made pursuant to a loan agreement;
(e) payments made pursuant to Article 11 (Treatment in Case of Armed Conflict or Civil Strife) and Article 13 (Expropriation);
(f) payments arising out of the settlement of a dispute by any means including adjudication, arbitration, or the agreement of the parties to the dispute; and
(g) earnings and other remuneration of personnel engaged from abroad in connection with that investment.
2. Notwithstanding paragraph 1, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws relating to:
(a) bankruptcy, insolvency, or the protection of the rights of creditors;
(b) issuing, trading, or dealing in securities, futures, or derivatives;
(c) criminal or penal offences;
(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings; or
(f) social security, public retirement, or compulsory savings schemes.
3. Neither Party may require its investors to transfer, or penalise its investors that fail to transfer, the income, earnings, profits, or other amounts derived from, or attributable to, investments in the other Party.

Article 13. Expropriation (10)

10 This Article shall be interpreted in accordance with Annex 5 (Expropriation).
1. Neither Party shall nationalise, expropriate or subject to measures equivalent to nationalisation or expropriation a covered investment ("expropriation"), except:
(a) for a public purpose;
(b) in a non-discriminatory manner;
(c) on payment of prompt, adequate, and effective compensation in accordance with paragraphs 2 to 4; and
(d) in accordance with due process of law.
2. Compensation shall:
(a) be paid without delay;
(b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("the date of expropriation");
(c) not reflect any change in value occurring because the intended expropriation had become known earlier; and
(d) be fully realisable and freely transferable.
3. If the fair market value is denominated in a freely usable currency, the compensation paid shall be no 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 until the date of payment.
4. If the fair market value is denominated in a currency that is not freely usable, the compensation paid, converted into the currency of payment at the market rate of exchange prevailing on the date of payment, shall be no 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 until the date of payment.
5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation, or creation is consistent with Chapter 10 (Intellectual Property).

(10) This Article shall be interpreted in accordance with Annex 5 (Expropriation).

Article 14. Subrogation

1. If a Party (or any agency, institution, statutory body or corporation designated by it) makes a payment to an investor of that Party under a guarantee, a contract of insurance or other form of indemnity against non-commercial risks it has granted in respect of an investment, the other Party shall recognise the subrogation or transfer of any right or title in respect of such investment. 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 any agency, institution, statutory body or corporation designated by it) has made a payment to an investor of that Party and has taken over rights and claims of the investor, that investor shall not, unless authorised to act on behalf of the Party (or any agency, institution, statutory body or corporation designated by it) making the payment, pursue those rights and claims against the other Party.

Article 15. Special Formalities

1. Nothing in Article 5 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as residency requirements for registration or a requirement that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of the other Party and covered investments pursuant to this Chapter.
2. Notwithstanding Articles 5 (National Treatment) and 6 (Most-Favoured-Nation Treatment), a Party may require an investor of the other Party, or a covered investment, to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or investments of an investor of the other Party. Nothing in this paragraph shall be

construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 16. Investment and Environment

Nothing in this Chapter shall be construed to prevent either Party from adopting, maintaining, or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity is undertaken in a manner sensitive to environmental concerns.

Article 17. Denial of Benefits

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to:
(a) investors of the other Party where the investment is being made by an enterprise that is owned or controlled by persons of a non-Party and the enterprise has no substantive business operations in the other Party; or
(b) investors of the other Party where the investment is being made by an enterprise that is owned or controlled by persons of the denying Party and the enterprise has no substantive business operations in the other Party.

Article 18. Scope

For the purposes of this Chapter, an investment dispute is a dispute between a Party and an investor of the other Party that has incurred loss or damage by reason of, or arising out of, an alleged breach of any obligation under Section A directly concerning a covered investment of the investor of that other Party.

Article 19. Consultation and Negotiation

Any investment dispute referred to in Article 18 (Scope) shall, as far as possible, be settled amicably through consultations and negotiations between the investor and the other Party, which may include the use of non-binding third-party procedures, where this is acceptable to both disputing parties. A request for consultations and negotiations shall be made in writing and shall state the nature of the dispute.

Article 20. Consent to Submission of a Claim

1. If the dispute cannot be settled as provided for in Article 19 (Consultation and Negotiation) within six months from the date of request for consultations and negotiations then, unless the disputing parties agree otherwise, the dispute may be submitted to:
(a) arbitration under the UNCITRAL arbitration rules; or
(b) if the disputing parties agree, to any other arbitration institution or under any other arbitration rules, provided that the disputing investor shall, at least three months' prior to submitting the claim to arbitration under subparagraph (a) or (b), provide the disputing Party with written notice of its intention to submit a claim ("notice of intent"), and further provided that, prior to giving such notice, the disputing investor obtains the disputing Party's written consent to arbitration.
2. The notice of intent shall specify:
(a) the name and the address of the disputing investor and, where relevant, the enterprise;
(b) for each claim, the provision of this Agreement alleged to have been breached and any other relevant provisions;
(c) the legal and factual basis for each claim; and
(d) the relief sought and the approximate amount of damages claimed.
3. A disputing Party may, as a condition of its consent under paragraph 1 of this Article, require the disputing investor and, where relevant, the enterprise, to provide a written waiver of its right to initiate or continue before any court or administrative tribunal under the law of either Party, or other dispute settlement procedures, any proceeding with respect to any measure alleged to constitute a breach in the dispute referred to in paragraph 1 of this Article.
4. The arbitration rules applicable under paragraph 1 of this Article, and in effect on the date the claim or claims were submitted to arbitration under this Section, shall govern the arbitration except to the extent modified by this Section.

Article 21. Admissibility of Claims and Preliminary Objections

1. No claim may be submitted to arbitration under this Section if more than three years have elapsed between the time at which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation under Section A causing loss or damage to the disputing investor or enterprise and the date of submission of the claim.
2. A disputing Party may, no later than 30 days after the constitution of the tribunal, file an objection that a claim is

manifestly without legal merit or is otherwise outside the jurisdiction or competence of the tribunal. The disputing Party shall specify as precisely as possible the basis for the objection.
3. The tribunal shall address any such objection as a preliminary question apart from the merits of the claim. The disputing parties shall be given a reasonable opportunity to present their views and observations to the tribunal. If the tribunal decides that the claim is manifestly without legal merit, or is otherwise not within the jurisdiction or competence of the tribunal, it shall render a decision to that effect.
4. The tribunal may, if warranted, award the prevailing disputing party reasonable costs and fees incurred in submitting or opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether either the claim or the objection was frivolous or manifestly without legal merit, and shall provide the disputing parties a reasonable opportunity to comment.
5. The disputing Party does not waive any objection as to jurisdiction or competence, or any argument on the merits merely because the disputing Party did or did not raise an objection under this Article.

Article 22. Selection of Arbitrators

1. Unless the disputing parties otherwise agree, the arbitral tribunal shall be composed of three arbitrators.
2. Each disputing party shall appoint one arbitrator and the disputing parties shall agree upon a third arbitrator, who shall be the presiding arbitrator of the arbitral tribunal.
3. If an arbitral tribunal has not been established within 75 days from the date on which the claim was submitted to arbitration, the appointing authority, upon request of either disputing party, shall appoint, at its own discretion, the arbitrator or arbitrators not yet appointed. The appointing authority shall not appoint a natural person of either Party as the presiding arbitrator unless the disputing parties agree otherwise.

Article 23. Place of Arbitration

Unless the disputing parties otherwise agree, the tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in either Party or a state that is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Article 24. Interpretation of Agreement

1. The tribunal shall, on request of the disputing Party, request a joint interpretation of the Parties of any provision of this Agreement that is in issue in a dispute. The Parties shall submit in writing any joint decision declaring their interpretation to the tribunal within 60 days of delivery of the request.
2. A joint decision issued under paragraph 1 of this Article by the Parties shall be binding on the tribunal, and any award must be consistent with that joint decision. If the Parties fail to issue such a decision within 60 days, the tribunal shall decide the issue on its own account.
3. The non-disputing Party may make oral and written submissions to the tribunal regarding the interpretation of this Agreement.

Article 25. Amicus Curiae Submissions

The tribunal shall have the authority to accept and consider written amicus curiae submissions that may assist the tribunal in evaluating the submissions and arguments of the disputing parties from a person or entity that is not a disputing party. The tribunal shall provide the disputing parties with an opportunity to respond to such written submissions.

Article 26. Consolidation of Claims

Where two or more investors notify an intention to submit claims to arbitration which have a question of law or fact in common and arise out of the same events or circumstances, and the disputing Party's written consent has been provided in each case, the disputing parties shall consult with a view to harmonising the procedures to apply, where all disputing parties agree to the consolidation of the claims, including with respect to the forum chosen to hear the dispute.

Article 27. Transparency of Arbitral Proceedings

1. Subject to paragraphs 2 and 4, the disputing Party shall, after receiving the following documents, promptly transmit them to the non-disputing Party and make them publicly available:
(a) the notice of intent;

(b) the notice of arbitration;
(c) pleadings, memorials, and briefs submitted to the tribunal by a disputing party and any written submissions submitted pursuant to paragraph 3 of Article 24 (Interpretation of the Agreement) and Article 25 (Amicus Curiae Submissions); and
(d) orders, awards, and decisions of the tribunal.
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 designated as protected information in a hearing shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure which may include closing the hearing for the duration of any discussion of protected information.
3. Nothing in this Section requires a disputing Party to disclose protected information or to furnish or allow access to information that it may withhold in accordance with Article 2 (Security Exceptions) of Chapter 24 (General Exceptions) or Article 2 (Disclosure of Information) of Chapter 23 (General Provisions).
4. Any information specifically designated as protected information that is submitted to the tribunal or the disputing parties shall be protected from disclosure.
5. For greater certainty, a disputing party may disclose to persons directly connected with the arbitral proceedings such protected information as it considers necessary for the preparation of its case, but it shall require that such protected information is protected. 6. Nothing in this Section requires a disputing Party to withhold from the public information required to be disclosed by its laws.

