Agreement Between the Government of Canada and the Government of the People's Republic of China for the Promotion and Reciprocal Protection of Investments

The Government of Canada and the Government of the People's Republic of China (the "Contracting Parties"),

Recognizing the need to promote investment based on the principles of sustainable development;

Desiring to intensify the economic cooperation of both States, based on equality and mutual benefit;

Have agreed as follows:

Part A.

Article 1. Definitions

For the purpose of this Agreement,

1. "investment" means:

(a) an enterprise;

(b) shares, stocks and other forms of equity participation in an enterprise;

(c) bonds, debentures, and other debt instruments of an enterprise;

(d) a loan to an enterprise

(i) where the enterprise is an affiliate of the investor, or

(ii) where the original maturity of the loan is at least three years;

(e) notwithstanding sub-paragraphs (c) and (d) above, a loan to or debt security issued by a financial institution is an investment only where the loan or debt security is treated as regulatory capital by the Contracting Party in whose territory the financial institution is located;

(f) an interest in an enterprise that entitles the owner to share in the income or profits of the enterprise;

(g) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution;

(h) interests arising from the commitment of capital or other resources in the territory of a Contracting Party to economic activity in such territory, such as under

(i) contracts involving the presence of an investor's property in the territory of the Contracting Party, including turnkey or construction contracts, or concessions to search for and extract oil and other natural resources, or

(ii) contracts where remuneration depends substantially on the production, revenue or profits of an enterprise;

(i) intellectual property rights; and

(j) any other tangible or intangible, moveable or immovable, property and related property rights acquired or used for business purposes;

But "investment" does not mean:

(k) claims to money that arise solely from

(i) commercial contracts for the sale of goods or services, or

(ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by sub-paragraph (d); or

(l) any other claims to money,

That do not involve the kinds of interests set out in sub-paragraphs (a) to (j);

2. "investor" means with regard to either Contracting Party:

(a) any natural person who has the citizenship or status of

Permanent resident of that Contracting Party in accordance with its laws and who does not possess the citizenship of the other Contracting Party;

(b) any enterprise as defined in paragraph 10(a) of this Article;

That seeks to make, is making or has made a covered investment 1;

3. "investment of an investor of a Contracting Party" means an investment owned or controlled directly or indirectly by an investor of such Contracting Party;

4. "covered investment" means, with respect to a Contracting Party, an investment in its territory of an investor of the other Contracting Party existing on the date of entry into force of this Agreement or an investment of an investor admitted in accordance with its laws and regulations thereafter, and which involves the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk;

5. "returns" means the amounts yielded by investments, and in particular, though not limited to, profits, capital gains, dividends, interest, royalties, returns-in-kind or other income;

6. "measure" includes any law, regulation, rule, procedure, decision, requirement, administrative action, or practice;

7. "existing measure" means a measure existing at the time this Agreement enters into force;

8. "financial service" has the same meaning as in sub-paragraph 5(a) of the Annex on Financial Services of the GATS;

9. "financial institution" means any financial intermediary or other enterprise that is authorized to do business and is regulated or supervised as a financial institution under the law of the Contracting Party in whose territory it is located;

10. "enterprise" means:

(a) any entity constituted or organized in accordance with the laws of a Contracting Party, such as public institutions, corporations, foundations, agencies, cooperatives, trust, societies, associations and similar entities and private companies, firms, partnerships, establishments, joint ventures and organizations, whether or not for profit, and irrespective of whether their liabilities are limited or otherwise; and

(b) a branch of any such entity

11. "intellectual property rights" means copyright and related rights, trademark rights, patent rights, rights in layout designs of semiconductor integrated circuits, trade secret rights, plant breeders' rights, rights in geographical indications and industrial design rights;

12. "confidential information" means business confidential information and information that is privileged or otherwise protected from disclosure;

13. "disputing investor" means an investor that makes a claim under Article 20;

14. "disputing Contracting Party" means a Contracting Party against which a claim is made under Article 20;

15. "disputing party" means the disputing investor or the disputing Contracting Party;

16. "ICSID" means the International Centre for Settlement of Investment Disputes;

17. "ICSID Convention" means the Convention on the Settlement of Investment Disputes between States and Nationals of other States, done at Washington on 18 March 1965;

18. "Additional Facility Rules of ICSID" means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes and Schedule C (Arbitration) thereto, approved by the Administrative Council on 29 September 2002, as amended from time to time;

19. "Tribunal" means an arbitration tribunal established under Part C;

20. "UNCITRAL Arbitration Rules" means the Arbitration Rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on 15 December 1976, as amended from time to time;

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

22. "territory" means:

In respect of Canada:

(a) the land territory, air space, internal waters and territorial sea over which Canada exercises sovereignty;

(b) the exclusive economic zone of Canada, as determined by its domestic law pursuant to Part V of the United Nations Convention on the Law of the Sea (UNCLOS); and

(c) the continental shelf of Canada as determined by its domestic law pursuant to Part VI UNCLOS.

In respect of China:

The territory of China, including land territory, internal waters, territorial sea, territorial air space, and any maritime areas beyond the territorial sea over which, in accordance with international law and its domestic law, China exercises sovereign rights or jurisdiction with respect to the waters, seabed and subsoil and natural resources thereof.

Part B.

Article 2. Scope and Application

1. This Agreement shall apply to measures adopted or maintained by a Contracting Party relating to investors of the other Contracting Party and covered investments.

2. A Contracting Party's obligations under this Agreement shall apply to any entity whenever that entity exercises any regulatory, administrative or other governmental authority delegated to it by that Contracting Party, such as the power to expropriate, grant licenses, approve commercial transactions or impose quotas, fees or other charges.

