FREE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF SINGAPORE

The European Union, hereinafter referred to as "the Union",

and

the Republic of Singapore, hereinafter referred to as "Singapore",

hereinafter jointly referred to as the "Parties" or individually referred to as a "Party",

RECOGNISING their longstanding and strong partnership based on the common principles and values reflected in the Partnership and Cooperation Agreement, and their important economic, trade and investment relationship;

DESIRING to further strengthen their relationship as part of and in a manner coherent with their overall relations, and convinced that this Agreement will create a new climate for the development of trade and investment between the Parties;

RECOGNISING that this Agreement will complement and promote regional economic integration efforts;

DETERMINED to strengthen their economic, trade, and investment relations in accordance with the objective of sustainable development, in its economic, social and environmental dimensions, and to promote trade and investment in a manner mindful of high levels of environmental and labour protection and relevant internationally-recognised standards and agreements to which they are party;

DESIRING to raise living standards, promote economic growth and stability, create new employment opportunities and improve the general welfare and, to this end, reaffirming their commitment to promoting trade and investment liberalisation;

CONVINCED that this Agreement will create an expanded and secure market for goods and services, thus enhancing the competitiveness of their firms in global markets;

REAFFIRMING each Party's right to adopt and enforce measures necessary to pursue legitimate policy objectives such as social, environmental, security, public health and safety, promotion and protection of cultural diversity;

REAFFIRMING their commitment to the Charter of the United Nations signed in San Francisco on 26 June 1945 and having regard to the principles articulated in the Universal Declaration of Human Rights adopted by the General Assem- bly of the United Nations on 10 December 1948;

RECOGNISING the importance of transparency in international trade to the benefit of all stakeholders;

SEEKING to establish clear and mutually advantageous rules governing their trade and investment and to reduce or elimi- nate the barriers to mutual trade and investment;

RESOLVED to contribute to the harmonious development and expansion of international trade by removing obstacles to trade through this Agreement and to avoid creating new barriers to trade or investment between the Parties that could reduce the benefits of this Agreement;

BUILDING on their respective rights and obligations under the WTO Agreement and other multilateral, regional and bilateral agreements and arrangements to which they are party,

HAVE AGREED AS FOLLOWS:

Chapter One. OBJECTIVES AND GENERAL DEFINITIONS

Article 1.1. Establishment of a Free Trade Area

The Parties to this Agreement hereby establish a free trade area, consistent with Article XXIV of GATT 1994 and Article V of GATS.

Article 1.2. Objectives

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

Article 1.3. Definitions of General Application

For the purposes of this Agreement, unless otherwise specified: "Agreement on Agriculture" means the Agreement on Agriculture contained in Annex 1A of the WTO Agreement;

"Agreement on Government Procurement" means the Agreement on Government Procurement contained in Annex 4 of the WTO Agreement;

"Agreement on Preshipment Inspection" means the Agreement on Preshipment Inspection contained in Annex 1A of the WTO Agreement;

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

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

"day" means a calendar day;

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

"GATS" means the General Agreement on Trade in Services contained in Annex 1B of the WTO Agreement; âGATT 1994 means the General Agreement on Tariffs and Trade 1994 contained in Annex 1A of the WTO Agreement,

"Harmonized System" means the Harmonized Commodity Description and Coding System, including all legal notes and amendments thereto (hereinafter also referred to as the "HS";

"IMF" means the International Monetary Fund;

"Import Licensing Agreement" means the Agreement on Import Licencing Procedures contained in Annex 1A of the WTO Agreement;

"measure" means any law, regulation, procedure, requirement or practice;

"natural person of a Party" means a national of Singapore, or of one of the Member States of the Union (1), according to their respective legislation;

"Partnership and Cooperation Agreement" means the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part, signed in Brussels on 19 October 2018;

"person" means a natural person or a juridical person;

"Safeguards Agreement" means the Agreement on Safeguards contained in Annex 1A of the WTO Agreement;

"SCM Agreement" means the Agreement on Subsidies and Countervailing Measures contained in Annex 1A of the WTO Agreement;

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

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

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

"WIPO" means the World Intellectual Property Organization;

"WTO" means the World Trade Organization; and

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

(1) The term "natural person" includes natural persons permanently residing in Latvia who are not citizens of Latvia or any other state but who are entitled, under the laws and regulations of Latvia, to receive a non-citizen's passport (Alien's Passport).

Chapter Two. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Section A. COMMON PROVISIONS

Article 2.1. Objective

The Parties shall progressively and reciprocally liberalise trade in goods over a transitional period starting from the entry into force of this Agreement in accordance with this Agreement and in conformity with Article XXIV of GATT 1994.

Article 2.2. Scope

This Chapter applies to trade in goods between the Parties.

Article 2.3. National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article lll of GATT 1994, including its Notes and Supplementary Provisions. To this end, the obligations contained in Article ll] of GATT 1994, including its Notes and Supplementary Provisions, are incorporated into and made part of this Agreement, mutatis mutandis.

Article 2.4. Customs Duty

For the purposes of this Chapter, a customs duty includes any duty or charge of any kind imposed on or in connection with the importation or exportation of a good, including any form of surtax or surcharge imposed on or in connection with such importation or exportation.

A customs duty does not include any:

(a) charge equivalent to an internal tax imposed consistently with Article 2.3 (National Treatment);

(b) duty imposed consistently with Chapter Three (Trade Remedies);

(c) duties applied consistently with Article VI, Article XVI, Article XIX of GATT 1994, the Anti-Dumping Agreement, the SCM Agreement, Article 5 of the Agreement on Agriculture and the DSU; and

(d) fee or other charge imposed consistently with Article 2.10 (Fees and Formalities Connected with Importation and Exportation).

Article 2.5. Classification of Goods

The classification of goods in trade between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the HS and its amendments.

Section B. REDUCTION OR ELIMINATION OF CUSTOMS DUTIES

Article 2.6. Reduction or Elimination of Customs Duties on Imports

1. Each Party shall reduce or eliminate its customs duties on imported goods originating in the other Party in accordance with the Schedules set out in Annex 2-A. For the purposes of this Chapter, "originating" means the origin of a good as

determined in accordance with the rules of origin and the other requirements set out in Protocol 1.

2. The base rate of customs duties on imports, to which the successive reductions are to be applied under paragraph 1, shall be that specified in the Schedules in Annex 2-A.

3. If at any moment a Party reduces its applied most favoured nation (hereinafter referred to as "MFN") customs duty rates on imports after the date of entry into force of this Agreement, that duty rate shall apply if and for as long as it is lower than the customs duty rate on imports calculated in accordance with its Schedule in Annex 2-A.

4. Three years after the entry into force of this Agreement, at the request of either Party, the Parties shall consult to consider accelerating and broadening the scope of the reduction and elimination of customs duties on imports. A decision by the Parties in the Committee on Trade in Goods on such acceleration or broadening shall supersede any duty rate or staging category determined pursuant to their Schedules for that good.

Article 2.7. Elimination of Customs Duties and Taxes on Exports

Neither Party shall maintain or institute any customs duty or tax on, or in connection with the exportation or sale for export of, goods to the other Party, or any internal taxes on goods exported to the other Party that are in excess of those imposed on like goods destined for internal sale.

Article 2.8. Standstill

Upon the entry into force of this Agreement, neither Party shall increase any existing customs duty, or introduce any new customs duty, on the importation of a good originating in the other Party. This shall not preclude either Party from raising a customs duty to the level established in its Schedule in Annex 2-A following a unilateral reduction.

Section C. NON-TARIFF MEASURES

Article 2.9. Import and Export Restrictions

1. Neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, in accordance with Article XI of GATT 1994, including its Notes and Supplementary Provisions. To that end, Article XI of GATT 1994, including its Notes and Supplementary Provisions are incorporated into and made part of this Agreement, mutatis mutandis.

2. The Parties understand that, before taking any measures provided for in subparagraphs 2(a) and 2(c) of Article XI of GATT 1994, the Party intending to take the measures shall supply the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. The Parties may agree on any means needed to put an end to the difficulties. If no agreement is reached within 30 days of supplying such information, the exporting Party may apply measures under this Article on the exportation of the good concerned. Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith the precautionary measures necessary to deal with the situation, and shall inform the other Party immediately thereof.

Article 2.10. Fees and Formalities Connected with Importation and Exportation

1. Each Party shall ensure, in accordance with Article VIN of GATT 1994, including its Notes and Supplementary Provisions, that all fees and charges of whatever character (other than customs duties, and measures listed in paragraphs (a), (b) and (c) of Article 2.4 (Customs Duty)) imposed on, or in connection with the importation or exportation of, goods are limited in amount to the approximate cost of services rendered, which shall not be calculated on an ad val- orem basis, and shall not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. Each Party shall make available, via an officially designated medium, including through the internet, the fees and charges it imposes in connection with importation and exportation.

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

(2) "Consular transactions" means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers' export declaration or any other customs documentation in connection with the importation of the good.

Article 2.11. Import and Export Licensing Procedures

1. The Parties affirm their existing rights and obligations under the Import Licensing Agreement.

2. The Parties shall introduce and administer any import or export licensing procedures (3) in accordance with:

(a) Paragraphs 1 to 9 of Article 1 of the Import Licensing Agreement;

(b) Article 2 of the Import Licensing Agreement;

(c) Article 3 of the Import Licensing Agreement.

To that end, the provisions referred to in subparagraphs (a), (b) and (c) of this paragraph are incorporated into and made part of this Agreement. The Parties shall apply those provisions, mutatis mutandis, to any export licensing procedures.

3. Each Party shall ensure that all export licensing procedures are neutral in application and are administered in a fair, equitable, non-discriminatory and transparent manner.

4. Each Party shall only adopt or maintain licensing procedures as a condition for the importation into its territory or the exportation from its territory to the other Party where other appropriate procedures to achieve an administrative purpose are not reasonably available.

5. Neither Party shall adopt or maintain non-automatic import or export licensing procedures unless necessary to implement a measure that is consistent with this Agreement. A Party adopting non-automatic licensing procedures shall clearly indicate the measure being implemented through such licensing procedure.

6. A Party introducing export licensing procedures or changes in these procedures shall notify the Committee on Trade in Goods 60 days in advance of the publication of those procedures. This notification shall contain the informa- tion required under Article 5 of the Import Licensing Agreement.

7. A Party shall respond within 60 days to enquiries from the other Party regarding any licensing procedures which the Party to which the request is addressed intends to adopt or has adopted or maintained, as well as the criteria for granting or allocating import or export licences.

(3) For the purposes of this Article, "non-automatic licensing procedures" means licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import or export operations involving the goods subject to licensing procedures.

Article 2.12. State Trading Enterprises

1. The Parties affirm their existing rights and obligations under Article XVI of GATT 1994, including its Notes and Supplementary Provisions, and the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994, contained in Annex 1-A to the WTO Agreement, which are hereby incorporated into and made part of this Agreement, mutatis mutandis.

2. Each Party may request information from the other Party as provided for in subparagraphs 4(c) and 4(d) of Article XVII of GATT 1994.

Article 2.13. Elimination of Sectoral Non-Tariff Measures

1. The Parties shall undertake further commitments on sector-specific non-tariff measures on goods as set out in Annex 2-B and Annex 2-C (hereinafter referred to as âSectoral Annexes). To that end, the Parties may, by decision in the Committee on Trade in Goods, amend the Sectoral Annexes.

2. At the request of a Party, the Parties shall enter into negotiations with the aim of broadening the scope of their commitments on sector-specific non-tariff measures on goods.

Section D. SPECIFIC EXCEPTIONS RELATED TO GOODS

Article 2.14. General Exceptions

1. Nothing in this Chapter shall prevent the taking of measures in accordance with Article XX of GATT 1994, including its Notes and Supplementary Provisions, which are hereby incorporated into and made part of this Agree- ment, mutatis mutandis.

2. The Parties understand that, before taking any measures provided for in paragraphs (i) and (j) of Article XX of GATT 1994, the exporting Party intending to take the measures shall provide the other Party with all relevant informa- tion, with a view to seeking a solution acceptable to the Parties. The Parties may agree on any means needed to put an end to the difficulties. If no agreement is reached within 30 days, the exporting Party may apply measures under this Article on the exportation of the good concerned. Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

Section E. INSTITUTIONAL PROVISIONS

Article 2.15. Committee on Trade In Goods

1. The Committee on Trade in Goods established pursuant to Article 16.2 (Specialised Committees) shall meet at the request of a Party or the Trade Committee to consider any matter arising under this Chapter and comprise representatives of the Parties.

2. The Committee's functions shall include:

(a) monitoring the implementation of this Chapter and Annexes 2-A, 2-B and 2-C;

(b) promoting trade in goods between the Parties, including through consultations on accelerating and broadening the scope of tariff elimination and broadening of the scope of commitments on non-tariff measures under this Agreement, and on other issues as appropriate; as a result of these consultations, the Committee may, by decision, amend or expand the Annexes 2-A, 2-B and 2-C as required; and

(c) addressing tariff and non-tariff measures to trade in goods between the Parties, and, if appropriate, referring such matters to the Trade Committee for its consideration.

Chapter THREE. TRADE REMEDIES

Section A. ANTI-DUMPING AND COUNTERVAILING MEASURES

Article 3.1. General Provisions

1. The Parties affirm their rights and obligations arising under Article VI of GATT 1994, the Anti-Dumping Agreement and the SCM Agreement, and shall apply anti-dumping and countervailing measures in accordance with the provisions of this Chapter.

2. The Parties, recognising that anti-dumping and countervailing measures can be abused to obstruct trade, agree that:

(a) such measures should be used in full compliance with the relevant WTO requirements, and should be based on a fair and transparent system; and

(b) careful consideration should be given to the interests of the Party against which such a measure is to be imposed.

3. For the purpose of this Section, the origin of the goods shall be determined in accordance with the non-preferen- tial rules of origin of the Parties.

Article 3.2. Transparency and Information Exchange

1. After receipt by a Party's competent authorities of a properly documented anti-dumping application with respect to imports from the other Party, and no later than 15 days before initiating an investigation, that Party shall provide written notification to the other Party of its receipt of the application.

2. After receipt by a Party's competent authorities of a properly documented countervailing duty application with respect to imports from the other Party, and no later than 15 days before initiating an investigation, that Party shall provide written notification to the other Party of its receipt of the application and shall afford the other Party the possibility to consult with its competent authorities regarding the application, with a view to clarifying the factual situation and to arriving at a

mutually agreed solution. The Parties shall endeavour to hold these consultations as soon as possible thereafter.

3. Both Parties shall ensure, immediately after any imposition of provisional measures, and in any case before the final determination is made, full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply those measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement. Any disclosure shall be made in writing, and shall allow interested parties sufficient time to make their comments.

4. Each interested party shall be granted the possibility to be heard in order to express their views during trade reme- dies investigations.

Article 3.3. Lesser Duty Rule

Should a Party decide to impose any anti-dumping or countervailing duty, the amount of such duty shall not exceed the margin of dumping or countervailable subsidies, and it should be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.

Article 3.4. Consideration of Public Interest

Neither Party shall apply anti-dumping or countervailing measures where, on the basis of the information made available during the investigation, it can clearly be concluded that it is not in the public interest to apply such measures. Public interest shall take into account the situation of the domestic industry, importers and their representative associations, representative users and representative consumer organisations, to the extent they have provided relevant information to the investigating authorities.

Article 3.5. Exclusion from Bilateral Dispute Settlement and Mediation Mechanism

The provisions of this Section shall not be subject to Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Mediation Mechanism).

Section B. GLOBAL SAFEGUARD MEASURES

Article 3.6. General Provisions

1. Each Party retains its rights and obligations under Article XIX of GATT 1994, the Safeguards Agreement and Article 5 of the Agreement on Agriculture. Unless otherwise provided for in this Section, this Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.

2. No Party shall apply at the same time with respect to the same good both: (a) a bilateral safeguard measure; and (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.

3. For the purposes of this Section, the origin of the goods shall be determined in accordance with the non-preferential rules of origin of the Parties.

Article 3.7. Transparency

1. Notwithstanding Article 3.6 (General Provisions), at the request of the other Party, and provided that the latter has a substantial interest, a Party, when initiating a safeguard investigation or when intending to take safeguard measures, shall immediately provide, at least seven days in advance of the date of such initiation or imposition, ad hoc written notification of all pertinent information leading to the initiation of a safeguard investigation or the imposition of safeguard measures, including on the provisional findings and the final findings of the investigation, where relevant. This is without prejudice to Article 3.2 of the Safeguards Agreement.

2. When imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects their bilateral trade.

3. For the purposes of paragraph 2, if a Party considers that the legal requirements are met for the imposition of definitive safeguard measures, and it intends to apply such measures, it shall notify the other Party and give that Party the possibility of holding bilateral consultations. If no satisfactory solution has been reached within 30 days of the notification, the

importing Party may adopt the definitive safeguard measures. The possibility of consultations should also be offered to the other Party in order to exchange views on the information referred to in paragraph 1.

Article 3.8. Exclusion from Bilateral Dispute Settlement and Mediation Mechanism

The provisions of this Section shall not be subject to Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Media- tion Mechanism).

Section C. BILATERAL SAFEGUARD CLAUSE

Article 3.9. Definitions

For the purposes of this Section:

(a) "serious injury and threat of serious injury" shall be understood in accordance with subparagraphs 1(a) and 1(b) of Article 4 of the Safeguards Agreement and to that end, subparagraphs 1 (a) and 1(b) of Article 4 of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis, and

(b) "transition period" means a period of ten years from the entry into force of this Agreement.

Article 3.10. Application of Bilateral Safeguard Measure

1. If, as a result of the reduction or elimination of a customs duty under this Agreement, originating goods of a Party are being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to a domestic industry producing like or directly competitive goods, the importing Party may, during the transition period only, adopt measures provided for in paragraph 2 in accordance with the conditions and procedures laid down in this Section.

2. The importing Party may take a bilateral safeguard measure which: (a) suspends further reductions of the rate of customs duty on the good concerned provided for under Annex 2-A; or (b) increases the rate of customs duty on the good concerned to a level which does not exceed the lesser of:

(i) the MFN applied rate of customs duty on the good in effect at the time the measure is taken; or

(i) the base rate of customs duty specified in the Schedules included in Annex 2-A pursuant to paragraph 2 of Article 2.6 (Reduction or Elimination of Customs Duties on Imports).

Article 3.11. Conditions and Limitations

1. A Party shall notify the other Party in writing of the initiation of an investigation described in paragraph 2 and consult with the other Party as far in advance of applying a bilateral safeguard measure as practicable, with a view to:

(a) reviewing the information arising from the investigation and whether the conditions laid out in this Article are met;

(b) exchanging views on the measure and its appropriateness in light of the objectives of this Section to remove serious injury or threat thereof to domestic industry caused by an increase in imports as set out in paragraph 1 of Article 3.10 (Application of Bilateral Safeguard Measure); and

(c) exchanging preliminary views on compensation as set out in Article 3.13 (Compensation).

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

3. The determination referred to in Article 3.10 (Application of Bilateral Safeguard Measure) shall not be made unless the investigation demonstrates on the basis of objective evidence the existence of a causal link between increased imports from the other party and serious injury or the threat thereof. In this respect, due consideration shall be given to other factors, including imports of the same product from other countries.

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

5. Neither Party shall apply a bilateral safeguard measure as set out in paragraph 1 of Article 3.10 (Application of Bilateral Safeguard Measure):

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

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

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

6. No measure shall be applied again to the import of the same good during the transition period, unless a period of time equal to half of the period during which the safeguard measure was applied previously has elapsed. In this case, paragraph 3 of Article 3.13 (Compensation) shall not apply.

7. When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to its Schedule included in Annex 2-A, would have been in effect but for the measure.

Article 3.12. Provisional Measures

1. In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis pursuant to a preliminary determination that there is clear evidence that imports of an originating good from the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and that such imports cause serious injury, or the threat thereof, to the domestic industry. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of paragraphs 2 and 3 of Article 3.11 (Conditions and Limitations). The Party shall promptly refund any tariff increases if the investigation described in paragraph 2 of Article 3.11 (Conditions and Limitations) does not result in a finding that the requirements of Article 3.10 (Application of Bilateral Safeguard Measure) are met. The duration of any provisional measure shall be counted as part of the period prescribed by subparagraph 5(b) of Article 3.11 (Conditions and Limitations).

2. Ifa Party takes a provisional measure pursuant to this Article, that Party shall notify the other Party in writing prior to taking such measure, and shall initiate consultations with the other Party immediately after such measure is taken.

Article 3.13. Compensation

1. A Party applying a bilateral safeguard measure shall consult with the other Party in order to mutually agree on appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effects or in the form of concessions equivalent to the value of the additional duties expected to result from the safeguard measure. The Party applying a bilateral safeguard measure shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days after the consultations begin, the Party whose goods are subject to the safeguard measure may suspend the application of substantially equivalent concessions to the Party applying the safeguard measure. The exporting Party shall notify the other Party in writing at least 30 days before suspending concessions under this paragraph.

3. The right of suspension referred to in paragraph 2 shall not be exercised for the first 24 months during which a bilateral safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of this Agreement.

Chapter FOUR. TECHNICAL BARRIERS TO TRADE

Article 4.1. Objectives

The objective of this Chapter is to facilitate and increase trade in goods between the Parties, by providing a framework to prevent, identify and eliminate unnecessary barriers to trade within the scope of the TBT Agreement.

Article 4.2. Scope and Definitions

1. This Chapter applies to the preparation, adoption and application of all standards, technical regulations and con- formity assessment procedures, as defined in Annex 1 of the TBT Agreement, which may affect trade in goods between the Parties, regardless of the origin of those goods.

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

(a) purchasing specifications prepared by governmental bodies for production or consumption requirements of such bodies; or

(b) sanitary and phytosanitary measures, as defined in Annex A of the SPS Agreement, which are covered by Chapter Five of this Agreement.

3. For the purposes of this Chapter, the definitions of Annex 1 to the TBT Agreement shall apply.

Article 4.3. Affirmation of the TBT Agreement

The Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement, which is incorporated into and made part of this Agreement, mutatis mutandis.

Article 4.4. Joint Cooperation

1. The Parties shall strengthen their cooperation in the field of standards, technical regulations and conformity assessment procedures, with a view to increasing the mutual understanding of their respective systems and to facilitating access to their respective markets.

2. The Parties shall seek to identify and develop regulatory cooperation initiatives appropriate for the particular issues or sectors, which may include but are not limited to:

(a) exchanging information and experiences on the preparation and application of their technical regulations and the use of good regulatory practice;

(b) simplifying, where appropriate, technical regulations, standards, and conformity assessment procedures;

(c) avoiding unnecessary divergence in their approaches to technical regulations and conformity assessment procedures, and working towards the possibility of convergence or alignment of technical regulations with international standards,

(d) encouraging cooperation between their respective bodies, whether public or private, that are responsible for metrol- ogy, standardisation, testing, certification and accreditation;

(e) ensuring efficient interaction of regulatory authorities at national, regional and international levels, for instance, by referring enquiries from a Party to the appropriate regulatory authorities; and

(f) exchanging information on developments in relevant regional and multilateral fora related to standards, technical regulations and conformity assessment procedures.

3. Upon request, a Party shall give appropriate consideration to proposals that the other Party makes for cooperation under the terms of this Chapter.

Article 4.5. Standards

1. The Parties affirm their obligations under Article 4.1 of the TBT Agreement to ensure that their standardising bodies accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 to the TBT Agreement.

2. With a view to harmonising standards on as wide a basis as possible, each Party shall encourage its standardising bodies, as well as the regional standardising bodies of which they or their standardising bodies are Members, to cooper- ate with the relevant standardisation bodies of the other Party in international standardisation activities.

3. The Parties undertake to exchange information on:

(a) their use of standards in support of technical regulations;

(b) each other's standardisation processes, and the extent of use of international standards or regional standards as a base for their national standards; and

(c) cooperation agreements implemented by either Party on standardisation, provided the information can be made available to the public.

Article 4.6. Technical Regulations

The Parties agree to make best use of good regulatory practice with regard to the preparation, adoption and application of technical regulations, as provided for in the TBT Agreement including:

(a) considering, when developing a technical regulation, inter alia, the impact of the envisaged technical regulation and the available regulatory and non-regulatory alternatives to the proposed technical regulation which may fulfil the Party's legitimate objectives;

(b) using, consistent with Article 2.4 of the TBT Agreement and to the maximum extent possible, relevant international standards as a basis for their technical regulations, except when such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued; where international standards have not been used as a basis, to explain upon request to the other Party the reasons why such standards have been considered inappropriate or ineffective for the aim pursued; and

(c) specifying, consistent with Article 2.8 of the TBT Agreement and wherever appropriate, technical regulations based on product requirements in terms of performance rather than in terms of design or descriptive characteristics.

Article 4.7. Conformity Assessment Procedures

1. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures, including:

(a) the importing Party's reliance on a supplier's declaration of conformity;

(b) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specific technical regulations conducted. by bodies located in the territory of the other Party;

(c) the use of accreditation procedures to qualify conformity assessment bodies;

(d) government designation of conformity assessment bodies, including bodies located in the territory of the other Party;

(e) unilateral recognition by a Party of the results of conformity assessment procedures conducted in the territory of the other Party;

(f) voluntary arrangements between conformity assessment bodies in the respective territories of each Party; and

(g) the use of regional or international multilateral recognition agreements and arrangements of which the Parties are parties.

2. Having regard, in particular, to those considerations, the Parties shall:

(a) intensify their exchange of information regarding these and other mechanisms, with a view to facilitating the acceptance of conformity assessment results;

(b) exchange information on the criteria used to select appropriate conformity assessment procedures for specific products and, in line with Article 5.1.2 of the TBT Agreement, require that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Party adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create;

(c) exchange information on accreditation policies and consider how to make the best use of international standards for accreditation and the best use of international agreements involving the Partiesâ accreditation bodies, for example through the mechanisms of the International Laboratory Accreditation Co-operation and the International Accreditation Forum; and

(d) ensure that, insofar as two or more conformity assessment bodies are authorised by a Party to carry out conformity assessment procedures required for placing the product on the market, economic operators may choose among them.

3. The Parties reaffirm their obligation under Article 5.2.5 of the TBT Agreement that fees imposed for mandatory conformity assessment of imported products shall be equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity

assessment body.

4. Upon request by either Party, the Parties may decide to engage in consultations with a view to defining sectoral initiatives regarding the use of conformity assessment procedures or the facilitation of acceptance of conformity assess- ment results that are appropriate for the respective sectors. The Party making the request should substantiate it with relevant information on how this sectoral initiative would facilitate trade between the Parties. In these consultations, all mechanisms described in paragraph 1 may be considered. Where a Party declines such a request from the other Party, it shall, upon request, explain its reasons.

Article 4.8. Transparency

The Parties reaffirm their transparency obligations under the TBT Agreement with regard to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures, and agree:

(a) where a part of the process of developing a technical regulation is open to public consultation, to take the other Party's views into account and, without discrimination, to provide reasonable opportunities for the other Party and its interested persons to make comments;

(b) when making notifications in accordance with Article 2.9 of the TBT Agreement, to allow at least 60 days following the notification for the other Party to provide comments in writing on the proposal and where practicable, to give appropriate consideration to reasonable requests for extending the comment period;

(c) to allow sufficient time between the publication of technical regulations and their entry into force for economic operators of the other Party to adapt, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise; and

(d) to make available to the other Party or its economic operators relevant information (for example through a public website, if available) on technical regulations, standards and conformity assessment procedures in force and, as appropriate and available, written guidance on compliance with its technical regulations, upon request and without undue delay.

Article 4.9. Market Surveillance

The Parties undertake to exchange information on market surveillance and enforcement activities.

Article 4.10. Marking and Labelling

1. The Parties note that, according to paragraph 1 of Annex 1 of the TBT Agreement, a technical regulation may include or deal exclusively with marking or labelling requirements, and they agree, where their technical regulations contain mandatory marking or labelling, to ensure that such regulations are not prepared with a view to, or with the effect of, creating unnecessary obstacles to international trade, and that such regulations are not more trade restrictive than necessary to fulfil a legitimate objective, as referred to under Article 2.2 of the TBT Agreement.

2. The Parties agree that where a Party requires the mandatory marking or labelling of products:

(a) that Party shall endeavour to restrict its requirements only to those which are relevant for consumers or users of the product or are relevant to indicate the product's conformity with the mandatory requirements;

(b) that Party may specify the information to be provided on the label, and may require compliance with certain regulatory requirements for the affixing of the label, but shall not require any prior approval or certification of labels and markings as a precondition for sale of the products on its market, unless this is deemed necessary in the light of the risk of the product to human, animal or plant health or life;

(c) where that Party requires the use of a unique identification number by economic operators, that Party shall ensure that such numbers are issued to the relevant economic operators without undue delay and on a non-discriminatory basis;

(d) provided it is not misleading, contradictory or confusing in relation to the information required in the importing Party of the goods, that Party shall permit the following to be used in the marking or labelling of products:

(i) information in other languages in addition to the information in the language required by the importing Party of the goods;

(ii) internationally-accepted nomenclatures, pictograms, symbols or graphics; and

(ii) additional information to that required in the importing Party of the goods;

(e) that Party shall accept that labelling, including re-labeling and corrections to labelling, may take place, where relevant, in authorised premises (for example, in customs warehouses at the point of import) in the territory of the importing Party prior to the distribution and sale of the product, as an alternative to labelling in the place of origin, unless such labelling in the place of origin is required for reasons of public health or safety; and

(f) that Party shall endeavour, in cases where it considers that legitimate objectives under the TBT Agreement are not compromised thereby, to accept non-permanent or detachable labels, or marking or labelling in the accompanying documentation rather than physically attached to the product.

3. Without prejudice to the Parties' rights and obligations under the WTO Agreement, paragraph 2 shall apply to agricultural products, industrial products, and processed agricultural food products, including beverages and spirits.

Article 4.11. Contact Points

The functions of the contact points designated in accordance with Article 13.4 (Enquiries and Contact Points) shall include:

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

(b) promptly addressing any issue that the other Party raises related to the development, adoption, application or enforcement of standards, technical regulations or conformity assessment procedures;

(c) enhancing cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures;

(d) exchanging information on standards, technical regulations, and conformity assessment procedures,

(e) facilitating cooperation activities, as appropriate, in accordance with paragraph 2 of Article 4.4 (Joint Cooperation); an

(f) arranging the establishment of ad hoc working groups at the request of either Party, in order to explore ways to facilitate trade between the Parties.

Article 4.12. Final Provisions

1. The Parties may discuss, in the Committee on Trade in Goods established pursuant to Article 16.2 (Specialised Committees), any implementing arrangements arising from this Chapter. The Parties may adopt, by decision in that Committee, any implementing measure required to this effect.

2. The Parties have undertaken further commitments on sector-specific non-tariff measures on goods as set out in Annex 4-A and the Appendices pertaining thereto.

Chapter FIVE. SANITARY AND PHYTOSANITARY MEASURES

Article 5.1. Objectives

The objectives of this Chapter are:

(a) to protect human, animal or plant life or health in the respective territories of the Parties while facilitating trade between the Parties in the area of sanitary and phytosanitary measures (hereinafter referred to as "SPS measures");

(b) to collaborate on the further implementation of the SPS Agreement; and

(c) to provide a means to improve communication, cooperation and resolution of issues related to the implementation of SPS measures affecting trade between the Parties.

Article 5.2. Scope

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

2. This Chapter shall also apply to collaboration between the Parties on animal welfare matters of mutual interest to the Parties.

3. Nothing in this Chapter shall affect the rights of the Parties under the TBT Agreement with respect to measures not within the scope of this Chapter.

Article 5.3. Definitions

For the purposes of this Chapter: (a) the definitions contained in Annex A of the SPS Agreement shall apply; and

(b) the Parties may agree on other definitions to be used in the application of this Chapter, taking into consideration the glossaries and definitions of relevant international organisations, such as the CODEX Alimentarius Commission (hereinafter referred to as "Codex Alimentarius"), the World Organisation for Animal Health (hereinafter referred to as "OIE") and under the International Plant Protection Convention (hereinafter referred to as "IPPC").

Article 5.4. Rights and Obligations

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

Article 5.5. Competent Authorities

The competent authorities of the Parties responsible for the implementation of this Chapter are set out in Annex 5-A. The Parties shall notify each other of any changes to those competent authorities.