Article 28. Awards

1. Where a tribunal makes a final award against a disputing Party, the tribunal may award, separately or in combination, only: (a) monetary damages and any applicable interest; and/or (b) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution.
2. A tribunal may also award costs and fees in accordance with this Section and the applicable arbitration rules.
3. A tribunal may not award punitive damages.
4. An award made by a tribunal shall be final and binding on the disputing parties. An award shall have no binding force except between the disputing parties and in respect of the particular case.
5. A disputing party may not seek enforcement of a final award until all applicable review procedures have been completed.
6. Subject to paragraph 5 of this Article, a disputing party shall abide by and comply with an award without delay.
7. Each Party shall ensure that an award can be recognised and enforced in its jurisdiction.

Chapter 13. Cross-border Trade In Services

Article 1. Objectives

The objectives of this Chapter are to:
(a) facilitate the expansion of cross-border trade in services on a mutually advantageous basis;
(b) improve the efficiency and transparency of the Parties' respective services sectors and competitiveness of their export trade; and
(c) work toward progressive liberalisation, while recognising the right of each Party to regulate and introduce new regulations, and to provide and fund public services, in a manner that gives due respect to government policy objectives.

Article 2. Scope

1. This Chapter shall apply to measures adopted or maintained by a Party affecting cross-border trade in services.
2. In addition to paragraph 1 of this Article, Articles 4 (Market Access), 10 (Transparency) and 12 (Domestic Regulation) shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its jurisdiction by a covered investment, as defined in Chapter 12 (Investment).
3. This Chapter shall not apply to:
(a) government procurement;
(b) services supplied in the exercise of governmental authority;
(c) subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance, except as provided for in Article 14; or
(d) measures affecting natural persons of a Party seeking access to employment or the employment market of a Party.
4. In accordance with Article 5 (Grant of Temporary Entry) of Chapter 14 (Temporary Entry of Business Persons), commitments in respect of the presence of natural persons of a Party are set out in each Party's Schedule to Annex 6 of Chapter 14 (Temporary Entry of Business Persons).
5. This Chapter shall not apply to measures affecting air transport services or related services in support of air services

except that this Chapter shall apply to measures affecting:
(a) aircraft repair and maintenance services;
(b) the selling and marketing of air transport services;
(c) computer reservation system services;
(d) speciality air services; and
(e) ground handling services.

Article 3. Definitions

For the purposes of this Chapter:
aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;
commercial presence means any type of business or professional establishment, including through the constitution, acquisition or maintenance of an enterprise, including a representative office, within a Party for the purpose of supplying a service;
computer reservation system services means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;
cross-border trade in services means the supply of a service:
(a) from the jurisdiction of one Party into the jurisdiction of the other Party (Mode 1);
(b) in the jurisdiction of one Party to the service consumer of the other Party (Mode 2); or
(c) by a service supplier of one Party, through presence of natural persons of a Party in the jurisdiction of the other Party (Mode 4); but does not include the supply of a service in a Party by an investor of the other Party or a covered investment as defined in Article 2 (Definitions) of Chapter 12 (Investment).
government procurement means any measure relating to the procurement by governmental agencies of services for governmental purposes and not with a view to commercial sale or resale or use in the supply of services for commercial sale or resale;
ground handling services include cargo-handling services provided for freight in special containers, non-containerised freight or for passenger baggage, including services of freight terminal facilities and baggage handling services at airports; aircraft cleaning and disinfecting services;
hangar services;
and aircraft towing services; measure adopted or maintained by a Party means any of those measures taken by a Party that are specified in paragraph 3(a) of Article 1 of GATS.
Such measures include measures in respect of:
(i) the purchase, payment or use of a service;
(ii) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally;
(iii) the presence of natural persons of a Party for the supply of a service in the other Party.
monopoly supplier of a service means any person, public or private, which in the relevant market of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;
selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution.
These activities do not include the pricing of air transport services or the applicable conditions;
service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;
service supplier of a Party means a person of a Party that supplies, or seeks to supply, a service;
services includes any service in any sector except services supplied in the exercise of governmental authority;
speciality air services means air services which are non-transportation air services, such as aerial fire fighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services; and supply of a service includes the production, distribution, marketing, sale and delivery of a service.

Article 4. Market Access

Neither Party shall, either on the basis of a regional sub-division or on the basis of its entire jurisdiction, adopt or maintain:
(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of

designated numerical units in the form of quotas or the requirement of an economic needs test(11)
(d) limitations on the total number of natural persons of a Party that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; and
(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

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

Article 5. National Treatment

Each Party shall accord to services and service suppliers of the other Party, treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers.

Article 6. Most-favoured-nation Treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to services and service suppliers of a non-Party.
2. Notwithstanding paragraph 1, the Parties reserve the right to adopt or maintain any measure that accords differential treatment to non-Parties under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.
3. For greater certainty, paragraph 2 includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements.
4. The Parties reserve the right to adopt or maintain any measure that accords differential treatment to non-Parties under any international agreement in force or signed after the date of entry into force of this Agreement involving:
(a) fisheries;
(b) maritime matters; or
(c) aviation.

Article 7. Local Presence

Neither Party may require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its jurisdiction as a condition for the supply of cross-border trade in services.

Article 8. Non-conforming Measures

1. Articles 4 (Market Access), 5 (National Treatment), 6 (Most-Favoured-Nation Treatment) and 7 (Local Presence) shall not apply to:
(a) any existing non-conforming measure that is maintained by a Party:
(i) as set out by that Party in its Schedule to Annex 4:I; or
(ii) maintained by a Party at a regional or local level of government;
(b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 4 (Market Access), 5 (National Treatment), 6 (Most-Favoured-Nation Treatment) and 7 (Local Presence).
2. Articles 4 (Market Access), 5 (National Treatment), 6 (Most-Favoured-Nation Treatment) and 7 (Local Presence) do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out in its Schedule to Annex 4:II.
3. Articles 4 (Market Access), 5 (National Treatment), 6 (Most-Favoured-Nation Treatment) and 7 (Local Presence) do not apply to any measure affecting the presence of natural persons of a Party (Mode 4).

Article 9. Review

The Parties shall consult within two years of entry into force of this Agreement and at least every three years thereafter, or as otherwise agreed, to review the implementation of this Chapter and consider other trade in services issues of mutual interest, with a view to the progressive liberalisation of the trade in services between them on a mutually advantageous

basis.

Article 10. Transparency

1. Each Party shall publish promptly or otherwise make publicly available international agreements pertaining to or affecting trade in cross-border services to which it is a signatory.
2. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application which pertain to or affect the operation of this Chapter or international agreements within the meaning of paragraph 1 of this Article.

Article 11. Contact Points

1. Each Party shall designate a contact point for trade in services to facilitate communication between the Parties, and shall provide details of such contact point to the other Party.
2. The Parties shall notify each other promptly of any amendments to the details of their contact points.

Article 12. Domestic Regulation

1. Each Party shall ensure that all measures of general application affecting cross-border trade in services are administered in a reasonable, objective and impartial manner.
2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of and, where justified, appropriate remedies for, administrative decisions affecting cross-border trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.
3. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures do not constitute unnecessary barriers to cross-border trade in services, each Party shall ensure that any such measures that it adopts or maintains:
(a) are based on objective and transparent criteria, such as competence and the ability to supply the service;
(b) are not more burdensome than necessary to ensure the quality of the service; and
(c) in the case of licensing and qualification procedures, do not in themselves constitute a restriction on the supply of the service.
4. In determining whether a Party is in conformity with its obligations under paragraph 3, account shall be taken of international standards of relevant international organisations applied by that Party.
5. Where authorisation is required for the supply of a service, each Party shall ensure that its competent authorities:
(a) in the case of an incomplete application, at the request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;
(b) within a reasonable period of time after the submission of an application considered complete under domestic law, inform the applicant of the decision concerning the application;
(c) to the extent practicable, establish an indicative timeframe for processing of an application;
(d) at the request of the applicant, provide, without undue delay, information concerning the status of the application; and
(e) if an application is rejected or denied, to the maximum extent possible, inform the applicant in writing and without undue delay the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.
6. Each Party shall ensure its competent authorities, where appropriate, accept copies of documents authenticated in accordance with domestic law, in place of original documents.
7. If licensing or qualification requirements include the completion of any examination, each Party shall ensure that:
(a) the examination is scheduled at reasonably frequent intervals;
(b) a reasonable period of time is provided to enable interested persons to submit an application.
8. Each Party shall ensure that any licensing fees (12) and qualification fees charged by the competent authority for the completion of relevant application procedures are reasonable, transparent and commensurate with the administrative costs incurred by the authority, including those for activities related to regulation and supervision of the relevant service.
9. Each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.
10. The obligations in paragraphs 5 to 8 shall not apply to measures to the extent that they are subject to scheduling under Articles 4 (Market Access) and 5 (National Treatment) in the Party's schedules to Annex 4:I and 4:II.
11. If the results of the negotiations related to Article VI(4) of GATS (or the results of any similar negotiations undertaken in other multilateral fora in which the Parties participate) enter into effect, the Parties shall jointly review such results. Where the joint review assesses that the incorporation of such results into this Agreement would improve or strengthen the disciplines contained herein, the Parties shall jointly determine whether to incorporate such results into this Agreement.

(12) Licensing fees do not include payments for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

Article 13. Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognise the education or experience obtained, requirements met, or licences or certification granted in the other Party.
2. Where a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licences or certification granted in a non-Party, nothing in Article 6 (Most-Favoured-Nation Treatment) shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licences or certifications granted in the other Party.
3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 2, whether existing or future, shall afford adequate opportunity for the other Party, upon request, to negotiate its accession to such an agreement or arrangement or to negotiate a comparable one with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education or experience obtained, requirements met, or licences or certifications granted in that other Party should be recognised.
4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on cross-border trade in services.
5. Where appropriate, the Parties agree to facilitate the establishment of dialogue between the relevant experts, regulators and/or industry bodies to share and maintain qualifications recognition processes with a view to encourage the achievement of recognition of qualifications and/or professional registration.
6. Such recognition may be achieved through harmonisation, recognition of regulatory outcomes, recognition of qualifications and professional registration awarded by one Party as a means of complying with the regulatory requirements of the other Party (whether accorded autonomously or by mutual arrangement) or recognition arrangements concluded between the Parties and between industry bodies.