3. Each Contracting Party shall take all necessary measures in order to ensure observance of the provisions of this Agreement by provincial governments' 2

Article 3. Promotion and Admission of Investment

Each Contracting Party shall encourage investors of the other Contracting

Party to make investments in its territory and admit such investments in

Accordance with its laws, regulations and rules.

Article 4. Minimum Standard of Treatment

1. Each Contracting Party shall accord to covered investments fair and equitable treatment and full protection and security, in accordance with international law.

2. The concepts of "fair and equitable treatment" and "full protection and security" in paragraph 1 do not require treatment in addition to or beyond that which is required by the international law minimum standard of treatment of aliens as evidenced by general State practice accepted as law.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

Article 5. Most-favoured-nation Treatment

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

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

3. For greater certainty, the "treatment" referred to in paragraphs 1 and 2 of this Article does not encompass the dispute resolution mechanisms, such as those in Part C, in other international investment treaties and other trade agreements.

Article 6. National Treatment

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

2. Each Contracting Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the expansion,

Management, conduct, operation and sale or other disposition of investments in its territory.

3. The concept of "expansion" in this Article applies only with respect to sectors not subject to a prior approval process under the relevant sectoral guidelines and applicable laws, regulations and rules in force at the time of expansion. The expansion may be subject to prescribed formalities and other information requirements.

Article 7. Senior Management, Boards of Directors and Entry of Personnel

1. A Contracting Party may not require that an enterprise of that Party, that is a covered investment, appoint individuals of any particular nationality to senior management positions.

2. A Contracting Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Contracting Party that is a covered investment be of a particular nationality or resident in the territory of the Contracting Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

3. Subject to its laws, regulations and policies relating to the entry and sojourn of non-citizens, a Contracting Party shall permit natural persons who have the citizenship or status of permanent resident of the other Contracting Party and are employed by any enterprise that is a covered investment of an investor, or a subsidiary or affiliate thereof, to enter and remain temporarily in its territory in a capacity that is managerial, executive or that requires specialized knowledge.

Article 8. Exceptions

1. Article 5 does not apply to:

(a) treatment by a Contracting Party pursuant to any existing or future bilateral or multilateral agreement:

(i) establishing, strengthening or expanding a free trade area or customs union; or

(ii) relating to aviation, fisheries, or maritime matters including salvage;

(b) treatment accorded under any bilateral or multilateral international agreement in force prior to 1 January 1994.

2. Articles 5, 6 and 7 do not apply to 5:

(i) any existing non-conforming measures maintained within the territory of a Contracting Party; and

(ii) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition of a government's equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, prohibits or imposes limitations on the ownership or control of equity interests or assets or imposes nationality requirements relating to senior management or members of the board of directors;

(b) the continuation or prompt renewal of any non-conforming measure referred to in sub-paragraph (a); or

(c) An amendment to any non-conforming measure referred to in sub-paragraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 5, 6 and 7.

3. Articles 5, 6 and 7 do not apply to any measure that a Contracting Party has reserved the right to adopt or maintain pursuant to Annex B.8.

4. In respect of intellectual property rights, a Contracting Party may derogate from Articles 3, 5 and 6 in a manner that is consistent with international agreements regarding intellectual property rights to which both Contracting Parties are parties.

5. Articles 5, 6 and 7, do not apply to:

(a) procurement by a Contracting Party;

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

Article 9. Performance Requirements

The Contracting Parties reaffirm their obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMs), as amended from time to time. Article 2 and the Annex of the TRIMs are incorporated into and made part of this Agreement.

Article 10. Expropriation

1. Covered investments or returns of investors of either Contracting Party

Shall not be expropriated, nationalized or subjected to measures having an effect equivalent to expropriation or nationalization in the territory of the other Contracting Party (hereinafter referred to as "expropriation"), except for a public purpose, under domestic due procedures of law, in a non-discriminatory manner and against compensation. 6 Such compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation, or before the impending expropriation became public knowledge, whichever is earlier, shall include interest at a normal commercial rate until the date of payment, and shall be effectively realizable, freely transferable, and made without delay. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this paragraph.

2. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to other measures in respect of intellectual property rights, to the extent that such measures are consistent with international agreements regarding intellectual property rights to which both Contracting Parties are parties.

Article 11. Compensation for Losses

Investors of one Contracting Party who suffer losses in respect of covered investments owing to war, a state of national emergency, insurrection, riot or other similar events, shall be accorded treatment by the other Contracting Party, in respect of restitution, indemnification, compensation or other settlement, no less favourable than it accords in like circumstances, to its own investors or to investors of any third State.

Article 12. Transfers

1. A Contracting Party shall permit all transfers relating to a covered investment to be made freely and without delay. Such transfers include:

(a) contributions to capital;

(b) profits, capital gains, dividends, interest, royalties including payments in relation to intellectual and industrial property rights, fees, returns-in-kind or other income derived from the investment;

(c) proceeds obtained from the total or partial sale of the covered investment, or from the partial or complete liquidation of the investment;

(d) payments made under a contract entered into by an investor, or its covered investments, including those pursuant to a loan agreement;

(e) payments made pursuant to Articles 10 and 11 and arising under Part C; and

(f) earnings of nationals of a Contracting Party who work in connection with an investment in the territory of the other Contracting Party.

2. Each Contracting Party shall permit transfers relating to a covered investment to be made in a freely convertible currency at the market rate of exchange prevailing on the date of transfer. In the event that the market rate of exchange does not exist, the rate of exchange shall

Correspond to the cross rate obtained from those rates which would be applied by the International Monetary Fund on the date of payment for conversions of currencies concerned into Special Drawing Rights.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offenses

(d) reports of transfers of currency or other monetary instruments; or

(e) ensuring the satisfaction of judgments in adjudicatory proceedings.