Article 5.6. General Principles

When implementing this Chapter, the Parties:

(a) shall ensure the consistency of SPS measures with the principles established by Article 3 of the SPS Agreement;

(b) shall not use SPS measures to create unjustified barriers to trade;

(c) shall ensure that procedures established under this Chapter are undertaken and completed without undue delay, and that such procedures are not applied in a manner which would constitute an arbitrary or unjustifiable discrimination against the other Party, where identical or similar conditions exist; and

(d) shall use neither the procedures referred to in subparagraph (c), nor any requests for additional information, to delay access to their respective markets without scientific and technical justification.

Article 5.7. Import Requirements

1. The import requirements of a Party shall apply to the entire territory of the other Party.

2. The exporting Party shall ensure that products exported to the importing Party meet the sanitary and phytosanitary requirements of the importing Party.

3. The importing Party shall ensure that its import requirements are applied to products imported from the exporting Party in a proportionate and non-discriminatory manner.

4. Any fees imposed for the procedures for products imported from the exporting Party shall be equitable in relation to any fees charged for like domestic products and shall not be higher than the actual cost of the service.

5. The importing Party shall have the right to carry out import checks on products imported from the exporting Party for the purpose of implementing SPS measures.

6. The import checks carried out on products imported from the exporting Party shall be based on the sanitary and phytosanitary risk associated with such imports. They shall be carried out without undue delay and with minimum effect on trade between the Parties.

7. The importing Party shall make available to the exporting Party, upon request by the exporting Party, information about the frequency of import checks carried out on products from the exporting Party. The importing Party may change the frequency of physical checks on consignments, where appropriate, as a consequence of (i) verifications, (i) import checks, or (ii) a mutual agreement between the Parties, including following the consultations provided for in this Chapter.

8. In the event that the import checks demonstrate that products do not comply with the relevant import require- ments of

the importing Party, any action taken by the importing Party should be proportionate to the sanitary and phytosanitary risk associated with the importation of the non-compliant product.

Article 5.8. Verifications

1. In order to build and maintain confidence in the effective implementation of this Chapter, the importing Party shall have the right to carry out verifications at any time, including:

(a) through verification visits to the exporting Party, to verify all or part of the inspection and certification system of the exporting Party's competent authorities, in accordance with the relevant international standards, guidelines and recommendations of the Codex Alimentarius, OJE and IPPC; and

(b) by requiring the exporting Party to provide information about its inspection and certification system and by obtain- ing the results of the controls carried out thereunder.

2. The importing Party shall share with the exporting Party the results and conclusions of the verifications carried out pursuant to paragraph 1. The importing Party may make those results publicly available.

3. If the importing Party decides to carry out a verification visit to the exporting Party, the importing Party shall notify the exporting Party of this verification visit at least 60 calendar days before the verification visit is to be carried out, except in emergency cases or where the Parties agree otherwise. Any modification to such a visit shall be agreed by the Parties.

4. The costs incurred in carrying out the verification of all or part of the exporting Party's competent authorities' inspection and certification systems and the costs incurred in carrying out any inspections of individual establishments shall be borne by the importing Party.

5. The importing Party shall provide information in writing of a verification to the exporting Party within 60 calendar days. The exporting Party shall have 45 calendar days to comment on such information. The exporting Party's comments shall be attached to and, where appropriate, included in the final outcome document.

6. Notwithstanding paragraph 5, where a significant risk to human, animal or plant life or health has been identified during a verification, the importing Party shall inform the exporting Party as quickly as possible, and in any case within ten calendar days following the end of the verification.

Article 5.9. Trade Facilitation

1. In cases where the importing Party requires an on-the-spot verification to authorise imports of a certain category or categories of products of animal origin from the exporting Party, the following shall apply:

(a) The verification shall evaluate the exporting Party's inspection and certification system in accordance with Article 5.8 (Verifications) and shall take into consideration, upon request, any relevant written information provided by the exporting Party.

(b) In case of a satisfactory outcome of the verification of the inspection and certification system, the importing Party shall inform the exporting Party in writing of the positive outcome of the verification. In such case, the information provided may include the fact that the importing Party has authorised, or will authorise, imports of specific cate- gory or categories of products.

(c) If the outcome of the verification of the inspection and certification systems is not satisfactory, the importing Party shall inform, in writing, the exporting Party of the result of the verification. In such case, the information shall include one of the following:

(i) a statement of the conditions, including those related to the inspection and certification system of the exporting Party, that still need to be put in place by the exporting Party to allow the importing Party to authorise imports of a specific category or categories of products of animal origin;

(ii) a reference to the fact that specific establishments of products of animal origin may be allowed to export to the importing Party upon compliance with the relevant import requirements of Article 5.7 (Import Requirements); or

(iii) a statement that the importing Party has not authorised the importation of the specific category or categories of products from the exporting Party.

2. In cases where the importing Party has authorised the importation of a specific category or categories of products of

animal origin referred to in paragraph 1(b), the exporting Party shall inform the importing Party of the list of individual establishments that meet the importing Party's requirements in accordance with, in particular, Article 5.7 (Import Requirements) and Article 5.8 (Verifications). Furthermore the following applies:

(a) At the request of the exporting Party, the importing Party shall approve individual establishments as referred to in paragraph 3 of Annex 5-B which are situated in the territory of the exporting Party, without prior inspection of those individual establishments. When requesting the approval by the importing Party, the exporting Party shall provide any information required by the importing Party to guarantee the compliance with the relevant requirements, including those of Article 5.7 (Import Requirements). The approval by the importing Party shall be consistent with the conditions set out in Annex 5-B, and shall be limited to those categories of products for which imports are authorised.

(b) Upon the approval of the individual establishments referred to in subparagraph 2(a), the importing Party shall take the necessary legislative or administrative measures, in accordance with its applicable legal and administrative procedures, to allow imports within 40 calendar days of the receipt of the request of the exporting Party and, if applicable, the information required by the importing Party to guarantee the compliance with the relevant requirements, including those of Article 5.7 (Import Requirements).

(c) The importing Party shall notify the exporting Party of its acceptance or rejection of any individual establishments referred to in paragraph 2(a) and, if applicable, the reasons for any rejection.

Article 5.10. Measures Linked to Animal and Plant Health

1. The Parties recognise the concepts of pest- or disease-free areas and areas of low pest or disease prevalence, in accordance with the SPS Agreement, OIE and IPPC standards, guidelines and recommendations. The SPS Committee referred to in Article 5.15 (Committee on Sanitary and Phytosanitary Measures) may define further details for the procedure for the recognition of such areas, including procedures for the recognition of such areas in cases where there has been an outbreak, taking into account any relevant SPS Agreement, OJE and IPPC standards, guidelines or recommendations.

2. When determining pest- or disease-free areas and areas of low pest or disease prevalence, the Parties shall consider factors such as geographical location, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls in such areas.

3. The Parties shall establish close cooperation on the determination of pest- or disease-free areas and areas of low pest and disease prevalence, with the objective of attaining confidence in the procedures followed by the other Party for the determination of such areas. When accepting the determination of such areas made by the exporting Party, the importing Party shall, in principle, base its determination of the animal or plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement, OJE and IPPC standards, guidelines and recommendations.

4. If the importing Party does not accept the determination made by the exporting Party, it shall explain the reasons and shall be ready to enter into consultations.

5. Where the exporting Party claims that areas within its territory are pest- or disease-free areas or areas of low pest or disease prevalence, it shall provide relevant evidence in order to objectively demonstrate to the importing Party that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, as the case may be. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

6. The Parties recognise the principle of compartmentalisation of the OIE and pest-free production sites of the IPPC. The SPS Committee referred to in Article 5.15 (Committee on Sanitary and Phytosanitary Measures) will assess any OIE and IPPC recommendations that may be issued on this matter in the future and may issue recommendations accordingly.

Article 5.11. Transparency and Exchange of Information

1. The Parties shall:

(a) pursue transparency as regards SPS measures applicable to trade and, in particular, to those of Article 5.7 (Import Requirements) applied to imports from the other Party;

(b) enhance mutual understanding of each Party's SPS measures and their application;

(c) exchange information on matters related to the development and application of SPS measures, including the progress on

new available scientific evidence, that affect, or may affect, trade between the Parties with a view to minimising their negative trade effects;

(d) communicate, upon the request of a Party, the import requirements that apply to the importation of specific products within 15 calendar days; and

(e) communicate, upon the request of a Party, progress on the application for the authorisation of specific products within 15 calendar days.

2. The contact points responsible for the information pursuant to paragraph 1 are those that are designated by the Parties in accordance with paragraph 1 of Article 13.4 (Enquiries and Contact Points). Information shall be sent by post, fax or e-mail. Information by e-mail may be signed electronically and shall only be sent between the contact points.

3. Where the information pursuant to subparagraph 1(c) has been made available by notification to the WTO in accordance with its relevant rules and procedures, or where the above information has been made available on the official, publicly accessible and fee-free websites of the Parties, the information exchange referred to in that subpara- graph shall be deemed to have taken place.

4. All notifications under this Chapter shall be made to the contact points referred to under paragraph 2.

Article 5.12. Consultations

1. Each Party shall notify the other Party in writing, within two calendar days, of any serious or significant risk to human, animal or plant life or health, including any food emergencies.

2. Where a Party has serious concerns regarding a risk to human, animal or plant life or health, affecting commodities for which trade takes place, consultations regarding the situation shall, upon request, take place as soon as possible. In such case, each Party shall endeavour to provide all necessary information in due time to avoid disruption in trade.

3. Consultations referred to in paragraph 2 of this Article may be held by e-mail, video or telephone conference. The requesting Party shall ensure the preparation of the minutes of the consultation.

Article 5.13. Emergency Measures

1. In case of serious risk to human, animal or plant life or health, the importing Party may, without previous notification, take measures necessary to protect human, animal or plant life or health. For consignments in transport between the Parties, the importing Party shall consider the most suitable and proportionate solution in order to avoid unnecessary disruptions to trade.

2. The Party taking the measures shall inform the other Party as soon as possible, and in any case no later than 24 hours after the adoption of the measure. Either Party may request any information related to the sanitary and phytosanitary situation or to any such measures that have been adopted. The other Party shall reply as soon as the requested information is available.

3. Upon the request of either Party, and in accordance with the provisions of Article 5.12 (Consultations), the Parties shall hold consultations regarding the situation within 15 calendar days of the notification. These consultations shall be carried out in order to avoid unnecessary disruptions to trade. The Parties may consider options for the facilitation of the implementation or the replacement of the measures.

Article 5.14. Equivalence

1. The Parties may recognise the equivalence of an individual measure, groups of measures or systems applicable to a sector or to a part of a sector in accordance with paragraphs 4 to 7. The recognition of equivalence shall be applied to trade between the Parties in animals and animal products, plants and plant products, or, as appropriate, to related goods.

2. Where equivalence has not been recognised, trade shall take place under the conditions required by the importing Party to meet its appropriate level of protection.

3. The recognition of equivalence requires an assessment and acceptance of

(a) existing SPS measures in legislation, standards and procedures, including controls related to inspection and certification systems to ensure that the SPS measures of both the exporting Party and the importing Party are met;

(b) the documented structure of the competent authorities, their powers, their chain of command, their modus operandi and the resources available to them; and

(c) the performance of the competent authority in relation to the control programmes and assurances. 4. In their assessments, the Parties shall take account of experience already acquired.

5. The importing Party shall accept a sanitary or phytosanitary measure of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measure achieves the importing Party's appropriate level of protection. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

6. The Parties will take into account guidance of the Codex Alimentarius, OIE, IPPC and the WTO SPS Committee in recognising equivalence.

7. Furthermore, where equivalence has been recognised, the Parties may agree on a simplified model for the official sanitary or phytosanitary certificates that are necessary for each consignment of animals or animal products, plants or plant products, or other related goods intended. for importation.

Article 5.15. Committee on Sanitary and Phytosanitary Measures

1. The Committee on Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Committee") established pursuant to Article 16.2 (Specialised Committees) shall include representatives of the competent authorities of the Parties.

2. The SPS Committee shall meet within one year of the entry into force of this Agreement. Thereafter it shall meet at least once a year or as agreed by the Parties. The SPS Committee shall establish its rules of procedure at its first meeting. It shall meet in person, by telephone conference, by video-conference, or through any other means, as agreed by the Parties.

3. The SPS Committee may agree to establish technical working groups consisting of experts of the Parties, which shall identify and address technical and scientific issues arising under this Chapter and shall explore opportunities for further collaboration on SPS matters of mutual interest. When additional expertise is needed, persons other than representatives of the Parties may participate in the work of a technical working group.

4. The SPS Committee may address any matter related to the effective functioning of this Chapter. In particular, it shall have the following responsibilities and functions:

(a) developing the necessary procedures or arrangements for the implementation of this Chapter, including Annexes 5-A and 5-B;

(b) monitoring the implementation of this Chapter; and

(c) providing a forum for discussion of problems arising from the application of certain SPS measures with a view to reaching mutually acceptable solutions. In this connection, the SPS Committee shall be convened as a matter of urgency, at the request of a Party, so as to carry out consultations. Such consultations are without prejudice to the rights and obligations of the Parties under Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Mediation Mechanism).

5. The SPS Committee shall exchange information, expertise and experiences in the field of animal welfare in order to promote the collaboration on animal welfare between the Parties.

6. The Parties may, by decision in the SPS Committee, adopt recommendations and decisions related to the authori- sation of imports, exchange of information, transparency, recognition of regionalisation, equivalency and alternative measures, and any other matter referred to under paragraphs 4 and 5.

Article 5.16. Technical Consultations

1. Where a Party considers that a measure of the other Party is or might be contrary to the obligations under this Chapter, and considers that the measure causes or may cause an unjustified disruption to trade, it may request technical consultations in the SPS Committee with a view to reaching mutually acceptable solutions. The competent authorities set out in Annex 5-A shall facilitate these consultations.

2. Technical consultations in the SPS Committee shall be deemed concluded within 30 days following the date of submission of the request for technical consultations, unless the consulting Parties agree to continue with the consulta- tions. The technical consultations may be made via telephone conference, video-conference, or any other mechanism agreed by the Parties.

Chapter SIX. CUSTOMS AND TRADE FACILITATION

Article 6.1. Objectives

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties agree to reinforce cooperation in this area, with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.

2. To that end, the Parties agree that legislation shall be non-discriminatory, and that customs procedures shall be based upon the use of modern methods and effective controls to combat fraud and to protect legitimate trade.

3. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and combating fraud, shall not be compromised in any way.

Article 6.2. Principles

1. The Parties agree that their respective customs provisions and procedures shall be based upon:

(a) international instruments and standards applicable in the area of customs and trade which the respective Parties have accepted, including the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, the International Convention on the Harmonized Commodity Description and Coding System, and the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as "SAFE Framework") of the World Customs Organization (hereinafter referred to as "WCO");

(b) the protection of legitimate trade through the effective enforcement and compliance of legislative requirements;

(c) legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further trade facilitation for economic operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities; and

(d) rules that ensure that any penalty imposed for breaches of customs regulations or procedural requirements is proportionate and non-discriminatory, and that their application shall not unduly delay the release of goods.

2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:

(a) simplify requirements and formalities wherever possible with respect to the rapid release and clearance of goods; and

(b) work towards the further simplification and standardisation of the data and documentation required by customs and other agencies.

Article 6.3. Customs Cooperation

1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 6.1 (Objectives) are attained.

2. In order to enhance cooperation on customs matters, the Parties shall, inter alia:

(a) exchange information concerning their respective customs legislation, the implementation thereof, and their customs procedures, particularly in relation to the following areas:

(i) simplification and modernisation of customs procedures;

(ii) border enforcement of intellectual property rights by the customs authorities;

(iii) transit movements and transhipment; and (iv) relations with the business community;

(b) consider developing joint initiatives relating to import, export and other customs procedures, as well as towards ensuring an effective service to the business community;

(c) work together on customs-related aspects of securing and facilitating the international trade supply chain in accor- dance with the SAFE Framework;

(d) establish, where appropriate, mutual recognition of their respective risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits; and

(e) strengthen coordination in international organisations such as the WTO and the WCO.

Article 6.4. Transit and Transhipment

1. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through its territory.

2. The Parties shall promote and implement regional transit arrangements with a view to facilitating trade.

3. The Parties shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.

Article 6.5. Advance Rulings

Prior to the importation of goods into its territory, and in accordance with its legislation and procedures, each Party shall issue to traders established in its territory, through its customs authorities or other competent authorities, written advance rulings concerning tariff classification, origin, and any other matters as the Party may decide.

Article 6.6. Simplified Customs Procedure

1. Each Party shall provide simplified import and export procedures that are transparent and efficient, in order to reduce costs and increase predictability for economic operators, including small and medium sized enterprises. Easier access to customs simplifications shall also be provided for authorised traders, according to objective and non-discriminatory criteria.

2. A single customs declaration document or its electronic equivalent shall be used for the purpose of completing the formalities required for placing the goods under a customs procedure.

3. The Parties shall apply modern customs techniques, including risk assessment and post-clearance audit methods, in order to simplify and facilitate the entry and the release of goods.

4. The Parties shall promote the progressive development and use of systems, including those based upon information technology, to facilitate the electronic exchange of data among their respective traders, customs authorities and other related agencies.

Article 6.7. Release of Goods

Each Party shall ensure that its customs authorities, border agencies or other competent authorities shall apply requirements and procedures that:

(a) provide for the prompt release of goods within a period no greater than that required to ensure compliance with its customs and other trade-related laws and formalities;

(b) provide for pre-arrival processing (ie. advance electronic submission and eventual processing of information before physical arrival of goods) to enable the release of goods on arrival; and

(c) provide for the release of goods without the payment of customs duties, subject to the provision of a guarantee, if required according to the legislation of the Party concerned, in order to secure the final payment of customs duties.

Article 6.8. Fees and Charges

1. Fees and charges shall only be imposed for services provided in connection with the importation or exportation in question and for any formality required for undertaking such importation or exportation. They shall not exceed the approximate cost of the service provided, and shall not be calculated on an ad valorem basis.

2. The information on fees and charges shall be published via an officially designated medium, which may include the internet. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fee or charge that will be applied, and when and how payment is to be made.

3. New or amended fees and charges shall not be imposed. until information in accordance with paragraph 2 is published and made readily available.

Article 6.9. Customs Brokers

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers. The Parties shall apply transparent, non-discriminatory and proportionate rules when licensing customs brokers.

Article 6.10. Preshipment Inspections

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of pre-shipment inspections as defined in the Agreement on Preshipment Inspection, or any other inspection activity per-formed by private companies at the destination, before customs clearance.

Article 6.11. Customs Valuations

1. The Parties shall determine the customs value of goods in accordance with the Customs Valuation Agreement.

2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

Article 6.12. Risk Management

1. Each Party shall base its examination and release procedures and its post-entry verification procedures on risk assessment principles and the use of audits, rather than examining each shipment in a comprehensive manner for compliance with all import requirements.

2. The Parties agree to adopt and apply their control requirements and procedures for the importation, exportation, transit and transhipment of goods on the basis of risk management principles which shall be applied to focus compliance measures on transactions that merit attention.

Article 6.13. Single Window

Each Party shall endeavour to develop or maintain single window systems to facilitate a single, electronic submission of all information required by customs and other legislation for the exportation, importation and transit of goods.

Article 6.14. Appeal Procedures

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against the administrative actions, rulings and decisions by customs and other competent authorities that affect the importation or exportation of goods or that affect goods in transit.

2. Appeal procedures may include administrative review by the supervising authority and the judicial review of decisions taken at the administrative level in accordance with the legislation of the Parties.

Article 6.15. Transparency

1. Each Party shall publish or otherwise make available, including through electronic means, their legislation, regula- tions, and administrative procedures and other requirements relating to customs and trade facilitation.

2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries by inter- ested persons concerning customs and trade facilitation matters.

Article 6.16. Relations with the Business Community

The Parties agree:

(a) on the importance of timely consultations with trade representatives when formulating legislative proposals and general procedures related to customs and trade facilitation issues; to that end, consultations shall be held between customs authorities and the business community, as appropriate;

(b) to publish or otherwise make available, as far as possible through electronic means, new legislation and general procedures related to customs and trade facilitation issues prior to the application of any such legislation and procedures, as well as changes to and interpretations of such legislation and procedures; they shall also make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;

(c) on the need for a reasonable time period between the publication of new or amended legislation, procedures and fees or charges and their entry into force, without prejudice to legitimate public policy objectives (e.g. changes in duty rates); and

(d) to ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and that they remain the least trade-restrictive requirements and procedures possible.

Article 6.17. Committee on Customs

1. The Committee on Customs established by Article 16.2 (Specialised Committees) shall consist of representatives of the customs and other competent authorities of the Parties. The Committee on Customs shall ensure the proper functioning of this Chapter, Protocol 1 and any additional provisions relating to customs that the Parties may agree on. The Parties may examine and take decisions in the Committee on Customs on all issues arising thereunder.

2. The Parties may adopt recommendations and take decisions in the Committee on Customs on the mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits, and any other issue covered by paragraph 1.

3. The Parties may agree to hold ad hoc meetings for any customs matter, including rules of origin, and any additional customs-related provisions as agreed between the Parties. They may also establish sub-groups for specific issues, where appropriate.

Chapter SEVEN. NON-TARIFF BARRIERS TO TRADE AND INVESTMENT IN RENEWABLE ENERGY GENERATION

Article 7.1. Objectives

In line with global efforts to reduce greenhouse gas emissions, the Parties share the objective of promoting, developing and increasing the generation of energy from renewable and sustainable non-fossil sources, particularly through facilitating trade and investment. To this effect, the Parties shall cooperate towards removing or reducing tariffs as well as non-tariff barriers, and shall cooperate on fostering regulatory convergence with or towards regional and international standards.

Article 7.2. Definitions

For the purposes of this Chapter:

(a) "local content requirement" means

(i) with respect to goods, a requirement for an enterprise to purchase or use goods of domestic origin or goods from a domestic source, whether that requirement is specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production;

(ii) with respect to services, a requirement which restricts the choice of the service supplier or the service supplied, to the detriment of services or service suppliers from the other Party;

(b) "measure" means any measure within the scope of this Chapter that is taken by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(c) "measures requiring the formation of partnerships with local companies" means any requirements to jointly establish or operate with local companies or other businesses any legal entity such as a corporation, trust, partnership, joint venture or to enter into other contractual relations;

(d) "offset" means any condition that encourages local development, such as the unjustified licensing of technology, investment, obligation to contract with a particular financial institution, counter-trade, and similar requirements, and

(e) "service supplier" means as defined in paragraph ()) of Article 8.2 (Definitions).

Article 7.3. Scope

1. This Chapter applies to measures which may affect trade and investment between the Parties related to the generation of energy from renewable and sustainable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases, but not to the products from which energy is generated.

2. This Chapter does not apply to research and development projects and to demonstration projects carried out on a non-commercial scale.

3. This Chapter is without prejudice to the application of any other relevant provisions of this Agreement, including any exceptions, reservations or restrictions to those provisions, to the measures mentioned in paragraph 1, mutatis mutandis. For greater certainty, in the event of any inconsistency between this Chapter and any other provisions of this Agreement, the other provisions of this Agreement shall prevail to the extent of the inconsistency.

Article 7.4. Principles

Each Party shall:

(a) refrain from adopting measures providing for local content requirements or any other offset affecting the other Party's products, service suppliers, entrepreneurs or establishments,

(b) refrain from adopting measures requiring the formation of partnerships with local companies, unless such partnerships are deemed necessary for technical reasons and the Party can demonstrate such technical reasons upon request by the other Party;

(c) ensure that any rules concerning the authorisation, certification and licensing procedures that are applied, in particular to equipment, plants and associated transmission network infrastructures, are objective, transparent, and non-arbitrary, and do not discriminate against applicants from the other Party;

(d) ensure that administrative charges imposed on or in connection with the:

(i) importation and use of goods originating in the other Party, or affecting the provision of goods by the other Party's suppliers, are subject to Article 2.10 (Fees and Formalities Connected with Importation and Exportation); and

(ii) provision of services by the other Partyâs suppliers are subject to Article 8.18 (Scope and Definitions), Article 8.19 (Conditions for Licensing and Qualification) and Article 8.20 (Licensing and Qualification Proce- dures); and

(e) ensure that the terms, conditions and procedures for the connection and access to electricity transmission grids are transparent and do not discriminate against suppliers of the other Party.

Article 7.5. Standards, Technical Regulations and Conformity Assessment

1. Where international or regional standards exist with respect to products for the generation of energy from renewable and sustainable non-fossil sources, the Parties shall use those standards, or the relevant parts of those standards, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. For the purpose of applying this paragraph, the International Organization for Standardization (hereinafter referred to as "ISO") and the International Electrotechnical Commission (hereinafter referred to as IEC), in particular, shall be considered relevant international standard-setting bodies.

2. Where appropriate, the Parties shall specify technical regulations based on product requirements in terms of performance, including environmental performance, rather than in terms of design or descriptive characteristics.

3. With respect to products listed in Chapter 84 of the Harmonized System (except 8401) as well as in HS 850231 and 854140:

(a) the Union will accept declarations of conformity from Singapore suppliers under the same terms as from Union suppliers and without any further requirements, for the purpose of placing such products on the market; and

(b) Singapore will accept EU declarations of conformity or test reports without any further requirements, for the purpose of placing such products on the market. Singapore may require mandatory third party testing or certification under the conditions set out in Article 5 (Safeguard Measures) of Annex 4-A.

For greater certainty, this paragraph is without prejudice to either Party applying requirements not related to the products referred to in this paragraph, such as zoning laws or building codes.

Article 7.6. Exceptions

1. This Chapter is subject to the exceptions provided for in Article 2.14 (General Exceptions), Article 8.62 (General Exceptions), Article 9.3 (Security and General Exceptions) and, for greater certainty, to the relevant provisions of Chapter Sixteen (Institutional, General and Final Provisions).

2. For greater certainty, 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' products, service suppliers or investors where the same conditions prevail, or a disguised restriction on trade and investment between the Parties, nothing in this Chapter shall be construed as preventing a Party from the adoption or enforcement of measures necessary for the safe operation of the energy networks concerned, or the safety of energy supply.

Article 7.7. Implementation and Cooperation

1. The Parties shall cooperate and exchange information on any issues relevant for the implementation of this Chapter in the Trade Committee established pursuant to Article 16.1 (Trade Committee). The Parties may, by decision of the Trade Committee, adopt appropriate implementing measures to this effect and update this Chapter as appropriate.

2. The cooperation may include:

(a) exchanging information, regulatory experiences and best practices in areas such as:

(i) the design and non-discriminatory implementation of measures promoting the uptake of energy from renewable sources;

(ii) carbon capture and storage;

(iii) smart grids;

(iv) energy efficiency; and

(v) technical regulations, standards and conformity assessment procedures, such as those relating to grid code requirements; and

(b) promoting, also in relevant regional fora, the convergence of their domestic or regional technical regulations, regulatory concepts, standards, requirements and conformity assessment procedures with international standards.

Chapter EIGHT. SERVICES, ESTABLISHMENT AND ELECTRONIC COMMERCE

Section A. GENERAL PROVISIONS

Article 8.1. Objective and Scope

1. The Parties, affirming their respective commitments under the WTO Agreement, hereby lay down the necessary arrangements for the progressive reciprocal liberalisation of trade in services, establishment and electric commerce.

2. Except as otherwise provided, this Chapter shall not:

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

(b) apply to services supplied in the exercise of governmental authority within the respective territories of the Parties;

(c) require the privatisation of public undertakings; and

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

3. Each Party retains the right to regulate and to introduce new regulations to meet legitimate policy objectives in a manner

consistent with this Chapter.

4. This Chapter does not apply to measures that affect natural persons seeking access to the employment market of a Party, or to measures regarding citizenship, residence or employment on a permanent basis. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including measures that are necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits (4) accruing to the other Party under the terms of this Chapter.

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

Article 8.2. Definitions

For the purposes of this Chapter:

(a) "direct taxes" comprises all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation;

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

(c) "Union juridical person" or "Singapore juridical person" means:

(i) a juridical person set up in accordance with the laws of the Union and/or the Member States of the Union, or Singapore, respectively, and having its registered office, central administration (5), or principal place of business in the territory of the Union or Singapore, respectively; or

(ii) in the case of establishment in accordance with paragraph (d) of Article 8.8 (Definitions), a juridical person owned or controlled by natural persons of the Member States of the Union or of Singapore respectively, or by Union juridical persons or Singapore juridical persons respectively;

should the juridical person have only its registered office or central administration in the territory of the Union or of Singapore, respectively, it shall not be considered as a Union or Singapore juridical person, respectively, unless it engages in substantive business operations (6) in the territory of the Union or of Singapore respectively;

a juridical person is:

(i) "owned" by natural or juridical persons of the Union and/or any Member State of the Union, or of Singapore, if more than 50 per cent of the equity interest in it is beneficially owned by persons of the Union and/or any Member State of the Union, or of Singapore, respectively;

(ii) "controlled" by natural or juridical persons of the Union and/or any Member State of the Union, or of Singapore, if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

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

(d) notwithstanding subparagraph (c), shipping companies established outside the Union and controlled by nationals of a Member State of the Union shall also be covered by this Agreement if their vessels are registered in accordance with the respective legislation of a Member State of the Union and fly the flag of that Member State of the Union;

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

(f) "measures adopted or maintained by a Party" means measures taken by:

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

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

(g) measures adopted or maintained by a Party affecting trade in servicesâ 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; and

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

(h) "Schedule of Specific Commitments" refers to, in the case of the Union, Annex 8-A and the Appendices thereto, and, in the case of Singapore, Annex 8-B and the Appendices thereto;

(i) "service consumer" means any person that receives or uses a service;

(j) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

(k) "service of the other Party" means a service which is supplied:

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

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

(l) "service supplier" means any person that supplies or seeks to supply a service, including through establishment;

(m) service supplied in the exercise of governmental authority means any service, except a service which is supplied on a commercial basis or in competition with one or more service suppliers; and

(n) "trade in services" means the supply of a service:

(i) from the territory of a Party into the territory of the other Party (cross-border);

(ii) in the territory of a Party to a service consumer of the other Party (consumption abroad);

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

(iv) by a service supplier of a Party, through presence of natural persons of that Party, in the territory of the other Party (presence of natural persons).

(5) "Central administration" means the head office where ultimate decision-making takes place.

(6) The Union understands that the concept of "effective and continuous link" with the economy of a Member State of the Union enshrined in Article 54 of the Treaty on the Functioning of the European Union (hereinafter referred to as "TFEU") is equivalent to the concept of "substantive business operations". Accordingly, for a juridical person set up in accordance with the laws of Singapore and having only its registered office or central administration in the territory of Singapore, the Union shall only extend the benefits of this Agreement if that juridical person possesses an effective and continuous economic link with the economy of Singapore.

Section B. CROSS-BORDER SUPPLY OF SERVICES

Article 8.3. Scope

This Section applies to measures of the Parties affecting the cross-border supply of all service sectors except:

(a) audio-visual services;

(b) national maritime cabotage (7); and

(c) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

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

(iii) computer reservation system services.

(7) Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national mar- itime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in a Member State of the Union and another port or point located in the same Member State of the Union, including on its continental shelf, as provided in the United Nations Convention on the Law of the Sea (hereinafter referred to as "UNCLOS"), and traffic originating and terminating in the same port or point located in a Member State of the Union.

Article 8.4. Definitions

For the purposes of this Section, "cross-border supply of services" means the supply of a service:

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

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

Article 8.5. Market Access

1. With respect to market access through the cross-border supply of services, each Party shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed. and specified in its Schedule of Specific Commitments.

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

(a) limitations on the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test (8);

(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; and

(c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test (9).

(8) Subparagraph 2(a) includes measures which require a service supplier of the other Party to have an establishment within the meaning of paragraph (d) of Article 8.8 (Definitions) or to be resident in a Party's territory as a condition for the cross-border supply of a service.

(9) This subparagraph does not cover measures of a Party which limit inputs for the supply of services.

Article 8.6. National Treatment

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

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

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

4. Specific commitments assumed under this Article shall not be construed as requiring a Party to compensate for any

inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

Article 8.7. Schedule of Specific Commitments

1. The sectors liberalised by a Party pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to services and service suppliers of the other Party in those sectors are set out in its Schedule of Specific Commitments.

2. Neither Party may adopt new or more discriminatory measures with regard to services or service suppliers of the other Party in relation to the specific commitments undertaken in conformity with paragraph 1.