Article 14. Subsidies

Notwithstanding paragraph 3(c) of Article 2 (Scope):
(a) the Parties shall review the issue of disciplines on subsidies related to cross-border trade in services in the light of any disciplines agreed under Article XV of GATS, with a view to the incorporation of such disciplines into this Agreement; and
(b) a Party which considers that it is adversely affected by a subsidy of the other Party related to cross-border trade in services may request consultations on such matters. The Parties shall enter into such consultations.

Article 15. Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its jurisdiction does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Articles 4 (Market Access), 5 (National Treatment), 6 (Most-Favoured-Nation Treatment) and 7 (Local Presence) except as set out in its Schedules to Annexes 4:I and 4:II.
2. Where a Party's monopoly supplier of a service competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its jurisdiction in a manner inconsistent with that Party's obligations under Articles 4 (Market Access), 5 (National Treatment), 6 (Most–Favoured-Nation Treatment) and 7 (Local Presence) except as set out in its Schedules to Annexes 4:I and 4:II.
3. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraphs 1 or 2, that Party may request the other Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.
4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:
(a) authorises or establishes a small number of service suppliers; and
(b) substantially prevents competition among those suppliers in its jurisdiction.

Article 16. Transfer 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 jurisdiction.
2. Each Party shall permit such transfers and payments relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.
3. Notwithstanding paragraphs 1 and 2 of this Article, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory and good faith application of its laws relating to:
(a) bankruptcy, insolvency or the protection of the rights of creditors;
(b) issuing, 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 offences;
(e) ensuring compliance with orders or judgments in judicial or administrative proceedings; or
(f) social security, public retirement or compulsory savings schemes.

Article 17. Denial of Benefits

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a service supplier of the other Party where the Party establishes that:

(a) the service is being supplied by an enterprise that is owned or controlled by persons of a non-Party and the enterprise has no substantive business operations in the other Party; or
(b) the service is being supplied by an enterprise that is owned or controlled by persons of the denying Party and the enterprise has no substantive business operations in the other Party.

Chapter 14. Temporary Entry of Business Persons

Article 1. Objectives

The objectives of this Chapter are to:
(a) facilitate the movement of business persons engaged in the conduct of trade and investment between the Parties; and
(b) establish streamlined and transparent procedures for applications made by business persons of the other Party, while recognising the need of a Party to ensure its security and to protect its domestic labour force and employment.

Article 2. Scope

1. This Chapter shall apply to measures affecting the temporary entry and stay of business persons of one Party into the other Party, where such persons include:
(a) business visitors;

(b) intra-corporate transferees;
(c) installers or servicers; and
(d) independent professionals.
2. This Chapter shall not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party, nor shall it apply to measures regarding residence, or employment on a permanent basis.
3. Nothing in this Chapter, Chapter 13 (Cross-Border Trade in Services), Chapter 12 (Investment) or Chapter 2 (Trade in Goods) shall prevent a Party from applying measures to regulate the entry or temporary stay of business persons of the other Party including those measures necessary to protect its integrity, and to ensure the orderly movement of business persons into its jurisdiction, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under this Chapter. The sole fact of a Party requiring an immigration formality in respect of business persons of the other Party and not those of non-Parties shall not be regarded as nullifying or impairing benefits accruing to the other Party under this Chapter.

Article 3. Definitions

For the purposes of this Chapter:
business person means a natural person of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment;
business visitor means a natural person of a Party who is seeking temporary entry to another Party for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit is derived from sources outside the granting Party, and who is not engaged in making direct sales to the general public or in supplying

goods or services themselves;
immigration formality means a visa, permit, pass or other document or electronic authority granting a natural person of a Party permission to enter, stay or work or establish commercial presence in the granting Party;
independent professional has the meaning set out in each Party's Schedule of commitments in Annex 6 (Schedules of Commitments on Temporary Entry of Business Persons) in respect of that Party's commitments under this Chapter; installer or servicer means a natural person of a Party who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract;
intra-corporate transferee has the meaning set out in each Party's Schedule of commitments in Annex 6 in respect of that Party's commitments under this Chapter; and
temporary entry means entry by a business person covered by this Chapter, without the intent to establish permanent residence.

Article 4. Expeditious Application Procedures

1. Where an application for an immigration formality is required by a Party, the Party shall expeditiously process completed applications for immigration formalities or extensions thereof, received from business persons of the other Party covered by Article 2 (Scope).
2. A Party shall, within 15 working days of receipt of an application for temporary entry that has been completed and submitted in accordance with its domestic law, either:
(a) make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions; or
(b) if a decision cannot be made in that time period, inform the applicant when a decision will be made.
3. At the request of an applicant, a Party in receipt of a completed application for temporary entry shall provide, without undue delay, information concerning the status of the application.

Article 5. Grant of Temporary Entry

1. The Parties shall make commitments in respect of the temporary entry of business persons covered by Article 2 (Scope). Each Party shall set out in Annex 6 a Schedule containing such commitments. These Schedules shall specify the conditions and limitations for entry and temporary stay, including the requirements and length of stay, for each category of business persons included in each Party's Schedule of commitments.
2. Where a Party makes a commitment under paragraph 1, that Party shall grant temporary entry or extension of temporary stay to the extent provided for in that commitment, provided that those business persons:
(a) follow prescribed application procedures for the immigration formality sought; and
(b) meet all relevant eligibility requirements for entry to the relevant Party.
3. Temporary entry granted to a business person pursuant to this Chapter does not exempt that person from the requirements needed to carry out a profession or activity according to the domestic law, and any applicable mandatory codes of practice made pursuant to the domestic law, in force in the Party authorising the temporary entry.
4. Any fees imposed in respect of the processing of an immigration formality shall be reasonable and based on the approximate cost of services rendered. 5. Neither Party may, except as provided for in its Schedule of commitments set out in Annex 6, impose or maintain any numerical restriction relating to temporary entry as a condition for entry under paragraph 1.

Article 6. Provision of Information

Each Party shall publish promptly on the internet where possible or, if not, otherwise make publicly available:
(a) the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable business persons of the other Party to become acquainted with those requirements;
(b) explanatory material on all relevant immigration formalities which pertain to or affect the operation of this Chapter; and
(c) modifications or amendments to any requirements for temporary entry referred to in subparagraph (a) that affect the temporary entry of business persons and shall ensure that the information published pursuant to subparagraph (a) is updated by the date that the modification or amendment comes into effect.

Article 7. Contact Points

1. Each Party shall designate a contact point to facilitate communication and the effective implementation of this Chapter, and respond to inquiries from the other Party regarding regulations affecting the movement of business persons between the Parties or any matters covered in this Chapter, and shall provide details of this contact point to the other Party.

2. The Parties shall notify each other promptly of any amendments to the details of their contact points.

Article 8. Dispute Settlement

1. The Parties shall endeavour to settle any differences or disputes arising out of the implementation of this Chapter amicably through consultations or negotiations.
2. A Party shall not have recourse to Chapter 21 (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
(a) the matter involves a pattern of practice; and
(b) the business persons affected have exhausted all available domestic remedies regarding the particular matter.
3. The remedies referred to in subparagraph 2(b) of this Article shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of the institution of proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the business persons concerned.

Chapter 15. Air Transport Services

Article 1. Objectives

The objectives of this Chapter are to:
(a) create opportunities for air transport services between and beyond the Parties' respective flight information regions; and
(b) ensure the highest degree of safety and security in air transport services.

Article 2. Scope of Application

1. This Chapter shall be applied to the measures that a Party adopts or maintains in the matter of air transport services.
2. The Air Transport Agreement Between New Zealand and The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu ("Air Transport Agreement") is incorporated into this Agreement.
3. In case of incompatibility between this Agreement and the Air Transport Agreement, the latter shall prevail to the extent of the incompatibility.

Article 3. Civil Aviation Safety and Environment Cooperation

The Parties shall promote cooperation between their competent authorities for the purpose of establishing technical or operational arrangements that facilitate:
(a) the exchange of information on civil aviation safety and environment matters;
(b) mutual recognition of safety regulatory certification and/or processes; and
(c) trade in civil aviation-related goods and services.

Article 4. Dispute Settlement

1. Any dispute that arises with respect to the application or interpretation of this Chapter or the Air Transport Agreement shall be governed by the provisions of Chapter 21 (Dispute Settlement), except as provided in this Article.
2. If any dispute arises with respect to the interpretation or application of this Chapter or the Air Transport Agreement, the Parties shall in the first place endeavour to settle it by consultations in accordance with Article 14 of the Air Transport Agreement. If the Parties fail to resolve the dispute through such consultations, the complaining Party may request the establishment of an arbitral tribunal in accordance with Article 7 (Establishment of an Arbitral Tribunal) of Chapter 21 (Dispute Settlement).
3. The arbitrators appointed in accordance with Article 8 (Composition of Arbitral Tribunals) of Chapter 21 (Dispute Settlement) shall have specialised knowledge of, or experience in, air transport services.

Chapter 16. Trade and Labour

Article 1. Objectives

The objectives of this Chapter are to:
(a) promote the common aspiration that free trade and investment should lead to job creation, decent work and meaningful jobs for workers, with terms and conditions of employment that adhere to internationally recognised fundamental labour

principles and rights;
(b) promote, through cooperation and dialogue, better understanding of each Party's labour systems, sound labour policies and practices, and the improved capacity and capability of each Party to address labour issues;
(c) promote the improvement of working conditions and living standards within the Parties, and protection and observance of fundamental labour principles and rights; and
(d) enable the discussion and exchange of views on labour issues of mutual interest or concern with a view to reaching consensus on those issues.