(a) Nothing in the Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures that restrict transfers when the Contracting Party experiences serious balance of payment difficulties, or the threat thereof, provided that such measures:

(i) are of limited duration, applied on a good-faith basis, and

Should be phased out as the situation calling for imposition of such measures improves;

(ii) do not constitute a dual or multiple exchange rate practice;

(iii) do not otherwise interfere with an investor's ability to invest, in the territory of the Contracting Party, in the form chosen by the investor and, as relevant, in local currency, in any assets that are restricted from being transferred out of the territory of the Contracting Party;

(iv) are applied on an equitable and non-discriminatory basis;

(v) are promptly published by the government authorities

Responsible for financial services or central bank of the Contracting Party;

(vi) are consistent with the Articles of Agreement of the

International Monetary Fund done at Bretton Woods on 22 July 1944; and

(vii) avoid unnecessary damage to the commercial, economic and financial interests of the other Contracting Party.

(b) Sub-paragraph (a) does not apply to measures that restrict payments or transfers for current transactions 8, unless the imposition of such measures complies with the procedures set out in the Articles of Agreement of the International Monetary Fund.

5. Notwithstanding paragraph 1, a Contracting Party may restrict transfers of returns-in-kind in circumstances where it could otherwise restrict such transfers under the WTO Agreement.

Article 13. Subrogation

1. If a Contracting Party or its Agency makes a payment to one of its investors under a guarantee or contract of insurance it has granted to a covered investment of that investor, the other Contracting Party shall recognize the transfer of any right or claim of that investor to the first mentioned Contracting Party or its Agency. The subrogated right or claim shall not be greater than the original right or claim of the said investor. Such right may be exercised by the Contracting Party or any agent thereof so authorized.

2. In an arbitration under Part C, a disputing Contracting Party shall not assert, as a defence, counterclaim, right of setoff or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

Article 14. Taxation

1. Except as provided in this Article nothing in this Agreement shall apply to taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of the Contracting Parties under any tax convention. In the event of any inconsistency between the provisions of this Agreement and any such convention, the provisions of that convention shall apply to the extent of the inconsistency.

3. Nothing in this Agreement shall be construed to require a Contracting Party to furnish or allow access to information the disclosure of which would be contrary to the Contracting Party's law protecting information concerning the taxation affairs of a taxpayer.

4. The provisions of Article 10 shall apply to taxation measures.

5. No claim may be made by an investor pursuant to paragraph 4 unless:

(a) the investor provides a copy of the notice of claim to the taxation authorities of the Contracting Parties; and

(b) six months after receiving notification of the claim by the investor, the taxation authorities of the Contracting Parties fail to reach a joint determination that the measure in question is not an expropriation.

6. The taxation authorities referred to in this Article shall be the following until otherwise notified by a Contracting Party:

(a) for Canada: the Assistant Deputy Minister, Tax Policy, of the Department of Finance Canada;

(b) for China: the Ministry of Finance and State Administration of Taxation or an authorized representative of the Ministry of Finance and State Administration of Taxation.

7. The Contracting Parties shall notify each other promptly by diplomatic note of the successors to the tax authorities identified in sub-paragraphs 6(a) and (b).

Article 15. Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled by consultation through diplomatic channels.

2. If a dispute cannot thus be settled within six months, it shall, upon the request of either Contracting Party, be submitted to an ad hoc arbitral tribunal.

3. Such tribunal shall be comprised of three arbitrators. Within two months from the date on which either Contracting Party receives the written notice requesting arbitration from the other Contracting Party, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall jointly select a third arbitrator, who shall be a national of a third State which has diplomatic relations with both Contracting Parties. The third arbitrator shall be appointed by the two Contracting Parties as Chairman of the arbitral tribunal within two months from the date of appointment of the other two arbitrators.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint any arbitrator who has or have not yet been appointed. If the President is a national of either Contracting Party or is otherwise prevented from discharging this function, the next most senior member of the International Court of Justice who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall determine its own procedure.

6. The arbitral tribunal shall reach its decision by a majority of votes. The arbitral tribunal shall, upon the request of either Contracting Party, explain the reasons for its decision. Unless otherwise agreed, the arbitral tribunal shall make best efforts to render its decision within six months of the appointment of the Chairman in accordance with paragraphs 3 and 4 of this Article.

7. Each Contracting Party shall bear the cost of its appointed arbitrator and of its representation in the arbitral proceedings. The relevant costs of the Chairman and the arbitral tribunal shall be borne in equal parts by the Contracting Parties.

8. The decision of the arbitral tribunal shall be final and binding on both Contracting Parties. The Contracting Parties shall, if necessary, within 60 days of the decision of an arbitral tribunal, meet and decide on the manner in which to resolve their dispute. That decision shall normally

Implement the decision of the arbitral tribunal. If the Contracting Parties fail to reach a decision, the Contracting Party bringing the dispute shall be entitled to receive compensation of equivalent value to the arbitral tribunal's award.

Article 16. Denial of Benefits

1. A Contracting Party may, at any time including after the institution of arbitration proceedings in accordance with Part C, deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of that other Contracting Party and to covered investments of that investor:

(a) if investors of a non-Contracting Party own or control the enterprise; and

(b) the denying Contracting Party adopts or maintains measures with respect to the non-Contracting Party:

(i) that prohibit transactions with the enterprise; or

(ii) that would be violated or circumvented if the benefits of this Agreement were accorded to the enterprise or to its covered investments.