Section C. ESTABLISHMENT

Article 8.8. Definitions

For the purposes of this Section:

(a) "branch" of a juridical person means a place of business or a juridical person not having distinct legal personality and is the extension of a parent body;

(b) "economic activity" includes any activities of an economic nature, except activities carried out in the exercise of governmental authority, ie., activities not carried out on a commercial basis or in competition with one or more economic operators;

(c) "entrepreneur" means any person of a Party that seeks to perform or performs an economic activity through establishment (10);

(d) "establishment" means:

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

(ii) the creation or maintenance of a branch or representative office,

with a view to establishing or maintaining lasting economic links within the territory of a Party for the purpose of performing an economic activity including, but not limited to, supplying a service; and

(e) subsidiary of a juridical person of a Party means a juridical person which is controlled by another juridical person of that Party, in accordance with its domestic law (11).

(10) Where the economic activity is not performed directly by a juridical person but through other forms of establishment such as a branch or a representative office, the entrepreneur (.c. the juridical person) shall, nonetheless, through such establishment be accorded the treatment provided for entrepreneurs under this Agreement. Such treatment shall be extended to the establishment through which the economic activity is performed and need not be extended to any other parts of the entrepreneur located outside the territory where the economic activity is performed.

(11) For further clarity, a subsidiary of a juridical person of a Party may also refer to a juridical person which is a subsidiary of another subsidiary of a juridical person of that Party.

Article 8.9. Scope

This Section applies to measures adopted or maintained by the Parties affecting establishment in all economic activities with the exception of:

(a) mining, manufacturing and processing (12) of nuclear materials;

(b) production of, or trade in, arms, munitions and war material;

(c) audio-visual services;

(d) national maritime cabotage (13); and

(e) domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

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

(iii) computer reservation system services.

(12) For greater certainty, processing of nuclear materials includes all the activities contained in the International Standard Industrial Classification of all Economic Activities, as set out in Statistical Office of the United Nations, Statistical Papers, Series M, N 4, ISIC REV 3.1, 2002 code 2330.

(13) Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in a Member State of the Union and another port or point located in the same Member State of the Union, including on its continental shelf, as provided in the UNCLOS, and traffic originating and terminating in the same port or point located in a Member State of the Union.

Article 8.10. Market Access

1. With respect to market access through establishment, each Party shall accord establishments and entrepreneurs of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of Specific Commitments.

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

(a) limitations on the number of establishments whether in the form of numerical quotas, monopolies, exclusive rights or other establishment requirements such as an economic needs tests;

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

(c) limitations on the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test (14);

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

(e) measures which restrict or require specific types of legal entity or joint venture through which an entrepreneur of the other Party may perform an economic activity; and

(f) limitations on the total number of natural persons, other than key personnel and graduate trainees as defined. in Article 8.13 (Scope and Definitions) (15), who may be employed in a particular sector or who an entrepreneur may employ and who are necessary for, and directly related to, the performance of the economic activity in the form of numerical quotas or the requirement of an economic needs test.

(14) Subparagraphs 2(a), 2(b) and 2(c) do not cover measures taken in order to limit the production of an agricultural product.

(15) For greater certainty, measures or limitations relating specifically to key personnel and graduate trainees shall be subject to Article 8.14 (Key Personnel and Graduate Trainees).

Article 8.11. National Treatment

1. In the sectors inscribed in its Schedule of Specific Commitments and. subject to any conditions and qualifications set out therein, with respect to all measures affecting establishment (16), each Party shall accord to establishments and entrepreneurs of the other Party treatment no less favourable than that it accords to its own like establishments and

entrepreneurs.

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

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of establishments and entrepreneurs of the Party compared to like establishments and entrepreneurs of the other Party.

4. Specific commitments assumed under this Article shall not be construed to require a Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant establishments or entrepreneurs.

(16) The obligations in this Article apply also to measures governing the composition of boards of directors of an establishment, such as nationality and residency requirements.

Article 8.12. Schedule of Specific Commitments

1. The sectors liberalised by a Party pursuant to this Section and, by means of reservations, the market access and national treatment limitations applicable to establishments and entrepreneurs of the other Party in those sectors are set out in the former Party's Schedule of Specific Commitments.

2. Neither Party may adopt new or more discriminatory measures with regard to establishments and entrepreneurs of the other Party in relation to the specific commitments undertaken in conformity with paragraph 1.

Section D. TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

Article 8.13. Scope and Definitions

1. This Section applies to measures of the Parties concerning the entry into, and temporary stay in, their respective territories of key personnel, graduate trainees and business service sellers in accordance with paragraph 4 of Article 8.1 (Objective and Scope).

2. For the purposes of this Section:

(a) "key personnel" means natural persons employed within a juridical person of one Party, other than a non-profit organisation, and who are responsible for the setting up or the proper control, administration and operation of an establishment;

key personnel comprises business visitors for establishment purposes responsible for setting up an establishment and intra-corporate transferees:

(i) "business visitors for establishment purposes" means natural persons working in a senior position who are responsible for setting up an establishment and who do not engage in direct transactions with the general public and do not receive remuneration from a source located within the host Party; and

(ii) "intra-corporate transferees" means natural persons who have been employed by a juridical person of one Party or, in the case of professionals providing business services, have been partners in it for at least one year and who are temporarily transferred to an establishment (that may be a subsidiary, branch or head company of the enterprise) in the territory of the other Party and who must belong to one of the following categories:

(1) "executives", meaning natural persons within a juridical person who direct the management of the establishment, exercise wide latitude in decision-making, and receive general supervision or direction from the board of directors, or stockholders of the business or their equivalent, and who do not directly perform tasks related to the actual provision of the service or services of the juridical person;

(2) "managers", meaning natural persons working in a senior position within a juridical person, who primarily direct the management of the establishment, receiving general supervision or direction from high-level executives, the board of directors or stockholders of the business or their equivalent, including:

(aa) directing the establishment or a department or sub-division thereof;

(bb) supervising and controlling the work of other supervisory, professional or managerial employees; and

(cc) having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions; or

(3) "specialists", meaning natural persons working within a juridical person, who possess uncommon knowledge or expertise essential to the establishment's production, research equipment, techniques or management; in assessing such knowledge, account will be taken not only of knowledge specific to the establishment, but also, where relevant, of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

(b) "graduate trainees" means natural persons who have been employed by a juridical person of a Party for at least one year, who possess a university degree and who are temporarily transferred to an establishment in the territory of the other Party for career development purposes or to obtain training in business techniques or methods (17); and

(c) "business services sellers" means natural persons who are representatives of a service supplier of a Party seeking temporary entry into the territory of the other Party for the purpose of negotiating the sale of services or entering into agreements to sell services for that service supplier and who do not engage in making direct sales to the general public and do not receive remuneration from a source located within the host Party.

(17) The recipient establishment may be required to submit a training programme covering the duration of stay for prior approval, demonstrating that the purpose of the stay is for training. The competent authorities may require that training be linked to the uni- versity degree which has been obtained.

Article 8.14. Key Personnel and Graduate Trainees

1. For every sector liberalised in accordance with Section C (Establishment) and subject to any reservations listed in its Schedule of Specific Commitments, each Party shall allow entrepreneurs of the other Party to temporarily employ in their establishment natural persons of that other Party, provided that such employees are key personnel or graduate trainees as defined in Article 8.13 (Scope and Definitions). Their temporary entry and stay shall be permitted for a period of up to three years for intra-corporate transferees, 90 days in any twelve-month period for business visitors for establishment purposes, and one year for graduate trainees. For intra-corporate transferees, this period may be extended for up to two additional years, subject to domestic law (18).

2. For every sector liberalised in accordance with Section C (Establishment), the measures which a Party shall not maintain or adopt, unless otherwise specified in its Schedule of Specific Commitments, are defined as limitations on the total number of natural persons that an entrepreneur may transfer as key personnel or graduate trainees in a specific sector in the form of numerical quotas or a requirement of an economic needs test and as discriminatory limitations.

(18) For greater certainty and without prejudice to paragraph 4 of Article 8.1 (Objective and Scope), the stay in the territory of a Party under these provisions does not entitle the intra-corporate transferee to apply for permanent residency or citizenship in that Party.

Article 8.15. Business Services Sellers

For every sector liberalised in accordance with Section B (Cross-border Supply of Services) or Section C (Establishment) and subject to any reservations listed in its Schedule of Specific Commitments, each Party shall allow the temporary entry and stay of business service sellers for a period of up to 90 days in any twelve-month period (19).

(19) This Article is without prejudice to the rights and obligations deriving from bilateral visa waiver agreements between Singapore and one of the Member States of the Union.

Section E. REGULATORY FRAMEWORK

Subsection 1. PROVISIONS OF GENERAL APPLICATION

Article 8.16. Mutual Recognition of Professional Qualifications

1. Nothing in this Article shall prevent a Party from requiring that natural persons possess the necessary qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

2. The Parties shall encourage the relevant professional bodies in their respective territories to develop and provide a joint recommendation on mutual recognition to the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees). Such a recommendation shall be supported by evidence on:

(a) the economic value of an envisaged an agreement on mutual recognition of professional qualifications (hereinafter referred to as "Mutual Recognition Agreement"); and

(b) the compatibility of the respective regimes, i.e., the extent to which the criteria applied by each Party for the authorisation, licensing, operation and certification of entrepreneurs and service suppliers are compatible.

3. On receipt of a joint recommendation, the Committee on Trade in Services, Investment and Government Procurement shall, within a reasonable time, review the joint recommendation with a view to determining whether it is consistent with this Agreement.

4. Where, on the basis of the information provided for in paragraph 2, the recommendation has been found to be consistent with this Agreement, the Parties shall take necessary steps to negotiate a Mutual Recognition Agreement through their competent authorities or authorised designees.

Article 8.17. Transparency

Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements which pertain to or affect this Chapter. Each Party shall also establish one or more enquiry points pursuant to Article 13.4 (Enquiries and Contact Points) to provide specific information on all such matters upon request to entrepreneurs and service suppliers of the other Party.

Subsection 2. DOMESTIC REGULATION

Article 8.18. Scope and Definitions

1. This Sub-Section applies to measures of the Parties relating to licensing requirements and procedures or qualification requirements and procedures that affect:

(a) cross-border supply of services as defined in Article 8.4 (Definitions);

(b) establishment in their territory of juridical and natural persons as defined in Article 8.8 (Definitions); or

(c) temporary stay of natural persons in their territory as referred to in Article 8.13 (Scope and. Definitions).

2. This Sub-Section shall only apply to sectors for which a Party has undertaken specific commitments and to the extent that these specific commitments apply.

3. This Sub-Section does not apply to measures to the extent that the measures constitute limitations as scheduled in Articles 8.5 (Market Access) and 8.10 (Market Access) or Articles 8.6 (National Treatment) and 8.11 (National Treatment).

4. For the purposes of this Sub-Section:

(a) "competent authorities" means any central, regional or local government or authority, or any non-governmental body exercising powers delegated by central or regional or local governments or authorities, which takes a decision concerning the authorisation to supply a service, including through establishment, or concerning the authorisation to establish an economic activity other than services;

(b) "licensing procedures" means administrative or procedural rules to which a natural or a juridical person must adhere, in order to demonstrate compliance with licensing requirements when seeking authorisation to supply a service or establish an economic activity other than services, including the amendment or renewal of a license;

(c) "licensing requirements" means substantive requirements, other than qualification requirements, with which a natural or a juridical person is required to comply in order to obtain, amend or renew authorisation to supply a service or establish in an economic activity other than services;

(d) "qualification procedures" means administrative or procedural rules to which a natural person must adhere in order to

demonstrate compliance with qualification requirements for the purpose of obtaining authorisation to supply a service; and

(e) "qualification requirements" means substantive requirements relating to the competence of a natural person to supply a service, compliance with which is required to be demonstrated for the purpose of obtaining authorisation to sup- ply a service.

Article 8.19. Conditions for Licensing and Qualification

1. Each Party shall ensure that measures relating to licensing requirements and procedures as well as qualification requirements and procedures are based on criteria which are:

(a) clear;

(b) objective and transparent; and

(c) pre-established and accessible to the public and interested persons.

2. An authorisation or a licence shall, subject to availability, be granted as soon as it has been established, on the basis of an appropriate examination, that the conditions have been met.

3. Each Party shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected entrepreneur or service supplier, for a prompt review, of and where justified, appropriate remedies for administrative decisions affecting establishment, cross-border supply of services or temporary stay of natural persons for business purposes. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, each Party shall ensure that the procedures in fact provide for an objective and impartial review.

This paragraph shall not be construed. as requiring a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

Article 8.20. Licensing and Qualification Procedures

1. Each Party shall ensure that licensing and qualification procedures and formalities are as simple as possible and do not unduly complicate or delay the supply of the service. Any licensing or authorisation fees (20) which the applicants may incur from their application should be reasonable and should not in themselves restrict the supply of the service.

2. Each Party shall ensure that the competent authority uses procedures and takes decisions in the licensing or authorisation process that are impartial with respect to all applicants. The competent authority should reach its decisions in an independent manner and should not be accountable to any supplier of the services for which the licence or authorisation is required.

3. Where specific time periods for applications exist, an applicant shall be allowed a reasonable period of time for the submission of an application. The competent authority shall initiate the processing of such applications without undue delay. Where possible, applications should be accepted in electronic format under the same conditions of authenticity as for paper submissions.

4. Each Party shall ensure that the processing of an application, including the reaching of a final decision, is completed within a reasonable timeframe from the submission of a complete application. Each Party shall endeavour to establish a normal timeframe for the processing of an application.

5. Where the competent authority considers that an application is incomplete, it shall, within a reasonable period of time after the receipt of that application inform the applicant that the application is incomplete and, to the extent feasi- ble, specify the additional information required to complete the application, and shall provide the applicant with the opportunity to correct deficiencies.

6. Where possible, authenticated copies should be accepted in place of original documents.

7. Where the competent authority rejects an application, it shall inform the applicant in writing without undue delay. In principle, the applicant should, where it so requests, also be informed of the reasons for rejection of the application and of the timeframe for an appeal against the decision. Where applicable, an applicant should be permitted, within reasonable time limits, to resubmit an application.

8. Each Party shall ensure that a licence or an authorisation, once granted, enters into effect without undue delay in accordance with the terms and conditions specified therein.

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

Subsection 3. COMPUTER SERVICES

Article 8.21. Computer Services

1. The Parties subscribe to the understanding set out in the following paragraphs in respect of computer services liberalised in accordance with Section B (Cross-border Supply of Services), Section C (Establishment) and Section D (Temporary Presence of Natural Persons for Business Purposes).

2. The Parties understand that CPC (21) 84, the United Nations code used for describing computer and related ser- vices, covers all computer and related services. Technological developments have led to the increased offering of these services as a bundle or package of related services that can include some or all of the basic functions listed in paragraph 3. For example, services such as web or domain hosting, data mining services and grid computing each consist of a combination of basic computer services functions.

3. Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide any of the following or any combination thereof:

(a) consulting, adaptation, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance or management of or for computers or computer systems;

(b) consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for software (22);

(c) data processing, data storage, data hosting or database services; (d) maintenance and repair services for office machinery and equipment, including computers; and

(d) training services for staff of clients, related to software, computers or computer systems, and not elsewhere classified.

4. The Parties understand that, in many cases, computer and related services enable the provision of other services (23) by both electronic and other means. However, in such cases, there is an important distinction between the computer and related service (.g., web-hosting or application hosting) and the other service (24) enabled by the computer and related service. The other service, regardless of whether it is enabled by a computer and related service, is not covered by CPC 84.

(21) "CPC" means the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, Series M, Ne 77, CPC prov, 1991.

(22) The term "software" means the sets of instructions required to make computers work and communicate. A number of different programmes may be developed for specific applications (application software), and the customer may have a choice of using ready-made programmes off the shelf (packaged software), developing specific programmes for particular requirements (customised software) or using a combination of the two.

(23) Eg., W/120.1.A.b. (accounting, auditing and bookkeeping services), W/120.1.A.d. (architectural services), W/120.1.A-h. (medical and dental services), W/120.2.D (audiovisual services), W/120.5. (educational services).

(24) See previous footnote.

Subsection 4. POSTAL SERVICES

Article 8.22. Prevention of Anti-Competitive Practices In the Postal Sector (25)

Each Party shall introduce or maintain appropriate measures (26) for the purpose of preventing suppliers of postal services

who, alone or together, are a major supplier in the relevant market for postal services, from engaging in or continuing anti-competitive practices.

(25) For greater certainty, only measures relating to basic letter services shall be subject to Article 8.22 (Prevention of Anti-Competitive Practices in the Postal Sector).

(26) The maintenance of appropriate measures includes the effective enforcement of such measures.

Article 8.23. Independence of Regulatory Bodies

Regulatory bodies shall be separate from, and shall not be accountable to, any supplier of postal services. The decisions of and the procedures used by regulatory bodies shall be impartial with respect to all market participants.

Subsection 5. TELECOMMUNICATIONS SERVICES

Article 8.24. Scope

1. This Sub-Section applies to measures that affect trade in telecommunications services and sets out the principles of the regulatory framework for telecommunications services, liberalised pursuant to Section B to Section D.

2. This Sub-Section does not apply to any measure adopted or maintained by a Party relating to cable or broadcast distribution of radio or television programming.

3. Nothing in this Sub-Section shall be construed as requiring a Party:

(a) to authorise a service supplier of the other Party to establish, construct, acquire, lease, operate, or provide telecommunications transport networks or services, other than as provided for in its Schedule of Specific Commitments; or

(b) to establish, construct, acquire, lease, operate, or provide telecommunications transport networks or services where such networks or services are not offered to the public generally, or to compel any service supplier to do so.

4. Each Party shall impose, maintain, amend or withdraw the rights and obligations of service suppliers provided for in the Article 8.26 (Access to and Use of Public Telecommunications Networks and Services), Article 8.28 (Interconnec- tion), Article 8.29 (Interconnection with Major Suppliers), Article 8.30 (Conduct of Major Suppliers), Article 8.32 (Unbundled Network Elements), Article 8.33 (Co-location), Article 8.34 (Resale), Article 8.35 (Facility Sharing), Article 8.36 (Provisioning of Leased Circuits Services) and Article 8.38 (Submarine Cable Landing Stations) in a manner consistent with its domestic law and internal procedures for the regulation of its telecommunications markets. For the Union, such procedures entail the analysis by the Union regulators of the relevant product and service markets provided for in the relevant Union legislation, of the designation of a service supplier as having significant market power and the decision of regulators, based upon such analysis, to impose, maintain, amend or withdraw such rights and obligations.

Article 8.25. Definitions

For the purposes of this Sub-Section:

(a) "broadcasting service" refers to the uninterrupted chain of transmission via wired or wireless means, regardless of the location of the originating transmission, required for the reception or display of aural or visual programme signals by all or any part of the public, but does not cover contribution links between operators;

(b) "end-user" means a service consumer or a service supplier to whom a public telecommunications network or service is supplied other than for use in the further supply of a public telecommunications network or service;

(c) "essential facilities" mean facilities of a public telecommunications transport network or service that:

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

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

(d) "interconnection" means linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by

another supplier;

(e) "major supplier" means a supplier of public telecommunications networks or services that has the ability to materially affect the terms of participation in the relevant market for public telecommunications networks or services, having regard to price and supply, as a result of:

(i) control over essential facilities; or

(ii) use of its position in the market;

(f) "non-discriminatory" means treatment that is no less favourable than that accorded to any other user of like public telecommunications transport networks or services in like circumstances;

(g) "number portability" means the ability of end-users of public telecommunications networks or services to retain existing telephone numbers at the same location, without impairment of quality, reliability or convenience when switching between like suppliers of public telecommunications networks or services;

(h) "public telecommunications network" means a telecommunications network which a Party requires to provide telecommunications services between defined network termination points;

(i) "public telecommunications service" means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally;

(j) "submarine cable landing station" means the premises and buildings where international submarine cables arrive and terminate and are connected to backhaul links;

(k) "telecommunications" means the transmission and reception of signals by any electromagnetic means;

(l) "telecommunications services" means all services consisting of the transmission and reception of electromagnetic signals, but excludes broadcasting services and economic activities consisting of the provision of content which requires telecommunications for its transport; and

(m) "telecommunications regulatory body" means the national body or bodies charged with the regulation of telecommunications.

Article 8.26. Access to and Use of Public Telecommunications Networks and Services

1. Each Party shall ensure that all service suppliers of the other Party have access to and use of any public telecommunications network and service offered in its territory or across its borders, including private leased circuits, on reasonable, non-discriminatory and transparent terms and conditions, including as set out in paragraphs 2 and 3.

2. Each Party shall ensure that such service suppliers are permitted to:

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

(b) interconnect private leased or owned circuits with public telecommunications networks and services in its territory, or across its borders, or with circuits leased or owned by other service suppliers, and

(c) use operating protocols of their choice, other than as necessary to ensure the availability of telecommunications networks and services to the public generally.

3. Each Party shall ensure that all service suppliers of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications of such service suppliers and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party. Any new or amended measures of a Party significantly affecting such use shall be notified to the other Party and shall be subject to consultations.

Article 8.27. Confidentiality of Information

Each Party shall ensure the confidentiality of telecommunications and related traffic data by means of any public telecommunications network or service, without restricting trade in services.

Article 8.28. Interconnection (27)

1. Each Party shall ensure that any service supplier authorised to provide public telecommunications networks or services has the right and obligation to negotiate interconnection with other suppliers of public telecommunications networks or services. Interconnection should be agreed on the basis of commercial negotiations between the parties concerned.

2. Regulatory authorities shall ensure that suppliers that acquire information from another undertaking during the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied, and at all times respect the confidentiality of information transmitted or stored.

(27) For the purposes of this Article and Article 8.30 (Conduct of Major Suppliers), designation of a supplier of public telecommunica- tions networks and services as a major supplier shall be in accordance with the domestic law and procedures of each Party.

Article 8.29. Interconnection with Major Suppliers

1. Each Party shall ensure that any major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks or services of the other Party at any technically feasible point in the major supplier's network. Such interconnection shall be provided:

(a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates, and of a quality no less favourable than that provided for the own like services of such major supplier, or for like services of non-affiliated suppliers of public telecommunications networks or services, or for its subsidiaries or other affiliates;

(b) in a timely fashion, on terms, conditions (including technical standards and specifications), and cost-oriented rates that are transparent, are reasonable, having regard to economic feasibility, and are sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and

(c) upon request, at points in addition to the network termination points offered to the majority of suppliers of public telecommunications networks or services, subject to charges that reflect the cost of construction of necessary additional facilities.

2. Each Party shall ensure that major suppliers in its territory make publicly available their interconnection agreements or a reference interconnection offer.

3. The procedures applicable for interconnection to a major supplier shall be made publicly available.

4. When suppliers of public telecommunications networks or services are unable to resolve disputes regarding the terms, conditions and rates on which interconnection is to be provided by a major supplier, they shall have recourse to the regulatory authority, which shall aim to resolve the disputes in the shortest possible timeframe and in any case within 180 days of the referral to it, provided that the resolution of complex disputes may take longer than 180 days.

Article 8.30. Conduct of Major Suppliers

1. Each Party may impose obligations of non-discrimination on major suppliers in relation to interconnection or access.

2. Obligations of non-discrimination shall ensure, in particular, that the major supplier applies equivalent conditions in equivalent circumstances to other suppliers providing equivalent services and provides services and information to others under equivalent conditions and of the same quality as it provides for its own services or for the services of its subsidiaries or partners.

Article 8.31. Competitive Safeguards on Major Suppliers

Each Party shall introduce or maintain appropriate measures (28) for the purpose of preventing suppliers of public telecommunications networks or services who, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

(a) engaging in anti-competitive cross-subsidisation or margin squeeze;

(b) using information obtained from competitors with anti-competitive results;

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

(d) pricing services in a manner that is likely to unreasonably restrict competition, such as predatory pricing.

(28) The maintenance of appropriate measures includes the effective enforcement of such measures.

Article 8.32. Unbundled Network Elements

1. Each Party shall impose obligations on major suppliers to meet reasonable requests for access to, and use of, spe- cific network elements and associated facilities at any technically feasible point, on an unbundled basis, in a timely fash- ion and on terms and conditions that are reasonable, transparent, and non-discriminatory, and in particular:

(a) to give access to specified network elements and/or facilities, including access to network elements which are not active, and/or unbundled access to the local loop to, inter alia, allow subscriber line resale offers;

(b) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the inter- operability of services or virtual network services;

(c) to provide co-location; and

(d) to provide services required to ensure interoperability of end-to-end services to users.

2. When a Party is considering the obligations referred in paragraph 1, it may take account of, inter alia, the follow- ing factors:

(a) the technical and economic viability of using or installing competing facilities, taking into account the nature and type of interconnection and access involved, including the viability of other upstream access products such as access to ducts;

(b) the feasibility of providing the access proposed, in relation to the capacity available;

(c) the initial investment by the facility owner, taking into account the risks involved in making the investment; and

(d) the need to safeguard effective and sustainable competition.

Article 8.33. Co-location

1. Each Party shall ensure that major suppliers in its territory provide to suppliers of public telecommunications networks or services of the other Party physical co-location of equipment necessary for interconnection or access to unbundled network elements in a timely fashion and on terms and conditions that are reasonable and non-discriminatory.

2. Each Party may determine in accordance with its domestic law the locations at which it requires major suppliers in its territory to provide co-location under paragraph 1.

Article 8.34. Resale

Each Party shall ensure that major suppliers in its territory offer for resale to suppliers of public telecommunications networks or services of the other Party, public telecommunications services that such major suppliers provide at retail to end-users in accordance with the provisions of this Sub-Section and, in particular, with Article 8.32 (Unbundled Net- work Elements).

Article 8.35. Facility Sharing

1. Each Party shall be able, taking into account the principle of proportionality, to impose on any major supplier having the right to install facilities on, over or under public or private property, the sharing of such facilities or property, including buildings, entries to buildings, building wiring, masts, antennae, towers and other supporting constructions, poles, ducts, conduits, manholes and cabinets.

2. Each Party may determine in accordance with its domestic law the facilities to which it requires major suppliers in its territory to provide access under paragraph 1, on the basis that such facilities cannot feasibly be economically or technically substituted in order to provide a competing service.

Article 8.36. Provisioning of Leased Circuits Services

Each Party shall ensure that major suppliers of leased. circuits services in its territory provide juridical persons of the other Party leased circuits services that are public telecommunications services in a timely fashion on terms and conditions that are reasonable, non-discriminatory and transparent.

Article 8.37. Number Portability

Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability for those services designated by that Party, to the extent technically feasible, on a timely basis and on reasonable terms and conditions.

Article 8.38. Submarine Cable Landing Stations

Each Party shall ensure access to submarine cable systems, including landing facilities, in its territory, where a supplier is authorised to operate a submarine cable system as a public telecommunications service, on reasonable, non-discriminatory and transparent terms and conditions.

Article 8.39. Independent Regulatory Authority

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications networks or services or telecommunications equipment. To this end, each Party shall ensure that its telecommunications regulatory body does not hold any financial interest or control in such a supplier.

2. Each Party shall ensure that the decisions of, and procedures followed by, its telecommunications regulatory bodies are fair and impartial with respect to all market participants and that they are made and implemented without undue delay. To this end, each Party shall ensure that any financial interest that it holds in a supplier of public telecommunications networks or services does not influence the decisions of, and procedures followed by, its telecommunications regulatory body.

3. The powers of the regulatory authorities shall be exercised transparently in accordance with the applicable domestic law.

4. Regulatory authorities shall have the power to ensure that suppliers of telecommunications transport networks and services within their respective territories provide them, promptly upon request, with all the information, including financial information, which is necessary to enable the regulatory authorities to carry out their tasks in accordance with this Sub-Section. Information requested shall be reasonably proportionate to the performance of the regulatory authorities' tasks and treated in accordance with the requirements of confidentiality.

5. The regulatory authority shall be sufficiently empowered to regulate the sector. The tasks to be undertaken by a regulatory authority shall be made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

Article 8.40. Universal Services

1. Each Party has the right to define the kind of universal service obligations that it wishes to maintain.

2. Such obligations will not be regarded as anti-competitive per se, provided that they are administered in a transparent, objective, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Party.

3. Where a Party requires a supplier of telecommunications services to provide directories of subscribers, that Party shall ensure that the supplier applies the principle of non-discrimination to the treatment of information that has been provided to them by other suppliers of such telecommunications services.

Article 8.41. Authorisation to Provide Telecommunications Services

1. Each Party shall ensure that licensing procedures are as simple as possible and do not unduly complicate or delay the provisions of the service.

2. Where a Party requires a supplier of public telecommunications networks or services to have a licence, that Party shall make publicly available:

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

(b) a reasonable period of time that would normally be required to reach a decision concerning an application for a licence.

3. Each Party shall ensure that, if it so requests, the applicant receives in writing the reasons for the denial of a licence.

4. Where a licence has been unduly denied, the applicant for a licence shall be able to seek recourse before an appeal body.

5. Any licensing or authorisation fees (29) which the applicants may incur from their application should be reasonable and should not in themselves restrict the supply of the service.

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

Article 8.42. Allocation and Use of Scarce Resources

1. Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, shall be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands shall be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

2. The Parties understand that decisions on allocating and assigning spectrum and frequency management are not measures that are per se inconsistent with Articles 8.5 (Market Access) and 8.10 (Market Access). Accordingly, each Party retains the right to exercise its spectrum and frequency management policies, which may affect the number of suppliers of public telecommunications services, provided that this is done in a manner that is consistent with this Chapter. The Parties also retain the right to allocate frequency bands in a manner that takes existing and future needs into account.

Article 8.43. Enforcement

1. Each Party shall ensure that its telecommunications regulatory body maintains appropriate procedures and has the authority to enforce domestic measures relating to the obligations under this Sub-Section. Such procedures and authority shall include the ability to impose timely, proportionate and effective sanctions, and the ability to modify, suspend, and revoke licences.

2. Where a major supplier refuses the application of the rights and obligations provided for in Article 8.29 (Interconnection with Major Suppliers), Article 8.30 (Conduct of Major Suppliers), Article 8.31 (Competitive Safeguards on Major Suppliers), Article 8.32 (Unbundled Network Elements), Article 8.33 (Co-location), Article 8.34 (Resale), Article 8.35 (Facility Sharing) or Article 8.36 (Provisioning of Leased Circuit Services), the requesting service supplier may seek the intervention of the regulatory body, which shall issue, in accordance with its domestic law, a binding decision, in the shortest possible period of time, and in any case within a reasonable period of time.

Article 8.44. Resolution of Telecommunications Disputes

1. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party have timely recourse to a telecommunications regulatory body or other relevant body to resolve disputes arising under domestic measures that address a matter set out in this Sub-Section.

2. Each Party shall ensure that any supplier of public telecommunications networks or services of the other Party that is affected by a decision of its telecommunications regulatory body may appeal against that decision to a judicial or administrative authority independent of the parties involved.

3. Where the appeal body is not judicial in character, written reasons for its decision shall be given and its decision shall be subject to review by an impartial and independent judicial authority.

4. Decisions taken by appeal bodies shall be effectively implemented by the parties concerned. in accordance with the applicable domestic law and internal procedures. An appeal shall not relieve a party concerned of its obligation to comply with the underlying regulatory decision unless an appropriate authority has stayed that regulatory decision.

Article 8.45. Transparency

When regulatory bodies intend to take measures related to the provisions of this Sub-Section, they shall give interested parties the opportunity to comment on the draft measure within a reasonable period of time, in accordance with their

domestic law. Regulatory bodies shall make their consultation procedures for such draft measures publicly available. The results of the consultation procedure should be made publicly available by the regulatory body except in the case of confidential information in accordance with the domestic law on business confidentiality.

Article 8.46. Flexibility In the Choice of Technologies

Neither Party shall prevent suppliers of public telecommunications services from having the flexibility to choose the technologies that they use to supply their services, subject to the ability of each Party to take measures to ensure that end-users of different networks are able to communicate with each other.

Article 8.47. Relationship to other Sub-Sections, Sections and Chapters

In the event of any inconsistency between this Sub-Section and another Sub-Section or Section in this Chapter or another Chapter, this Sub-Section shall prevail to the extent of such inconsistency.

Article 8.48. Cooperation

1. The Parties, recognising the rapid development of the telecommunications and information technology industry, both in the domestic and international contexts, shall cooperate to promote the development of such services with a view to obtaining the maximum benefit for the Parties from the use of telecommunications and information technology.

2. The areas of cooperation may include the following:

(a) exchanging views on policy issues such as the regulatory framework for high speed broadband networks and the reduction of international mobile roaming charges; and

(b) promoting the use by consumers, the public sector and the private sector of telecommunications and information technology services, including newly emerging services.

3. The forms of cooperation may include the following:

(a) promoting dialogue on policy issues;

(b) enhancing cooperation in international fora relating to telecommunications and information technology; and

(c) other forms of cooperation activities.