Article 2. Key Commitments

1. The Parties respect the right of each Party to set, administer and enforce its own labour laws, regulations, policies and practices according to its priorities.
2. Each Party shall respect, promote and recognise in its laws, regulations, policies and practices, the following internationally recognised fundamental labour principles and rights:
(a) freedom of association and the effective recognition of the right to collective bargaining;
(b) the elimination of all forms of forced or compulsory labour;
(c) the effective abolition of child labour; and
(d) the elimination of discrimination in respect of employment and occupation.
3. Each Party shall not weaken, derogate from, or fail to enforce or administer in a sustained or recurring manner, its labour laws, regulations and policies in a manner affecting trade or investment between the Parties.
4. Each Party shall ensure that its labour laws, regulations, policies and practices are not set or applied for trade protectionist purposes.
5. Each Party shall ensure that the processes and institutions for the operation and enforcement of its labour laws, regulations, policies and practices, are appropriately accessible by persons with a recognised interest under its law, fair and equitable and, except where the administration of justice otherwise requires, transparent.
6. The Parties recognise the desirability of clear, well understood and broadly consulted labour laws, regulations, policies and practices, and accordingly shall promote public awareness of their labour laws, regulations, policies and practices domestically.

Article 3. Institutional Arrangements

Contact Points
1. Each Party shall designate a contact point and inform the other Party of the identity of the contact point to facilitate communication between the Parties and to assist in the implementation of this Chapter, including coordination of labour cooperation activities pursuant to Article 4. Meeting of the Parties
2. A meeting of the Parties, comprised of senior labour officials or such other persons as deemed appropriate by each Party, shall take place within the first year after this Agreement enters into force, and subsequently thereafter as mutually decided by the Parties.
3. The functions of the meeting of the Parties include, but are not limited to:
(a) establishing, overseeing and evaluating the agreed cooperative activities;
(b) serving as a forum for dialogue on labour matters of mutual interest or concern;
(c) reviewing the operation and outcomes of this Chapter; and
(d) considering opportunities to collaborate on cooperative activities with other jurisdictions and organisations which both Parties are members of.
4. After three years, or as otherwise agreed, the Parties shall review the operation and outcomes of this Chapter, and may report the result of this review to the Joint Commission. This report may also be made public. Public Participation 5. Each Party may, as appropriate, consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.
6. Each Party may provide an opportunity for its domestic stakeholders to submit views or advice to it on matters relating to the operation of this Chapter, and shall seek to inform its public of activities undertaken pursuant to this Chapter.
7. The Parties shall prepare a report on their work at the end of each meeting of the Parties. The Parties' report shall be made public, unless the Parties decide otherwise.

Article 4. Cooperation

1. The Parties agree to cooperate on mutually agreed labour issues, including through the interaction and involvement, as appropriate, of government, industry, educational and research institutions of each Party.
2. The Parties have established the following indicative list of areas of potential cooperation, which may be pursued directly between them, at regional and/or multilateral levels. The areas of cooperation may include:

(a) labour laws and practices, including the promotion of fundamental principles and rights at work and the concept of decent work as defined by the International Labour Organisation;
(b) compliance and enforcement systems; management of labour disputes;
(c) labour consultation; labour/management co-operation;
(d) occupational safety and health;
(e) human capital development, training and employability; and
(f) any other areas of cooperation agreed by the Parties.
3. The Parties may encourage and facilitate cooperative activities, as appropriate, through the following modes of cooperation:
(a) exchanges of delegations, experts, scholars, teachers and instructors, including study visits and other technical exchanges;
(b) exchanges of information on standards, regulations and procedures and best practices to enhance mutual understanding of labour laws and institutions of the Parties;
(c) joint conferences, seminars, workshops, meetings, training sessions and outreach and education programmes;
(d) development of collaborative projects or demonstrations; and
(e) joint research projects, studies and reports.
4. Any cooperative activities agreed to shall take into consideration each Party's labour priorities and needs as well as the resources available. The resourcing of cooperative activities shall be decided by the Parties on a case by case basis. 5. Each Party may, as appropriate, invite the participation of its unions and employers or stakeholders in identifying potential areas for cooperation, and undertaking cooperative activities.

Article 5. Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation and cooperation to resolve any issue that might affect its operation.
2. Should any issue arise in relation to the implementation of this Chapter, a Party may request consultations with the other Party, through the contact point. The contact point shall identify the office or official responsible for the issue and assist as necessary in facilitating communications between the Parties.
3. The Parties shall decide a timeframe for completion of consultations under paragraph 2 of this Article, which shall not exceed 180 days, unless otherwise mutually agreed.
4. As part of the consultations, the Parties may seek advice or assistance from any person or body they consider appropriate.
5. If consultations fail to resolve the matter, either Party may request through the contact point that a joint meeting of the Parties be convened to consider the matter. The joint meeting shall take place, at an appropriately senior level, as soon as practicable, no later than 90 days following the request. The contact points shall liaise to verify and prepare a summary of the facts in relation to the issue before the joint meeting.
6. To assist its deliberations the joint meeting may decide to request advice from an independent expert or experts.
7. The joint meeting shall produce a report providing conclusions and recommendations on resolving the issue. The Parties shall implement the conclusions and recommendations of the joint meeting as soon as practicable.
8. Should the joint meeting be unable to reach agreement on the report, or should either Party have concerns about the implementation of the recommendations of the joint meeting, the issue may be referred to the Joint Commission for final consideration and resolution of the issue. 9. Neither Party may have recourse to Chapter 21 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 17. Trade and Environment

Article 1. Objectives

The objectives of this Chapter are to:
(a) contribute to the goal of sustainable development by promoting mutually supportive trade and environment policies; and
(b) enhance the capacities and capabilities of the Parties to address trade-related environmental issues including through cooperation.

Article 2. Key Commitments

1. The Parties respect the right of each Party to set, administer and enforce its own environmental laws, regulations, policies and practices according to its priorities.
2. Each Party reaffirms its commitment to fulfil its international environmental obligations, and its intention to continue to

pursue high levels of environmental protection.
3. The Parties recognise the importance of mutually supportive trade and environment policies and practices that support efforts to improve environmental protection, promote sustainable management of natural resources and enhance trade between the Parties. Accordingly:
(a) each Party shall not weaken, derogate from, or fail to enforce or administer in a sustained or recurring manner, its environmental laws, regulations and policies in a manner affecting trade or investment between the Parties; and
(b) each Party shall ensure that its environmental laws, regulations and policies and practices are not set or applied for trade protectionist purposes.
4. Each Party acknowledges the importance of transparency and appropriate communication and consultation, in the development or implementation of any measures aimed at protecting the environment that may affect trade or investment between the Parties.
5. Each Party shall promote public awareness of its environmental laws, regulations, policies and practices domestically, and ensure that the processes and institutions for the operation and enforcement of its environmental laws and regulations are fair, equitable and transparent.

Article 3. Environmental Goods and Services

1. The Parties recognise that facilitating trade in environmental goods and services through elimination of tariff and non-tariff barriers can enhance economic performance and address global environmental challenges including climate change; natural resources protection; water, soil and air pollution; management of waste and waste water; and depletion of the ozone layer.
2. Accordingly, the Parties shall:
(a) eliminate all tariffs on environmental goods (13) upon entry into force of this Agreement;
(b) facilitate the movement of business persons involved in the sale, delivery or installation of environmental goods or the supply of environmental services (14) in accordance with Chapter 14 (Temporary Entry of Business Persons);
(c) endeavour to address any non-tariff barriers identified by either Party that impede trade in environmental goods or services, working through the Joint Commission as appropriate; and
(d) encourage the application of good regulatory principles to the design of any future standards and regulations relating to environmental goods and services, including transparency, proportionality, a preference for least trade-distorting measures, and the use of internationally agreed standards.

(13) For the purposes of this Agreement, environmental goods are those which positively contribute to the green growth and sustainable development objectives of the Parties. A list of environmental goods is attached as Annex 7.

(14) For the purposes of this Agreement, environmental services refers to services directly related to the investment, sale, delivery or installation of environmental goods defined in subparagraph 2(a) of this Article, as well as services that fall under the WTO classification MTN.GNS/w/120 or the Provisional Central Product Classification, 1991.

Article 4. Voluntary Market Mechanisms

1. The Parties recognise the substantial benefits brought by international trade and investment, and the opportunity for enterprises, including those engaged in international trade and investment, to implement policies that seek to strengthen coherence between trade and investment, economic and environmental objectives.
2. The Parties recognise that flexible, voluntary mechanisms, such as voluntary sharing of information and expertise, voluntary auditing and reporting, and market-based incentives, can contribute to the achievement and maintenance of high levels of environmental protection. Accordingly, each Party should encourage:
(a) the development and use of flexible and voluntary mechanisms to protect natural resources and the environment in its jurisdiction; and
(b) businesses and business organisations, non-governmental organisations, and other interested persons that are developing or applying voluntary environmental goals or standards, including labelling or other associated measures, to do so in a manner that is transparent; does not have the effect of creating unnecessary obstacles to trade; does not constitute a means of arbitrary or unjustified discrimination between the Parties; and base them, where appropriate, on internationally recognised standards, recommendations or guidelines.

Article 5. Cooperation

1. The Parties agree to cooperate on mutually agreed environmental issues, including through the interaction and

involvement, as appropriate, of government, industry, educational and research institutions of each Party.
2. The Parties may encourage and facilitate cooperative activities, as appropriate, through the following modes of cooperation:
(a) exchange of environmental experts and management personnel, including study visits and other technical exchanges;
(b) exchange of technical information and publications to enhance mutual understanding of environmental laws, policies and institutions of the Parties;
(c) joint conferences, seminars, workshops and meetings; and
(d) collaborative research on subjects of mutual interest.
3. To facilitate identification of cooperative activities, the Parties shall, as a first step after this Agreement enters into force, exchange lists of their initial priorities.
4. Any cooperative activities agreed to shall take into consideration each Party's environment priorities and needs as well as the resources available. The resourcing of cooperative activities shall be decided by the Parties on a case by case basis. 5. Each Party may, as appropriate, involve its non-government sectors and other organisations in identifying potential areas for cooperation, and in undertaking cooperative activities.