2. A Contracting Party may, at any time including after the institution of arbitration proceedings in accordance with Part C, deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of that other Contracting Party and to covered investments of that investor if investors of a non-Contracting Party or of the denying Contracting Party own or control the enterprise and the enterprise has no substantial business activities in the territory of the other Contracting Party under whose law it is constituted or organized.

3. For greater certainty, a Contracting Party may deny the benefits of this Agreement pursuant to paragraphs 1 and 2 at any time, including after the initiation of arbitration proceedings in accordance with Part C.

Article 17. Transparency of Laws, Regulations and Policies

1. Each Contracting Party shall, with a view to promoting the understanding of its laws and policies that pertain to or affect a covered investment:

(a) make such laws and policies public and readily accessible;

(b) if requested, provide copies of specified laws and policies to the other Contracting Party; and

(c) if requested, consult with the other Contracting Party with a view to explaining specified laws and policies.

2. Each Contracting Party shall ensure that its laws, regulations and policies pertaining to the conditions of admission of investments, including procedures for application and registration, criteria used for assessment and approval, timelines for processing an application and rendering a decision, and review or appeal procedures of a decision, are administered in a manner that enables investors of the other Contracting Party to become acquainted with them.

3. Each Contracting Party is encouraged to:

(a) publish in advance any measure that it proposes to adopt; and

(b) Provide interested persons and the other Contracting Party a reasonable opportunity to comment on the proposed measure.

Article 18. Consultations

1. The representatives of the Contracting Parties may hold meetings for the purpose of:

(a) reviewing the implementation of this Agreement;

(b) reviewing the interpretation or application of this Agreement;

(c) exchanging legal information;

(d) addressing disputes arising out of investments

(e) studying other issues in connection with the facilitation or encouragement of investment, including measures referred to in paragraph 3.

2. Further to consultations under this Article, the Contracting Parties may take any action as they may jointly decide, including making and adopting rules supplementing the applicable arbitral rules under Part C of this Agreement and issuing binding interpretations of this Agreement.

3. The Contracting Parties recognize that it is inappropriate to encourage investment by waiving, relaxing, or otherwise derogating from domestic health, safety or environmental measures.

Part C.

Article 19. Purpose

Without prejudice to the rights and obligations of the Contracting Parties under Article 15, this Part establishes a mechanism for the settlement of investment disputes.

Article 20. Claim by an Investor of a Contracting Party

1. An investor of a Contracting Party may submit to arbitration under this

Part a claim that the other Contracting Party has breached an obligation: o (a) under Articles 2 to 7(2), 9, 10 to 13, 14(4) or 16, if the breach is with respect to investors or covered investments of investors to which sub-paragraph (b) does not apply, or o (b) under Article 10 or 12 if the breach is with respect to investors of a Contracting Party in financial institutions in the other Contracting Party's territory or covered investments of such investors in financial institutions in the other Contracting Party's territory,

And that the investor or a covered investment of the investor has incurred loss or damage by reason of, or arising out of, that breach.

(a) Where an investor submits a claim to arbitration under this Article,

And the disputing Contracting Party invokes Article 33(3), the investor-State tribunal established pursuant to this Part may not decide whether and to what extent Article 33(3) is a valid defence to the claim of the investor. It shall seek a report in writing from the Contracting Parties on this issue. The investor-State tribunal may not proceed pending receipt of such a report or of a decision of a State-State arbitral tribunal, should such a State-State arbitral tribunal be established.

(b) Pursuant to a request for a report received in accordance with subparagraph (a), the financial services authorities of the Contracting Parties shall engage in consultations. If the financial services authorities of the Contracting Parties reach a joint decision on the issue of whether and to what extent Article 33(3) is a valid defence to the claim of the investor, they shall prepare a written report describing their joint decision. The report shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal.

(c) If, after 60 days, the financial services authorities of the Contracting Parties are unable to reach a joint decision on the issue of whether and to what extent Article 33(3) is a valid defence to the claim of the investor, the issue shall, within 30 days, be referred by either of the Contracting Parties to a State-State arbitral tribunal established pursuant to Article 15. In such a case, the provisions requiring consultations between the Contracting Parties in Article 15(1) and (2) shall not apply. The decision of the State-State arbitral tribunal shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal. All of the members of any such State-State arbitral tribunal shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

Article 21. Conditions Precedent to Submission of a Claim to Arbitration

1. Before a disputing investor may submit a claim to arbitration, the disputing parties shall first hold consultations in an attempt to settle a claim amicably. Consultations shall be held within 30 days of the submission of the notice of intent to submit a claim to arbitration, unless the disputing parties otherwise agree. The place of consultation shall be the capital of the disputing Contracting Party, unless the disputing parties otherwise agree.

2. Subject to the Party-specific requirements set out in Annex C.21, a disputing investor may submit a claim to arbitration under Article 20 only if:

(a) the investor consents to arbitration in accordance with the procedures set out in this Agreement and delivers notice of such consent to the disputing Contracting Party together with the submission of a claim to arbitration;

(b) at least six months have elapsed since the events giving rise to the claim;

(c) the investor has delivered to the disputing Contracting Party written notice of its intent to submit a claim to arbitration at least four months prior to submitting the claim;

(d) the investor has delivered, with its notice of intent to submit a claim to arbitration under sub-paragraph (c), evidence establishing that it is an investor of the other Contracting Party;

(e) the investor has waived its right to initiate or continue dispute settlement proceedings under any agreement between a third State and the disputing Contracting Party in relation to the measure alleged to be a breach of an obligation under Part B of this Agreement; and

(f) not more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor or a covered investment of the investor has incurred loss or damage thereby.