Subsection 6. FINANCIAL SERVICES

Article 8.49. Scope and Definitions

1. This Sub-Section sets out the principles of the regulatory framework for all financial services liberalised pursuant to Sections B (Cross-border Supply of Services), C (Establishment) and D (Temporary Presence of Natural Persons for Business Purposes).

2. For the purposes of this Sub-Section:

(a) "financial service" means any service of a financial nature, including a service incidental or auxiliary to a service of a financial nature, offered by a financial service supplier of a Party; financial services include the following activities:

(i) insurance and insurance-related services:

(1) direct insurance (including co-insurance):

(aa) life insurance;

(bb) non-life insurance;

(2) reinsurance and retrocession;

(3) insurance inter-mediation, such as brokerage and agency; and

(4) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services; and

(ii) banking and other financial services (excluding insurance):

(1) the acceptance of deposits and other repayable funds from the public;

(2) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(3) financial leasing;

(4) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(5) guarantees and commitments;

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

(aa) money market instruments (including cheques, bills, certificates of deposits);

(bb) foreign exchange;

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

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

(ee) transferable securities;

(ff) other negotiable instruments and financial assets, including bullion;

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

(8) money broking;

(9) asset management, such as cash or portfolio management, any form of collective investment management, pension fund management, custodial, depository and trust services;

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

(11) the provision and transfer of financial information, and the provision of financial data processing and related software by suppliers of other financial services; and

(12) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (1) to (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) "financial service supplier" means any natural or juridical person of a Party that is engaged or is seeking to engage in the business of supplying financial services within the territory of that Party but does not include a public entity;

(c) "new financial service" means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party;

(d) "public entity" means:

(i) a government, central bank or monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, other than an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions; and

(e) "self-regulatory organisation" means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organisation or association, that exercises regulatory or supervisory authority over financial service suppliers by statute or delegation from central, regional or local governments or authorities.

Article 8.50. Prudential Carve-out

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining reasonable measures for prudential reasons, such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier;

(b) the maintenance of the safety, soundness, integrity or financial responsibility of financial service suppliers; or

(c) ensuring the integrity and stability of the Party's financial system.

2. These measures shall not be more burdensome than necessary to achieve their aim, and shall not constitute a means of arbitrary or unjustifiable discrimination against financial service suppliers of the other Party in comparison to its own like financial service suppliers, or a disguised restriction on trade in services.

3. Nothing in this Agreement shall be construed as requiring a Party to disclose information relating to the affairs and accounts of individual consumers or to disclose any confidential or proprietary information in the possession of public entities.

4. Each Party shall use its best endeavours to ensure that the Basel Committee's "Core Principles for Effective Banking Supervision", the standards and principles of the International Association of Insurance Supervisors and the International Organisation of Securities Commissions' "Objectives and Principles of Securities Regulation", and the internationally agreed Standard for transparency and exchange of information for tax purposes, as spelled out in the 2017 OECD Model Tax Convention on Income and on Capital, are implemented. and applied in its territory.

5. Subject to Article 8.6 (National Treatment) and without prejudice to other means of prudential regulation of cross- border trade in financial services, a Party may require the registration or authorisation of cross-border financial service suppliers of the other Party and of financial instruments.

Article 8.51. Self-regulatory Organisations

When membership or participation in, or access to, any self-regulatory organisation is required by a Party in order for financial service suppliers of the other Party to supply financial services in or into the territory of the first Party, the Party shall ensure observance of the obligations under Article 8.6 (National Treatment) and Article 8.11 (National Treatment) by such self-regulatory organisation.

Article 8.52. Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall, as permitted by its access criteria, grant to financial service suppliers of the other Party that are established in its territory and regulated or supervised as financial service suppliers under its domestic law, access to payment and clearing systems operated by public entities and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to a Party's lender-of-last-resort facilities.

Article 8.53. New Financial Services

Each Party shall permit a financial service supplier of the other Party to supply any new financial service that the first Party would permit its own like financial service suppliers to supply without additional legislative action required by the first Party. Each Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where a Party requires such authorisation, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons under Article 8.50 (Prudential Carve-out).

Article 8.54. Data Processing

1. Each Party shall, subject to appropriate safeguards on privacy and confidentiality, permit a financial service supplier of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing, where such processing is required in the ordinary course of business of such financial service supplier.

2. Each Party shall adopt or maintain appropriate safeguards to protect privacy and personal data, including individual records and accounts, as long as these safeguards are not used to circumvent the provisions of this Agreement.

Article 8.55. Specific Exceptions

1. Nothing in this Chapter shall be construed as preventing a Party, including its public entities, from exclusively conducting or providing activities or services in its territory that form part of a public retirement plan or statutory system of social security, except where those activities may be carried out, by financial service suppliers in competition with public entities or private institutions, as provided by the Party's domestic regulation.

2. Nothing in this Agreement applies to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.

3. Nothing in this Chapter shall be construed as preventing a Party, including its public entities, from exclusively conducting or providing activities or services in its territory for the account or with the guarantee or using the financial resources of the Party, or its public entities, except where that Party's domestic regulation provides that those activities may be carried out by financial service suppliers in competition with public entities or private institutions.

Subsection 7. INTERNATIONAL MARITIME TRANSPORT SERVICES

Article 8.56. Scope, Definitions and Principles

1. This Sub-Section sets out the principles regarding the liberalisation of international maritime transport services pursuant to Sections B (Cross-border Supply of Services), C (Establishment) and D (Temporary Presence of Natural Persons for Business Purposes).

2. For the purposes of this Sub-Section, "international maritime transport" includes door-to-door and multi-modal transport operations, which means the carriage of goods using more than one mode of transport, and which involves a sea-leg, where such carriage takes place under a single transport document, and to this effect involves the right to contract directly with providers of other modes of transport.

3. As regards international maritime transport, the Parties agree to ensure the effective application of the principles of unrestricted access to cargoes on a commercial basis, the freedom to supply international maritime transport services, as well as national treatment in the framework of the supply of such services.

In view of the existing levels of liberalisation between the Parties in international maritime transport:

(a) the Parties shall effectively apply the principle of unrestricted access to the international maritime transport markets and trades on a commercial and non-discriminatory basis; and

(b) each Party shall grant to ships flying the flag of the other Party or operated by service suppliers of the other Party treatment no less favourable than the treatment that the granting Party accords to its own ships or those of any third country, whichever is better, with regard to, inter alia, access to ports, the use of infrastructure and auxiliary maritime services of the ports, as well as with regard to related fees and charges, customs facilities and access to berths and facilities for loading and unloading.

4. In applying these principles, the Parties shall:

(a) not introduce cargo-sharing arrangements in future agreements with third countries concerning maritime transport services, including dry and liquid bulk and liner trade, and shall terminate, within a reasonable period of time, any such cargo-sharing arrangements that exist in previous agreements; and

(b) upon the entry into force of this Agreement, abolish and abstain from introducing any unilateral measures (30) or administrative, technical and other obstacles which could constitute a disguised restriction or could have discriminatory effects on the free supply of services in international maritime transport.

5. Each Party shall permit international maritime transport service suppliers of the other Party to have an establishment in its territory under conditions of establishment and operation in accordance with the conditions inscribed in its Schedule of Specific Commitments.

6. The Parties shall make the use of the following services at the port available to international maritime transport suppliers of the other Party on reasonable and non-discriminatory terms and conditions:

(a) pilotage;

(b) towing and tug assistance;

(c) provisioning;

(d) fuelling and watering;

(e) garbage collecting and ballast waste disposal;

(f) port captain's services;

(g) navigation aids;

(h) shore-based operational services that are essential to ship operations, including communications, water and electrical supplies; and

(i) emergency repair facilities, anchorage, berth and berthing services.

(30) For the purposes of this subparagraph, the term "measures" shall comprise only measures that adversely discriminate based on the nationality or geographic area(s) of origin of the natural or juridical person to which the measure is applied.

Section F. ELECTRONIC COMMERCE

Article 8.57. Objectives

1. The Parties, recognising that electronic commerce increases trade opportunities in many sectors, agree on the importance of facilitating its use and development and the applicability of WTO rules to electronic commerce.

2. The Parties agree to promote the development of electronic commerce between them, in particular by cooperating on the issues raised by electronic commerce under the provisions of this Chapter. Within this context both Parties should avoid imposing unnecessary regulations or restrictions on electronic commerce.

3. The Parties recognise the importance of the free flow of information on the internet, while agreeing that this should not impair the rights of intellectual property owners, given the importance of protecting intellectual property rights on the internet.

4. The Parties agree that the development of electronic commerce must be fully compatible with international standards of data protection, in order to ensure the confidence of users of electronic commerce.

Article 8.58. Customs Duties

The Parties shall not impose customs duties on electronic transmissions.

Article 8.59. Electronic Supply of Services

For greater certainty, the Parties affirm that measures related to the supply of a service using electronic means falls within the scope of the obligations contained in the relevant provisions of this Chapter, subject to any exceptions applicable to such obligations.

Article 8.60. Electronic Signatures

1. The Parties shall take steps to facilitate the better understanding of each other's electronic signatures framework and, subject to relevant domestic conditions and legislation, to examine the feasibility of having a mutual recognition agreement on electronic signatures in the future.

2. In achieving the objectives of paragraph 1, each Party shall:

(a) facilitate, as much as possible, the representation of the other Party in available fora on electronic signatures organised formally or informally by its own competent authorities, by allowing the other Party to present its electronic signatures framework;

(b) encourage, as much as possible, the exchange of views on electronic signatures through dedicated seminars and expert meetings in areas such as security and interoperability; and

(c) contribute, as much as possible, to the other Party's efforts to study and analyse its own framework by making available

relevant information.

Article 8.61. Regulatory Cooperation on Electronic Commerce

1. The Parties shall maintain a dialogue on regulatory issues raised by electronic commerce, which will, inter alia, address the following issues:

(a) the recognition of certificates of electronic signatures issued to the public and the facilitation of cross-border certification services;

(b) the liability of intermediary service providers with respect to the transmission or storage of information;

(c) the treatment of unsolicited electronic commercial communications;

(d) the protection of consumers; and

(e) any other issue relevant for the development of electronic commerce.

2. This cooperation may take the form of an exchange of information on the Partiesâ respective legislation on these issues as well as on the implementation of such legislation.

Section G. GENERAL PROVISIONS

Article 8.62. General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party where like conditions prevail, or a disguised restriction on establishment or cross-border supply of services, nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures:

(a) necessary to protect public security or public morals or to maintain public order (31);

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

(c) relating to the conservation of exhaustible natural resources if such measures are applied in conjunction with restrictions on domestic entrepreneurs or on the domestic supply or consumption of services;

(d) necessary for the protection of national treasures of artistic, historic or archaeological value;

(e) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter, including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or

(iii) safety; or

(f) inconsistent with Article 8.6 (National Treatment) and Article 8.11 (National Treatment), provided that the difference in treatment is aimed at ensuring the effective or equitable imposition or collection of direct taxes in respect of economic activities, entrepreneurs or service suppliers of the other Party (32).

(31) The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(32) Measures that are aimed at ensuring the effective or equitable imposition or collection of direct taxes include measures taken by a Party under its taxation system which: (a) apply to non-resident entrepreneurs and service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; (b) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; (c) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; (d) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; (e) distinguish entrepreneurs

and service suppliers subject to tax on worldwide taxable items from other entrepreneurs and service suppliers, in recognition of the difference in the nature of the tax base between them; or (f) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base. Tax terms or concepts in subparagraph (f) and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.

Article 8.63. Review

With a view to further deepening liberalisation and eliminating remaining restrictions and ensuring an overall balance of rights and obligations, the Parties shall review this Chapter and their Schedules of Specific Commitments no later than three years after the entry into force of this Agreement, and at regular intervals thereafter. As a result of such review, the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees) may decide to amend the relevant Schedules of Specific Commitments.

Article 8.64. Committee on Trade In Services, Investment and Government Procurement

1. The Committee on Trade in Services, Investment and Government Procurement shall be responsible for the effective implementation of this Chapter and to that end it shall:

(a) regularly review the implementation of this Chapter by each Party and the Schedules of Specific Commitments in accordance with Article 8.63 (Review);

(b) as appropriate, take decisions pursuant to Article 8.63 (Review) amending the Appendices to Annexes 8-A and 8-B; an

(c) consider any matter in relation to this Chapter as the Parties may agree.

2. The responsibilities of the Committee on Trade in Services, Investment and Government Procurement in relation to Chapter Nine (Government Procurement) are set out in Article 9.19 (Responsibilities of the Committee).

Chapter NINE. GOVERNMENT PROCUREMENT

Article 9.1. Definitions

For the purposes of this Chapter:

(a) "commercial goods and services" means goods and services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes,

(b) "competitive activity" means, in the case of the Union:

(i) an activity, performed within the territory of a Member State of the Union, which is directly exposed to competition in markets to which access is not restricted; and

(ii) a competent authority in the Union has adopted a decision establishing the applicability of paragraph (i);

for the purposes of subparagraph (b)(i), the question of whether an activity is directly exposed to competition shall be decided on the basis of the characteristics of the goods or services concerned, the existence of alternative goods or services, and their prices and the actual or potential presence of more than one supplier of the goods or services in question;

(c) "construction services" means a service that has as its objective the realisation by whatever means of civil or building works as defined in Division 51 of the Provisional UN Central Product Classification (CPC);

(d) "corrective action" means, in the context of domestic review procedures, either setting aside or ensuring the setting aside of decisions that were taken unlawfully by a procuring entity, including the removal of discriminatory technical, economic or financial specifications in the invitation to tender, the contract documents or any other document relating to the tendering procedure;

(e) "electronic auction" means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;

(f) "in writing" or "written" means any worded or numbered expression that can be read, reproduced, and later communicated; it may include electronically transmitted and stored information;

(g) "juridical person" is understood as provided for in paragraph (b) of Article 8.2 (Definitions);

(h) "Union juridical person" or a "Singapore juridical person" is understood as provided for in paragraph (c) of Article 8.2 (Definitions);

(i) "limited tendering" means a procurement method where the procuring entity contacts a supplier or suppliers of its choice;

(j) "locally established" means a juridical person which is established in one Party and which is owned or controlled by natural or juridical persons of the other Party;

a juridical person is:

(i) "owned" by natural or juridical persons of the other Party if more than 50 per cent of the equity interest in that juridical person is beneficially owned by persons of the other Party; and

(ii) "controlled" by natural or juridical persons of the other Party if such persons have the power to name a majority of the directors of that juridical person or otherwise to legally direct its actions;

(k)"measure" means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;

(l) "multi-use list" means a list of suppliers that a procuring entity has determined satisfies the conditions for participation in that list, and that the procuring entity intends to use more than once;

(m) "notice of intended procurement" means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

(n) "offsets" means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade, and similar actions or requirements;

(o) "open tendering" means a procurement method where all interested suppliers may submit a tender;

(p) "privatised" means, in the case of Singapore, an entity that has been reconstituted from a procuring entity or part thereof to be a legal person acting in accordance with commercial considerations in the procurement of goods and that is no longer entitled to exercise governmental authority, even though the government possesses holdings thereof or appoints members of the Board of Directors thereto;

for greater certainty, where the government of a Party possesses holdings thereof or appoints a government official to the board of directors of a privatised entity, that entity is deemed to act in accordance with commercial consider- ations in its purchase of goods and services, such as with regard to the availability, price and quality of the goods and services if the government or the government official so appointed does not directly or indirectly influence or direct the decisions of the board of directors in relation to the entity's procurement of goods and services;

(q) "procuring entity" means an entity covered under Annexes 9-A, 9-B or 9-C;

(r) "qualified supplier" means a supplier that a procuring entity recognises as having satisfied the conditions for participation;

(s) "Revised GPA" means the text of the Agreement on Government Procurement, as amended by the Protocol Amend- ing the Agreement on Government Procurement, done at Geneva on 30 March 2012;

(t) "selective tendering" means a procurement method where only qualified suppliers are invited by the procuring entity to submit a tender;

(u) "services" includes construction services, unless otherwise specified;

(v) "standard" means a document that has been approved by a recognised body and that provides, for common and repeated use, rules, guidelines, or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory; it may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a good, service, process, or production method;

(w) "supplier" means a person or group of persons of either Party, as applicable, that provides or could provide goods or services; and

(x) "technical specification" means a tendering requirement that:

(i) lays down the characteristics of goods or services to be procured, including quality, performance, safety, and dimensions, or the processes and methods for their production or provision; or

(ii) addresses terminology, symbols, packaging, marking, or labelling requirements, as they apply to a good or service.

Article 9.2. Scope and Coverage Application of this Chapter

1. This Chapter applies to any measure regarding covered procurement, whether or not it is conducted exclusively or partially by electronic means.

2. For the purposes of this Chapter, "covered procurement" means procurement for governmental purposes:

(a) of goods, services, or any combination thereof:

(i) as specified in each Party's Section of Annexes 9-A to 9-G; and

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

(b) by any contractual means, including purchase, lease, and rental or hire purchase with or without an option to buy, and any public-private partnership contracts as defined in Annex 9-I;

(c) for which the value, as estimated in accordance with paragraphs 6 to 8, equals or exceeds the relevant threshold specified in Annexes 9-A to 9-G at the time of publication of a notice in accordance with Article 9.6 (Notices);

(d) by a procuring entity; and

(e) that is not otherwise excluded from coverage in paragraph 3 or in a Party's Section of Annexes 9-A to 9-G.

3. Except where provided otherwise in Annexes 9-A to 9-G, this Chapter does not apply to:

(a) the acquisition or rental of land, existing buildings, or other immovable property or the rights thereon;

(b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees, and fiscal incentives;

(c) 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;

(d) public employment contracts;

(e) 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 or relating to the joint implementation by the signatory countries of a project; or

(iii) under the particular procedure or condition of an international organisation, or funded by international grants, loans, or other assistance, where the applicable procedure or condition would be inconsistent with this Chapter.

4. Each Party shall specify the following information in Annexes 9-A to 9-G:

(a) in Annex 9-A, the central government entities whose procurement is covered by this Chapter;

(b) in Annex 9-B, the sub-central entities whose procurement is covered by this Chapter;

(c) in Annex 9-C, all other entities whose procurement is covered by this Chapter;

(d) in Annex 9-D, the goods covered by this Chapter;

(e) in Annex 9-E, the services, other than construction services, covered by this Chapter;

(f) in Annex 9-F, the construction services covered by this Chapter; and

(g) in Annex 9-G, any general notes.

5. Where a procuring entity, in the context of covered procurement, requires persons who are not listed in Annexes 9-A to 9-C to procure in accordance with particular requirements, Article 9.4 (General Principles) shall apply mutatis mutandis to such requirements.

Valuation

6. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:

(a) neither divide a procurement into separate procurements nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Chapter; and

(b) include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:

(i) premiums, fees, commissions, and interest; and

(ii) where the procurement provides for the possibility of options, the total value of such options.

7. Where an individual requirement for a procurement results in the award of more than one contract, or in the award of contracts in separate parts (hereafter referred to as "recurring procurements"), the calculation of the estimated maximum total value shall be based on:

(a) the value of recurring procurements of the same type of good or service awarded during the preceding twelve months or the procuring entity's preceding fiscal year, adjusted where possible to take into account anticipated changes in the quantity or value of the good or service being procured over the subsequent twelve months; or

(b) the estimated value of recurring procurements of the same type of good or service to be awarded during the twelve months subsequent to the initial contract award or the procuring entity's fiscal year.

8. In the case of procurement by lease, rental, or hire purchase of goods or services, or procurement for which a total price is not specified, the basis for valuation shall be:

(a) in the case of a fixed-term contract:

(i) where the term of the contract is twelve months or less, the total estimated maximum value for its duration; or

(ii) where the term of the contract exceeds twelve months, the total estimated maximum value, including any estimated residual value;

(b) where the contract is for an indefinite period, the estimated monthly instalment multiplied by 48; and

(c) where it is not certain whether the contract is to be a fixed-term contract, subparagraph (b) shall be used.

Article 9.3. Security and General Exceptions

1. Nothing in this Chapter shall be construed as preventing a Party from taking any action or from not disclosing any information that 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 national security or for national 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 international trade, nothing in this Chapter shall be construed to prevent any Party from imposing or enforcing 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, philanthropic institutions, or prison labour.

Article 9.4. General Principles

National Treatment and Non-Discrimination

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall immediately and unconditionally accord to the goods and services of the other Party and to the suppliers of the other Party treatment no less favourable than the treatment the Party, including its procuring entities, accords to domestic goods, services, and suppliers.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

(a) treat a locally established supplier of the other Party less favourably than another locally established supplier on the basis of degree of foreign affiliation or ownership; or

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

Use of Electronic Means

3. When conducting covered procurement by electronic means, procuring entities shall:

(a) ensure that the procurement is conducted using information technology systems and. software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems and software; and

(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

Conduct of Procurement

4. Procuring entities shall conduct covered procurement in a transparent and impartial manner that:

(a) is consistent with this Chapter, using methods such as open tendering, selective tendering, and limited tendering;

(b) avoids conflicts of interest; and

(c) prevents corrupt practices.

Rules of Origin

5. For the purposes of covered procurement, neither Party may apply rules of origin to goods or services imported from or supplied from the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the other Party.

Offsets

6. With regard to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose, or enforce any offsets. Measures Not Specific to Procurement

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

Article 9.5. Information on the Procurement System

1. Each Party shall:

(a) promptly publish any law, regulation, judicial decision, administrative ruling of general application, standard contract clause mandated by law or regulation and incorporated by reference in notices or tender documentation, and any procedure regarding covered procurement, and any modifications thereof, in an officially designated electronic or paper medium that is widely disseminated and remains readily accessible to the public; and

(b) provide an explanation thereof to the other Party on request.

2. Each Party shall list in Annex 9-H:

(a) the electronic or paper media in which the Party publishes the information described in paragraph 1; and

(b) the electronic or paper media in which the Party publishes the notices required by Article 9.6 (Notices), paragraph 8 of Article 9.8 (Qualification of Suppliers), and paragraph 2 of Article 9.15 (Transparency of Procurement Information).

3. Each Party shall promptly notify the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees) of any modification to the media of information listed in Annex 9-H.

Article 9.6. Notices Notice of Intended Procurement

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement, which shall be directly accessible by electronic means, free of charge, through a single point of access, except in the circumstances described in Article 9.12 (Limited Tendering). The notice of intended procurement shall remain readily accessible to the public, at least until the expiration of the time-period indicated in the notice. The appropriate electronic medium shall be listed by each Party in its Section of Annex 9-H.

2. Except as otherwise provided in this Chapter, each notice of intended procurement shall include:

(a) the name and address of the procuring entity, and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any;

(b) a description of the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity;

(c) for recurring contracts, an estimate, if possible, of the timing of subsequent notices of intended procurement;

(d) a description of any options;

(e) the time-frame for delivery of goods or services or the duration of the contract;

(f) the procurement method that will be used and whether it will involve negotiation or electronic auction;

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

(h) the address and the final date for the submission of tenders;

(i) the language or languages in which tenders or requests for participation may be submitted, if they may be submitted in a language other than an official language at the place where the procuring entity is located;

(j) a list and brief description of any conditions for participation of suppliers, including any requirements for specific documents or certifications to be provided by suppliers in connection therewith, unless such requirements are included in tender documentation that is made available to all interested suppliers at the same time as the notice of intended procurement;

(k) where the procuring entity intends to select a limited number of qualified suppliers to be invited to tender pursuant to Article 9.8 (Qualification of Suppliers), the criteria that will be used to select those suppliers and, where applicable, any limitation on the number of suppliers that will be permitted to tender; and

(l) an indication that the procurement is covered by this Agreement.

Summary Notice

3. For each case of intended procurement, a procuring entity shall publish a summary notice that is readily accessible in one of the WTO languages at the same time as the publication of the notice of intended procurement. The notice shall contain at least the following information:

(a) the subject-matter of the procurement;

(b) the final date for the submission of tenders or, where applicable, any final date for the submission of requests for participation in the procurement or for inclusion on a multi-use list; and

(c) the address from which documents relating to the procurement may be requested.

4. Procuring entities are encouraged to publish by electronic means through the single point of access used for the publication of notices of intended procurement as early as possible in each fiscal year a notice regarding their future procurement plans (hereinafter referred to as a "notice of planned procurement"). That notice of planned procurement should include the subject-matter of the procurement and the planned date of the publication of the notice of intended procurement.

5. Procuring entities covered by Annexes 9-B or 9-C may use a notice of planned procurement as a notice of intended procurement, provided that the notice of planned procurement includes as much of the information referred to in paragraph 2 as is available and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

Article 9.7. Conditions for Participation

1. Procuring entities shall limit the conditions for participation in a given procurement to those that are essential to ensure that a supplier has the legal, commercial, technical, and financial ability to undertake the relevant procurement.

2. In establishing the conditions for participation, procuring entities:

(a) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a Party, or that the supplier has prior experience in the territory of that Party; but

(b) may require relevant prior experience where essential to meet the requirements of the procurement.

3. In assessing whether a supplier satisfies the conditions for participation, procuring entities:

(a) shall evaluate the financial capacity and the commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity; and

(b) shall base their evaluation on the conditions that they specified in advance in notices or tender documentation.

4. Where there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:

(a) bankruptcy;

(b) false declarations;

(c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior con- tract or contracts;

(d) final judgments in respect of serious crimes or other serious offences;

(e) professional misconduct or acts or omissions that adversely reflect upon the commercial integrity of the supplier; or

(f) failure to pay taxes.

Article 9.8. Qualification of Suppliers Registration Systems and Qualification Procedures

1. Each Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.

2. Each Party shall ensure that:

(a) its procuring entities make efforts to minimise differences in their qualification procedures; and

(b) where its procuring entities maintain registration systems, those procuring entities make efforts to minimise differences in their registration systems.

3. Neither Party, including its procuring entities, shall adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.

Selective Tendering

4. Where a procuring entity intends to use selective tendering, that procuring entity shall:

(a) in the notice of intended procurement include at least the information in subparagraphs 2(a), (b), (f), (g), (j), (k) and (l) of Article 9.6 (Notices) and invite suppliers to submit a request for participation; and

(b) by the commencement of the time period for tendering, provide at least the information in subparagraphs 2(c), (d), (e), (h), and (i) of Article 9.6 (Notices) to the qualified suppliers that it notifies in accordance with subparagraph 3(b) of Article 9.10 (Time Periods).

5. Procuring entities shall allow all qualified suppliers to participate in a particular procurement, unless the procuring entity sets a limit in the notice of intended on the number of suppliers that will be permitted to tender and states the criteria for selecting the limited number of suppliers. In any case, the number of suppliers permitted to submit a tender shall be sufficient to ensure competition without affecting the operational efficiency of the procurement system.

6. Where the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 4, the procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers that have been selected in accordance with paragraph 5.

Multi-Use Lists

7. Procuring entities may maintain a multi-use list of suppliers, provided that a notice inviting interested suppliers to apply for inclusion on the list is:

(a) published annually; and

(b) where published by electronic means, made available continuously, in the appropriate medium listed in Annex 9-H. 8. The notice provided for in paragraph 7 shall include:

(a) a description of the goods or services, or categories thereof, for which the list may be used;

(b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;

(c) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the list;

(d) the period of validity of the list and the means for its renewal or termination, or where the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list; and

(e) an indication that the list may be used for procurement covered by this Agreement.

9. Notwithstanding paragraph 7, where a multi-use list will be valid for three years or less, procuring entities may publish the notice referred to in paragraph 7 only once, at the beginning of the period of validity of the list, provided that the notice:

(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.

10. Procuring entities shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

11. Where a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all required documents relating thereto within the time period provided for in paragraph 2 of Article 9.10 (Time Periods), the procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the procuring entity has insufficient time to examine the request unless, in exceptional cases, due to the complexity of the procurement, the procuring entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.

Annex 9-C Entities

12. Procuring entities covered under Annex 9-C may use a notice inviting suppliers to apply for inclusion on a multi-use list as a notice of intended procurement, provided that:

(a) the notice is published in accordance with paragraph 7 and includes the information in paragraph 8, as much of the

information in paragraph 2 of Article 9.6 (Notices) as is available, and a statement that it constitutes a notice of intended procurement or that only the suppliers on the multi-use list will receive further notices of procurement covered by the multi-use list; and

(b) the procuring entity promptly provides to suppliers that have expressed an interest to the procuring entity in a given procurement, sufficient information to permit them to assess their interest in the procurement, including all remaining information required in paragraph 2 of Article 9.6 (Notices), to the extent such information is available.

13. Procuring entities covered under Annex 9-C may allow a supplier that has applied for inclusion on a multi-use list in accordance with paragraph 10 to tender in a given procurement, where there is sufficient time for the procuring entity to examine whether the supplier satisfies the conditions for participation.

Information on Procuring Entity Decisions

14. Procuring entities shall promptly inform any supplier that submits a request for participation or application for inclusion on a multi-use list of the procuring entity's decision with respect to the request.

15. Where a procuring entity rejects a supplier's request for participation or application for inclusion on a multi-use list, ceases to recognise a supplier as qualified, or removes a supplier from a multi-use list, that procuring entity shall promptly inform the supplier and, at the request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

Article 9.9. Technical Specifications and Tender Documentation Technical Specifications

1. Procuring entities shall not prepare, adopt, or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to international trade.

2. In prescribing the technical specifications for the goods or services being procured, procuring entities shall, where appropriate:

(a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specification on international standards, where such exist; otherwise, on national technical regulations, recognised national standards, or building codes.

3. Where design or descriptive characteristics are used in the technical specifications, procuring entities should indicate, where appropriate, that they will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as âor equivalentâ in the tender documentation.

4. Procuring entities shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer, or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements, and provided that, in such cases, the procuring entity include words such as "or equivalent" in the tender documentation.

5. Procuring entities shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. For greater certainty, each Party, including its procuring entities, may, in accordance with this Article, prepare, adopt, or apply technical specifications to promote the conservation of natural resources or protect the environment.

7. Where procuring entities lay down environmental characteristics in terms of performance or functional requirement, as referred to in paragraph 2(a), they may consider using the detailed specification or, if necessary, parts thereof, as defined by eco-labels existing within the Union and green labels existing in Singapore, provided that:

(a) those specifications are appropriate to define the characteristics of the supplies or services that are the object of the contract;

(b) the requirements of the label are drawn up on the basis of scientific information; and

(c) those specifications are accessible to all interested parties.

Tender Documentation

8. Procuring entities shall provide to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of intended procurement, such documentation shall include a complete description of:

(a) the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings, or instructional materials;

(b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection with the conditions for participation;

(c) all evaluation criteria that the procuring entity will apply in the awarding of the contract and, except where price is the sole criterion, the relative importance of such criteria;

(d) where the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;

(e) where the procuring entity will hold an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;

(f) where there will be a public opening of tenders, the date, time, and place for the opening and, where appropriate, the persons authorised to be present;

(g) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, such as whether on paper or by electronic means; and

(h) any dates for the delivery of goods or the supply of services.

9. In establishing any delivery date for the goods or services being procured, procuring entities shall take into account such factors as the complexity of the procurement, the extent of subcontracting anticipated and the realistic time required for production, de-stocking and transport of goods from the point of supply or for supply of services.

10. Procuring entities may lay down environmental conditions relating to the performance of a procurement, provided that these are compatible with the rules established by this Chapter and are indicated in the notice of intended procurement of in another notice used as a notice of intended procurement (33) or tender documentation.

11. The evaluation criteria set out in the notice of intended procurement or in another notice used as a notice of intended procurement or tender documentation may include, among others, price and other cost factors, quality, technical merit, environmental characteristics, and terms of delivery.

12. Procuring entities shall promptly:

(a) make available tender documentation to ensure that interested suppliers have sufficient time to submit responsive tenders;

(b) provide, on request, the tender documentation to any interested supplier; and

(c) reply to any reasonable request for relevant information by any interested or participating supplier, provided that such information does not give that supplier an advantage over other suppliers.

Modifications

13. Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in a notice of intended procurement or in another notice used as a notice of intended procurement or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all such modifications or amended or re-issued notices or tender documentation:

(a) to all suppliers that are participating at the time of the modification, amendment or re-issuance, where such suppliers are known to the procuring entity, and in all other cases, in the same manner as the original information was made available; and

(b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

(33) For the purposes of paragraphs 10, 11 and 13 of this Article and paragraph 2 of Article 9.11 (Negotiations), "another notice used as a notice of intended procurement" means a notice of planned procurement falling within paragraph 5 of Article 9.6 (Notices) and a notice inviting suppliers to apply for inclusion on a multi-use list falling within paragraph 12 of Article 9.8 (Qualification of Suppliers).