Article 6. Institutional Arrangements

Contact Points
1. Each Party shall designate a contact point or contact points to facilitate communication between the Parties and to assist in the implementation of this Chapter, including coordination of environmental cooperation activities pursuant to Article 5.
Meeting of the Parties
2. A meeting of the Parties, comprised of senior environment officials or such other persons as deemed appropriate by each Party, shall take place within the first year after this Agreement enters into force, and subsequently thereafter as mutually decided by the Parties.
3. The functions of the meeting of the Parties include, but are not limited to:
(a) establishing, overseeing and evaluating cooperative activities;
(b) serving as a forum for dialogue on environmental matters of mutual interest or concern; and
(c) reviewing the operation and outcomes of this Chapter.
4. After three years, or as otherwise agreed, the Parties shall review the operation and outcomes of this Chapter, and may report the result of this review to the Joint Commission. This report may also be made public. Public Participation 5. Each Party may, as appropriate, consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.
6. Each Party may provide an opportunity for its domestic stakeholders to submit views or advice to it on matters relating to the operation of this Chapter, and shall seek to inform its public of activities undertaken pursuant to this Chapter.
7. The Parties shall prepare a report on their work at the end of each meeting of the Parties. The Parties' report shall be made public, unless the Parties decide otherwise.

Article 7. Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation and cooperation to resolve any issue that might arise.
2. Should any issue arise in relation to the implementation of this Chapter, a Party may request consultations with the other Party, through its contact point. The contact point shall identify the office or official responsible for the issue and assist as necessary in facilitating communications between the Parties.
3. The Parties shall decide a timeframe for completion of consultations under paragraph 2 of this Article, which shall not exceed 180 days, unless otherwise mutually agreed.
4. As part of the consultations, the Parties may seek advice or assistance from any person or body they consider appropriate. 5. If consultations fail to resolve the matter, either Party may request through the Contact Point that a joint meeting of the Parties be convened to consider the matter. The joint meeting shall take place, at an appropriately senior level, as soon as practicable, and no later than 90 days following the request. The contact points shall liaise to verify and prepare a summary of the facts in relation to the issue before the joint meeting.
6. To assist its deliberations the joint meeting may decide to request advice from an independent expert or experts.
7. The joint meeting shall produce a report providing conclusions and recommendations on resolving the issue. The Parties shall implement the conclusions and recommendations of the joint meeting as soon as practicable.
8. Should the joint meeting be unable to reach agreement on the report, or should either Party have concerns about the implementation of the recommendations of the joint meeting, the issue may be referred to the Joint Commission for final consideration and resolution of the issue.
9. Neither Party may have recourse to Chapter 21 (Dispute Settlement) for any matter arising under this Chapter.

Chapter 18. Film and Television Co-production

Article 1. Definitions

For the purposes of this Chapter:
competent authority means the authority designated as such by each Party in the Implementing Arrangement on Film and Television Co-Production concluded in accordance with Article 14 of this Chapter;
co-producer means one or more natural persons of a Party involved in the making of a co-production film, or, in relation to non-Party co-productions in accordance with Article 5 of this Chapter, natural persons of the non-Party involved in the making of a co-production film;
co-production film means a film made by one or more co-producers of one Party in co-operation with one or more co-producers of the other Party under a project approved jointly by the competent authorities, and includes a film to which Article 5 of this Chapter applies; and
film means an aggregate of images, or of images and sounds, embodied in any material, and includes television and video recordings, animations and digital format productions.

Article 2. Recognition as a Domestic Film and Entitlement to Benefits

1. A co-production film shall be fully entitled to all the benefits which are or may be accorded to domestic films by each of the Parties under their respective laws.
2. Any benefits which may be granted within either Party in relation to a co-production film shall accrue to the co-producer who is permitted to claim those benefits in accordance with the law of that Party, subject to any other relevant international obligations.

Article 3. Approval of Projects

1. Co-production films shall require, prior to the commencement of shooting, joint approval of the competent authorities. Approvals shall be in writing and shall specify the conditions upon which approval is granted. None of the co-producers shall be linked by common management, ownership or control, save to the extent that it is inherent in the making of the co-production film itself.
2. In considering proposals for the making of a co-production film, competent authorities, acting jointly and with due regard for their respective policies and guidelines, shall apply the rules set out in the Implementing Arrangement on Film and Television Co-Production concluded in accordance with Article 14 of this Chapter.

Article 4. Contributions

1. For each co-production film:
(a) the performing, technical, craft and creative participation of the co-producers; and
(b) production expenditure in each of the co-producer's countries, shall be in reasonable proportion to their respective financial contributions.
2. Both the financial contribution, and the performing, technical, craft and creative participation of each co-producer shall account for at least 20% (twenty per cent) of the total effort in making the co-production film.
3. Notwithstanding the contribution rules set out in paragraphs 1 and 2 of this Article, in exceptional cases, competent authorities may approve jointly co-production projects where:
(a) the contribution of one of the co-producers is limited to the provision of finance only, in which case approvals shall be limited to projects where the proposed finance-only contribution is no greater than 50% (fifty per cent) of the total costs of the film; and
(b) the competent authorities consider that the project would further the objectives of this Agreement and should be approved accordingly.

Article 5. Co-productions Involving Non-parties

1. Where either Party maintains a film co-production agreement with a non-Party, the competent authorities may approve a project for a co-production film under this Chapter that is to be made in conjunction with a co-producer from that non-Party.
2. Approvals under this Article shall be limited to proposals in which the contribution of the non-Party co-producer is no greater than the lesser of the individual contributions of the Parties' co-producers.

Article 6. Participation

1. Persons participating in a co-production film shall be natural persons of the Parties and, where there is a third non-Party co-producer, natural persons of the non-Party.
2. Subject to the approval of the competent authorities:
(a) where script or financing dictates, restricted numbers of performers from other countries may be engaged; and
(b) in exceptional circumstances, restricted numbers of technical personnel from other countries may be engaged.

Article 7. Making Up to First-release Print

1. Co-production films shall be made and processed up to the manufacture of the first-release print in either or both of the Parties and/or, where there is a third non-Party co-producer, in that non-Party.
2. At least 90% (ninety per cent) of the footage included in a co-production film shall be specially shot or created for the film unless otherwise approved by the competent authorities.

Article 8. Location Filming

1. Competent authorities may approve location filming in places, countries, or locations other than those of the participating co-producers.
2. Notwithstanding Article 6 of this Chapter, where location filming is approved in accordance with this Article, persons of the country in which location filming takes place may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.

Article 9. Soundtrack

1. The original soundtrack of each co-production film shall be made in a commonly used or indigenous language of the Parties, including English, Mandarin, Māori, or in any combination of those permitted languages.
2. Narration, dubbing or subtitling in any other commonly used language or dialect of the Parties shall be permitted.
3. Post-release print dubbing into any other language may be carried out in non-Parties.
4. The soundtrack may contain sections of dialogue in any language in so far as is required by the script.

Article 10. Acknowledgments and Credits

A co-production film and the promotional material associated with it shall include either a credit title indicating that the film is an official co-production of New Zealand and Chinese Taipei film authorities or, where relevant, a credit which reflects the participation of the Parties and the country of a third non-Party co-producer.

Article 11. Immigration Facilitation

Subject to meeting normal immigration requirements, each of the Parties shall permit natural persons of the Parties and co-producing non-Parties to enter and remain in their jurisdiction for the purpose of making or promoting a co-production film.

Article 12. Import of Equipment

Each Party shall provide, in accordance with its respective legislation, temporary admission, free of import duties and taxes, of technical equipment for the making of co-production films.

Article 13. Film and Television Mixed Commission

1. There shall be a Film and Television Mixed Commission composed of representatives of the Parties, including the competent authorities and industry representatives.
2. The role of the Film and Television Mixed Commission shall be to supervise and review the operation of this Chapter and to make any proposals considered necessary to improve its effectiveness.
3. The Film and Television Mixed Commission shall be convened, whether physically or by teleconference or otherwise, at the request of either of the Parties within six months of such a request.

Article 14. Implementing Arrangement

1. The Implementing Arrangement on Film and Television Co-Production shall be read in conjunction with the provisions of this Chapter.
2. The Implementing Arrangement on Film and Television Co-Production may be modified or amended by mutual consent of the competent authorities following consultations with the Film and Television Mixed Commission. Modification or amendment to the Implementing Arrangement on Film and Television Co-Production shall be consistent with the rights and obligations of the Parties under this Chapter and shall not constitute amendments to this Agreement under Article 2 (Amendments) of Chapter 25 (Final Provisions).
3. Modifications or amendments to the Implementing Arrangement on Film and Television Co-Production shall be confirmed by the competent authorities in writing and shall take effect on the date they specify.

Article 15. Non-application of Dispute Settlement

Neither Party shall have recourse to Chapter 21 (Dispute Settlement) in respect of any issue arising from or relating to this Chapter.

Chapter 19. Cooperation on Indigenous Issues

Article 1. Objectives

The objectives of this Chapter are to:
(a) seek to enhance cultural and people-to-people contacts between the indigenous peoples in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and New Zealand's Māori; and
(b) expand and facilitate trade and economic relations between the indigenous peoples in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and New Zealand's Māori.

Article 2. Implementation

1. The coordinating authorities responsible for the implementation of this Chapter are:
(a) for New Zealand: the Ministry of Māori Development (Te Puni Kōkiri); and
(b) for Chinese Taipei: the Council of Indigenous Peoples.
2. The Parties shall, through their coordinating authorities:
(a) hold at least one meeting each year for the planning of measures designed to enhance economic, cultural and people-to-people contacts between the indigenous peoples in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and New Zealand's Māori;
(b) promote and facilitate the exchange of experiences relating to indigenous peoples' issues, including the following areas: economic and business development, tourism, natural resource development, artistic performances, agricultural production, culture, language promotion, education, human rights, land ownership issues, employment, social policy, biodiversity, sports and traditional medicine;
(c) promote and facilitate the development of direct contacts with or between academic institutions, non-governmental organisations, local government bodies and tribal authorities, to support these endeavours;
(d) promote indigenous personnel exchanges in academic, cultural and business exchanges through conferences on a rotation basis, including educators, cultural workers, language instructors, writers and artists, linguists, and ethnologists;
(e) promote stronger relationships between Māori exporters and importers in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu;
(f) promote stronger relationships between indigenous exporters in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and New Zealand importers;
(g) encourage stronger institutional relationships in tourism, including cooperation and exchange mechanisms, workshops, and internships with the participation of the public and private sectors;
(h) advance exchanges in translation and the publication of indigenous research and literary works;
(i) promote exchanges and relations between their indigenous peoples on broadcasting, including television and other media, licensing and the release of indigenous music recordings, films and multimedia productions in the context of Chapter 18 (Film and Television Co-Production); and
(j) arrange funding for any exchanges facilitated under this Chapter on a case-by-case basis.