Article 22. Submission of a Claim to Arbitration

1. A disputing investor who meets the conditions precedent provided for in Article 21 may submit the claim to arbitration under:

(a) the ICSID Convention, provided that both Contracting Parties are parties to that Convention;

(b) the Additional Facility Rules of ICSID, provided that one Contracting Party, but not both, is a party to the ICSID Convention; or

(c) the UNCITRAL Arbitration Rules,

As supplemented or modified by the rules set out in this Agreement or adopted by the Contracting Parties.

2. A claim is submitted to arbitration under this Part when:

(a) the request for arbitration under Article 36(1) of the ICSID Convention is received by the Secretary General;

(b) the notice of arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary General; or

(c) the notice of arbitration given under the UNCITRAL Arbitration Rules is received by the disputing Contracting Party.

3. Delivery of notice and other documents to a Contracting Party shall be made to the place named for that Contracting Party below:

(a) For Canada: Office of the Deputy Attorney General of Canada, Justice Building, 239 Wellington Street, Ottawa, Ontario, K1A 0H8;

(b) For China: Department of Treaty and Law, Ministry of Commerce of the People's Republic of China.

4. The Contracting Parties shall notify each other promptly by diplomatic note of any change in the place for delivery.

Article 23. Consent to Arbitration

Each Contracting Party consents to the submission of a claim to arbitration in accordance with the procedures set out in this Agreement. Failure to meet any of the conditions precedent provided for in Article 21 shall nullify that consent.

Article 24. Arbitrators

1. Except in respect of a Tribunal established under Article 26, and unless the disputing parties agree otherwise, the Tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

2. Arbitrators shall:

(a) have expertise or experience in public international law, international trade or international investment rules, or the resolution of disputes arising under international trade or international investment agreements;

(b) be independent of, and not be affiliated with, or take instructions from, either Contracting Party or disputing party; and

(c) Comply with any additional rules where such rules are agreed to by the Contracting Parties.

3. Where the claimant claims that a dispute involves measures adopted or maintained by the disputing Contracting Party relating to financial institutions of the other Contracting Party, or investors of the other Contracting Party and covered investments of such investors in financial institutions in the disputing Contracting Party's territory, then:

(a) where the disputing parties are in agreement, the arbitrators shall, in addition to the criteria set out in paragraph 2, have expertise or experience in financial services law or practice, which may include the regulation of financial institutions; or

(b) where the disputing parties are not in agreement,

(i) each disputing party may select arbitrators who meet the qualifications set out in subparagraph (a), and

(ii) if the disputing Contracting Party invokes Article 33(4), the presiding arbitrator shall meet the qualifications set out in subparagraph (a).

4. If the disputing parties do not agree on the remuneration of the arbitrators before the constitution of the Tribunal, the prevailing ICSID rate for arbitrators shall apply.

5. If a Tribunal, other than a Tribunal established under Article 26, has not been constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary General of ICSID, on the request of either disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed, except that the presiding arbitrator shall not be a national of either Contracting Party.

Article 25. Agreement to Appointment of Arbitrators

For the purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the Additional Facility Rules of ICSID, and without prejudice to an objection to an arbitrator based on a ground other than citizenship or permanent residence:

(a) the disputing Contracting Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the Additional Facility Rules of ICSID;

(b) a disputing investor may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the Additional Facility Rules of ICSID, only on condition that the disputing investor agrees in writing to the appointment of each individual member of the Tribunal.

Article 26. Consolidation

1. Where two or more claims have been submitted separately to arbitration under Article 20 and the claims have a question of law or fact

In common and arise out of the same events or circumstances, any disputing party may seek a consolidation order in accordance with either the agreement of all the disputing parties sought to be covered by the order, or the terms of paragraphs 2 through 9.

2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General of ICSID and to all the disputing parties sought to be covered by the order and shall specify in the request: the names and addresses of all the disputing parties sought to be covered by the order; the nature of the order sought; and the grounds on which the order is sought.

3. Unless the Secretary-General of ICSID finds within 30 days after receiving a request under paragraph 2 that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless all the disputing parties sought to be covered by the order otherwise agree, a tribunal established under this Article shall comprise three arbitrators: one arbitrator appointed by agreement of the claimants; one arbitrator appointed by the respondent; and the presiding arbitrator appointed by the Secretary-General of ICSID, provided, however, that the presiding arbitrator shall not be a national of either Contracting Party.

5. If, within 60 days after the Secretary-General of ICSID receives a request made under paragraph 2, the disputing

Contracting Party fails or the claimants fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General of ICSID, at the request of any disputing party sought to be covered by the order, shall appoint the arbitrator or arbitrators not yet appointed.

6. Where a tribunal established under this Article is satisfied that two or more claims that have been submitted to arbitration under Article 20 have a question of law or fact in common, and arise out of the same events or circumstances, the tribunal may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order: assume jurisdiction over, and hear and determine together, all or part of the claims; or assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.

7. A tribunal established under this Article shall conduct its proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Section.

8. A tribunal established under Articles 22 through 25 shall not have jurisdiction to decide a claim, or a part of a claim, over which a tribunal established under this Article has assumed jurisdiction.

9. On application of a disputing party, a tribunal established under this Article may, pending its decision under paragraph 6, order that the proceedings of a tribunal established under Article 22 through 25 be stayed, unless the latter tribunal has already adjourned its proceedings.