Article 9.10. Time Periods General

1. Procuring entities shall, consistent with their own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as:

(a) the nature and complexity of the procurement;

(b) the extent of subcontracting anticipated; and

(c) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points, where electronic means are not used.

Such time-periods, including any extension of the time periods, shall be the same for all interested or participating suppliers.

Deadlines

2. Procuring entities that use selective tendering shall establish that, in principle, the final date for the submission of requests for participation shall not be less than 25 days from the date of publication of the notice of intended procurement. Where a state of urgency duly substantiated by the procuring entity renders this time period impracticable, the time period may be reduced to not less than ten days.

3. Except as provided for in paragraphs 4, 5, 7 and 8, procuring entities shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:

(a) in the case of open tendering, the notice of intended procurement is published; or

(b) in the case of selective tendering, the procuring entity notifies suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

4. Procuring entities may reduce the time-period for tendering set out in paragraph 3 to not less than ten days where:

(a) the procuring entity published a notice of planned procurement under paragraph 4 of Article 9.6 (Notices) at least 40 days and not more than twelve months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:

(i) a description of the procurement;

(ii) the approximate final dates for the submission of tenders or requests for participation;

(iii) a statement that interested suppliers should express their interest in the procurement to the procuring entity;

(iv) the address from which documents relating to the procurement may be obtained; and

(v) as much of the information that is required under paragraph 2 of Article 9.6 (Notices) for the notice of intended procurement, as is available;

(b) the procuring entity, for procurements of a recurring nature, indicated in an initial notice of intended procurement that subsequent notices will provide time periods for tendering based on this paragraph; or

(c) a state of urgency duly substantiated by the procuring entity has rendered the time period for tendering established in accordance with paragraph 3 impracticable.

5. Procuring entities may reduce the time period for tendering set out in paragraph 3 by five days for each one of the following circumstances:

(a) the notice of intended procurement is published by electronic means;

(b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and

(c) the tenders can be received by electronic means by the procuring entity.

6. The use of paragraph 5, in conjunction with paragraph 4, shall in no case result in the reduction of the time period for tendering set out in paragraph 3 to less than ten days from the date on which the notice of intended procurement is published.

7. Notwithstanding any other provision in this Article, where a procuring entity purchases commercial goods or services, or any combination thereof, it may reduce the time period for tendering set out in paragraph 3 to not less than thirteen days, provided that it publishes by electronic means, at the same time, both the notice of intended procurement and the tender documentation. In addition, where the procuring entity also accepts tenders for commercial goods and services by electronic means, it may reduce the time period set out in paragraph 3 to not less than ten days.

8. Where a procuring entity covered under Annexes 9-B or 9-C has selected all or a limited number of qualified suppliers, the time period for tendering may be fixed by mutual agreement between the procuring entity and the selected suppliers. In the absence of agreement, the period shall not be less than ten days.

Article 9.11. Negotiations

1. Each Party may provide for its procuring entities to conduct negotiations:

(a) where the procuring entity has indicated its intent to conduct negotiations in the notice of intended procurement required under paragraph 2 of Article 9.6 (Notices); or

(b) where it appears from the evaluation that no one tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or in another notice used as a notice of intended procurement or tender documentation.

2. Procuring entities shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or in another notice used as a notice of intended procurement or tender documentation; and

(b) where negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

Article 9.12. Limited Tendering

1. Provided that they do not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, procuring entities may use limited tendering and may choose not to apply Article 9.6 (Notices), Article 9.7 (Conditions for Participation), Article 9.8 (Qualification of Suppliers), paragraphs 8 to 13 of Article 9.9 (Technical Specifications and Tender Docu- mentation), Article 9.10 (Time Periods), Article 9.11 (Negotiations), Article 9.13 (Electronic Auctions), and Article 9.14 (Treatment of Tenders and Awarding of Contracts) only under 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 procuring entity does not substantially modify the requirements set out in the tender documentation;

(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

(iii) due to an absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods and services that were not included in the initial procurement

where a change of supplier for such additional goods and 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 at acceptable quality standards, but does not include quantity production, supply for the purpose of establishing commercial viability, or the recovery of 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; and

(h) where a contract is awarded to a winner of a design contest, provided that:

(i) the contest has been organised in a manner that is consistent with the principles of this Chapter, 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. Procuring entities shall prepare a report in writing on each contract awarded under paragraph 1. The report shall include the name of the procuring entity, the value and kind of goods or services procured, and a statement indicating the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

Article 9.13. Electronic Auctions

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the procuring entity shall provide each participant, before commencing the electronic auction, with:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;

(b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender; and

(c) any other relevant information relating to the conduct of the auction.

Article 9.14. Treatment of Tenders and Awarding of Contracts Treatment of Tenders

1. Procuring entities shall receive, open, and treat all tenders in accordance with procedures that guarantee the fairness and impartiality of the procurement process, and the confidentiality of tenders.

2. Procuring entities shall not penalise any supplier whose tender is received after the time specified for receiving tenders if the delay was due solely to mishandling on the part of the procuring entity.

3. Where a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

Awarding of Contracts

4. To be considered for an award, a tender shall have been submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notices and tender documentation, and shall be from a supplier that satisfies the conditions for participation.

5. Unless a procuring entity determines that it is not in the public interest to award a contract, the procuring entity shall award the contract to the supplier that the procuring entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted:

(a) the most advantageous tender; or

(b) where price is the sole criterion, the lowest price.

6. Where a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract, and whether the price takes into account the grant of subsidies.

7. Where a procuring entity establishes that a tender is abnormally low because the supplier has obtained. subsidies, it may reject the tender on that ground alone only after having consulted with the supplier and the latter is unable to prove, within a sufficient period fixed by the procuring entity, that the subsidy in question was granted in compliance with the disciplines relating to subsidies laid down in this Agreement.

8. A procuring entity shall not use options, cancel a procurement, or modify awarded contracts, in a manner that circumvents the obligations under this Chapter.

Article 9.15. Transparency of Procurement InformationInformation Provided to Suppliers

1. Procuring entities shall promptly inform participating suppliers of the procuring entity's contract award. decisions and, upon the request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article 9.16 (Disclosure of Information), procuring entities shall, upon request, provide an unsuccessful supplier with an explanation of the reasons why the procuring entity did not select its tender and the relative advantages of the successful supplier's tender.

Publication of Award Information

2. Not later than 72 days after the award of each contract covered by this Chapter, the procuring entity shall publish a notice in the appropriate paper or electronic medium listed in Annex 9-H. Where the procuring entity publishes the notice only in an electronic medium, the information shall remain readily accessible for a reasonable period of time. The notice shall include at least the following information:

(a) a description of the goods or services procured;

(b) the name and address of the procuring entity;

(c) the name and address of the successful supplier;

(d) the value of the successful tender or the highest and lowest offers taken into account in the award of the contract;

(e) the date of award; and

(f) the type of procurement method used, and in cases where limited tendering was used pursuant to Article 9.12 (Limited Tendering), a description of the circumstances justifying the use of limited tendering.

Maintenance of Documentation, Reports, and Electronic Traceability

3. Each procuring entity shall, for a period of at least three years from the date it awards a contract, maintain:

(a) the documentation and reports of tendering procedures and contract awards relating to covered procurement, including the reports required under Article 9.12 (Limited Tendering); and

(b) data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.

Collection and Report of Statistics

4. Each Party agrees to communicate to the other Party the available and comparable statistical data relevant to the procurement covered by this Chapter.

Article 9.16. Disclosure of Information Provision of Information to Parties

1. Upon the request of a Party, the other Party shall promptly provide any information necessary to determine whether a

procurement was conducted fairly, impartially and in accordance with this Chapter, including information on the characteristics and relative advantages of the successful tender. In cases where release of the information would prejudice competition in future tenders, the Party that receives that information shall not disclose such information to any supplier, except after consultation with, and the agreement of, the Party that provided the information.

Non-Disclosure of Information

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed as requiring a Party, including its procuring entities, authorities, and review bodies, to disclose confidential information where disclosure:

(a) would impede law enforcement;

(b) might prejudice fair competition between suppliers;

(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

(d) would otherwise be contrary to the public interest.

Article 9.17. Domestic Review Procedures

1. Each Party shall provide a timely, effective, transparent, and non-discriminatory administrative or judicial review procedure through which a supplier may challenge:

(a) a breach of this Chapter; or

(b) where the supplier does not have the right to challenge a breach of this Chapter directly under the domestic law of that Party, a failure to comply with that Party's measures implementing this Chapter,

arising in the context of a covered procurement in which the supplier has, or has had, an interest. In any case, each Party shall ensure that the review body, upon a challenge by a supplier, can examine decisions taken by their respective procuring entities on whether a particular procurement falls within the procurement that is covered by this Chapter.

The procedural rules for all challenges shall be in writing and made generally available through electronic means or a paper medium.

2. In the event of a complaint by a supplier, that there has been a breach or a failure as referred to in paragraph 1 arising in the context of covered procurement in which the supplier has, or has had, an interest, the Party of the procuring entity conducting the procurement shall encourage the procuring entity and the supplier to seek resolution of the complaint through consultations. The procuring entity shall accord impartial and timely consideration to any such complaint in a manner that is not prejudicial to the supplier's participation in on-going or future procurement or to its right to seek corrective measures under the administrative or judicial review procedure.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be Jess than ten days from the time when the basis of the challenge became known to the supplier or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities for the purpose of receiving and reviewing challenges by suppliers arising in the context of covered procurements.

5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the relevant Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

6. Each Party shall ensure that a review body that is not a court shall have its decision subject to judicial review or have procedures that provide that:

(a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;

(b) the participants to the proceedings (hereinafter referred to as âparticipants) shall have the right to be heard prior to the decision of the review body on the challenge;

(c) the participants shall have the right to be represented and accompanied;

(d) the participants shall have access to all proceedings;

(e) the participants shall have the right to request that the proceedings take place in public and that witnesses may be presented; and

(f) the review body shall make its decisions or recommendations, in a timely fashion, in writing, and shall include an explanation of the basis for each decision or recommendation.

7. Each Party shall adopt or maintain procedures that provide for rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures may result in suspension of the procurement process. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. Just cause for not acting shall be provided in writing.

8. Each Party shall provide that where a review body has determined that there has been a breach or a failure as referred to in paragraph 1, the review body may impose corrective action or grant compensation for the loss or dam- ages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge. Where a contract has already been awarded, the Parties may provide that corrective action is not available.

Article 9.18. Modification and Rectification of Coverage Notification of Proposed Modification

1. Each Party shall notify the other Party of any proposed rectification of Annexes 9-A to 9-I, any transfer of an entity from one of those Annexes to another, any withdrawal of an entity from those Annexes, or any other modification to those Annexes (such acts collectively referred hereinafter to as a "modification".

2. For any proposed withdrawal by a Party of a procuring entity from Annexes 9-A to 9-C on the grounds that government control or influence over the procuring entityâs covered procurement has been effectively eliminated, the Party proposing the modification (hereinafter referred to as "modifying Party") shall include in the notification evidence that such government control or influence has been effectively eliminated. Government control or influence over the covered procurement of entities covered under Annex 9-C is deemed to be effectively eliminated if:

(a) in the case of the Union, the procuring entity performs a competitive activity; and

(b) in the case of Singapore, the procuring entity has been privatised.

Where government control or influence over the covered procurement of a procuring entity of a Party has been effectively eliminated, the other Party shall not be entitled to compensatory adjustments.

3. For any other proposed modification, the modifying Party shall include in the notification information as to the likely consequences of the change for the coverage provided in this Chapter. Where the modifying Party proposes to make minor amendments or technical rectifications of a purely formal nature not affecting covered procurement, it shall notify these modifications at least every two years.

Resolution of Objection

4. Where the other Party (hereinafter referred to as âobjecting Party) objects to the notification by the modifying Party, the Parties shall seek to resolve the objection through consultations, including if necessary, consultations at the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees). In such consultations, the Parties shall consider:

(a) evidence pertaining to the effective elimination of government control or influence over an entity's covered procurement in the case of a notification under paragraph 2;

(b) evidence that the proposed modification does not affect coverage in the case of a notification under paragraph 3; and

(c) any claims relating to the need for compensatory adjustments arising from modifications notified according to paragraph 1 or to the level of such adjustments. Such adjustments may consist either of the compensatory expansion of coverage by the modifying Party or of a withdrawal of equivalent coverage by the objecting Party, in both cases with a view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided in this Chapter.

5. The Parties may have recourse to the dispute settlement mechanism under Chapter Fourteen (Dispute Settlement) where the objecting Party, after consultations under paragraph 4, considers that one or more of the following situations exist:

(a) in the case of subparagraph 4(a), government control or influence over an entity's covered procurement has not been effectively eliminated;

(b) in the case of subparagraph 4(b), a modification does not meet the criteria in paragraph 3 and which affects coverage, and should be subject to compensatory adjustments; or

() in the case of subparagraph 4(c), compensatory adjustments proposed during the consultation between the Parties are not adequate to maintain a comparable level of mutually agreed coverage.

Implementation

6. A proposed modification shall only become effective where:

(a) the objecting Party has not submitted a written objection to the proposed modification to the modifying Party within 45 days of the date of the notification of the proposed modifications,

(b) the objecting Party has notified the modifying Party of the withdrawal of its objection;

(c) the Parties have reached an agreement after due consultations under paragraph 4; or

(d) the objection has been resolved through the dispute settlement mechanism under paragraph 5.

Article 9.19. Responsibilities of the Committee

1. In the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees), the Parties may:

(a) adopt modalities for reporting statistical data pursuant to paragraph 4 of Article 9.15 (Transparency of Procurement Information);

(b) review pending notifications of modifications to coverage and endorse updates to the list of entities in Annexes 9-A to 9-C;

(c) endorse compensatory adjustments resulting from modifications affecting coverage,

(d) revise, where required, indicative criteria that demonstrate the effective elimination of government control or influence over an entity's covered procurement;

(e) adopt criteria for deciding over the level of compensatory adjustments of coverage;

(f) consider issues regarding government procurement that are referred to it by a Party;

(g) exchange information relating to government procurement opportunities in each Party, including those at sub-central levels; and

(b) discuss any other matters related to the operation of this Chapter.

2. In the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees), the Parties may take any decision required for the purposes of subparagraphs (a) to (h).

Article 9.20. Adjustment to GPA Provisions

If the Revised GPA is amended or superseded by another agreement, the Parties shall amend this Chapter by decision in the Committee on Trade in Services, Investment and Government Procurement established pursuant to Article 16.2 (Specialised Committees), as appropriate.

Chapter TEN. INTELLECTUAL PROPERTY

Article 10.1. Objectives

1. The objectives of this Chapter are to:

(a) facilitate the production and commercialisation of innovative and creative products and the provision of services between the Parties; and

(b) increase the benefits from trade and investment through the adequate and effective level of protection of intellectual property rights and the provision of measures for the effective enforcement of such rights.

2. The objectives and principles set forth in Part I of the TRIPS Agreement, in particular in Article 7 (Objectives) and Article 8 (Principles) shall apply to this Chapter, mutatis mutandis.

Section A. PRINCIPLES

Article 10.2. Scope and Definitions

1. The Parties recall the commitments under the international treaties dealing with intellectual property, including the TRIPS Agreement and the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Stockholm on 15 July 1967 (hereinafter referred to as the "Paris Convention"). The provisions of this Chapter shall complement the rights and obligations of the Parties under the TRIPS Agreement and other international treaties in the field of intellectual property to which they both are parties.

2. For the purposes of this Chapter, "intellectual property rights" means:

(a) all categories of intellectual property that are the subject of Sections 1 to 7 of Part II of the TRIPS Agreement namely:

(i) copyright and related rights;

(ii) patents (34);

(iii) trademarks;

(iv) designs;

(v) layout-designs (topographies) of integrated circuits;

(vi) geographical indications;

(vii) protection of undisclosed information; and

(b) plant variety rights.

(34) In the case of the Union, for the purposes of this Chapter, "patents" include rights derived from supplementary protection certificates.

Article 10.3. Exhaustion

Each Party shall be free to establish its own regime for the exhaustion of intellectual property rights subject to the relevant provisions of the TRIPS Agreement.

Section B. STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

Subsection A. COPYRIGHT AND RELATED RIGHTS

Article 10.4. Protection Granted

The Parties shall comply with the rights and obligations set out in the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886 (as last revised at Paris on July 24, 1971), the WIPO Copyright Treaty, adopted in Geneva on 20 December 1996, the WIPO Performances and Phonograms Treaty, adopted in Geneva on 20 December 1996, and the TRIPS Agreement (35). The Parties may provide for the protection of performers, producers of phonograms and broadcasting organisations in accordance with the relevant provisions of the International Conven- tion for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on 26 October 1961.

(35) Without prejudice to Article 10.6 (Producers of Phonograms), the Parties recognise that references to these international agreements are

subject to the reservations which each Party has formulated in relation thereto.

Article 10.5. Term of Protection

1. Each Party shall provide that, where the term of protection of a work is to be calculated on the basis of the life of the author, the term shall be not less than the life of the author and 70 years after the author's death.

2. In the case of a work of joint authorship, the term referred to in paragraph 1 shall be calculated from the death of the last surviving author.

3. The term of protection of cinematographic works (36) shall be not less than 70 years after the work has been made available to the public with the consent of the author or, failing such an event within 50 years of the making of the work, at least 70 years after the making of the work (37).

4. The term of protection for rights in phonograms shall be not Jess than 50 years after the making of the phonogram, and, if published within this period, no less than 70 years after the first lawful publication of the phonogram.

5. The term of protection for rights in broadcasts shall be not less than 50 years after the first transmission or the making of the broadcast.

6. The terms laid down in this Article shall be calculated from the first of January of the year following the event which gives rise to them.

(36) For the Union, the term "cinematographic works" also includes audiovisual works.

(37) In the case of the Union, the term of protection expires 70 years after the death of the last person designated as author under its domestic law, which will not in any case be shorter than the minimum duration of protection provided under paragraph 3 of Article 10.5 (Term of Protection).

Article 10.6. Producers of Phonograms

Each Party shall provide producers of phonograms (38) with the right to a single equitable remuneration if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting by wireless means or for public performance (39) (40).

(38) ‘Producer of a phonogram’ means the person or the legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds.

(39) ‘Public performance’ means, in relation to a phonogram, any mode of aural presentation to the public of sounds or representations of sounds fixed in a phonogram.

(40) Singapore shall fully implement the obligations of this Article within two years of the entry into force of this Agreement.

Article 10.7. Resale Rights

The Parties agree to exchange views and information on practices and policies with regard to the resale rights of artists.

Article 10.8. Cooperation on Collective Management of Rights

The Parties shall endeavour to promote dialogue and cooperation among their respective collective management societies for the purpose of ensuring easier access and delivery of content between the territories of the Parties, and ensuring the transfer of royalties arising from the use of works or other copyright-protected subject matter.

Article 10.9. Protection of Technological Measures

1. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of any effective technological measures (41) that are used by authors, performers or producers of phonograms in connection with the exercise of their rights in, and that restrict acts in respect of, their works, performances, and phonograms, which are not authorised by the authors, the performers or the producers of phonograms concerned or permitted by domestic law (42).

2. In order to provide the adequate legal protection and effective legal remedies referred to in paragraph 1, each Party shall provide protection at least against:

(a) to the extent provided by its domestic law:

(i) the unauthorised circumvention of an effective technological measure carried out knowingly or with reasonable grounds to know; and;

(ii) the offering to the public by marketing of a device or product, including computer programs, or a service, as a means of circumventing an effective technological measure; and

(b) the manufacture, importation, or distribution of a device or product, including computer programs, or provision of a service that:

(i) is primarily designed or produced for the purpose of circumventing an effective technological measure; or

(ii) has only a limited commercially significant purpose other than circumventing an effective technological measure (43).

3. In providing adequate legal protection and effective legal remedies pursuant to paragraph 1, a Party may adopt or maintain appropriate limitations, or exceptions to, measures implementing paragraphs 1 and 2. The obligations under paragraphs 1 and 2 are without prejudice to the rights, limitations, exceptions, or defences to copyright or related rights infringement under each Party's domestic law.

(41) For the purposes of this Article, "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, performances, or phonograms, which are not authorised by authors, performers or producers of phonograms, as provided for by each Party's domestic law. Without prejudice to the scope of copyright or related rights contained in each Party's domestic law, technological measures shall be deemed effective where the use of protected works, performances, or phonograms is controlled by authors, performers or producers of phonograms through the application of a relevant access control or protection process, such as encryption or scrambling, or a copy control mechanism, which achieves the objective of protection.

(42) Nothing in this Chapter shall require Singapore to restrict the importation or domestic sale of a device that does not render effective a technological measure which sole purpose is to control market segmentation for legitimate copies of motion pictures, and is not otherwise a violation of its domestic law.

(43) In implementing paragraphs 1 and 2 of this Article, neither Party shall be obligated to require that the design of, or the design and selection of parts and components for, a consumer electronics product, telecommunications product or computing product, provide for a response to any particular technological measure, so long as the product does not otherwise contravene its measures implementing these paragraphs.

Article 10.10. Protection of Rights Management Information

1. To protect electronic rights management information (44), each Party shall provide adequate legal protection and effective legal remedies against any person knowingly performing without authority any of the following acts knowing or, with respect to civil remedies, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any copyright or related rights. Such acts are:

(a) the removal or alteration of any electronic rights management information; and

(b) the distribution, import for distribution, broadcast, communication, or making available to the public copies of works, performances, or phonograms, knowing that electronic rights management information has been removed or altered without authority.

2. In providing adequate legal protection and effective legal remedies pursuant to paragraph 1, a Party may adopt or maintain appropriate limitations, or exceptions to, measures implementing paragraph 1. The obligations under paragraph 1 are without prejudice to the rights, limitations, exceptions or defences to copyright or related rights infringement under a

Party's domestic law.

(44) For the purposes of this Article, "rights management information" means: (a) information that identifies the work, the performance, or the phonogram; the author of the work, the performer of the performance, or the producer of the phonogram; or the owner of any right in the work, performance or phonogram; (b) information about the terms and conditions of use of the work, performance, or phonogram; or (c) any number or codes that represent the information described in subparagraphs (a) and (b), when any of these items of information is attached to a copy of a work, performance, or phonogram, or appears in connection with the communication or making available of a work, performance or phonogram to the public.

Article 10.11. Exceptions and Limitations

The Parties may provide for limitations or exceptions to the rights under Article 10.6 (Producers of Phonograms) only in certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the right holders.

Subsection B. TRADEMARKS

Article 10.12. International Agreements

Each Party shall make all reasonable efforts to comply with the Trademark Law Treaty, done at Geneva on 27 October 1994, and with the Singapore Treaty on the Law of Trademarks, adopted in Singapore on 27 March 2006 (45).

(45) Singapore is a party to the Singapore Treaty on the Law of Trademarks, while the Union shall make all reasonable efforts to facilitate accession to the Singapore Treaty on the Law of Trademarks.

Article 10.13. Registration Procedure

Each Party shall provide for a system for the registration of trademarks in which the relevant trademark administration shall give reasons in writing for any refusal to register a trademark. The applicant shall have the opportunity to appeal against such refusal before a judicial authority. Each Party shall introduce the possibility for third parties to oppose trademark applications. Each Party shall provide a publicly available electronic database of trademark applications and trademark registrations.

Article 10.14. Well-Known Trademarks

The Parties shall protect well-known trademarks in accordance with the TRIPS Agreement. In determining whether a trademark is well-known, the Parties shall give consideration to the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

Article 10.15. Exceptions to the Rights Conferred by a Trademark Each Party:

(a) shall provide for the fair use of descriptive terms (46) as a limited exception to the rights conferred by trademarks; and

(b) may provide for other limited exceptions,

provided that these exceptions take account of the legitimate interests of the owners of the trademarks and of third parties.

(46) The fair use of descriptive terms includes the use of a sign to indicate the geographic origin of the goods or services, and where such use is in accordance with honest practices in industrial or commercial matters.

Subsection C. GEOGRAPHICAL INDICATIONS (47)

(47) For the purposes of this Chapter, "geographical indications" means indications which identify a good as originating in the territory of a

Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

Article 10.16. Scope

1. Sub-Section C (Geographical Indications) applies to the recognition and protection of geographical indications for wines, spirits, agricultural products and foodstuffs which are originating in the territories of the Parties.

2. Geographical indications of a Party that are to be protected by the other Party shall only be subject to Sub-Section C (Geographical Indications) if they are recognised and declared as geographical indications in their country of origin.

Article 10.17. System of Protection of Geographical Indications

1. Upon the entry into force of this Agreement, each Party shall establish systems for the registration and protection of geographical indications in its territory for such categories of wines and spirits and agricultural products and food-stuffs as it deems appropriate.

2. The systems referred to in paragraph 1 shall contain elements such as:

(a) a domestic register;

(b) an administrative process to verify that the geographical indications entered, or to be entered, on the domestic register referred to in subparagraph 2(a), identify a good as originating in the territory of a Party, or a region or locality in that Party's territory, where a given quality, reputation or other characteristic of the good is essentially attributable to their geographical origin;

(c) an objection procedure that allows the legitimate interests of third parties to be taken into account; and

(d) legal means that permit the rectification and cancellation of entries on the domestic register referred to in sub-paragraph 2(a), that take into account the legitimate interests of third parties and the right holders of the registered geographical indications in question.

3. The Parties shall, as soon as practicable after the procedures for protection of geographical indications in each Party (48) have been concluded for all the names listed in Annex 10-A, meet to adopt a decision in the Trade Committee referred to under Article 16.1 (Trade Committee) regarding the listing in Annex 10-B of the names from Annex 10-A of each Party that have been and remain protected as geographical indications under the respective Party's system referred to in paragraph 2.

(48) For the purposes of Sub-Section C (Geographical Indications), in the case of Singapore, the procedure for protection of geographical indications refers to the domestic registration procedure under the system established by Singapore pursuant to paragraph 2 of Article 10.17 (System of Protection of Geographical Indications).

Article 10.18. Amendment of List of Geographical Indications

The Parties agree on the possibility of amending the list of geographical indications for wines, spirits, agricultural products and foodstuffs listed in Annex 10-B to be protected by each Party under Sub-Section C (Geographical Indications). Such amendments to Annex 10-B shall be subject to the geographical indications having been and remaining protected as geographical indications under the respective Party's system referred to in paragraph 2 of Article 10.17 (System of Protection of Geographical Indications).

Article 10.19. Scope of Protection of Geographical Indications

1. Subject to Article 10.22 (General Rules), in respect of geographical indications for wines, spirits, agricultural products and foodstuffs listed in Annex 10-B that remain protected as geographical indications under its system as referred to in paragraph 2 of Article 10.17 (System of Protection of Geographical Indications), each Party shall provide the legal means for interested parties to prevent:

(a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than its true place of origin in a manner which misleads the public as to the geographical origin of the good; and

(b) any other use which constitutes an act of unfair competition within the meaning of Article 10bis (Unfair Competition) of the Paris Convention.

2. Subject to Article 10.22 (General Rules), in respect of geographical indications for wines and spirits listed in Annex 10-B that remain protected as geographical indications under its system as referred to in paragraph 2 of Article 10.17 (System of Protection of Geographical Indications), each Party shall provide the legal means for interested parties to prevent the use of any such geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where:

(a) the true origin of the good is indicated;

(b) the geographical indication is used in translation; or

(c) the geographical indication is accompanied by expressions such as "kind", "type", "style", "imitation", or the like.

3. Subject to Article 10.22 (General Rules), in respect of geographical indications for agricultural products and food- stuffs listed in Annex 10-B that remain protected as geographical indications under the Party's system as referred to in paragraph 2 of Article 10.17 (System of Protection of Geographical Indications), each Party shall provide the legal means for interested parties to prevent the use of any such geographical indication identifying a good for a like good (49) not originating in the place indicated by the geographical indication in question, even where:

(a) the true origin of the good is indicated;

(b) the geographical indication is used in translation (50); or

(c) the geographical indication is accompanied by expressions such as "kind", "type", "style", "imitation", or the like.

4. Nothing in Sub-Section C (Geographical Indications) shall require a Party to apply its provisions in respect of a geographical indication in the case of the failure of a right holder to:

(a) renew the registration of the geographical indication in that Party's market; or

(b) maintain minimal commercial activity or interest in the geographical indication in that Party's market, including commercialisation, promotion or market monitoring.

5. Without prejudice to paragraph 3 of Article 23 of the TRIPS Agreement, each Party shall determine the practical conditions under which homonymous geographical indications will be differentiated from each other in its territory, taking into account the need to ensure equitable treatment of the producers concerned and the need to ensure that consumers are not misled.

6. Where a Party receives an application for registration or protection of a geographical indication that is homonymous with one of the geographical indications in Annex 10-B, that Party will take into consideration the views and submissions of the applicant and the producers concerned (51) in determining the conditions under which the homonymous geographical indications will be differentiated from each other.

(49) For the purposes of this paragraph and paragraph 1 of Article 10.21 (Relationship with Trademarks), the term "like good", in relation to a good for which a geographical indication has been protected in a Party's system as referred to in Article 10.17 (System of Protection of Geographical Indications), means a good that would fall within the same category of good in that Party's register as the good for which a geographical indication has been registered.

(50) For greater certainty, it is understood that this is assessed on a case-by-case basis. This provision does not apply where evidence is provided that there is no link between the protected geographical indication and the translated term. It is further understood that this provision applies without prejudice to the general rules of Sub-Section C (Geographical Indications).

(51) In the case of Singapore, "the producers concerned" refers to the right holders in question.

Article 10.20. Right of Use of Geographical Indications

The persons who may use a geographical indication protected under Sub-Section C (Geographical Indications) are not limited to the applicant, provided that such use relates to the goods as identified by that geographical indication.

Article 10.21. Relationship with Trademarks

1. Subject to Article 10.22 (General Rules), in respect of geographical indications listed in Annex 10-B that remain protected as geographical indications under a Party's system as referred to in paragraph 2 of Article 10.17 (System of Protection of Geographical Indications), the registration of a trademark for goods which contains or consists of a geographical indication that identifies like goods shall be refused or invalidated ex officio if that Party's domestic law so permits, or at the request of an interested party, with respect to goods not having the origin of the geographical indication concerned, provided that the application to register the trademark is submitted after the date of application for the registration of the geographical indication in the territory concerned.

2. Without prejudice to paragraph 4, the Parties acknowledge that the existence of a prior conflicting trademark in the territory of a Party would not completely preclude the registration of a subsequent geographical indication for like goods in that Party (52).

3. Where a trademark has been applied for or has been registered in good faith, or where rights to a trademark have been acquired through use in good faith, if that possibility is provided by the Parties' respective domestic laws, and such application, registration or acquisition takes place either:

(a) before the date of application for protection of the geographical indication in the territory concerned; or

(b) before the geographical indication is protected in its country of origin,

any measures adopted to implement Sub-Section C (Geographical Indications) shall not prejudice the eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

4. The Parties shall have no obligation to protect a geographical indication pursuant to Sub-Section C (Geographical Indications) where, in the light of a reputed or well-known trademark, such protection is liable to mislead consumers as to the true identity of the product.

(52) In the case of Singapore, a geographical indication which conflicts with a prior existing trademark is capable of being registered with the consent of the prior existing trademark rights holder. In the case of the Union, such consent is not a prerequisite to the registration of a geographical indication which conflicts with a prior existing trademark.

Article 10.22. General Rules

1. The conditions for import, export and commercialisation of the products referred to in Sub-Section C (Geographical Indications) in the territory of a Party shall be governed by the domestic law of that Party.

2. For agricultural products and foodstuffs, nothing in Sub-Section C (Geographical Indications) shall require a Party to prevent the continued and similar use by any of its nationals or domiciliaries of any geographical indication of the other Party in connection with goods or services, where those nationals or domiciliaries have used that geographical indication in a continuous manner with regard to the same or related goods or services in the territory of that Party either:

(a) for at least ten years preceding 1st January 2004; or

(b) in good faith preceding that date.

3. In relation to the geographical indications to be listed in Annex 10-B, where prior use has been determined pursuant to:

(a) the opposition proceedings during the domestic registration procedures; or

(b) any legal proceedings, such prior use shall be listed in Annex 10-B, in respect of the geographical indication in question, in accordance with:

(i) the mechanism established in paragraph 3 of Article 10.17 (System of Protection of Geographical Indications), in the case of subparagraph 34a); and

(ii) the mechanism established in Article 10.18 (Amendment of List of Geographical Indications), in the case of subparagraph 3(b).