Article 3. Consultation

1. At the request of either Party, the Parties agree to consult each other concerning any policies or decisions which may adversely impact the indigenous peoples' aspects of trade between the Parties.
2. Neither Party shall have recourse to Chapter 21 (Dispute Settlement) in respect of any issue arising from or relating to this

Chapter.

Chapter 20. Transparency

Article 1. Definitions

For the purposes of this Chapter: administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations and that is relevant to the implementation of this Agreement but does not include:
(a) a determination or ruling made in administrative or quasi-judicial proceedings that applies to a particular person, good, or service of another Party in a specific case; or
(b) a ruling that adjudicates with respect to a particular act or practice.

Article 2. Publication

1. Each Party shall ensure that its laws, regulations, administrative guidance, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly, but in no case later than 90 days after implementation or enforcement, published or otherwise made available 15 in such a manner as to enable (15) Including through the internet or in print form. interested persons and the other Party to become acquainted with them.
2. When possible, each Party shall:
(a) publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and
(b) provide, where appropriate, interested persons and the other Party with a reasonable opportunity to comment on such proposed measures.

(15) Including through the internet or in print form.

Article 3. Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals, or procedures, for the purpose of the prompt review and correction of final administrative actions regarding matters covered by this Agreement, other than those taken for prudential reasons. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.
2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceedings are provided with the right to:
(a) a reasonable opportunity to support or defend their respective positions; and
(b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.
3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that decisions referred to in paragraph 1 of this Article shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article 4. Contact Points

1. Each Party shall designate a contact point or points, and provide details of such contact points to the other Party, to facilitate communications between the Parties on any matter covered by this Agreement.
2. The Parties shall notify each other promptly of any amendments to the details of their contact points.
3. Each Party shall ensure that its contact points are able to coordinate and facilitate a response on any matter covered by this Agreement, including any enquiries referred to in Article 6 (Notification and Provision of Information).
4. On the request of the other Party, the contact points shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communications with the requesting Party.

Article 5. Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures affecting matters covered by this Agreement, each Party shall ensure, in its administrative proceedings applying measures referred to in paragraph 1 of Article 2 (Publication) to particular persons, goods, or services of the other Party in specific cases, that: (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with

domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in question;
(b) persons of the other Party that are directly affected by a proceeding are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and
(c) its procedures are in accordance with its law.

Article 6. Notification and Provision of Information

1. Where a Party considers that any actual or proposed measure might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement, that Party shall notify the other Party, to the extent possible, of the actual or proposed measure.
2. On request of the other Party, the requested Party shall within 30 days of receipt of the request provide information and respond to questions pertaining to any actual or proposed measure.
3. Any notification, request, information or response provided under this Article shall be conveyed to the other Party through its contact points.
4. The notification referred to in paragraph 1 of this Article shall be regarded as having been conveyed in accordance with paragraph 3 of this Article when the actual or proposed measure has been appropriately notified to the WTO.
5. Any notification, information or response provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Chapter 21. Dispute Settlement

Article 1. Objectives

The objective of this Chapter is to provide an effective, efficient and transparent process for consultations and the settlement of disputes arising under this Agreement.

Article 2. Scope and Coverage

1. Except as otherwise provided in this Agreement, the rules and procedures of this Chapter shall apply:
(a) with respect to the avoidance or settlement of disputes between the Parties regarding the interpretation or application of this Agreement;
(b) wherever a Party considers that an actual or proposed measure of the other Party is not or would not be in conformity with the obligations of this Agreement or that the other Party has otherwise failed to carry out its obligations under this Agreement; or
(c) wherever a Party considers that any benefit it could reasonably have expected to accrue to it under any provision of this Agreement is being nullified or impaired as a result of the application of any actual or proposed measure, whether or not such measure is in conformity with this Agreement.
2. Subject to Article 4 (Choice of Forum), this Chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other agreements to which they are party.

Article 3. General Provisions

For the purpose of this Chapter: arbitral tribunal means an arbitral tribunal established pursuant to Article 7 (Establishment of an Arbitral Tribunal); complaining Party means the Party that requests consultations under Article 5 (Consultations); and responding Party means the Party to which the request for consultations is made under Article 5 (Consultations).

Article 4. Choice of Forum

1. Where a dispute regarding any matter arises under this Agreement and under another agreement to which both Parties are party, the complaining Party may select the forum in which to settle the dispute.
2. Once the complaining Party has selected a particular forum, the forum selected shall be used to the exclusion of other possible fora in respect of the dispute.
3. For the purposes of this Article, the complaining Party shall be deemed to have selected a forum when it has requested the establishment of, or referred a matter to, a dispute settlement panel or arbitral tribunal.

Article 5. Consultations

1. Each Party shall accord adequate opportunity for consultations with respect to any matter referred to in Article 2 (Scope and Coverage). Any differences shall, as far as possible, be settled by consultation between the Parties.
2. A request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of any actual or proposed measure or other matter at issue and an indication of the legal basis for the complaint. The complaining Party shall deliver the request to the responding Party.
3. If a request for consultations is made, the responding Party shall reply to the request in writing within seven days after the date of its receipt and shall enter into consultations in good faith with a view to reaching a mutually satisfactory solution within a period of no more than:
(a) 15 days after the date of receipt of the request for urgent matters, including those concerning perishable goods; or (b) 30 days after the date of receipt of the request for all other matters.
4. The Parties shall make every effort to reach a mutually satisfactory resolution of any matter through consultations. To this end, the Parties shall:
(a) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation or application of this Agreement; and
(b) treat any information exchanged in the course of consultations which is designated by a Party as confidential or proprietary in nature, on the same basis as the Party providing the information.
5. If the responding Party does not reply within the required seven days, or does not enter into consultations within the timeframes specified in subparagraph 3(a) or 3(b), or a period otherwise mutually agreed by the Parties, the complaining Party may proceed directly to request the establishment of an arbitral tribunal under Article 7 (Establishment of an Arbitral Tribunal).
6. The consultations shall be confidential, and without prejudice to the rights of either Party in any further proceedings.
7. The complaining Party may request the responding Party to make available for the consultations personnel from its agencies or other regulatory bodies who have expertise in the matter under consultation.

Article 6. Good Offices, Conciliation or Mediation

1. The Parties may at any time agree to good offices, conciliation or mediation. They may begin at any time and be terminated at any time.
2. Proceedings involving good offices, conciliation and mediation, and in particular positions taken by the Parties during these proceedings, shall be confidential and without prejudice to the rights of either Party in any further proceedings.

Article 7. Establishment of an Arbitral Tribunal

1. The complaining Party may request, by means of a written notification addressed to the responding Party, the establishment of an arbitral tribunal if:
(a) the consultations fail to settle a dispute within:
(i) 30 days after the date of receipt of the request for consultations regarding urgent matters, including those concerning perishable goods; or
(ii) 60 days after the date of receipt of the request for consultations regarding all other matters; or
(b) paragraph 5 of Article 5 (Consultations) applies.
2. The Parties may agree during the consultations to vary the periods set out in subparagraph 1(a) of this Article.
3. The request to establish an arbitral tribunal shall identify:
(a) the specific measures at issue;
(b) the legal basis of the complaint sufficient to present the problem clearly including, where applicable: (i) any provisions of this Agreement alleged to have been breached;
(ii) whether there is a claim for nullification and impairment; and
(iii) any other relevant provisions; and (c) the factual basis for the complaint.
4. Unless otherwise agreed by the Parties, the arbitral tribunal shall be established and perform its functions in a manner consistent with the provisions of this Chapter.
5. Notwithstanding paragraphs 1 and 3 of this Article, an arbitral tribunal may not be established to review a proposed measure.

Article 8. Composition of Arbitral Tribunals

1. The arbitral tribunal shall consist of three members.
2. Each Party shall appoint an arbitrator within 15 days of the receipt of the request to establish an arbitral tribunal, and shall at the same time nominate up to five candidates to serve as the third arbitrator who shall be the chair of the arbitral tribunal.
3. The Parties shall appoint by common agreement the chair within 30 days of the receipt of the request to establish an

arbitral tribunal, taking into account the candidates nominated pursuant to paragraph 2 of this Article.
4. The chair shall be a national of a non-Party who shall not have his or her usual place of residence in either of the Parties.
5. If all three members of the arbitral tribunal have not been appointed in accordance with paragraphs 2 and 3 of this Article within 30 days of receipt of the request to establish an arbitral tribunal, the arbitrator or arbitrators not yet appointed shall be chosen within 10 days by lot drawn from the candidates nominated pursuant to paragraph 2 of this Article. If there is a common candidate or candidates notified by both Parties pursuant to paragraph 2 of this Article, the lot shall be drawn from among the common candidates only.
6. All arbitrators shall:
(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
(b) be chosen strictly on the basis of objectivity, reliability and sound judgment;
(c) be independent of, and not be affiliated with or take instructions from, either of the Parties;
(d) not have dealt with the matter under dispute in any capacity; and
(e) comply with the code of conduct for panellists established under the Understanding on Rules and Procedures Governing the Settlement of Disputes, which is part of the WTO Agreement.
7. The date of establishment of the arbitral tribunal shall be the date on which the last arbitrator is appointed.
8. If an arbitrator appointed under this Article resigns or becomes unable to act, a successor arbitrator shall be appointed within 15 days from the date written notice is received by the Parties of the need for a successor in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended pending the appointment of the successor arbitrator.
9. Where an arbitral tribunal is established under Articles 13 (Implementation), 14 (Compliance within Reasonable Period of Time) and 16 (Review), it shall, where possible, have the same arbitrators as the original arbitral tribunal and the same arbitrators shall be confirmed by the same timeline under this Article. Where having the same arbitrators is not possible, any replacement arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and shall have all the powers and duties of the original arbitrator. The arbitral tribunal may comprise only the chair of the original arbitral tribunal if the Parties so agree.