Article 27. The Non-disputing Contracting Party: Documents and Participation

1. A disputing Contracting Party shall deliver to the other Contracting Party a copy of the notice of intent to submit a claim to arbitration, and the relevant document submitted pursuant to Article 22(2) no later than 30 days after the date that such documents have been delivered to the disputing Contracting Party. The non-disputing Contracting Party shall be entitled, at its cost, to receive from the disputing Contracting Party a copy of the evidence that has been tendered to the Tribunal, copies of all pleadings filed in the arbitration, and the written argument of the disputing parties. The Contracting Party receiving such information shall treat the information as if it were a disputing Contracting Party.

2. The non-disputing Contracting Party shall have the right to attend any hearings held under this Part of this Agreement. Upon written notice to the disputing parties, the non-disputing Contracting Party may make submissions to a Tribunal on a question of interpretation of this Agreement.

Article 28. Public Access to Hearings and Documents

1. Any Tribunal award under this Part shall be publicly available, subject to the redaction of confidential information. Where a disputing Contracting Party determines that it is in the public interest to do so and notifies the Tribunal of that determination, all other documents submitted to, or issued by, the Tribunal shall also be publicly available, subject to the redaction of confidential information.

2. Where, after consulting with a disputing investor, a disputing Contracting Party determines that it is in the public interest to do so and notifies the Tribunal of that determination, hearings held under this Part shall be open to the public. To the extent necessary to ensure the protection of confidential information, including business confidential information, the Tribunal may hold portions of hearings in camera.

3. A disputing party may disclose to other persons in connection with the arbitral proceedings such unredacted documents as it considers necessary for the preparation of its case, but it shall ensure that those persons protect the confidential information in such documents.

4. The Contracting Parties may share with officials of their respective federal and sub-national governments all relevant unredacted documents in the course of dispute settlement under this Agreement, but they shall ensure that those persons protect any confidential information in such documents.

5. To the extent that a Tribunal's confidentiality order designates information as confidential and a Contracting Party's law on access to information requires public access to that information, the Contracting Party's law on access to information shall prevail. However, a Contracting Party should endeavour to apply its law on access to information so as to protect information designated confidential by the Tribunal.

Article 29. Submissions by a Non-disputing Party

A Tribunal, after consultation with the disputing parties, may accept written submissions from a person or entity that is not

a disputing party if that non-disputing party has a significant interest in the arbitration. The Tribunal shall ensure that any non-disputing party submission does not disrupt the proceedings and that neither disputing party is unduly burdened or unfairly prejudiced by it.

An application to the Tribunal for leave to file a non-disputing party submission, and the filing of a submission, if allowed by the Tribunal, shall be made in accordance with Annex C.29.

Article 30. Governing Law

1. A Tribunal established under this Part shall decide the issues in dispute in accordance with this Agreement, and applicable rules of international law, and where relevant and as appropriate, take into consideration the law of the host Contracting Party. An interpretation by the Contracting Parties of a provision of this Agreement shall be binding on a Tribunal established under this Part, and any award under this Part shall be consistent with such interpretation.

2. Where a disputing Contracting Party asserts as a defence that the measure alleged to be a breach is within the scope of the reservations and exceptions set out in Article 8(1), (2) and (3), on request of the disputing Contracting Party, the Tribunal shall request the interpretation of the Contracting Parties on the issue. The Contracting Parties, within 60 days of delivery of the request, shall submit in writing their joint interpretation to the Tribunal. The interpretation shall be binding on the Tribunal. If the Contracting Parties fail to submit an interpretation within 60 days, the Tribunal shall decide the issue.

Article 31. Interim Measures of Protection and Final Award

1. A Tribunal may recommend an interim measure of protection to preserve the rights of a disputing party, or to ensure that the Tribunal's jurisdiction is made fully effective, including a recommendation to preserve evidence in the possession or control of a disputing party or to

Protect the Tribunal's jurisdiction. A Tribunal shall not recommend attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 20.

2. Where a Tribunal makes a final award against the disputing Contracting Party, the Tribunal may award, separately or in combination, and subject to the requirements in paragraph 3, only:

(a) monetary damages and any applicable interest;

(b) restitution of property, in which case the award shall provide that the disputing Contracting Party may pay monetary damages and any applicable interest in lieu of restitution.

The Tribunal may also award costs in accordance with the applicable arbitration rules.

3. Where a claim is made for damages to a covered investment that is a juridical person that the investor owns or controls:

(a) an award of monetary damages and any applicable interest shall provide that the sum be paid to that covered investment;

(b) an award of restitution of property shall provide that restitution be made to that covered investment; and

(c) the award shall provide that it is made without prejudice to any right that any person may have in the relief under applicable domestic law.

4. A Tribunal shall not order a disputing Contracting Party to pay punitive damages.

Article 32. Finality and Enforcement of an Award

1. An award made by a Tribunal shall have no binding force except between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party may not seek enforcement of a final award until:

(a) in the case of a final award made under the ICSID Convention:

(i) 120 days have elapsed from the date the award was rendered, provided that a disputing party has not requested the

award be revised or annulled, or

(ii) revision or annulment proceedings have been completed; and

(b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:

(i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award, or

(ii) a court has dismissed or allowed an application to

Revise, set aside or annul the award and there is no further appeal.

4. Each Contracting Party shall provide for the enforcement of an award in its territory.

Part D.

Article 33. General Exceptions

1. Nothing in this Agreement shall apply to measures in respect of cultural industries. "Cultural industries" means natural persons or enterprises engaged in any of the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but does not include the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution, sale or exhibition of music in print or machine readable form; or

(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television or cable broadcasting undertakings and all satellite programming and broadcast network services.

2. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures, including environmental measures:

(a) necessary to ensure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;

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

(c) relating to the conservation of living or non-living exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

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

(a) the protection of depositors, financial market participants and investors 9, policy-holders, policy-claimants, or persons to whom a fiduciary duty is owed by a financial institution;

(b) the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and

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

4. Nothing in this Agreement shall apply to non-discriminatory measures of general application taken by any public entity 10 in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Contracting Party's obligations under Article 12.