4. Each Party may determine the practical conditions under which such prior use will be differentiated from the geographical

indication in its territory, taking into account the need to ensure that consumers are not misled.

5. Nothing in Sub-Section C (Geographical Indications) shall require a Party to apply its provisions in respect of a geographical indication of the other Party with respect to goods or services for which the relevant indication is identical to the term customary in common language as the common name for such goods or services in the territory of that Party.

6. Nothing in Sub-Section C (Geographical Indications) shall require a Party to apply its provisions in respect of any name contained in a geographical indication of the other Party with respect to goods or services for which the name is identical to the term customary in common language as the common name for such goods or services in the territory of that Party.

7. Nothing in Sub-Section C (Geographical Indications) shall require a Party to apply its provisions in respect of a geographical indication of the other Party with respect to products of the vine for which the relevant indication is identical to the customary name of a grape variety existing in the territory of that Party as of the date of entry into force of the WTO Agreement in that Party.

8. Nothing in Sub-Section C (Geographical Indications) shall prevent a Party from protecting as a geographical indication, in accordance with its domestic law, a term that conflicts with the name of a plant variety or animal breed.

9. A Party may provide that any request made under Sub-Section C (Geographical Indications) in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Party or within five years after the date of registration of the trademark in that Party, provided that the trademark has been published by that date, if the date of registration is earlier than the date on which the adverse use became generally known in that Party, and provided that the geographical indication is not used. or registered in bad faith.

10. Nothing in Sub-Section C (Geographical Indications) shall prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

11. Nothing in Sub-Section C (Geographical Indications) shall oblige a Party to protect a geographical indication of the other Party which is not or has ceased to be protected in accordance with the domestic law of its country of origin. The Parties shall notify each other if a geographical indication ceases to be protected in its country of origin.

Article 10.23. Relation to Trade Committee

The Trade Committee established pursuant to Article 16.1 (Trade Committee) shall have the authority to:

(a) adopt decisions regarding the listing in Annex 10-B referred to in paragraph 3 of Article 10.17 (System of Protection of Geographical Indications); and

(b) amend Annex 10-B in accordance with Article 10.18 (Amendment of List of Geographical Indications).

Subsection D. DESIGNS

Article 10.24. Requirements for Protection of Registered Designs (53)

1. The Parties shall provide for the protection of independently created designs that are new or original (54). This protection shall be provided by registration and shall confer exclusive rights upon their holders in accordance with the provisions of Sub-Section D (Designs) (55).

2. Design protection shall not extend to designs dictated essentially by technical or functional considerations.

3. A design right shall not subsist in a design which is contrary to public policy or to accepted principles of morality (56).

(53) For the purposes of Sub-Section (Designs), the Union also grants protection to the unregistered design when it meets the requirements of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs, as last amended by Council Regulation (EC) No 1891/2006 of 18 December 2006.

(54) The Parties agree that when the domestic law of a Party so provides, individual character of designs can also be required. This refers to designs that significantly differ from known designs or combinations of known designs' features. The Union considers designs to have individual character if the overall impression it produces on the informed users differs from the overall impression produced on such a user by

any design which has been made available to the public.

(55) It is understood that designs are not excluded from protection simply on the basis that they constitute a part of an article or product, provided that they are visible, fulfil the criteria of this paragraph, and: (a) fulfil any other criteria for design protection; and (b) are not otherwise excluded from design protection, under the Parties' respective domestic law.

(56) Nothing in this Article precludes either Party from providing other specified exclusions from design protection under its domestic law. The Parties understand that such exclusions shall not be extensive.

Article 10.25. Rights Conferred by Registration

The owner of a protected design shall have the right to prevent third parties who do not have the owner's consent from at least making, offering for sale, selling or importing articles that bear or embody a design which is a copy, or is substantially a copy, of the protected design, where such acts are undertaken for commercial purposes.

Article 10.26. Term of Protection

The available term of protection shall be at least ten years from the date of application.

Article 10.27. Exceptions

Each Party may provide limited exceptions to the protection of designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs, and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking into account the legitimate interests of third parties.

Article 10.28. Relationship to Copyright

Each Party shall offer the possibility that a design registered in the territory of a Party in accordance with Sub-Section D (Designs) is not completely precluded from enjoying protection under the domestic law of copyright of that Party. The extent to which, and the conditions under which, such protection is enjoyed shall be determined by that Party (57).

(57) In the case of Singapore, the extent to which, and the conditions under which, such protection is enjoyed include the circumstances under section 74 of Singapore's Copyright Act.

Subsection E. PATENTS

Article 10.29. International Agreements

The Parties recall the obligations under the Patent Cooperation Treaty (done at Washington on 19 June 1970, amended on 28 September 1979, and modified on 3 February 1984). The Parties shall, where appropriate, make all reasonable efforts to comply with Article 1 to Article 16 of the Patent Law Treaty, adopted in Geneva on 1 June 2000, in a manner consistent with their domestic law and procedures.

Article 10.30. Patents and Public Health

1. The Parties recognise the importance of the Declaration on the TRIPS Agreement and Public Health, adopted on 14 November 2001 by the Ministerial Conference of the WTO at Doha. In interpreting and implementing the rights and obligations under Sub-Section E (Patents) and Sub-Section F (Protection of Test Data Submitted to Obtain an Administrative Marketing Approval to put a Pharmaceutical Product on the Market), the Parties shall ensure consistency with this Declaration.

2. Each Party shall respect the Decision of the WTO General Council of 30 August 2003 on Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, as well as the Decision of the WTO General Council of 6 December 2005 on Amendment of the TRIPS Agreement, adopting the Protocol Amending the TRIPS Agreement.

Article 10.31. Extension of the Duration of the Rights Conferred by a Patent

The Parties recognise that pharmaceutical products (58) protected by a patent in their respective territories may be subject to an administrative marketing approval process before being put on their respective markets. The Parties shall make available an extension of the duration of the rights conferred by the patent protection to compensate the patent owner for the reduction in the effective patent life as a result of the administrative marketing approval process (59). The extension of the duration of the rights conferred by the patent protection may not exceed five years (60).

(58) For the purposes of this Article and Article 10.33 (Protection of Test Data Submitted to Obtain an Administrative Marketing Approval to put a Pharmaceutical Product on the Market), the term 'pharmaceutical product' shall be defined for each Party by the respective legislations of the Parties as at the date of signature of this Agreement. In the case of the Union, the term 'pharmaceutical product' refers to 'medicinal product'.

(59) Singapore undertakes to make available an extension of the duration of the rights conferred by patent protection to compensate the patent owner for the reduction in the effective patent life as the result of the administrative marketing approval process to substances for diagnosis or testing and authorised as a medicinal product.

(60) The conditions and procedures for the provision of the extension of the patent term shall be determined by the respective legislations of the Parties. This is without prejudice to a possible extension for paediatric purposes, if provided for by either Party.

Article 10.32. Cooperation

The Parties agree to cooperate on initiatives to facilitate:

(a) the granting of patents on the basis of applications filed by applicants of a Party in the other Party; and

(b) the qualification and recognition of patent agent professionals of a Party in the territory of the other Party.

Subsection F. PROTECTION OF TEST DATA

Article 10.33. Protection of Test Data Submitted to Obtain an Administrative Marketing Approval to Put a Pharmaceutical Product on the Market

Where a Party requires the submission of test data or studies concerning the safety and efficacy of a pharmaceutical product prior to granting approval for the marketing of such product, that Party shall not, for a period of at least five years from the date of approval in that Party, permit third parties to market the same or a similar product on the basis of the marketing approval granted to the party which had provided the test data or studies, unless that party has given its consent (61) (62) (63).

(61) The conditions and procedures for the provision of the protection contemplated under this Article shall be determined by the respective legislations of the Parties.

(62) The Parties shall, five years after the entry into force of this Agreement, initiate without prejudice discussions on the possible extension of the duration of the protection of test data submitted to obtain an administrative marketing approval to put a pharmaceutical product on the market.

(63) In the context of this Article, it is understood that such confidential supporting test data or studies shall not be used for the purpose of determining whether to grant any other application for a period of at least five years: (a) in the case of Singapore, from the date that the first application is received; (b) in the case of the Union, from the date of approval of the first application, unless the party which had provided the test data or studies has given his consent.

Article 10.34. Protection of Test Data Submitted to Obtain an Administrative Marketing Approval to Put an Agricultural Chemical Product on the Market (64)

1. Where a Party requires the submission of test data or studies concerning the safety and efficacy of an agricultural chemical product prior to the granting of approval for the marketing of such product in that Party, the Party shall not, for a period of at least ten years from the date of approval, permit third parties to market the same or a similar product on the basis of the marketing approval granted to the party which had provided the test data or studies, unless that party has given its consent.

2. Where a Party provides for measures or procedures to avoid duplicative testing on vertebrate animals with respect to agricultural chemical products, that Party may provide for the conditions and circumstances under which third parties may market the same or similar product on the basis of the marketing approval granted to the party which had provided the test data or studies.

3. Where a Party requires the submission of test data or studies concerning the safety or efficacy of an agricultural chemical product prior to the granting of an approval for the marketing of such product, that Party shall endeavour to make best efforts to process the application expeditiously, with a view to avoiding unreasonable delays.

(64) In the case of the Union, for the purposes of this Article, "agricultural chemical products" means active substances and preparations containing one or more active substances, put up in the form in which they are supplied to the user, intended to: (a) protect plants or plant products against all harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not otherwise defined in subparagraphs (b) to (e); (b) influence the life processes of plants, other than as a nutrient (e.g. plant growth regulators); (c) preserve plant products, in so far as such substances or products are not subject to special Council or Commission provisions on preservatives, (d) destroy undesirable plants; or (e) destroy parts of plants, check or prevent undesirable growth of plants.

Subsection G. PLANT VARIETIES

Article 10.35. International Agreements

The Parties affirm their obligations under the International Convention for the Protection of New Varieties of Plants adopted in Paris on 2 December 1961, as last revised in Geneva on 19 March 1991, including their ability to imple- ment the optional exception to the breeder's right, as referred to in paragraph 2 of Article 15 of that Convention.

Section C. CIVIL ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Article 10.36. General Obligations

1. The Parties affirm their commitments under Articles 41 to 50 of the TRIPS Agreement, and shall provide for the measures, procedures and remedies under their respective domestic law against acts of infringement of intellectual property rights covered by this Chapter, that are in compliance with such commitments.

2. In particular, the measures, procedures and remedies referred to in paragraph 1, and provided for by each Party under its domestic law, shall:

(a) take into account, as appropriate, the need for proportionality between the seriousness of the infringement and the interests of third parties;

(b) be fair and equitable;

(c) not be unnecessarily complicated or costly, or entail unreasonable time limits or unwarranted delays; and

(d) be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

3. Nothing in this Chapter shall affect the capacity of either Party to enforce its domestic law in general or create any obligation on either Party to amend its existing laws as they relate to the enforcement of intellectual property rights. Without prejudice to the foregoing general principles, nothing in this Chapter shall create any obligation on either Party:

(a) to put in place a judicial system for the enforcement of intellectual property rights that is distinct from that for the enforcement of law in general; or

(b) with respect to the distribution of resources as between the enforcement of intellectual property rights and the enforcement of law in general.

Article 10.37. Publication of Judicial Decisions

In civil judicial proceedings instituted for infringement of an intellectual property right, each Party shall take appropriate measures, pursuant to its domestic law and policies, to publish or make available to the public information on final judicial decisions. Nothing in this Article shall require a Party to disclose confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private. Each Party may provide for other additional publicity measures which are appropriate to the particular circumstances, including prominent advertising.

Article 10.38. Availability of Civil Measures, Procedures and Remedies

1. Each Party shall make available, in its respective domestic law and to right holders, the civil measures, procedures and remedies referred to in Section C (Civil Enforcement of Intellectual Property Rights) for the intellectual property rights as defined in paragraph 2.

2. For the purposes of Section C (Civil Enforcement of Intellectual Property Rights), the following terms have the following meanings:

(a) "right holders" shall include exclusive licensees as well as federations and associations (65) having the legal standing to assert such rights; and

(b) "intellectual property rights" means all categories of intellectual property that are the subject of Sections 1 to 6 of Part II of the TRIPS Agreement (66).

(65) In so far as permitted by and in accordance with the provisions of the applicable law, it is understood that the phrase "federations and associations" includes collective rights management bodies and, in the Union context, professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights.

(66) A Party may exclude patents from the scope of Section C (Civil Enforcement of Intellectual Property Rights).

Article 10.39. Measures for Preserving Evidence

1. Each Party shall provide that its judicial authorities have the authority to order prompt and effective provisional measures:

(a) against a party or, where appropriate, a third party over whom the relevant judicial authority exercises jurisdiction, to prevent an infringement of any intellectual property right from occurring, and in particular to prevent goods that involve the infringement of an intellectual property right from entering into the channels of commerce; and

(b) to preserve relevant evidence in regard to the alleged infringement.

2. Each Party shall provide that its judicial authorities have the authority to adopt provisional measures inaudita altera parte where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed. In proceedings conducted inaudita altera parte, each Party shall provide its judicial authorities with the authority to act expeditiously on requests for provisional measures and to make a decision without undue delay.

3. At least in cases of copyright or related rights infringement and in cases of trademark counterfeiting, each Party shall provide that in civil judicial proceedings, its judicial authorities, have the authority to order the seizure or taking into custody of suspect goods, of materials and implements relevant to the act of infringement, and, at least for trademark counterfeiting, of documentary evidence, either original or copies thereof, relevant to the infringement.

4. Each Party shall provide that its authorities have the authority to require the applicant, with respect to provisional measures, to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to procedures for such provisional measures.

5. Where the provisional measures are revoked, or where they lapse due to any act or omission by the applicant, or where it

is subsequently found that there has been no infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon the request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

Article 10.40. Evidence and Right of Information

1. Without prejudice to each Party's domestic law governing privilege, the protection of confidentiality or the pro-cessing of personal data, each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority, upon a justified request of the right holder, to order the infringer or, in the alternative, the alleged infringer, to provide, to the right holder or to the judicial authorities, at least for the purpose of collecting evidence, relevant information as provided for in its applicable laws and regulations that the infringer or alleged infringer possesses or controls.

2. The relevant information referred to in paragraph 1 may include information regarding any person involved in any aspect of the infringement or alleged infringement and regarding the means of production or the channels of distri- bution of the infringing or allegedly infringing goods or services, including the identification of third persons alleged to be involved in the production and distribution of such goods or services and of their channels of distribution.

Article 10.41. Other Remedies

1. Each Party shall provide that, in civil judicial proceedings where a judicial decision is taken finding an infringement of a right holder's intellectual property right, its judicial authorities shall, upon application by the right holder, have the authority, at least with respect to pirated copyright goods and counterfeit trademark goods, to order:

(a) that such infringing goods, without compensation of any sort, be:

(i) destroyed, except in exceptional circumstances; or

(ii) disposed of outside the channels of commerce in such a manner as to avoid any harm caused to the right holder; and

(b) that materials and implements, the predominant use of which has been in the manufacture or creation of such infringing goods, shall be, without undue delay and without compensation of any sort, destroyed or disposed of outside the channels of commerce in such a manner as to minimise the risks of further infringements.

2. In considering any application by a right holder, as referred to in paragraph 1, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

3. The remedies under this Article may be carried out at the expense of the infringer.

Article 10.42. Injunctions

Each Party shall provide that, in civil judicial proceedings where a judicial decision is taken finding an infringement of a right holder's intellectual property right, its judicial authorities shall, upon application by the right holder, have the authority to issue against the infringer or, where appropriate, against a third party over whom the relevant judicial authority exercises jurisdiction, an injunction aimed at prohibiting the continuation of the infringement. Where provided for by the Party's domestic law, non-compliance with an injunction shall, where appropriate, be subject to a recurring penalty payment with a view to ensuring compliance.

Article 10.43. Alternative Measures

Each Party may provide in its domestic law that, in civil judicial proceedings where a judicial decision is taken finding an infringement of a right holder's intellectual property right, in appropriate cases and on application by the person liable to be subject to the measures provided for in Article 10.41 (Other Remedies) and/or Article 10.42 (Injunctions), its judicial authorities have the authority to order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in Article 10.41 (Other Remedies) and/or Article 10.42 (Injunctions), provided that the applicant acted unintentionally and without negligence, the execution of the measures in question would cause disproportionate harm to the applicant, and pecuniary compensation to the injured party appears reasonably satisfactory (67).

(67) It is understood that, in the case of Singapore, Singapore may provide that its judicial authorities have the authority to order pecuniary

compensation if that person acted unintentionally and without negligence, or if execution of the measures in question would cause him disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

Article 10.44. Damages

1. Each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority to order the infringer who, knowingly or with reasonable grounds to know, engaged in infringing activity to pay the right holder damages adequate to compensate for the injury the right holder has suffered as a result of the infringement.

2. In determining the amount of damages for infringement of intellectual property rights, a Party's judicial authorities shall have the authority to consider, inter alia, any legitimate measure of value the right holder submits, which may include lost profits, the value of the infringed goods or services measured by the market price, or the suggested retail price (68). At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that its judicial authorities have the authority to order the infringer to pay the right holder the infringer's profits that are attributable to the infringement, whether as an alternative to or in addition to or as part of the damages.

3. As an alternative to paragraph 2, each Party may provide that its judicial authorities have the authority, in appropriate cases, to set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.

4. Nothing in this Article precludes either Party from providing that where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, its judicial authorities may order the recovery of profits or the payment of damages which may be pre-established.

(68) In the case of the Union, this would also include, in appropriate cases, elements other than economic factors such as the moral prejudice caused to the right holder by the infringement.

Article 10.45. Legal Costs

Each Party shall provide that its judicial authorities, where appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning infringement of intellectual property rights, that the prevailing party be awarded payment by the losing party of court costs or fees and appropriate attorney's fees, or any other expenses as provided for under that Party's domestic law.

Article 10.46. Presumptions Relating to Copyright and Related Rights

In civil proceedings involving copyright or related rights, each Party shall provide for a presumption that, at least with respect to a literary or artistic work, performance or phonogram, in the absence of proof to the contrary, the natural or legal person whose name appears on such work, performance or phonogram in the usual manner, is the right holder and is consequently entitled to institute infringement proceedings.

Article 10.47. Liability of Intermediary Service Providers

1. Subject to paragraphs 2 to 6, each Party shall provide for exemptions or limitations in its domestic law regarding the liability of, or scope of remedies available against, service providers for infringements of copyright or related rights or trademarks that take place through systems or networks controlled or operated by them or on their behalf.

2. The exemptions or limitations referred to in paragraph 1:

(a) shall cover the functions of:

(i) transmitting (69), or providing access for material without selection and/or modification of its content (70); and

(ii) caching carried out through an automatic process (71); and

(b) may also cover the functions of:

(i) storage at the direction of a user of material residing on a system or network controlled or operated by or for the service provider; and

(ii) referring or linking users to an online location by using information location tools, including hyperlinks and directories.

3. Eligibility for the exemptions or limitations in this Article may not be conditioned on the service provider monitoring its service, or affirmatively seeking facts indicating infringing activity, except to the extent consistent with such technical measures.

4. Each Party may prescribe in its domestic law, conditions for service providers to qualify for the exemptions or limitations in this Article. Without prejudice to paragraphs 1 to 3, each Party may establish appropriate procedures for effective notifications of claimed infringement and effective counter-notifications by those whose material is removed. or disabled through mistake or misidentification.

5. This Article is without prejudice to the availability of defences to the infringement of copyright or related rights, or trademarks, that are of general applicability. This Article shall not affect the possibility of the court or administrative authority of a Party, in accordance with its legal system, requiring the service provider to terminate or prevent an infringement.

6. Either Party may request consultations with the other Party to consider how to address future functions of a nature similar to those addressed in this Article.

(69) It is understood that the function of transmission includes the function of routing.

(70) It is understood that the function of providing access for material without selection and/or modification of the content also refers to any means that is used to access the communication network and includes instances where connections are provided for the material.

(71) It is understood that the process of caching carried out through an automatic process may refer to the intermediate and temporary storage of material in the course of transmission or providing access to such material.

Section D. BORDER MEASURES

Article 10.48. Definitions

For the purposes of this Section:

(a) "counterfeit geographical indication goods" means any goods, including packaging, bearing, without authorisation, a sign which is identical to the geographical indication validly registered in respect of such goods in the territory where the goods are, or which cannot be distinguished in its essential aspects from such a geographical indication and which thereby infringes the rights of the owner or holder of the geographical indication in question under the domestic law of the Party where the goods are;

(b) "counterfeit trademark goods" means any goods, including packaging bearing, without authorisation, a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark and which thereby infringes the rights of the owner of the trademark in question under the domestic law of the Party where the goods are;

(c) "goods in transit" means goods the passage of which across the territory of a Party, with or without transhipment, whether or not landed in the territory of the Party, warehousing, breaking bulk, or change in the mode of transport or conveyance, is only a portion of a complete journey beginning and terminating beyond the frontier of the Party across which territory the traffic passes;

(d) "pirated copyright goods" means any goods which are copies made without the consent of the right holder or of a person duly authorised by the right holder in the country of production, and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the domestic law of the Party where the goods are; and

(e) "pirated design goods" means any goods in respect of which the design is registered and to which that design or a design not substantially different from it has been applied without the consent of the right holder or of a person duly authorised by the right holder in the country of production, where the making of those goods would have constituted an infringement under the domestic law of the Party where the goods are.

Article 10.49. Scope of Border Measures

1. Without prejudice to paragraph 3, each Party shall adopt or maintain procedures with respect to goods under customs control under which a right holder may request its competent authorities to suspend the release of suspect:

(a) counterfeit trademark goods;

(b) pirated copyright goods;

(c) counterfeit geographical indication goods; and

(d) pirated design goods.

2. Each Party shall adopt or maintain procedures with respect to goods under customs control, under which its competent authorities may act upon their own initiative to suspend the release of suspect (72):

(a) counterfeit trademark goods;

(b) pirated copyright goods; and

(c) counterfeit geographical indication goods.

3. The Parties shall not have the obligation to provide for the procedures referred to in paragraphs 1 and 2 with regards to goods in transit. This is without prejudice to paragraph 2 of Article 10.51 (Cooperation).

4. Singapore shall fully implement the obligations of paragraphs 1 and 2 ideally within two but no later than three years of the entry into force of this Agreement with regard to procedures with respect to:

(a) counterfeit geographical indication goods; and

(b) pirated design goods.

Article 10.50. Identification of Shipments

To facilitate the effective enforcement of intellectual property rights, the customs authorities shall adopt a range of approaches to identify shipments containing counterfeit trademark goods, pirated copyright goods, pirated design goods, and counterfeit geographical indication goods. These approaches include risk analysis techniques based, inter alia, on information provided by right holders, intelligence gathered and cargo inspections.

Article 10.51. Cooperation

1. The Parties agree to cooperate with a view to eliminating international trade in goods that infringe intellectual property rights. For this purpose, they shall, in particular, exchange information and arrange for cooperation, to be mutually agreed between their customs authorities, with regard to trade in counterfeit trademark goods, pirated copy- right goods, pirated design goods, or counterfeit geographical indication goods.

2. For shipments of goods transiting or transhipped through the territory of a Party and destined for the territory of the other Party, which are suspected of being counterfeit or pirated, the Parties shall, upon their own initiative or upon the request of the other Party, provide available information to the other Party to enable effective enforcement against those shipments. The Parties may not provide information which is submitted confidentially by the shipper, shipping line or its agent.

() The Parties will review the possibility of including pirated design goods within the scope of paragraph 2 of this Article within three years of the entry into force of this Agreement. The Parties may, by decision in the Trade Committee, amend paragraph 2 of this Arti- cle as a result of such review.

Section E. COOPERATION

Article 10.52. Cooperation

1. The Parties agree to cooperate with a view to supporting the implementation of the commitments and obligations undertaken under this Chapter. Areas of cooperation include, but are not limited to, the following activities:

(a) exchange of information on legal frameworks concerning intellectual property rights, including implementation of intellectual property legislation and systems, aimed at promoting the efficient registration of intellectual property rights;

(b) exchange, between respective authorities responsible for the enforcement of intellectual property rights, of their experiences and best practices concerning enforcement of intellectual property rights;

(c) exchange of information and cooperation on public outreach and appropriate initiatives to promote awareness of the benefits of intellectual property rights and. systems;

(d) capacity-building and technical cooperation in relation, but not limited, to: management, licensing, valuation and exploitation of intellectual property rights; technology and market intelligence; facilitation of industry collaborations, including on intellectual property rights that may be applied towards environmental conservation or enhancement, which may include establishing a platform or database; and public private partnerships to support culture and innovation;

(e) exchange of information and cooperation on intellectual property issues, where appropriate and relevant to developments in environmentally friendly technology; and

(f) any other areas of cooperation or activities as may be discussed and agreed between the Parties.

2. Without prejudice to paragraph 1, the Parties agree to designate a contact point for the purpose of maintaining dialogue including, where useful, convening meetings on intellectual property issues between their respective technical experts on matters covered by this Chapter.

3. Cooperation under this Article shall be carried out subject to each Party's laws, rules, regulations, directives or policies. Cooperation shall also be on mutually agreed terms and conditions and be subject to the availability of resources of each Party.

Chapter ELEVEN. COMPETITION AND RELATED MATTERS

Section A. ANTI-COMPETITIVE CONDUCT AND MERGERS

Article 11.1. Principles

1. The Parties recognise the importance of free and undistorted competition in their trade relations. They acknowledge that anti-competitive business conduct and anti-competitive transactions have the potential to distort the proper functioning of their markets and undermine the benefits of trade liberalisation.

2. To promote free and undistorted competition in all sectors of their economy, each Party shall maintain in its respective territory comprehensive legislation which effectively addresses the following practices, where such practices affect trade between the Parties:

(a) horizontal and vertical agreements (73) between undertakings, decisions by associations of undertakings, and concerted practices, which have as their object or effect the prevention, restriction or distortion of competition in the territory of either Party as a whole or in a substantial part thereof;

(b) abuses by one or more undertakings of a dominant position in the territory of either Party as a whole or in a substantial part thereof; and

(c) concentrations between undertakings which result in a substantial lessening of competition or which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position in the territory of either Party as a whole or in a substantial part thereof.

(73) Where the competent authority in Singapore assesses that according to the prohibition laid down in section 34 of the Competition Act (Chapter 50B), the anti-competitive effects of a vertical agreement will likely outweigh its pro-competitive effects, the competent authority will refer the matter to the Minister. The Minister shall decide on the applicability of section 34 of the Competition Act to the vertical agreement in question. This is without prejudice to the possibility of the competent authority in Singapore applying section 47 of the Competition Act, which is applicable to vertical agreements concluded by a dominant firm.

Article 11.2. Implementation

1. Each Party shall maintain its autonomy in developing and enforcing its law. The Parties undertake, however, to maintain

authorities that are responsible for, and appropriately equipped to effectively enforce the legislation referred to in paragraph 2 of Article 11.1 (Principles).

2. The Parties will apply their respective legislation referred to in paragraph 2 of Article 11.1 (Principles) in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and the rights of defence of the parties concerned, including the right of the parties concerned to be heard prior to the taking of a decision in a case.

Section B. PUBLIC UNDERTAKINGS, UNDERTAKINGS ENTRUSTED WITH SPECIAL OR EXCLUSIVE RIGHTS AND STATE MONOPOLIES

Article 11.3. Public Undertakings and Undertakings Entrusted with Special or Exclusive Rights

1. Nothing in this Chapter prevents a Party from establishing or maintaining public undertakings, or entrusting undertakings with special or exclusive rights according to its respective law.

2. Each Party shall ensure that public undertakings and undertakings that are entrusted with special or exclusive rights are subject to the legislation referred to in Section A (Anti-Competitive Conduct and Mergers), insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

3. Each Party shall ensure that undertakings entrusted with special or exclusive rights do not use those special or exclusive rights to engage either directly or indirectly, including through their dealings with their parents, subsidiaries, or other undertakings with common ownership, in anti-competitive practices in another market in respect of which such undertakings have no special or exclusive rights, that adversely affect investments, trade in goods or services of the other Party.

4. Singapore shall ensure that any public undertaking and any undertaking entrusted with special or exclusive rights acts solely in accordance with commercial considerations in its purchase or sale of goods or services, such as with regard to price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, and provides non-discriminatory treatment to establishments of the Union, to goods of the Union, and to service suppliers of the Union.

Article 11.4. State Monopolies

While nothing in this Chapter shall be construed to prevent a Party from designating or maintaining state monopolies, each Party shall adjust state monopolies of a commercial character to ensure no discrimination is exercised by such monopolies regarding the conditions under which goods and services are procured from and marketed to natural or legal persons of the other Party.

Section C. SUBSIDIES

Article 11.5. Definition and Scope

1. For the purposes of this Agreement, a subsidy is a measure which fulfils the conditions set out in Article 1.1 of the SCM Agreement, mutatis mutandis, irrespective of whether the subsidy is granted in relation to the production of goods or of services (74).

2. Subsidies shall be subject to this Chapter only if they are specific, within the meaning of Article 2 of the SCM Agreement. Any subsidy falling under Article 11.7 (Prohibited Subsidies) shall be deemed to be specific.

3. Articles 11.7 (Prohibited Subsidies), 11.8 (Other Subsidies) and 11.10 (Review Clause) and Annex 11-A shall not apply to fisheries subsidies, subsidies related to products covered by Annex 1 of the Agreement on Agriculture and other subsidies covered by the Agreement on Agriculture.

(74) This paragraph does not prejudice the outcome of future discussions in the WTO on the definition of subsidies for services. The Parties shall give positive consideration to the adoption of a possible decision by the Trade Committee to update this Agreement to reflect the agreement reached at the WTO on the definition of subsidies for services.

Article 11.6. Relationship with the WTO

The provisions in this Section are without prejudice to the rights and obligations of a Party under the WTO Agreement, in particular to apply trade remedies or to engage in dispute settlement proceedings or other appropriate action against a subsidy granted by the other Party.

Article 11.7. Prohibited Subsidies

1. With respect to subsidies related to trade in goods, the Parties affirm their rights and obligations under Article 3 of the SCM Agreement, which is hereby incorporated into and made part of this Agreement, mutatis mutandis.

2. The following subsidies related to trade in goods and services shall be prohibited unless the subsidising Party upon the request of the other Party has demonstrated that the subsidy in question does not affect trade of the other Party nor will be likely to do so:

(a) any legal arrangements whereby a government or any public body is responsible for covering debts or liabilities of certain undertakings without any limitation in law or in fact as to the amount of those debts and liabilities or the duration of such responsibility; and

(b) any support to insolvent or ailing undertakings in whatever form (such as loans and guarantees, cash grants, capital injections, provision of assets below market prices, tax exemptions) without a credible restructuring plan, based on realistic assumptions, with a view to ensuring the return of the ailing undertaking to long-term viability within a reasonable time, and without the undertaking itself significantly contributing to the costs of restructuring (75).

3. Subparagraphs 2(a) and 2(b) do not prevent a Party from providing subsidies to remedy a serious disturbance in its economy. A serious disturbance in the economy of a Party means an exceptional, temporary and significant crisis which affects the whole economy of the Party rather than a specific region or economic sector of that Party.

4. Subparagraph 2(b) does not apply to subsidies granted as compensation for carrying out public service obligations nor to subsidies to the coal industry.

(75) This does not prevent the Parties from providing temporary liquidity support in the form of loan guarantees or loans limited to the amount needed to merely to keep an ailing undertaking in business for the time necessary to work out a restructuring or liquidation plan.

Article 11.8. Other Subsidies

1. The Parties agree to use their best endeavours to apply their competition law or other laws to remedy or remove distortions of competition caused by other specific subsidies related to trade in goods and services which are not covered by Article 11.7 (Prohibited Subsidies), insofar as they affect or are likely to affect trade of either Party, and also to prevent the occurrence of such situations. Annex 11-A contains guidance in particular on the types of subsidies which do not produce these effects.

2. The Parties agree to exchange information at the request of either Party and hold a first dialogue within two years of the entry into force of this Agreement with a view to developing rules applicable to other subsidies, taking into account developments at multilateral level. To that end, the Parties may take a decision in the Trade Committee.

Article 11.9. Transparency

1. Each Party shall ensure transparency in the area of subsidies that relate to trade in goods or to the supply of services. To that end, each Party shall report every two years to the other Party on the legal basis, the form, and to the extent possible, the amount or budget, and the recipients of subsidies granted by its government or any public body.