Article 9. Functions of Arbitral Tribunals

1. The function of an arbitral tribunal is to make an objective assessment of the dispute before it, including an objective assessment of the facts of the case and the applicability of and conformity with this Agreement, and make such other findings and rulings necessary for the resolution of the dispute referred to it as it thinks fit. The findings and rulings of the arbitral tribunal shall be binding on the Parties.
2. The arbitral tribunal shall, apart from the matters set out in Article 10 (Proceedings of Arbitral Tribunals) and Annex 8 (Model Rules of Procedure for Arbitral Tribunals), regulate its own procedures in relation to the rights of Parties to be heard and its deliberations, in consultation with the Parties.
3. The arbitral tribunal shall make its decisions to which paragraph 2 of this Article applies and its findings and rulings by consensus, provided that where an arbitral tribunal is unable to reach consensus these may be made by majority vote. The arbitral tribunal shall not disclose which arbitrators are associated with majority or minority opinions.
4. The findings and rulings of the arbitral tribunal cannot add to or diminish the rights and obligations provided in this Agreement.

Article 10. Proceedings of Arbitral Tribunals

1. The arbitral tribunal proceedings shall be conducted in accordance with the provisions in this Chapter and, unless the Parties agree otherwise, the Model Rules of Procedure for Arbitral Tribunals set out at Annex 8.
2. Unless the Parties otherwise agree within 20 days from the date of receipt of the request for the establishment of the arbitral tribunal, the terms of reference shall be: "To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral tribunal pursuant to Article 7 and to make findings and rulings of law and fact together with the reasons therefore for the resolution of the dispute."
3. At the request of a Party or on its own initiative, the arbitral tribunal may seek information and technical advice from any individual or body which it deems appropriate. Any information or technical advice so obtained shall be submitted to the Parties for comment. Where the arbitral tribunal takes the information or technical advice into account in the preparation of its report, it shall also take into account any comments by the Parties on the information or technical advice.

Article 11. Termination of Proceedings

1. The Parties may agree to terminate the proceedings of an arbitral tribunal in the event that a mutually satisfactory

solution to the dispute has been found. In such event the Parties shall jointly notify the chair of the arbitral tribunal.
2. The Parties may agree that the arbitral tribunal suspend its work at any time for a period not exceeding 12 months from the date of such agreement. In such event the Parties shall jointly notify the chair of the arbitral tribunal. If the work of the arbitral tribunal has been suspended for more than 12 months, the authority for establishment of the arbitral tribunal shall lapse unless the Parties agree otherwise.

Article 12. Reports of the Arbitral Tribunal

1. The reports of the arbitral tribunal shall be drafted without the presence of the Parties and shall be based on the relevant provisions of this Agreement, the submissions and arguments of the Parties and any other information provided to it in accordance with paragraph 3 of Article 10 (Proceedings of Arbitral Tribunals).
2. The arbitral tribunal shall present to the Parties its initial report within 90 days of the date of establishment of the arbitral tribunal or in cases of urgency, including those concerning perishable goods, within 60 days of the date of establishment of the arbitral tribunal. The initial report shall contain: (a) findings of fact; and (b) the determination of the arbitral tribunal as to whether a Party has not conformed with its obligations under this Agreement or that a Party's measure is causing nullification or impairment and any other determination requested in the terms of reference or required to perform its functions under Article 9 (Functions of Arbitral Tribunals).
3. In exceptional cases, if the arbitral tribunal considers it cannot release its initial report within 90 days, or within 60 days in cases of urgency, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. Any delay shall not exceed a further period of 30 days unless the Parties otherwise agree.
4. A Party may submit written comments on the initial report to the arbitral tribunal within 10 days of receiving the initial report or within such other period as the Parties may agree.
5. After considering any written comments by the Parties and making any further examination it considers necessary, the arbitral tribunal shall present to the Parties its final report within 30 days of presentation of the initial report, unless the Parties otherwise agree.
6. If in its final report, the arbitral tribunal finds that a Party's measure does not conform with this Agreement or is causing nullification or impairment, it shall include in its findings and rulings a requirement to remove the non-conformity or address the nullification or impairment.
7. The Parties shall release the final report of the arbitral tribunal as a public document within 15 days from the date of its presentation to the Parties, subject to the protection of confidential information.

Article 13. Implementation

1. The findings and rulings of the arbitral tribunal shall be final and binding on the Parties.
2. The Parties shall immediately comply with the findings and rulings of the arbitral tribunal. Where it is not practicable to comply immediately, the Parties shall comply with the findings and rulings within a reasonable period of time. The reasonable period of time shall be mutually determined by the Parties. Where the Parties fail to agree on the reasonable period of time within 45 days of the presentation to the Parties of the arbitral tribunal's final report, either Party may refer the matter, in accordance with paragraph 9 of Article 8 (Composition of Arbitral Tribunals), to the original arbitral tribunal, which shall determine the reasonable period of time following consultation with the Parties.
3. The arbitral tribunal shall provide its report to the Parties within 60 days of the date on which the arbitral tribunal is established to consider the matter referred to in paragraph 2 of this Article. The report shall contain the determination of the arbitral tribunal as to the reasonable period of time and the reasons for its determination. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. Any delay shall not exceed a further period of 30 days unless the Parties otherwise agree.

Article 14. Compliance Within Reasonable Period of Time

1. Where there is disagreement as to the existence or consistency with this Agreement of measures taken within a reasonable period of time to comply with the findings and rulings of the arbitral tribunal, such dispute shall be decided through recourse to the dispute settlement procedures in this Chapter, including wherever possible by resort to the original arbitral tribunal, in accordance with paragraph 9 of Article 8 (Composition of Arbitral Tribunals).
2. The arbitral tribunal shall provide its report to the Parties within 90 days of the date on which the arbitral tribunal is established to consider the matter referred to in paragraph 1 of this Article. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. Any delay shall not exceed a further period of 30 days unless the Parties otherwise agree.

Article 15. Compensation and Suspension of Benefits

1. If a failure to comply with the findings and rulings of the arbitral tribunal has been established in accordance with paragraph 1 of Article 14 (Compliance with Reasonable Period of Time) or the responding Party notifies the complaining Party in writing that it does not intend to comply with the findings and rulings, the responding Party shall, if so requested, enter into negotiations with the complaining Party within 10 days of the receipt of such request with a view to reaching a mutually satisfactory agreement on any necessary compensatory adjustment.
2. If no mutually satisfactory agreement on compensatory adjustment as set out in paragraph 1 of this Article is reached within 20 days of entering into negotiations, the complaining Party may at any time thereafter notify the responding Party that it intends to suspend the application to the responding Party of benefits of equivalent effect and shall have the right to begin suspending those benefits 30 days after the receipt of notification. Benefits shall not be suspended while the complaining Party is pursuing negotiations under paragraph 1 of this Article.
3. Compensation and the suspension of benefits shall be temporary measures. Neither compensation nor the suspension of benefits is preferred to full compliance with the findings and rulings of the arbitral tribunal. Compensation and suspension of benefits shall only be applied until such time as the measure found to be not in conformity with this Agreement has been brought into conformity, or the Party that must comply with the arbitral tribunal's findings and rulings has done so, or a mutually satisfactory solution is reached.
4. In considering what benefits to suspend pursuant to paragraph 2 of this Article:
(a) the complaining Party shall first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the arbitral tribunal has found to be not in conformity with this Agreement or to have caused nullification or impairment; and
(b) the complaining Party may suspend benefits in other sectors if it considers that it is not practicable or effective to suspend benefits in the same sector or sectors. The communication in which it announces such a decision shall indicate the reasons on which it is based.
5. Any suspension of benefits shall be restricted to benefits accruing to the responding Party under this Agreement.

Article 16. Review

1. Where the right to suspend benefits has been exercised under Article 15 (Compensation and Suspension of Benefits), upon written request of the responding Party, the arbitral tribunal shall decide whether:
(a) the level of benefits suspended by the complaining Party is not of equivalent effect pursuant to Article 15 (Compensation and Suspension of Benefits); or
(b) the responding Party has complied with the findings and rulings of the original arbitral tribunal.
2. Such matters shall be decided through recourse to the dispute settlement procedures in this Chapter, including wherever possible by resort to the original arbitral tribunal in accordance with paragraph 9 of Article 8 (Composition of Arbitral Tribunals).
3. The arbitral tribunal shall provide its report to the Parties within 90 days of the date on which the arbitral tribunal is established to consider the matters referred to in paragraph 1 of this Article. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. Any delay shall not exceed a further period of 30 days unless the Parties otherwise agree.
4. If the arbitral tribunal finds that the level of benefits suspended by the complaining Party is not of equivalent effect, the complaining Party shall modify the level of suspension of benefits accordingly. If the arbitral tribunal finds that the responding Party has complied with the findings and rulings, the complaining Party shall promptly reinstate any benefits it has suspended under Article 15 (Compensation and Suspension of Benefits).

Article 17. Expenses

Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, each Party shall bear the cost of its appointed arbitrator and its own expenses. The cost of the chair of the arbitral tribunal and other expenses associated with the conduct of arbitral tribunal proceedings shall be borne by the Parties in equal shares.

Chapter 22. Institutional Provisions

Article 1. Establishment of the Joint Commission

The Parties hereby establish a Joint Commission.