5. Nothing in this Agreement shall be construed:

(a) to require a Contracting Party to furnish or allow access to any information if the Contracting Party determines that the disclosure of that information is contrary to its essential security interests;

(b) to prevent a Contracting Party from taking any actions that it considers necessary for the protection of its essential

security interests:

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,

(ii) in time of war or other emergency in international relations, or

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

(c) to prevent a Contracting Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

(a) Nothing in this Agreement shall be construed to require a Contracting Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Contracting Party's law protecting Cabinet confidences, personal privacy or the confidentiality of the financial affairs and accounts of individual customers of financial institutions.

(b) Nothing in this Agreement shall be construed to require, during the course of any dispute settlement procedure under this Agreement, a Contracting Party to furnish or allow access to information protected under its competition laws, or a competition authority of a Contracting Party to furnish or allow access to any other information that is privileged or otherwise protected from disclosure.

(c) In subparagraph (b),

"competition authority" means the following until otherwise notified by a Contracting Party:

(i) for Canada, the Commissioner of Competition; and

(ii) for China, the authority for enforcement of anti-monopoly law under the State Council.

The Contracting Parties shall notify each other promptly by diplomatic note of the successors to the competition authorities identified in sub-paragraphs (i) and (ii).

"information protected under its competition laws" means:

(i) for Canada, information within the scope of section 29 of the Competition Act, R.S. 1985, c.34, or any successor provision; and

(ii) for China, information protected from disclosure under the relevant provisions of the Anti-Monopoly Law, the Pricing Law and the Law Against Unfair Competition, or any successor provisions.

7. Any measure adopted by a Contracting Party in conformity with a decision adopted by the World Trade Organization pursuant to Article IX:3 of the WTO Agreement shall be deemed to be also in conformity with this Agreement. An investor purporting to act pursuant to Article 20 of this Agreement may not claim that such a conforming measure is in breach of this Agreement.

Article 34. Exclusions

Article 15 and Part C of this Agreement do not apply to the decisions set out in Annex D.34.

Article 35. Entry Into Force and Termination

1. The Contracting Parties shall notify each other through diplomatic channels that they have completed the internal legal procedures for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the following month after the second notification is received, and shall remain in force for a period of at least fifteen years.

2. After the expiration of the initial fifteen-year period, this Agreement shall continue to be in force. Either Contracting Party may at any time thereafter terminate this Agreement. The termination will be effective one year after notice of termination has been received by the other Contracting Party.

3. With respect to investments made prior to the date of termination of this Agreement, Articles 1 to 34, as well as paragraph 4 of this Article, shall continue to be effective for an additional fifteen-year period from the date of termination.

4. The Annexes and footnotes to this Agreement constitute integral parts

Of this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of their respective Governments have signed this Agreement.

DONE in duplicate at_, this_day of

_2012, in the English, French and Chinese languages,

All texts being equally authentic.

FOR THE GOVERNMENT OF CANADA

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Annex B.8 Exceptions

1. Canada reserves the right to adopt or maintain any measure that does not conform to the obligations in Articles 5, 6 or 7, provided that in the Schedule of Canada, including its headnote, in Annex II to the Free Trade Agreement between Canada and the Republic of Peru, as done at Lima on 29 May 2008, Canada reserved the right to adopt or maintain that measure in respect of investors or investments of investors of Peru. For greater certainty, this right is reserved even if the Canada-Peru Free Trade Agreement is no longer in force.

2. China reserves the right to adopt or maintain any measure that does not conform to the obligations in Articles 5, 6 or 7, provided that in Chapter 10 of the Free Trade Agreement between China and the Republic of Peru, as done at Beijing on 28 April 2008, China reserved the right to adopt or maintain that measure in respect of investors or investments of investors of Peru. For greater certainty, this right is reserved even if the China-Peru Free Trade Agreement is no longer in force.

Annex B.10

Expropriation

The Contracting Parties confirm their shared understanding that:

1. Indirect expropriation results from a measure or series of measures of a Contracting Party that has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

2. The determination of whether a measure or series of measures of a Contracting Party constitutes an indirect expropriation requires a case-bycase, fact-based inquiry that considers, among other factors:

(a) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Contracting Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

(b) the extent to which the measure or series of measures interferes with distinct, reasonable, investment-backed expectations; and

(c) the character of the measure or series of measures.

3. Except in rare circumstances, such as if a measure or series of measures is so severe in light of its purpose that it cannot be reasonably viewed as having been adopted and applied in good faith, a non-discriminatory measure or series of measures of a Contracting Party that is designed and applied to protect the legitimate public objectives for the well-being of citizens, such as health, safety and the environment, does not constitute indirect expropriation.

Annex B.12

Transfers and Exchange Formalities

With regards to China:

1. The obligations in Article 12(1) shall apply provided that the transfer complies with the relevant formalities stipulated by the present laws and regulations of China relating to exchange control. These formalities:

(a) shall not be used as a means of avoiding China's commitments or obligations under this Agreement; and

(b) shall not be made more restrictive than the formalities required at the time when original investment was made.

2. With respect to these formalities, China shall accord to investors of Canada or covered investments of Canadian investors treatment no less favourable than the treatment that China accords to third country investors or investments of such investors. To the extent that these formalities are no longer required according to the relevant laws of China, Article 12(1) shall apply without restrictions.