2. Such report shall be deemed to have been provided if the relevant information was made available by the Parties, or on their behalf, on a publicly accessible website by June of the second calendar year after the subsidies were granted.

Article 11.10. Review Clause

The Parties shall keep under constant review the matters to which reference is made in this Section. Each Party may refer such matters to the Trade Committee. The Parties agree to review progress in implementing this Section every two years after the entry into force of this Agreement, unless both Parties agree otherwise.

Section D. GENERAL MATTERS

Article 11.11. Cooperation and Coordination In Law Enforcement

The Parties recognise the importance of cooperation and coordination to further enhance effective law enforcement. Their respective authorities shall endeavour to coordinate and cooperate in the enforcement of their respective laws to fulfil the objective of this Agreement of free and undistorted competition in their trade relations.

Article 11.12. Confidentiality

1. When a Party communicates information under this Agreement, that Party shall ensure the protection of business secrets and other confidential information.

2. When a Party communicates information in confidence under this Agreement, the receiving Party shall, consistent with its laws and regulations, maintain the confidentiality of that communicated information.

Article 11.13. Consultation

1. To foster mutual understanding between the Parties or to address specific matters that arise under Section A (Anti-Competitive Conduct and Mergers), Section B (Public Undertakings, Undertakings Entrusted with Special or Exclusive Rights and State Monopolies) or Section D (General Matters), each Party upon the request of the other Party, shall enter into consultations regarding representations made by the other Party. In its requests, the Party shall indicate, if relevant, how the matter affects trade between the Parties.

2. The Parties shall promptly discuss, upon the request of a Party, any questions arising from the interpretation or application of Section A (Anti-Competitive Conduct and Mergers), Section B (Public Undertakings, Undertakings Entrusted with Special or Exclusive Rights and State Monopolies) or Section D (General Matters).

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

Article 11.14. Dispute Settlement and Mediation Mechanism

Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Mediation Mechanism) for any matter arising under this Chapter except for Article 11.7 (Prohibited Subsidies).

Chapter TWELVE. TRADE AND SUSTAINABLE DEVELOPMENT

Section A. INTRODUCTORY PROVISIONS

Article 12.1. Context and Objectives

1. The Parties recall the Agenda 21 of the United Nations Conference on Environment and Development of 1992, the Preamble to the WTO Agreement, the Singapore Ministerial Declaration of the WTO of 1996, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the UN Economic and Social Council on Generating Full and Productive Employment and Decent Work for All of 2006, and the International Labour Organization (hereinafter referred to as "ILO") Declaration on Social Justice for a Fair Globalization of 2008. In view of these instruments, the Parties reaffirm their commitment to developing and promoting international trade and their bilateral trade and economic relationship in such a way as to contribute to sustainable development.

2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development. They underline the benefit of cooperation on trade-related social and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded by their domestic labour and environment law. At the same time, the Parties stress that environmental and labour standards should not be used for protectionist trade purposes.

4. The Parties recognise that it is their aim to strengthen their trade relations and cooperation in ways that promote sustainable development in the context of paragraphs 1 and 2. In light of the specific circumstances of each Party, it is not their intention to harmonise the labour or environment standards of the Parties.

Article 12.2. Right to Regulate and Levels of Protection

1. The Parties recognise the right of each Party to establish its own levels of environmental and labour protection, and to adopt or modify its relevant laws and policies accordingly, consistent with the principles of the internationally recognised standards or agreements to which it is party, referred to in Articles 12.3 (Multilateral Labour Standards and Agreements) and 12.6 (Multilateral Environmental Standards and Agreements).

2. The Parties shall continue to improve those laws and policies, and shall strive towards providing and encouraging high levels of environmental and labour protection.

Section B. TRADE AND SUSTAINABLE DEVELOPMENT - LABOUR ASPECTS (76)

Article 12.3. Multilateral Labour Standards and Agreements

1. The Parties recognise the value of international cooperation and agreements on employment and labour affairs as a response of the international community to economic, employment and social challenges and opportunities resulting from globalisation. They commit to consulting and cooperating as appropriate on trade-related labour and employment issues of mutual interest.

2. The Parties affirm their commitments, under the Ministerial Declaration of the UN Economic and Social Council on Generating Full and Productive Employment and Decent Work for All of 2006, to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation. The Parties resolve to promote the development of international trade in a way that is conducive to full and productive employment and decent work for all.

3. In accordance with the obligations assumed under the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up adopted by the International Labour Conference at its 86th Session in Geneva, June 1998, the Parties commit to respecting, promoting and effectively implementing the principles concerning the fundamental rights at work, namely:

(a) the 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.

The Parties affirm the commitment to effectively implementing the ILO Conventions that Singapore and the Member States of the Union have ratified respectively.

4. The Parties will make continued and sustained efforts towards ratifying and effectively implementing the fundamental ILO conventions, and they will exchange information in this regard. The Parties will also consider the ratification and effective implementation of other ILO conventions, taking into account domestic circumstances. The Parties will exchange information in this regard.

5. The Parties recognise that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage.

(76) When "labour" is referred to in this Chapter, it includes the issues relevant to the Decent Work Agenda as agreed on in the ILO and in the Ministerial Declaration of the UN Economic and Social Council on Generating Full and Productive Employment and Decent Work for All of 2006.

Article 12.4. Labour Cooperation In the Context of Trade and Sustainable Development

The Parties recognise the importance of working together on trade-related aspects of labour policies in order to achieve the objectives of this Agreement. The Parties may initiate cooperative activities of mutual benefit in areas including, but not limited to:

(a) cooperation in international fora addressing labour aspects of trade and sustainable development, including, but not

limited to, the ILO and Asia-Europe Meeting;

(b) the exchange of information and the sharing of best practices in areas such as labour law and practices, compliance and enforcement systems, labour dispute management, labour consultation, labour-management cooperation and occupational safety and health;

(c) the exchange of views on the positive and negative impacts of this Agreement on labour aspects of sustainable development and on ways to enhance, prevent or mitigate those impacts, taking into account sustainability impact assessments carried out by either or both Parties;

(d) the exchange of views on the promotion of the ratification of fundamental ILO Conventions and other conventions of mutual interest, as well as on the effective implementation of ratified conventions;

(e) cooperation on trade-related aspects of the ILO Decent Work Agenda, including on the interlinkages between trade and full and productive employment, labour market adjustment, core labour standards, labour statistics, human resources development and lifelong learning, social protection and social inclusion, social dialogue and gender equality; and

(f) the exchange of views on the trade impact of labour regulations, norms and standards.

Article 12.5. Scientific Information

Each Party, when preparing and implementing measures aimed at health and safety at work which may affect trade or investment between the Parties, shall take account of relevant scientific and technical information and related international standards, guidelines or recommendations, if available, including the precautionary principle as enshrined in such international standards, guidelines or recommendations.

Section C. TRADE AND SUSTAINABLE DEVELOPMENT - ENVIRONMENTAL ASPECTS

Article 12.6. Multilateral Environmental Standards and Agreements

1. The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems, and they stress the need to enhance the mutual supportiveness between trade and environment policies, rules and measures. In this context, they will consult and cooperate as appropriate with respect to negotiations on trade-related environmental issues of mutual interest.

2. The Parties shall effectively implement, in their respective laws, regulations or other measures and practices in their territories, the multilateral environmental agreements to which they are party (77).

3. The Parties affirm their commitment to reaching the ultimate objective of the UN Framework Convention on Climate Change (hereinafter referred to as "UNFCCC"), and to effectively implementing the UNFCCC, its Kyoto Protocol, and the Paris Agreement of 12 December 2015 in a manner consistent with the principles and provisions of the UNFCCC. They commit to work together to strengthen the multilateral, rules-based regime under the UNFCCC building on the UNFCCC's agreed decisions, and to support efforts to develop a post-2020 international climate change agreement under the UNFCCC applicable to all parties.

4. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures to implement the multi-lateral environmental agreements to which they are party, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade.

(77) The multilateral environmental agreements referred to shall encompass those protocols, amendments, annexes and adjustments binding on the Parties.

Article 12.7. Trade In Timber and Timber Products

The Parties recognise the importance of the global conservation and sustainable management of forests. To that end, the Parties undertake to:

(a) exchange information on approaches to promote the trade in, and the consumption of, timber and timber products from legally and sustainably managed forests, and to promote the awareness of such approaches;

(b) promote global forest law enforcement and governance and to address trade in illegally harvested timber and timber products through, for example, promoting the use of timber and timber products from legally and sustainably managed forests, including through verification and certification schemes;

(c) cooperate to promote the effectiveness of measures or policies aimed at addressing the trade in illegally harvested timber and timber products; and

(d) promote the effective use of the Convention on International Trade in Endangered Species of Wild Fauna and Hora (CITES) with regard to timber species whose conservation status is considered at risk.

Article 12.8. Trade In Fish Products

The Parties recognise the importance of ensuring the conservation and management of fish stocks in a sustainable manner. To that end, the Parties undertake to:

(a) comply with long-term conservation measures and. sustainable exploitation of fish stocks as defined in the international instruments ratified by the respective Parties and to uphold the principles of the Food and Agriculture Organization of the UN (hereinafter referred to as "FAO") and relevant UN instruments relating to these issues;

(b) introduce and implement effective measures to combat illegal, unreported and unregulated (hereinafter referred to as "TUU") fishing, including by cooperating with Regional Fisheries Managements Organisations and implementing their Catch Documentation or Certification Schemes for the export of fish and fish products, when required, and the Parties shall also facilitate the elimination of IUU products from trade flows and the exchange of information on TUU activities;

(c) adopt effective monitoring and control measures to ensure compliance with conservation measures, such as appropriate Port State Measures; and

(d) uphold the principles of the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and respect the relevant provisions of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing.

Article 12.9. Scientific Information

Each Party, when preparing and implementing measures aimed at environmental protection which may affect trade or investment between the Parties, shall take account of scientific evidence and relevant international standards, guidelines or recommendations, where available, and of the precautionary principle.

Article 12.10. Cooperation on Environmental Aspects In the Context of Trade and Sustainable Development

The Parties recognise the importance of working together on trade-related aspects of environmental policies in order to achieve the objectives of this Agreement. The Parties may initiate cooperative activities of mutual benefit in areas including, but not limited to:

(a) the exchange of views on the positive and negative impacts of this Agreement on environmental aspects of sustainable development and ways to enhance, prevent or mitigate those impacts, taking into account sustainability impact assessments carried out by either or both Parties;

(b) cooperation in international fora addressing environmental aspects of trade and sustainable development, including in particular in the WTO, under the United Nations Environment Programme and under multilateral environmental agreements;

(c) cooperation with a view to promoting the ratification and effective implementation of multilateral environmental agreements with relevance to trade;

(d) the exchange of information and cooperation on private and public certification and labelling schemes, including eco-labelling, and on green public procurement;

(e) the exchange of views on the trade impact of environmental regulations, norms and standards;

(f) cooperation on trade-related aspects of the current and future international climate change regime, including ways to address adverse effects of trade on climate, as well as means to promote low-carbon technologies and energy efficiency;

(g) cooperation on trade related aspects of multilateral environmental agreements, including customs cooperation;

(h) cooperation on sustainable forest management to encourage effective measures for certification of sustainably produced timber;

(i) the exchange of views on the relationship between multilateral environmental agreements and international trade rules;

(j) the exchange of views on the liberalisation of environmental goods and services; and

(k) the exchange of views regarding conservation and management of the living marine resources.

Section D. GENERAL PROVISIONS

Article 12.11. Trade and Investment Promoting Sustainable Development

1. The Parties resolve to make continuing special efforts to facilitate and promote trade and investment in environmental goods and services, including through addressing related non-tariff barriers. The Parties also recognise the usefulness of efforts to promote trade in goods that are the subject of voluntary or private sustainable development assurance schemes, such as eco-labelling, or fair and ethical trade.

2. The Parties shall pay special attention to facilitating the removal of obstacles to trade or investment concerning climate-friendly goods and services, such as sustainable renewable energy goods and related services and energy efficient products and services, including through the adoption of policy frameworks conducive to the deployment of best available technologies and through the promotion of standards that respond to environmental and economic needs and minimise technical obstacles to trade.

3. The Parties recognise the need to ensure that, when developing public support systems for fossils fuels, proper account is taken of the need to reduce greenhouse gas emissions and of the need to limit distortions of trade as much as possible. While subparagraph 2(b) of Article 11.7 (Prohibited Subsidies) does not apply to subsidies to the coal industry, the Parties share the goal of progressively reducing subsidies for fossil fuels. Such reductions may be accompanied by measures to alleviate the social consequences associated with the transition to low carbon fuels. In addition, both Parties will actively promote the development of a sustainable and safe low-carbon economy, such as through investment in renewable energies and energy efficient solutions.

4. When promoting trade and investment, the Parties should make special efforts to promote corporate social responsibility practices which are adopted on a voluntary basis. In this regard, each Party shall refer to relevant internationally accepted principles, standards or guidelines to which it has agreed or acceded, such as the Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises, the UN Global Compact, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The Parties commit to exchanging information and cooperating on promoting corporate social responsibility.

Article 12.12. Upholding Levels of Protection

1. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental and labour laws, in a manner affecting trade or investment between the Parties.

2. A Party shall not fail to effectively enforce its environmental and labour laws, through a sustained or recurring course of action or inaction, where such failure to effectively enforce would affect trade or investment between the Parties.

Article 12.13. Transparency

Each Party shall ensure that where any measure of general application aimed at protecting the environment or labour conditions may affect trade and investment between the Parties, such measure is developed, introduced and administered in a transparent manner and with due notice and opportunities for interested persons to submit their views, in accordance with that Party's domestic law and with Chapter Thirteen (Transparency).

Article 12.14. Review of Impact on Sustainable Development

1. The Parties undertake to jointly or independently monitor, assess and review the impact of the implementation of this Agreement on sustainable development through their relevant participative processes and institutions, in accordance with their existing practices.

2. The Parties will exchange views on methodologies and indicators for trade sustainability impact assessments.

Article 12.15. Institutional Set Up and Monitoring Mechanism

1. Each Party shall designate an office within its administration that shall serve as contact point with the other Party for the purpose of implementing this Chapter.

2. The Parties shall establish a Board on Trade and Sustainable Development (hereinafter referred to as the "Board". The Board shall comprise senior officials from within the administration of each Party.

3. The Board shall meet within the first two years after the date this Agreement enters into force and thereafter as necessary, to oversee the implementation of this Chapter.

4. Each meeting of the Board shall include a public session with stakeholders to exchange views on issues related to the implementation of this Chapter. The Parties shall promote a balanced representation of relevant interests, including independent representative organisations of employers, workers, environmental interests and business groups, as well as other relevant stakeholders as appropriate.

5. Each Party shall establish new consultative mechanisms or make use of existing consultative mechanisms to seek advice from relevant domestic stakeholders on the implementation of this Chapter, such as domestic advisory groups. Such mechanisms shall include balanced representation of independent economic, social and environmental stakeholders. These stakeholders include employers' and workers' organisations, and non-governmental organisations. These stakeholders may, on their own initiative, submit views or recommendations to their respective Parties on the implementation of this Chapter.

Article 12.16. Government Consultations

1. In case of disagreement on any matter arising under this Chapter, the Parties shall only have recourse to the procedures provided for in Article 12.16 (Government Consultations) and Article 12.17 (Panel of Experts). Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Mediation Mechanism) do not apply to this Chapter.

2. In case of any disagreement referred to in paragraph 1, a Party may request consultations with the other Party by delivering a written request to the contact point of the other Party. Consultations shall commence promptly after a Party has delivered a request for consultations.

3. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. The Parties shall take into account the activities of the ILO or relevant multilateral environmental organisations or bodies so as to promote greater cooperation and coherence between the work of the Parties and these organisations. Where relevant, the Parties, subject to mutual agreement, may seek the views of these organisations or bodies, or of any person or body the Parties deem appropriate, in order to fully examine the matter.

4. If a Party considers that the matter needs further discussion that Party may request that the Board be convened to consider the matter by delivering a written request to the contact point of the other Party. The Board shall convene promptly and endeavour to agree on a resolution of the matter.

5. Where appropriate, the Board may consult relevant stakeholders.

6. Any resolution reached by the Board on the matter shall be made public unless it otherwise decides.

Article 12.17. Panel of Experts

1. For any matter that has not been satisfactorily addressed by the Board within 120 days from the delivery of a request for the Board to convene to consider that matter pursuant to paragraph 4 of Article 12.16 (Government Consultations), or within a longer period as agreed by both Parties, a Party may request, by delivering a written request to the contact point of the other Party, that a Panel of Experts be established to examine that matter.

2. _ At its first meeting after the entry into force of this Agreement, the Board shall establish the rules of procedure of the Panel of Experts, taking reference from the relevant Rules of Procedure in Annex 14-A. The principles in Annex 14-B shall apply to this Article.

3. At its first meeting after the entry into force of this Agreement, the Board shall establish a list of at least twelve individuals who are willing and able to serve on the Panel of Experts. This list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party and who shall act as Chairpersons of the Panel of

Experts. Each Party shall propose at least four individuals to serve as experts on its own sub-list. Each Party shall also propose at least two individuals to serve on the sub-list of Chairpersons with the agreement of both Parties. At its meetings, the Board will review the list and ensure that it is maintained at least at the level of twelve individuals.

4. The list referred to in paragraph 3 shall comprise individuals with specialised knowledge or expertise regarding the issues addressed in this Chapter, regarding labour or environmental law, or regarding the resolution of disputes arising under international agreements. Those individuals shall be independent, shall serve in their individual capacities, and shall neither take instructions from any organisation or government with regard to issues related to the matter at stake nor be affiliated with the government of Singapore, the government of any Member State of the Union, or the Union.

5. A Panel of Experts shall be composed of three members, unless the Parties agree otherwise. Within 30 days of the date of receipt by the responding Party of the request for the establishment of a Panel of Experts, the Parties shall consult each other in order to reach an agreement on its composition. In the event that the Parties are unable to agree on the composition of the Panel of Experts within this time-frame, they shall select the chairperson from the relevant sub-list referred to in paragraph 3 by mutual agreement or, in case they cannot agree within another seven days, by lot. Each Party shall select one expert who satisfies the requirements of paragraph 4 within 44 days of the date of receipt by the responding Party of the request for the establishment of a Panel of Experts. The Parties may agree on the selection of any other expert who satisfies the requirements of paragraph 4 to sit on the Panel of Experts. In the event that the composition of the Panel of Experts has not been completed within 44 days from the date of receipt by the responding Party of the request for the establishment of a Panel of Experts, the remaining expert(s) shall be selected within seven days by lot from among the individuals on the sub-list(s) referred to in paragraph 3 that was proposed by the Party or Parties that had not completed the procedure. In the event that such list has not yet been established, the experts shall be selected by lot from the individuals who have been formally proposed by one or both of the Parties. The date of establishment of the Panel of Experts shall be the date on which the last of the three experts is selected.

6. Unless the Parties agree otherwise within seven days from the date of establishment of the Panel of Experts, the terms of reference of the Panel of Experts shall be:

"To examine, in the light of the relevant provisions of the Trade and Sustainable Development Chapter, the matter referred to in the request for the establishment of the Panel of Experts, and to issue a report, in accordance with paragraph 8 of Article 12.17 (Panel of Experts), making recommendations for the solution of the matter".

7. The Panel of Experts may obtain information from any source it deems appropriate. In matters related to the respect of multilateral agreements as set out in Articles 12.3 (Multilateral Labour Standards and Agreements) and 12.6 (Multilateral Environmental Standards and Agreements), the Panel of Experts should seek information and advice from the ILO or Multilateral Environmental Agreement bodies. Any information obtained under this paragraph shall be dis- closed to both Parties and submitted to them for their comments.

8. The Panel of Experts shall issue an interim and a final report to the Parties. These reports shall set out the findings of facts, the applicability of the relevant provisions, and the basic rationale behind any findings and recommendations. The Panel of Experts shall issue the interim report to the Parties not later than 90 days from its date of establishment. Any Party may submit written comments on the interim report to the Panel of Experts. After considering any such written comments, the Panel of Experts may modify the report and make any further examination it considers appropriate. The Panel of Experts shall issue the final report to the Parties no later than 150 days from its date of establishment. Where it considers that the deadlines set in this paragraph cannot be met, the chairperson of the Panel of Experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the Panel of Experts plans to issue its interim or final report. The Panel of Experts shall issue the final report no later than 180 days after the date of its establishment, unless the Parties agree otherwise. This final report shall be made publicly available unless the Parties decide otherwise.

9. The Parties shall discuss the appropriate measures to be implemented, taking into account the report and recommendations of the Panel of Experts. The Party concerned shall inform its stakeholders, through the consultative mechanisms referred to in paragraph 5 of Article 12.15 (Institutional Set Up and Monitoring Mechanism), and the other Party, of its decisions on any actions or measures to be implemented, no later than three months after the report has been submitted to the Parties. The follow-up to the report and the recommendations of the Panel of Experts shall be monitored by the Board. Stakeholders may submit observations to the Board in this regard.

Chapter THIRTEEN. TRANSPARENCY

Article 13.1. Definitions

For the purposes of this Chapter:

(a) "measure of general application" means laws, regulations, judicial decisions, procedures and administrative rulings that may have an impact on any matter covered by this Agreement but does not include a ruling that applies to a particular person; and

(b) "interested person" means any natural or legal person that may be subject to any rights or obligations under measures of general application.

Article 13.2. Objectives and Scope

1. Recognising the impact which their respective regulatory environments may have on trade and investment between them, the Parties shall pursue a transparent and predictable regulatory environment for economic operators, including small and medium-sized enterprises, that do business in their territories.

2. The Parties, affirming their respective commitments under the WTO Agreement, hereby lay down clarifications and improved arrangements for transparency, consultation, and the better administration of measures of general application.

Article 13.3. Publication Regarding Measures of General Application

1. Each Party shall ensure that in respect of measures of general application:

(a) such measures are readily available to interested persons, in a non-discriminatory manner, via an officially designated medium and, where feasible and possible, via electronic means, in such a manner as to enable interested persons and the other Party to become acquainted with them;

(b) an explanation of the objective of, and rationale for, such measures shall be provided to the extent possible; and

(c) there shall be sufficient time between the publication and entry into force of such measures, except where not possi- ble for reasons of urgency.

2. Each Party shall:

(a) endeavour to publish in advance any proposal to adopt or to amend any measure of general application, including an explanation of the objective of and rationale for the proposal;

(b) provide reasonable opportunities for interested persons to comment on such proposed measures, allowing, in particular, for sufficient time for such opportunities; and

(c) endeavour to take into account the comments received from interested persons with respect to such proposed measures.

Article 13.4. Enquiries and Contact Points

1. In order to facilitate the effective implementation of this Agreement, and to facilitate communication between the Parties on any matter covered by this Agreement, each Party shall designate a contact point upon the entry into force of this Agreement.

2. Upon the request of a Party, the contact point of the other Party shall indicate the office or the official responsible for any particular matter that pertains to the implementation of this Agreement and assist, as necessary, in facilitating communication with the requesting Party.

3. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any interested person of the other Party regarding any measures of general application which are proposed or in force, and their application. Enquiries may be addressed through the contact points established under paragraph 1 or any other mechanism, as appropriate.

4. The Parties recognise that any response provided for in paragraph 3 may not be definitive or legally binding but for information purposes only, unless otherwise provided for in their laws and regulations.

5. Requests or information under this Article shall be conveyed to the other Party through the relevant contact points provided for in paragraph 1.

6. Upon the request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure of general application that the requesting Party considers might affect the operation of this

Agreement, regardless of whether the requesting Party has previously been notified of that measure.

7. Each Party shall establish or maintain appropriate mechanism with the task of seeking to effectively resolve problems for interested persons of the other Party that may arise from the application of any measure of general application. Such processes should be easily accessible, time-bound, result-oriented and transparent. They shall be without prejudice to any appeal or review procedures which the Parties establish or maintain. They shall also be without prejudice to the Parties' rights and obligations under Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Mediation Mechanism).

8. Any information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Article 13.5. Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures of general application, each Party, in applying such measures to particular persons, goods or services of the other Party in specific cases, shall:

(a) when proceedings are initiated, endeavour to provide reasonable notice in accordance with its procedures to interested persons of the other Party who are directly affected by such proceedings, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated, and a general description of any issues in controversy;

(b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, insofar as permitted by time, the nature of the proceedings and the public interest; and

(c) ensure that its procedures are based on and in accordance with its law.

Article 13.6. Review of Administrative Actions

1. Each Party shall, subject to its domestic law, establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purposes of the prompt review and, where warranted, the correction of administrative actions (78) relating to matters covered by this Agreement. Such tribunals shall be impartial and shall be 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 have the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision that was based on the evidence and submissions of record or, where required by law of the Party, based on the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided for under the law of that Party, that the decision referred to in paragraph 2 shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

(78) For greater certainty, the review of administrative actions can take the form of common law judicial review, and the correction of administrative actions may include a referral back to the body that took such action for corrective action.

Article 13.7. Regulatory Quality and Performance and Good Administrative Behaviour

1. The Parties agree to cooperate in promoting regulatory quality and performance in their respective regulatory policies through the exchange of information and best practices.

2. The Parties subscribe to the principles of good administrative behaviour, and agree to cooperate in promoting it in their respective administrations through the exchange of information and best practices.

Article 13.8. Specific Rules

Specific rules in other Chapters of this Agreement regarding the subject matter of this Chapter shall prevail to the extent that they differ from the provisions of this Chapter.

Chapter FOURTEEN. DISPUTE SETTLEMENT

Section A. OBJECTIVE AND SCOPE

Article 14.1. Objective

The objective of this Chapter is to establish an effective and efficient mechanism for avoiding and settling disputes between the Parties concerning the interpretation and application of this Agreement with a view to reaching, where possible, a mutually acceptable solution.

Article 14.2. Scope

This Chapter applies to any dispute between the Parties concerning the interpretation and application of the provisions of this Agreement, except as otherwise expressly provided.

Section B. CONSULTATIONS

Article 14.3. Consultations

1. The Parties shall endeavour to resolve any dispute concerning the interpretation and application of the provisions referred to in Article 14.2 (Scope) by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request to the other Party, copied to the Trade Committee, which shall give the reasons for requesting consultations, including the identification of the measures at issue, the applicable provisions referred to in Article 14.2 (Scope), and the reasons for considering the measures as incompatible with such provisions.

3. Consultations shall be held within 30 days of the date of receipt of the request and, unless the Parties agree otherwise, shall take place on the territory of the Party complained against. The consultations shall be deemed to be con- cluded within 60 days of the date of receipt of the request, unless the Parties agree otherwise. Consultations shall be confidential, and shall be without prejudice to the rights of either Party in any further proceedings.

4. Consultations on matters of urgency, including those regarding perishable goods and, where appropriate, seasonal goods or services, shall be held within 15 days of the date of receipt of the request, and shall be deemed concluded within 30 days of the date of receipt of the request, unless the Parties agree otherwise.

5. If the Party to which the request is made does not respond to the request for consultations within ten days of the date of its receipt, or if consultations are not held within the timeframes laid down in paragraph 3 or in paragraph 4 respectively, or if consultations have been concluded and no mutually agreed solution has been reached, the complain- ing Party may request the establishment of an arbitration panel in accordance with Article 14.4 (Initiation of Arbitration Procedure).

Section C. DISPUTE SETTLEMENT PROCEDURES

Subsection A. ARBITRATION PROCEDURES

Article 14.4. Initiation of Arbitration Procedure

1. Where the Parties have failed to resolve a dispute by recourse to consultations as provided for in Article 14.3 (Consultations), the complaining Party may request the establishment of an arbitration panel in accordance with this Article.

2. The request for the establishment of an arbitration panel shall be made in writing to the Party complained against and to the Trade Committee. The complaining Party shall identify in its request the specific measure at issue, and it shall explain how such measure constitutes a breach of the provisions referred to in Article 14.2 (Scope) in a manner sufficient to clearly present the legal basis for the complaint.

Article 14.5. Establishment of the Arbitration Panel

1. An arbitration panel shall be composed of three arbitrators.

2. Within five days of the date of receipt of the request referred to in paragraph 1 of Article 14.4 (Initiation of Arbitration Procedure) by the Party complained against, the Parties shall enter into consultations in order to agree on the composition of the arbitration panel.

3. In the event that the Parties are unable to agree on the choice of chairperson of the arbitration panel within ten days of entering into the consultations referred to in paragraph 2, within 20 days of entering into consultations referred to in paragraph 2, the chairperson of the Trade Committee or the chairperson's delegate shall select one arbitrator who will serve as a chairperson by lot from the list referred to under paragraph 1 of Article 14.20 (Lists of Arbitrators).

4. In the event that the Parties are unable to agree on the arbitrators within ten days of entering into the consultations referred to in paragraph 2:

(a) each Party may select one arbitrator, who will not act as a chairperson, from the individuals on the list established under paragraph 2 of Article 14.20 (Lists of Arbitrators), within 15 days of entering into the consultations referred to in paragraph 2; and

(b) if either Party fails to select an arbitrator under subparagraph 4(a), the chairperson of the Trade Committee or the chairperson's delegate shall select any remaining arbitrator by lot from among the individuals proposed by that Party pursuant to paragraph 2 of Article 14.20 (Lists of Arbitrators), within 20 days of entering into consultations referred to in paragraph 2.

5. Should the list provided for in paragraph 2 of Article 14.20 (Lists of Arbitrators) not be established at the time required pursuant to paragraph 4:

(a) where both Parties have proposed individuals pursuant to paragraph 2 of Article 14.20 (Lists of Arbitrators), each Party may select one arbitrator, who will not act as a chairperson, from among the individuals proposed, within 15 days of entering into the consultations referred to in paragraph 2. If a Party fails to select an arbitrator, the chairperson of the Trade Committee or the chairperson's delegate shall select the arbitrator by lot from among the individuals proposed by the Party which failed to select its arbitrator; or

(b) where only one Party has proposed individuals pursuant to paragraph 2 of Article 14.20 (Lists of Arbitrators), each Party may select one arbitrator, who will not act as a chairperson, from among the individuals proposed, within 15 days of entering into the consultations referred to in paragraph 2. If a Party fails to select an arbitrator, the chairperson of the Trade Committee or the chairperson's delegate shall select the arbitrator by lot from among the individuals proposed.

6. Should the list provided for in paragraph 1 of Article 14.20 (Lists of Arbitrators) not be established at the time required for the purposes of paragraph 3, the chairperson shall be selected by lot from among former Members of the WTO Appellate Body, none of whom shall be natural persons of a Party.

7. The date of establishment of the arbitration panel shall be the date on which the last of the three arbitrators is selected.

8. The replacement of arbitrators shall take place only for the reasons detailed in Rules 19 to 25 of Annex 14-A and in accordance with the procedures thereunder.

Article 14.6. Preliminary Ruling on Urgency

If a Party so requests, the arbitration panel shall give a preliminary ruling within ten days of its establishment on whether it deems the case to be urgent.

Article 14.7. Interim Panel Report

1. The arbitration panel shall issue an interim report to the Parties setting out the findings of fact, the applicability of relevant provisions of this Agreement, and the basic rationale behind any findings and recommendations, not later than 90 days from the date of establishment of the arbitration panel. Where the arbitration panel considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Trade Committee in writing, stating the reasons for the delay and the date on which the arbitration panel plans to issue its interim report. Under no circumstances should the arbitration panel issue its interim report later than 120 days after the date of its establishment.

2. Any Party may submit a written request for the arbitration panel to review specific aspects of the interim report within 30 days of its notification.

3. In cases of urgency, including those involving perishable goods or, where appropriate, seasonal goods or services, the arbitration panel shall make every effort to issue its interim report within half of the period allowed under paragraph 1, and

any Party may submit a written request for the arbitration panel to review specific aspects of the interim report within 15 days of its notification.

4. After considering any written comments by the Parties on the interim report, the arbitration panel may modify its report and make any further examination it considers appropriate. The findings of the final ruling of the arbitration panel shall include a sufficient discussion of the arguments made at the interim review stage, and shall clearly address the written comments of the two Parties.

Article 14.8. Arbitration Panel Ruling

1. The arbitration panel shall issue its ruling to the Parties and to the Trade Committee within 150 days from the date of the establishment of the arbitration panel. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel shall notify the Parties and the Trade Committee in writing, stating the reasons for the delay and the date on which the arbitration panel plans to issue its ruling. Under no circumstances should the arbitration panel issue its ruling later than 180 days after the date of its establishment.