Article 2. Functions of the Joint Commission

1. The Joint Commission shall:
(a) consider any matters relating to the implementation of this Agreement;
(b) review the general functioning of this Agreement;
(c) consider any proposal to amend this Agreement or its Annexes;
(d) supervise the work of all committees and working groups established under this Agreement and supervise other activities conducted under this Agreement; and
(e) consider any other matter that may affect the operation of this Agreement.
2. The Joint Commission may:
(a) establish additional committees and working groups, refer matters to any committee or working group for advice, and consider matters raised by any committee or working group established under this Agreement;
(b) further the implementation of the Agreement's objectives through implementing arrangements, provided that the negotiation, modification or amendment of implementing arrangements shall be consistent with the rights and obligations of the Parties under this Agreement and shall not constitute amendments to this Agreement under Article 2 (Amendments) of Chapter 25 (Final Provisions);
(c) further the implementation of the Agreement's objectives by approving any modifications of, inter alia, the lists of entities and thresholds in Annex 3 to Chapter 11 (Government Procurement);
(d) explore measures for the further expansion of trade and investment among the Parties;
(e) facilitate dialogue on Good Regulatory Practices between the Parties;
(f) seek to resolve differences or disputes that may arise regarding the interpretation or application of this Agreement; (g) seek the expert advice of any persons or groups on any matter falling within its responsibilities where this would help the Joint Commission make an informed decision; and
(h) take such other action in the exercise of its functions as the Parties may agree.

Article 3. Transposition of Tariff Schedules and Technical Revisions to Psr Schedule

1. To accommodate periodic amendments to the Harmonised System, or changes to a Party's Tariff for any other technical reason, the Joint Commission shall adopt procedures for the transposition of the tariff schedules (including the TRQ Appendix) in Annex 1 (Schedule of Tariff Commitments) and technical revisions to Annex 2 (Product Specific Rules Schedule).
2. Transposition of tariff schedules (including the TRQ Appendix) in Annex 1 (Schedule of Tariff Commitments) or technical revisions to Annex 2 (Product Specific Rules Schedule) shall be carried out on a neutral basis, and market access conditions shall not be impaired by the process or outcomes.
3. Each Party shall notify the other of any proposed transposition of tariff schedules (including the TRQ Appendix) in Annex 1 (Schedule of Tariff Commitments) or technical revisions to Annex 2 (Product Specific Rules Schedule) that it considers are necessary as a consequence of an amendment to the Harmonised System or other change described in paragraph 1 at least 6 months before the new HS nomenclature is to be implemented.
4. In accordance with paragraph 3, each Party shall provide the other:
(a) A draft Tariff Schedule (including TRQ Appendix) in the new HS nomenclature;
(b) Two way transpositions setting out in detail at the tariff line level:
(i) a concordance between the current Tariff Schedule and the proposed tariff schedule in the new HS nomenclature covering both changes arising from the new nomenclature and any additional national changes to the Tariff; and
(ii) a concordance between the proposed tariff schedule in the new HS nomenclature and the current Tariff Schedule covering both changes arising from the new nomenclature and any additional national changes to the Tariff;
(c) A list of proposed changes to the current Product Specific Rules Schedule.
5. The Joint Commission shall record the final outcomes of any transposition of schedules (including TRQ Appendix) in Annex 1 (Schedule of Tariff Concessions) or technical revisions to Annex 2 (Product Specific Rules Schedule) made in accordance with this Article. Such outcomes shall be considered technical modifications to those Annexes and shall not constitute an amendment to this Agreement.
6. The Joint Commission may delegate any of the functions in this Article to relevant committees as it sees fit.

Article 4. Meetings of the Joint Commission

1. The Joint Commission shall meet within one year of the date of entry into force of this Agreement and annually thereafter, or as otherwise mutually determined by the Parties.
2. Meetings of the Joint Commission shall be held alternately in each Party and shall be chaired successively by each Party. The Party chairing a meeting of the Joint Commission shall provide any necessary administrative support for such meeting.
3. Each Party shall be responsible for the composition of its delegation.

4. The Joint Commission shall take decisions on any matter within its functions by mutual agreement.

Article 5. General Reviews

1. The Parties shall undertake a general review of the Agreement, with a view to furthering its objectives, within two years of its entry into force and at least every three years thereafter, unless the Parties agree otherwise.
2. The conduct of general reviews shall normally coincide with regular meetings of the Joint Commission.

Chapter 23. General Provisions

Article 1. Application

1. This Agreement shall apply to the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.
2. This Agreement shall apply to the territory of New Zealand, but shall not include Tokelau.
3. Each Party is fully responsible for the observance of all provisions in this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by its regional and local governments and authorities, and non-governmental bodies (in the exercise of governmental powers delegated to them).

Article 2. Disclosure of Information

Nothing in this Agreement shall be construed to require either Party to furnish or allow access to information, the disclosure of which it considers would:
(a) be contrary to the public interest as determined by its law;
(b) be contrary to any of its legislation, including those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
(c) impede law enforcement; or
(d) prejudice legitimate commercial interests of particular enterprises, public or private.

Article 3. Relation to other International Agreements

1. Nothing in this Agreement shall derogate from the existing rights and obligations of a Party under the WTO Agreement or any other international agreement to which it is a party.
2. In the event of any inconsistency between this Agreement and any other agreement to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution in accordance with customary rules of public international law.

Article 4. Succession of International Agreements

Where this Agreement refers to or incorporates any other international agreement, it shall apply in the same way to any amendments or successor international agreements to which the Parties are party, unless the Parties otherwise agree.

Article 5. Confidentiality

Where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except to the extent that the Party receiving the information is required under its domestic law to provide the information, including for the purpose of judicial proceedings.

Article 6. Financial Provisions

Any cooperative activities envisaged or undertaken under this Agreement shall be subject to the availability of resources and to the domestic law and policies of the Parties. Costs of cooperative activities shall be borne in such manner as may be mutually determined from time to time between the Parties.

Chapter 24. General Exceptions

Article 1. General Exceptions

1. For the purposes of this Agreement, Article XX of GATT 1994 and its interpretive notes and Article XIV of GATS (including its footnotes) are incorporated into and made part of this Agreement, mutatis mutandis.
2. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 and Article XIV(b) of GATS 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 and non-living exhaustible natural resources.
3. For the purposes of this Agreement, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods or services and investment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect that Party's works or specific sites of historical or archaeological value, or to support creative arts (16) of significant value to that Party as a whole.

(16) "Creative arts" include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution and interpretation of the arts; and the study and technical development of these art forms and activities.

Article 2. Security Exceptions

For the purposes of this Agreement, Article XXI of GATT 1994 and its interpretative notes and Article XIV bis of GATS are incorporated into and made part of this Agreement, mutatis mutandis.

Article 3. Measures to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:
(a) in the case of trade in goods, in accordance with GATT 1994 and the WTO Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994, adopt restrictive import measures;
(b) in the case of services, in accordance with GATS, adopt or maintain restrictions on trade in services on which it has undertaken commitments, including on payments or transfers for transactions related to such commitments; and
(c) in the case of investments, adopt or maintain restrictions with regard to the transfer of funds related to investment, including those on capital account and the financial account.
2. Restrictions adopted or maintained under subparagraph 1 (b) or 1 (c) shall:
(a) be consistent with the Articles of Agreement of the International Monetary Fund;
(b) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
(c) not exceed those necessary to deal with the circumstances described in paragraph 1 of this Article;
(d) be temporary and be phased out progressively as the situation specified in paragraph 1 of this Article improves; and
(e) be applied on a national treatment basis and such that the other Party is treated no less favourably than any non-Party.
3. In determining the incidence of such restrictions, the Parties may give priority to economic sectors which are more essential to their economic development. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.
4. Any restrictions adopted or maintained by a Party under paragraph 1 of this Article, or any changes therein, shall be notified to the other Party within 14 days from the date such measures are taken.
5. The Party adopting or maintaining any restrictions under paragraph 1 of this Article shall commence consultations with the other Party within 45 days from the date of notification in order to review the measures adopted or maintained by it.

Article 4. Prudential Measures

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

Article 5. Taxation Measures

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.
2. This Agreement shall only grant rights or impose obligations with respect to taxation measures:
(a) where corresponding rights or obligations are also granted or imposed under the WTO Agreement; or
(b) under Article 13 (Expropriation) of Chapter 12 (Investment).

3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax agreement relating to the avoidance of double taxation in force between the Parties.
4. In the event of any inconsistency relating to a taxation measure between this Agreement and the Agreement Between the New Zealand Commerce and Industry Office and the Taipei Economic and Cultural Office in New Zealand For the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income, done at Auckland on 11 November 1996, the latter shall prevail. Any consultations between the Parties about whether an inconsistency relates to a taxation measure shall include representatives of the competent authorities of the aforesaid latter agreement.
5. Nothing in this Agreement shall be regarded as obliging a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any existing or future agreement on the avoidance of double taxation or from the provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Party is bound.

Article 6. Treaty of Waitangi

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods and services, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement including in fulfilment of its obligations under the Treaty of Waitangi.
2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 21 (Dispute Settlement) shall otherwise apply to this Article. An arbitral tribunal established under Article 7 (Establishment of an Arbitral Tribunal) may be requested by Chinese Taipei to determine only whether any measure (referred to in paragraph 1 of this Article) is inconsistent with its rights under this Agreement.

Chapter 25. Final Provisions

Article 1. Annexes and Footnotes

The Annexes and footnotes to this Agreement shall constitute an integral part of this Agreement.

Article 2. Amendments

This Agreement may be amended by agreement in writing by the Parties and such amendments shall come into force on such date or dates as may be agreed between them.

Article 3. Entry Into Force, Duration and Termination

1. Entry into force of this Agreement shall be subject to the completion of the necessary domestic procedures of both Parties. The Parties shall notify each other in writing upon the completion of such procedures. This Agreement shall enter into force on the date specified in such written notification.
2. This Agreement shall remain in force until one Party gives written notice of its intention to terminate it, in which case this Agreement shall terminate 180 days after the date of the notice of termination.

Article Article

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement. DONE in duplicate in the English language, on _____, at _____. _____ _____ For New Zealand For the Separate Customs Territory Of Taiwan, Penghu, Kinmen And Matsu