3. A transfer shall be deemed to have been made 'without delay' within the meaning of Article 12(1) if effected within such period as is normally required for the completion of transfer formalities. The said period shall commence on the day on which the relevant request has been submitted to the relevant foreign exchange administration with full and authentic documentation and information and may not exceed two months.

Annex C.21

Conditions Precedent to Submission of a Claim to Arbitration: Party-Specific Requirements

Where the claim concerns a measure of China:

1. Upon receipt of the Notice of Intent or at any time prior, China shall require that an investor make use of the domestic administrative reconsideration procedure. If the investor considers that the dispute still exists four months 11 after the investor has applied for the administrative reconsideration, or where no such remedies are available, the investor may submit its claim to arbitration.

2. An investor who has initiated proceedings before any court of China with respect to the measure of China alleged to be a breach of an obligation under Part B may only submit a claim to arbitration under Article 20 if the investor has withdrawn the case from the national court before judgment has been made on the dispute. This requirement does not apply to the domestic administrative reconsideration procedure referred to in paragraph 1.

Where the claim concerns a measure of Canada:

3. The investor and, where the claim is for loss or damage to an interest in an enterprise of Canada that is a juridical person that the investor owns or controls directly or indirectly, the enterprise shall waive their right to initiate or continue before any administrative tribunal or court under the law of any Contracting Party, or other dispute settlement procedures, any proceedings with respect to the measure of Canada that is alleged to be a breach referred to in Article 20, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of Canada.

4. The waiver required under paragraph 3 shall be delivered to Canada and shall be included in the submission of a claim to arbitration. A waiver from the enterprise shall not be required if Canada has deprived a disputing investor of control of an enterprise.

Annex C.29

Submissions by Non-Disputing Parties

1. The application for leave to file a non-disputing party submission shall:

(a) be made in writing, dated and signed by the person filing the application, and include the address and other contact details of the applicant;

(b) be no longer than 5 typed pages;

(c) describe the applicant, including, where relevant, its

Membership and legal status (e.g., company, trade association or other non-governmental organization), its general objectives, the

Nature of its activities, and any parent organization (including any organization that directly or indirectly controls the applicant); o (d) disclose whether the applicant has any affiliation, direct or indirect, with any disputing party; o (e) identify any government, person or organization that has provided any financial or other assistance in preparing the submission;

(f) specify the nature of the interest that the applicant has in the arbitration, including an explanation of how the submission would assist the Tribunal in the determination of a factual or legal issue related to the proceedings by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;

(g) identify the specific issues of fact or law in the arbitration that the applicant has addressed in its written submission; and o (h) be made in a language of the arbitration.

2. The submission filed by a non-disputing party shall:

(a) be dated and signed by the person filing the submission; o (b) be concise, and in no case longer than 20 typed pages, including any appendices;

(c) set out a precise statement supporting the applicant's position on the issues; and

(d) only address matters within the scope of the dispute.

Annex D.34 Exclusions

1. A decision by Canada following a review under the Investment Canada Act, an Act respecting investment in Canada, with respect to whether or not to:

(a) initially approve an investment 12 that is subject to review; or o (b) permit an investment that is subject to national security review;

Shall not be subject to the dispute settlement provisions under Article 15 and Part C of this Agreement.

2. A decision by China following a review under the Laws, Regulations and

Rules relating to the regulation of foreign investment, with respect to whether or not to:

(a) initially approve an investment that is subject to review; or o (b) permit an investment that is subject to national security review 13;

Shall not be subject to the dispute settlement provisions under Article 15 and Part C of this Agreement.

Endnotes

1 For greater certainty, the elements "seeks to make" and "is making" in the definition of an investor are only applicable with respect to Article 5.

2 For Canada, "provincial government" includes a territorial government.

3 For greater certainty, the treatment accorded by a Contracting Party under this Article means, with respect to a provincial government, treatment accorded, in like circumstances, by that provincial government to investors, and to investments of investors, of a non-Contracting Party.

4 For greater certainty, the treatment accorded by a Contracting Party under this Article means, with respect to a provincial government, treatment accorded, in like circumstances, by that provincial government to investors, and to investments of investors, of the Contracting Party of which it forms a part.

5 The exception described in this paragraph applies without prejudice to the rights reserved by Canada and China in paragraph 3.

6 Annex B.10 shall apply to this paragraph.

7 Annex B.12 shall apply to this Article.

8 "Current transactions" has the meaning set out in Article XXX(d) of the Articles of Agreement of the International Monetary Fund.

9 It is understood that the term "investors" in this provision means investors in the financial markets of a Contracting Party.

10 "Public entity" means a central bank or monetary authority of a Contracting Party, or any financial institution owned or controlled by a Contracting Party.

11 The time limit of "four months" in this paragraph is based on the relevant provisions of the Law of the People's Republic of China on Administrative Reconsideration (adopted at the 9th Meeting of the Standing Committee of the Ninth National People's Congress on April 29, 1999) on the date of the entry into force of this Agreement. In the event that China revises the relevant provisions on the time limit for the administrative reconsideration stipulated in the Law of the People's Republic of China on Administrative Reconsideration in the future, China shall, in a timely manner, provide Canada with relevant

information and may request consultations with Canada pursuant to Article 18 of this Agreement.

12 For Canada, the concept of "initially approve an investment" in paragraph 1 means all decisions made with respect to whether or not to permit an investment under the Investment Canada Act. 13

13 For China, "national security review" may include a review of various forms of investments for national security purposes. At the time of the entry into force of this Agreement, the specific legal document on China's national

Security review is the Circular of the General Office of the State Council on the Establishment of the Security Review System For The Merger and Acquisition of Domestic Enterprises by Foreign Investors, focusing on the review of mergers and acquisitions of domestic enterprises by foreign investors.