2. In cases of urgency, including those involving perishable goods or, where appropriate, seasonal goods or services, the arbitration panel shall make every effort to issue its ruling within 75 days of the date of its establishment. Under no circumstances should the arbitration panel issue its ruling later than 90 days after the date of its establishment.

Subsection B. COMPLIANCE

Article 14.9. Compliance with the Arbitration Panel Ruling

Each Party shall take any measure necessary to comply in good faith with the ruling of the arbitration panel, and the Parties shall endeavour to agree on the period of time to comply with the ruling.

Article 14.10. Reasonable Period of Time for Compliance

1. No later than 30 days after the receipt of the notification of the ruling of the arbitration panel to the Parties, the Party against which the complaint was made shall notify the complaining Party and the Trade Committee of the time it will require to comply with the ruling of the arbitration panel (hereinafter referred to as "reasonable period of time"), if immediate compliance is not possible.

2. If there is disagreement between the Parties on the reasonable period of time for compliance with the ruling of the arbitration panel, within 20 days of the receipt of the notification made under paragraph 1 by the Party complained against, the complaining Party shall request in writing that the original arbitration panel determine the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the Trade Committee. The original arbitration panel shall issue its ruling to the Parties, and shall notify the Trade Committee thereof, within 20 days of the date of the submission of the request.

3. In the event that any member of the original arbitration panel is no longer available, the procedures set out in Article 14.5 (Establishment of the Arbitration Panel) shall apply. The time limit for issuing the ruling shall be 35 days from the date of the submission of the request referred to in paragraph 2.

4. The Party against which the complaint was made shall inform the complaining Party in writing of its progress in complying with the ruling of the arbitration panel at least one month before the expiry of the reasonable period of time.

5. The reasonable period of time may be extended by mutual agreement of the Parties.

Article 14.11. Review of Any Measure Taken to Comply with the Arbitration Panel Ruling

1. The Party complained against shall notify the complaining Party and the Trade Committee, before the end of the reasonable period of time, of any measures that it has taken to comply with the ruling of the arbitration panel.

2. In the event that there is disagreement between the Parties concerning the existence of any measures notified under paragraph 1 or the consistency of such measures with the provisions referred to in Article 14.2 (Scope), the complaining Party may request in writing that the original arbitration panel rule on the matter. Such request shall identify the specific measure at issue and the provisions referred to in Article 14.2 (Scope) with which it considers that measure to be inconsistent, in a manner sufficient to present the legal basis for the complaint clearly. Such request shall also explain how

the measure in question is inconsistent with the provisions referred to in Article 14.2 (Scope). The original arbitration panel shall notify its ruling within 45 days of the date of the submission of the request.

3. In the event that any member of the original arbitration panel is no longer available, the procedures set out in Article 14.5 (Establishment of the Arbitration Panel) shall apply. The time limit for issuing the ruling shall be 60 days from the date of the submission of the request referred to in paragraph 2.

Article 14.12. Temporary Remedies In Case of Non-compliance

1. If the Party complained against fails to notify any measure taken to comply with the ruling of the arbitration panel before the expiry of the reasonable period of time, or if the arbitration panel rules that no such measures were taken or that the measure notified under paragraph 1 of Article 14.11 (Review of Any Measure Taken to Comply with the Arbitration Panel Ruling) is inconsistent with that Party's obligations under the provisions referred to in Article 14.2 (Scope), the Party against which the complaint was made shall enter into negotiations with the complaining Party with a view to reaching a mutually acceptable agreement on compensation.

2. If no agreement on compensation is reached within 30 days of the end of the reasonable period of time or within 30 days of the issuance of the ruling of the arbitration panel under Article 14.11 (Review of Any Measure Taken to Comply with the Arbitration Panel Ruling) that no measures were taken to comply with the ruling of the arbitration panel or that a measure taken to comply with that ruling is inconsistent with the provisions referred to in Article 14.2 (Scope), the complaining Party shall be entitled, upon notification to the other Party and to the Trade Committee, to suspend obligations arising from any provision referred to in Article 14.2 (Scope) at a level equivalent to the nullification or impairment caused. by the violation. The notification shall specify the level of obligations that the complaining Party intends to suspend. The complaining Party may implement the suspension at any moment after the expiry of ten days after the date of receipt of the notification by the Party complained against, unless the Party complained against has requested arbitration under paragraph 3.

3. If the Party complained against considers that the level of suspension is not equivalent to the nullification or impairment caused by the violation, it may request in writing that the original arbitration panel rule on the matter. Such request shall be notified to the complaining Party and to the Trade Committee before the expiry of the ten-day period referred to in paragraph 2. The original arbitration panel, having sought, if appropriate, the opinion of experts, shall notify its ruling on the level of the suspension of obligations to the Parties and to the Trade Committee within 30 days of the date of the submission of the request. Obligations shall not be suspended until the original arbitration panel has notified its ruling, and any suspension shall be consistent with the ruling of the arbitration panel.

4. In the event that any member of the original arbitration panel is no longer available, the procedures laid down in Article 14.5 (Establishment of the Arbitration Panel) shall apply. The period for issuing the ruling shall be 45 days from the date of the submission of the request referred to in paragraph 3.

5. The suspension of obligations shall be temporary and shall not be applied after:

(a) the Parties have reached a mutually agreed solution pursuant to Article 14.15 (Mutually Agreed Solution); or

(b) the Parties have reached an agreement on whether the measure notified under paragraph 1 of Article 14.13 (Review of Any Measure Taken to Comply After the Suspension of Obligations) brings the Party complained against into conformity with the provisions referred to in Article 14.2 Scope); or

(c) any measure found to be inconsistent with the provisions referred to in Article 14.2 (Scope) has been withdrawn or amended so as to bring it into conformity with those provisions, as ruled under paragraph 2 of Article 14.13 (Review of Any Measure Taken to Comply After the Suspension of Obligations).

Article 14.13. Review of Any Measure Taken to Comply after the Suspension of Obligations

1. The Party complained against shall notify the complaining Party and the Trade Committee of any measure it has taken to comply with the ruling of the arbitration panel and of its request for the termination of the suspension of obligations applied by the complaining Party.

2. If the Parties do not reach an agreement on whether the notified measure brings the Party complained against into conformity with the provisions referred to in Article 14.2 (Scope) within 30 days of the date of receipt of the notification, the complaining Party shall request in writing that the original arbitration panel rule on the matter. Such request shall be notified simultaneously to the other Party and the Trade Committee. The ruling of the arbitration panel shall be notified to the Parties and the Trade Committee within 45 days of the date of the submission of the request. If the arbitration panel

rules that any measure taken to comply is in conformity with the provisions referred to in Article 14.2 (Scope), the suspension of obligations shall be terminated.

Subsection C. COMMON PROVISIONS

Article 14.14. Suspension and Termination of Arbitration Procedures

1. The arbitration panel shall, at the written request of both Parties, suspend its work at any time for a period agreed by the Parties, which shall not exceed twelve months. The arbitration panel shall resume its work at the end of this agreed period at the written request of the complaining Party, or before the end of this agreed period at the written request of both Parties. If the complaining Party does not request the resumption of the arbitration panel's work before the expiry of the agreed period, the dispute settlement procedures initiated pursuant to this Section shall be deemed terminated. Subject to Article 14.21 (Relation with WTO Obligations), the suspension and termination of the arbitration panel's work are without prejudice to the rights of either Party in other proceedings.

2. At any time, the Parties may agree in writing to terminate the dispute settlement procedures initiated pursuant to this Section.

Article 14.15. Mutually Agreed Solution

The Parties may reach a mutually agreed solution to a dispute under this Chapter at any time. They shall notify the Trade Committee and the arbitration panel, if any, of such solution. If the solution requires approval pursuant to the relevant domestic procedures of either Party, the notification shall refer to this requirement, and the dispute settlement procedure initiated pursuant to this Section shall be suspended. The procedure shall be terminated if such approval is not required or upon notification of the completion of any such domestic procedures.

Article 14.16. Rules of Procedure

1. Dispute settlement procedures under this Chapter shall be governed by Annex 14-A.

2. Any meetings of the arbitration panel shall be open to the public in accordance with Annex 14-A.

Article 14.17. Submission of Information

1. At the request of a Party, or upon its own initiative, the arbitration panel may obtain information from any source it deems appropriate for the arbitration panel proceedings, including from the Parties involved in the dispute. The arbitration panel also has the right to seek the relevant opinions of experts as it deems appropriate. The arbitration panel shall consult the Parties before choosing such experts. Any information obtained in this manner must be disclosed to the Parties and submitted for their comments.

2. Interested natural and legal persons of the Parties are authorised to submit amicus curiae briefs to the arbitration panel in accordance with Annex 14-A.

Article 14.18. Rules of Interpretation

The arbitration panel shall interpret the provisions referred to in Article 14.2 (Scope) in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties. Where an obligation under this Agreement is identical to an obligation under the WTO Agreement, the arbitra- tion panel shall take into account any relevant interpretation established in rulings of the WTO Dispute Settlement Body (hereinafter referred to as the "DSB"). The rulings of the arbitration panel shall not add to or diminish the rights and obligations provided in the provisions referred to in Article 14.2 (Scope).

Article 14.19. Arbitration Panel Decisions and Rulings

1. The arbitration panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be reached by consensus, the matter at issue shall be decided by majority vote.

2. Any ruling of the arbitration panel shall be binding on the Parties and shall not create any rights or obligations to physical or legal persons. The ruling shall set out the findings of fact, the applicability of the relevant provisions referred to in Article 14.2 (Scope), and the rationale behind any findings and conclusions that it makes. The Trade Committee shall make the

ruling of the arbitration panel publicly available in its entirety, unless it decides not to do so in order to ensure the confidentiality of any information designated by either Party as confidential.

Section D. GENERAL PROVISIONS

Article 14.20. Lists of Arbitrators

1. Upon the entry into force of this Agreement, the Parties shall establish a list of five individuals who are willing and able to serve as the chairperson of an arbitration panel referred to in Article 14.5 (Establishment of the Arbitration Panel).

2. No later than six months after the entry into force of this Agreement, the Trade Committee shall establish a list of at least ten individuals who are willing and able to serve as arbitrators. Upon the entry into force of this Agreement, each Party shall propose at least five individuals to serve as arbitrators.

3. The Trade Committee will ensure that the list of individuals to serve as chairpersons or arbitrators, established pursuant to paragraphs 1 and 2 respectively, are maintained.

4. Arbitrators shall have specialised knowledge of or experience in law and international trade or in the settlement of disputes arising under international trade agreements. They shall be independent, shall serve in their individual capacities, shall not be affiliated with the government of either Party, and shall comply with Annex 14-B.

Article 14.21. Relation with WTO Obligations

1. Recourse to the dispute settlement provisions of this Chapter shall be without prejudice to any action in the WTO framework, including dispute settlement proceedings.

2. Notwithstanding paragraph 1, where a Party has initiated dispute settlement proceedings with regard to a particular measure, either under this Chapter or under the WTO Agreement, it may not institute dispute settlement proceedings regarding the same measure in the other forum until the first proceedings have ended. Moreover, neither Party shall initiate dispute settlement proceedings under both this Chapter and under the WTO Agreement unless substantially different obligations under both agreements are in dispute, or unless the selected forum fails for procedural or jurisdictional reasons to make findings on the claim seeking redress in relation to that obligation, provided that the failure of the forum is not the result of a failure of a disputing Party to act diligently.

3. For the purposes of paragraph 2:

(a) dispute settlement proceedings under the WTO Agreement shall be deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the DSU and shall be deemed to be ended when the DSB adopts the Panel's report, and the Appellate Body's report as the case may be, under Articles 16 and 17(14) of the DSU; and

(b) dispute settlement proceedings under this Chapter shall be deemed to be initiated by a Party's request for the establishment of an arbitration panel under paragraph 1 of Article 14.4 (Initiation of Arbitration Procedure) and shall be deemed to be ended when the arbitration panel issues its ruling to the Parties and to the Trade Committee under paragraph 2 of Article 14.8 (Arbitration Panel Ruling) or when the parties have reached a mutually agreed solution under Article 14.15 (Mutually Agreed Solution).

4. Nothing in this Chapter shall preclude a Party from implementing the suspension of obligations authorised by the DSB. The WTO Agreement shall not be invoked to preclude a Party from suspending obligations as provided for under this Chapter.

Article 14.22. Time Limits

1. All time limits laid down in this Chapter, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days, the first day being the day following the acts or facts to which they refer, unless otherwise specified.

2. Any time limit referred to in this Chapter may be modified by mutual agreement of the Parties.

Article 14.23. Review and Modification of the Chapter

The Parties may, by decision in the Trade Committee, modify this Chapter and Annexes 14-A and 14-B.

Chapter FIFTEEN. MEDIATION MECHANISM

Article 15.1. Objective and Scope

1. The objective of this Chapter is to facilitate the finding of a mutually agreed solution through a comprehensive and expeditious procedure with the assistance of a mediator.

2. This Chapter shall apply to any measure that is within the scope of this Agreement and that adversely affects trade or investment between the Parties, except as otherwise provided.

Section A. PROCEDURE UNDER THE MEDIATION MECHANISM

Article 15.2. Request for Information

1. At any time before the initiation of the mediation procedure, a Party may request the other Party in writing to provide information regarding a measure that adversely affects trade or investment between the Parties. The Party to which such request is made shall provide a written response within 20 days.

2. Where the responding Party considers that it is not practicable to respond within 20 days, it shall inform the requesting Party of the reasons why it is not practicable to respond within this period, together with an estimate of the shortest period within which it will be able to provide its response.

Article 15.3. Initiation of the Procedure

1. At any time, a Party may request that the Parties enter into a mediation procedure. Such request shall be addressed to the other Party in writing. The request shall be sufficiently detailed to present clearly the concerns of the requesting Party and shall:

(a) identify the specific measure at issue;

(b) provide a statement of the alleged adverse effects that the requesting Party believes the measure has, or will have, on trade or investment between the Parties; and

(c) explain how the requesting Party considers that those effects are linked to the measure.

2. The Party to which such request is addressed shall give sympathetic consideration to the request and reply by accepting or rejecting it in writing within ten days of its receipt.

Article 15.4. Selection of the Mediator

1. The Parties shall endeavour to agree on a mediator no later than 15 days after the receipt of the reply to the request referred to in paragraph 2 of Article 15.3 (Initiation of the Procedure).

2. If the Parties cannot agree on the mediator within the established time frame, either Party may request the chairperson of the Trade Committee or the chairperson's delegate to select the mediator by lot from the list established under paragraph 2 of Article 14.20 (Lists of Arbitrators). Representatives of both Parties are entitled to be present when the lots are drawn.

3. The chairperson of the Trade Committee or the chairperson's delegate shall select the mediator within five working days of the request referred to in paragraph 2.

4. The mediator shall not be a national of either Party, unless the Parties agree otherwise.

5. The mediator shall assist the Parties, in an impartial and transparent manner, in bringing clarity to the measure and its possible adverse effects on trade and investment, and in reaching a mutually agreed solution. Annex 14-B shall apply to mediators, mutatis mutandis. Rules 4 to 9 and Rules 46 to 49 of Annex 14-A shall also apply, mutatis mutandis.

Article 15.5. Rules of the Mediation Procedure

1. Within 10 days after the appointment of the mediator, the Party having invoked the mediation procedure shall present to the mediator and to the other Party a detailed written description of the problem, describing in particular the operation of

the measure at issue and its adverse effects on trade and investment. Within 20 days of the date of delivery of that submission, the other Party may provide its written comments on the description of the problem. Either Party may include any information that it deems relevant in its description of the problem or its comments thereon.

2. The mediator may decide on the most appropriate way of bringing clarity to the measure concerned and its possible adverse effects on trade and investment. In particular, the mediator may organise meetings between the Parties, may consult the Parties jointly or individually, may seek the assistance of or consult with relevant experts and stakeholders, and may provide any additional support requested by the Parties. However, before seeking the assistance of or consult- ing with relevant experts and stakeholders, the mediator shall consult with the Parties.

3. The mediator may offer advice and may propose a solution for the consideration of the Parties, who may accept or reject the proposed solution or may agree on a different solution. However, the mediator shall not advise or give comments on whether the measure at issue is consistent with this Agreement.

4. The mediation procedure shall take place in the territory of the Party to which the request was addressed or, by mutual agreement, at any other location or by any other means.

5. The Parties shall endeavour to reach a mutually agreed solution within 60 days of the appointment of the mediator. Pending a final agreement, the Parties may consider possible interim solutions, especially if the measure relates to perishable goods.

6. The solution may be adopted by means of a decision of the Trade Committee. Either Party may make such solution subject to the completion of any necessary internal procedures. Mutually agreed solutions shall be made publicly available. However, the version disclosed to the public may not contain any information that a Party has designated as confidential.

7. The mediation procedure shall be terminated:

(a) by the adoption of a mutually agreed solution by the Parties, in which case the mediation procedure shall terminate on the date of adoption;

(b) by the mutual agreement of the Parties at any stage of the mediation procedure, in which case the mediation procedure shall terminate on the date of that agreement;

(c) by the written declaration of the mediator, after having consulted with the Parties, that further efforts at mediation would be to no avail, in which case the mediation procedure shall terminate on the date of such declaration; or

(d) by the written declaration of either Party after having explored mutually agreed solutions under the mediation pro- cedure and after having considered any advice and proposed solutions by the mediator, in which case the mediation procedure shall terminate on the date of that declaration.

Section B. IMPLEMENTATION

Article 15.6. Implementation of a Mutually Agreed Solution

1. Where the Parties have agreed to a solution, each Party shall take the measures necessary to implement the mutually agreed solution within the agreed timeframe.

2. The implementing Party shall inform the other Party in writing of any steps or measures taken to implement the mutually agreed solution.

3. At the request of the Parties, the mediator shall issue to the Parties a draft written factual report, which shall provide a brief summary of:

(i) the measure at issue in these proceedings;

(ii) the procedures followed; and

(iii) any mutually agreed solution reached as the final outcome of these proceedings, including possible interim solutions. The mediator shall provide the Parties 15 days to comment on the draft report. After considering the comments of the Parties submitted within that period, the mediator shall submit a final written factual report to the Parties within 15 days. The final written factual report shall not include any interpretation of this Agreement.

Section C. GENERAL PROVISIONS

Article 15.7. Relationship to Dispute Settlement

1. The mediation procedure is without prejudice to the Parties' rights and obligations under Chapter Fourteen (Dispute Settlement).

2. The mediation procedure is not intended to serve as a basis for dispute settlement procedures under this Agreement or any other agreement. A Party shall not rely on or introduce as evidence in such dispute settlement procedures, nor shall an arbitration panel take into consideration:

(a) positions taken by a Party in the course of the mediation procedure;

(b) the fact that a Party has indicated its willingness to accept a solution to the measure subject to mediation; or

(c) advice given or proposals made by the mediator.

3. Without prejudice to paragraph 6 of Article 15.5 (Rules of the Mediation Procedure), and unless the Parties agree otherwise, all steps of the mediation procedure, including any advice that may be given or solution that may be pro-posed, are confidential. However, each Party may disclose to the public the fact that mediation is taking place.

Article 15.8. Time Limits

Any time limit referred to in this Chapter may be modified by mutual agreement between the Parties.

Article 15.9. Costs

1. Each Party shall bear its own expenses arising from the participation in the mediation procedure.

2. The Parties shall share equally the expenses that arise from organisational matters, including the remuneration and expenses of the mediator. Remuneration of the mediator shall be in accordance with that provided for in Rule 10(b) of Annex 14-A.

Article 15.10. Review

Five years after the date of entry into force of this Agreement, the Parties shall consult each other on the need to modify the mediation procedure in light of their experience of using the mediation procedure and in light of the development of a corresponding mechanism in the WTO.

Chapter SIXTEEN. INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

Article 16.1. Trade Committee

1. The Parties hereby establish a Trade Committee, which shall comprise representatives of the Parties.

2. The Trade Committee shall meet alternately in the Union or Singapore every two years or without undue delay at the request of either Party. The Trade Committee shall be co-chaired by the Member of the European Commission responsible for Trade and the Minister for Trade and Industry of Singapore, or their respective delegates. The Trade Committee shall agree on its meeting schedule and shall set its agenda.

3. The Trade Committee shall:

(a) ensure that this Agreement operates properly;

(b) supervise and facilitate the implementation and application of this Agreement, and shall further its general aims;

(c) supervise the work of all specialised committees, working groups and other bodies established under this Agreement;

(d) consider ways to further enhance trade relations between the Parties;

(e) without prejudice to Chapter Fourteen (Dispute Settlement) and Chapter Fifteen (Mediation Mechanism), seek to solve problems which might arise in areas covered by this Agreement, or to resolve disputes that may arise regarding the interpretation or application of this Agreement; and

(f) consider any other matter of interest relating to an area covered by this Agreement.

4. The Trade Committee may:

(a) decide to establish or dissolve specialised committees, or to allocate responsibilities to such committees, except that powers granted to specialised committees to adopt legally binding decisions or adopt amendments can only be modified pursuant to the procedure for amendments set out in Article 16.5 (Amendments);

(b) communicate with all interested parties, including private sector and civil society organisations;

(c) consider amendments to this Agreement, or amend provisions of this Agreement in cases specifically provided for in this Agreement;

(d) adopt interpretations of the provisions of this Agreement, which shall be binding on the Parties and on all bodies set up under this Agreement, including the arbitration panels referred to in Chapter Fourteen (Dispute Settlement);

(e) adopt decisions or make recommendations as envisaged by this Agreement; () adopt its own rules of procedure; and (g) take any other action in the exercise of its functions as the Parties may agree.

5. The Trade Committee shall inform the Joint Committee set up under the Partnership and Cooperation Agreement of the activities of the Trade Committee and those of its specialised committees, as relevant, at regular meetings of the Joint Committee.

6. Recognising the importance of transparency and openness, the Parties affirm their respective practices of considering the views of members of the public in order to draw on a broad range of perspectives in the implementation of this Agreement.

Article 16.2. Specialised Committees

1. The following specialised committees are hereby established under the auspices of the Trade Committee:

(a) the Committee on Trade in Goods;

(b) the Committee on Sanitary and Phytosanitary Measures (the "SPS Committee");

(c) the Committee on Customs; and

(d) the Committee on Trade in Services, Investment and Government Procurement.

2. The composition, remit, tasks and, as the case may be, functioning of the specialised committees, shall be as defined in the relevant provisions of this Agreement or by the Trade Committee.

3. Unless otherwise provided for in this Agreement, the specialised committees shall normally meet at an appropriate level, alternately in the Union or Singapore, every two years or without undue delay at the request of either Party or the Trade Committee. They shall be co-chaired by representatives of the Parties. The specialised committees shall agree on their meeting schedule and set their agenda.

4. The specialised committees shall inform the Trade Committee of their schedule and agenda sufficiently in advance of their meetings. They shall report to the Trade Committee on their activities at each regular meeting of the Trade Committee. The creation or existence of a specialised committee shall not prevent a Party from bringing any matter directly to the Trade Committee.

Article 16.3. Evolving WTO Law

If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended, the Parties shall consult with each other, via the Trade Committee, with a view to finding a mutually satisfactory solution, where necessary. As a result of such a review, the Parties may, by decision in the Trade Committee, amend this Agreement accordingly.

Article 16.4. Decision-making

1. The Parties may take decisions in the Trade Committee or in a specialised committee, where provided for in this Agreement. The decisions taken in such a committee shall be binding on the Parties, which shall take the measures necessary to implement those decisions.

2. The Trade Committee and specialised committees may make appropriate recommendations, where provided for in this

Agreement.

3. The Trade Committee and specialised committees shall draw up their decisions and recommendations by agreement between the Parties.

Article 16.5. Amendments

1. The Parties may agree to amend this Agreement. Amendments to this Agreement shall enter into force after the Parties have exchanged written notifications certifying that they have completed their respective applicable legal requirements and procedures, as set out in the instrument of amendment.

2. Notwithstanding paragraph 1, the Parties may, in the Trade Committee or a specialised committee, adopt a decision amending this Agreement, where provided for in this Agreement.

Article 16.6. Taxation

1. This Agreement shall only apply to taxation measures insofar as such application is necessary to give effect to the provisions of this Agreement.

2. Nothing in this Agreement shall affect the rights and obligations of the Union or any of its Member States, or the rights and obligations of Singapore, under any tax agreement between the Union and Singapore or between any of the Member States of the Union and Singapore. In the event of any inconsistency between this Agreement and any such agreement, that agreement shall prevail to the extent of the inconsistency. In the case of a tax agreement between the Union and Singapore or between any of the Member States of the Union and Singapore, the competent authorities under that agreement shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that agreement.

3. Nothing in this Agreement shall prevent either Party from adopting or maintaining any taxation measure which differentiates between taxpayers based on rational criteria, such as whether taxpayers are in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested (79).

4. Nothing in this Agreement shall prevent the adoption or maintenance of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements for the avoidance of double taxation or other tax arrangements or domestic fiscal legislation.

5. (a) Nothing in this Agreement shall prevent Singapore from adopting or maintaining taxation measures which are needed to protect Singapore's overriding public policy interests arising out of its specific constraints of space.

(b) Singapore will notify the Union immediately upon taking such measures, which will be, without delay, the object of consultations in the Trade Committee, with a view to reaching a mutual understanding.

(c) Where such measures affect the overall balance of commitments agreed between the Parties in this Agreement, the Parties may, by decision in the Trade Committee, alter the Parties' schedules of specific commitments on account of such measures.

(79) For greater certainty, the Parties share an understanding that nothing in this Agreement shall prevent any taxation measure aimed at social welfare, public health or other socio-community objectives, or at macroeconomic stability; or tax benefits linked to place of incorporation and not the nationality of the person owning the company. Taxation measures aimed at macroeconomic stability are measures in reaction to movements and trends in the national economy to address or to prevent systemic imbalances which seriously threaten the stability of the national economy.

Article 16.7. Current Account and Capital Movements

1. The Parties shall authorise, in accordance with the provisions of Article VII of the Articles of Agreement of the International Monetary Fund, any payments and transfers in freely convertible currency (80) on the current account of the balance-of-payments between the Parties with regard to the transactions which fall within the scope of this Agreement.

2. The Parties shall consult each other with a view to facilitating the movement of capital between them within the scope of this Agreement, in particular the progressive liberalisation of the capital and financial account, with the aim of supporting a stable and secure framework for long term investment.

(80) "Freely convertible currency" means a currency which is widely traded in international foreign exchange markets and widely used in international transactions.

Article 16.8. Sovereign Wealth Funds

Each Party shall encourage its sovereign wealth funds to respect the Generally Accepted Principles and Practices' Santiago Principles.

Article 16.9. Restrictions to Safeguard the Balance of Payments

1. Where a Party is in serious balance-of-payments and external financial difficulties, or is under threat thereof, it may adopt or maintain restrictive measures with regard to capital movements, payments or transfers in relation to trade in goods, services and establishment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1. Any restrictive measures adopted or maintained under this Article shall be non-discriminatory, shall be of a limited duration, and shall not go beyond what is necessary to remedy the balance-of-payments and external financial difficulties. Such measures shall be in accordance with the conditions established in the WTO Agreement and shall be consistent with the Articles of Agreement of the International Monetary Fund, as applicable.

3. A Party that maintains or has adopted restrictive measures, or that adopts any changes to such measures, shall promptly notify the other Party thereof.

4. Where restrictions are adopted or maintained, consultations shall be held promptly in the Trade Committee. Such consultations shall assess the balance-of-payments situation of the Party concerned and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:

(a) the nature and extent of the balance-of-payments and external financial difficulties;

(b) the external economic and trading environment; or

(c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 1 and 2. All findings of statistical and other facts presented by the IMF in relation to foreign exchange, monetary reserves or balance of payments shall be accepted, and the conclusions of the Trade Committee shall be based on the assessment by the IMF of the balance-of-payments and the external financial situation of the Party concerned.

Article 16.10. Temporary Safeguard Measures on Capital Movements and Payments

1. Where, in exceptional circumstances, a Party faces serious difficulties, or the threat thereof, for the operation of that Party's economic and monetary policy or exchange rate policy, that Party may temporarily impose safeguard measures with regard to capital movements, payments or transfers. Such measures shall be strictly necessary, shall not exceed in any case a period of six months (81), and shall not constitute a means of arbitrary or unjustified discrimination between a Party and a non-Party in like situations.

2. The Party adopting the safeguard measures shall inform the other Party forthwith, and, as soon as possible, shall present a time schedule for their removal.

(81) The application of safeguard measures may be extended through their formal reintroduction in case of continuing exceptional circumstances and after having notified the other Party regarding the implementation of any proposed formal reintroduction.

Article 16.11. Security Exceptions

Nothing in this Agreement shall be construed. to:

(a) require either Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;

(b) prevent either Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) connected with the production of or trade in arms, munitions and war materials, and related to traffic in other goods and materials and to economic activities carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

(iii) relating to fissionable or fusionable materials, or to the materials from which they are derived; or

(iv) taken in time of war or other emergency in international relations, or to protect critical public infrastructure (this relates to communications, power or water infrastructure providing essential goods or services to the general public) from deliberate attempts to disable or disrupt it;

(c) prevent either Party from taking any action for the purpose of maintaining international peace and security.

Article 16.12. Disclosure of Information

1. Nothing in this Agreement shall be construed to require a Party to make available confidential information, the disclosure of which would impede law enforcement, would otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of particular enterprises, whether public or private.

2. Where a Party submits information to the Trade Committee or to specialised committees which is considered as confidential under its laws and regulations, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.

Article 16.13. Entry Into Force

1. This Agreement shall be approved by the Parties in accordance with their own procedures.

2. This Agreement shall enter into force on the first day of the second month following that in which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures for the entry into force of this Agreement. The Parties may agree on another date.

3. Notifications shall be sent to the Secretary General of the Council of the European Union and to the Director, North America and Europe Division, Singapore Ministry of Trade and Industry, or their respective successors.

Article 16.14. Duration

1. This Agreement shall be valid indefinitely.

2. A Party may notify in writing the other Party of its intention to terminate this Agreement.

3. This Agreement shall be terminated six months after the notification under paragraph 2.

4. Within 30 days of the delivery of a notification under paragraph 2, either Party may request consultations regarding whether the termination of any provision of this Agreement should take effect at a later date than that provided for under paragraph 3. Such consultations shall commence within 30 days of a Partyâs delivery of such request.

Article 16.15. Fulfilment of Obligations

The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

Article 16.16. No Direct Effect

For greater certainty, nothing in this Agreement shall be construed as conferring rights or imposing obligations on any persons, other than those rights and obligations created between the Parties under public international law.

Article 16.17. Annexes, Appendices, Joint Declarations, Protocols and Understandings

The Annexes, Appendices, Joint Declarations, Protocols and Understandings to this Agreement shall form an integral part thereof.

Article 16.18. Relations with other Agreements

1. This Agreement shall be an integral part of the overall relations between the Union and its Member States, of the one part, and Singapore, of the other part, as governed by the Partnership and Cooperation Agreement, and shall form part of a common institutional framework. It constitutes a specific agreement giving effect to the trade provisions of the Partnership and Cooperation Agreement.

2. For greater certainty, the Parties agree that nothing in this Agreement requires them to act in a manner inconsistent with their obligations under the WTO Agreement.

Article 16.19. Future Accessions to the Union

1. The Union shall notify Singapore without undue delay of any request for accession of a third country to the Union.

2. During the negotiations between the Union and a candidate country seeking accession, the Union shall endeavour to:

(a) to the extent possible, provide to Singapore any information that Singapore requests regarding any matter covered by this Agreement; and

(b) take into account any concerns expressed by Singapore.

3. The Union shall inform Singapore as soon as feasible about the outcome of accession negotiations with a candidate country, and shall notify Singapore of the entry into force of any accession to the Union.

4. In the context of the Trade Committee, and sufficiently in advance to the date of accession of a third country to the Union, the Parties shall examine possible effects of such accession on this Agreement. The Parties may, by decision in the Trade Committee, put in place any necessary adjustments or transition arrangements.

Article 16.20. Territorial Application

1. This Agreement shall apply:

(a) with respect to the Union, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union apply, under the conditions laid down in those Treaties; and

(b) with respect to Singapore, to its territory.

References to "territory" in this Agreement shall be understood in this sense, except as otherwise expressly provided.

2. As regards those provisions concerning the tariff treatment of goods, this Agreement shall also apply to those areas of the Union customs territory not covered by subparagraph 1 (a).

Article 16.21. Authentic Texts

This Agreement is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

Done at Brussels on the nineteenth day of October in the year two thousand and eighteen.

For the European Union

For the Republic of Singapore