AGREEMENT BETWEEN JAPAN AND THE PEOPLE'S REPUBLIC OF BANGLADESH FOR AN ECONOMIC PARTNERSHIP

Preamble

Japan and the People's Republic of Bangladesh (hereinafter referred to as "Bangladesh"),

Conscious of their strong diplomatic and economic bond and longstanding friendship that have developed through many years of fruitful and mutually beneficial cooperation and growing trade and investment between the Parties;

Recognizing that the economies of the Parties are endowed with conditions to complement each other and that this complementarity should contribute to further promoting the sustainable economic development in the Parties, by making use of their respective economic strengths through bilateral trade and investment activities;

Seeking to create a clearly established legal framework through mutually advantageous rules to facilitate trade and investment between the Parties, which would enhance the competitiveness of their economies, promote the economic relations and partnership between them, make their markets more efficient and dynamic, and ensure a predictable commercial environment;

Believing that this Agreement will not only contribute to further increasing trade and investment between the Parties but also to strengthening their political and diplomatic relations, which play an important role in the economy as well as peace and stability in the respective regions;

Recognizing that this Agreement contributes to strengthening the free, open, fair and rules-based international economic order that serves as the foundation of economic development, stability and growth of the Parties, and realizing that a dynamic and rapidly changing global environment presents many new economic challenges including non-market policies and practices and coercive economic measures that may undermine such order;

Recognizing that supply chains benefit from the establishment of predictable, fair, and competitive markets that respect the environment, health and safety as well as labor rights, and that secure and resilient supply chains must be developed, maintained and prepared to respond effectively to unexpected events;

Reaffirming the view that this Agreement will be an important framework for strengthening their "Strategic Partnership"; and

Recalling Article XXIV of the GATT 1994 and Article V of the GATS, Have agreed as follows:

Chapter 1. General Provisions

Article 1.1. Objectives

The objectives of this Agreement are to liberalize and facilitate trade and promote investment, as well as to strengthen a closer economic relationship between the Parties.

Article 1.2. General Definitions

For the purposes of this Agreement, unless otherwise specified:

(a) the term "Agreement on Agriculture" means the Agreement on Agriculture in Annex 1A to the WTO Agreement;

(b) the term "Agreement on Customs Valuation" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

(c) the term "Agreement on Subsidies and Countervailing Measures" means the Agreement on Subsidies and Countervailing

Measures in Annex 1A to the WTO Agreement;

(d) the term “Area” means the territory of a Party, and the exclusive economic zone and the continental shelf with respect to which that Party exercises sovereign rights or jurisdiction in accordance with international law;

Note: Nothing in this subparagraph shall affect the rights and obligations of the Parties under international law, including those under the UNCLOS.

(e) the term “days” means calendar days, including weekends and holidays;

(f) the term “juridical person” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, association, or similar organization, and a branch thereof;

(g) a juridical person is:

(i) “owned” by one or more persons if more than 50 percent of the equity interest in it is owned by the persons;

(ii) “controlled” by one or more persons if the persons have the power to name a majority of its directors or otherwise to legally direct its actions; and

(iii) “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;

(h) the term “juridical person of a Party” means a juridical person constituted or organized under the applicable laws and regulations of a Party;

(i) the term “GATS” means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement;

(j) the term “GATT 1994” means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement. For the purposes of this Agreement, references to articles in the GATT 1994 include the interpretative notes;

(k) the term “Harmonized System” or “HS” means the Harmonized Commodity Description and Coding System, including General Rules of Interpretation, Section Notes, Chapter Notes and Subheading Notes, as adopted and administered by the World Customs Organization, set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System, and adopted and implemented by the Parties in their respective laws;

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

(m) the term “Parties” means Japan and Bangladesh and the term “Party” means either Japan or Bangladesh;

(n) the term “person” means a natural person or a juridical person;

(o) the term “SPS Agreement” means the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1A to the WTO Agreement;

(p) the term “TRIPS Agreement” means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement;

(q) the term “UNCLOS” means the United Nations Convention on the Law of the Sea, done at Montego Bay on December 10, 1982;

(r) the term “WTO” means the World Trade Organization; and

(s) the term “WTO Agreement” means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on April 15, 1994.

Article 1.3. Confidential Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information provided in confidence by the other Party in accordance with this Agreement.

2. Unless otherwise provided for in this Agreement, nothing in this Agreement shall require a Party to provide confidential information, the disclosure of which would impede the enforcement of its laws and regulations, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 1.4. Taxation

1. Unless otherwise provided for in this Agreement, the provisions of this Agreement shall not apply to any taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

3. Article 1.3 and Chapter 19 shall apply to taxation measures, to the extent that the provisions of this Agreement are applicable to such taxation measures.

Article 1.5. General and Security Exceptions

1. For the purposes of Chapters 2 through 6, 9, 10, 14 and 15, Article XX of the GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis.

Note: The Parties understand that the measures referred to in subparagraph (b) of Article XX of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that subparagraph (g) of that Article applies to measures relating to the conservation of living and non-living exhaustible natural resources.

2. For the purposes of Chapters 7 through 10, 14 and 15, Article XIV of the GATS is incorporated into and made part of this Agreement, mutatis mutandis.

Note: The Parties understand that the measures referred to in subparagraph (b) of Article XIV of the GATS include environmental measures necessary to protect human, animal or plant life or health.

3. Nothing in this Agreement shall be construed:

(a) to require a Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

(b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;

(iii) taken so as to protect critical public infrastructures, whether publicly-owned or privately-owned, including communications, power and water infrastructures; or

(iv) taken in time of national emergency or war or other emergency in international relations; or

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

Article 1.6. Relation to other Agreements

1. The Parties reaffirm their rights and obligations under the WTO Agreement or any other agreements to which both Parties are parties.

2. In the event of any inconsistency between this Agreement and any agreement to which both Parties are parties, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution, taking into consideration general principles of international law.

Article 1.7. Joint Committee

1. The Parties hereby establish a Joint Committee under this Agreement.

2. The functions of the Joint Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Agreement and, when necessary, making appropriate recommendations to the Parties;

(b) considering and recommending to the Parties any amendments to this Agreement;

(c) supervising and coordinating the work of all Sub-Committees established under this Agreement;

(d) adopting:

(i) the Operational Procedures for Trade in Goods referred to in Article 2.22;

(ii) the Operational Procedures for Rules of Origin referred to in Article 3.30;

(iii) the Rules of Procedure for Arbitration Proceedings and the Code of Conduct referred to in subparagraph (c) of Article 21.1 and subparagraph 10(g) of Article 21.8 respectively; and

(iv) any necessary decisions; and

(e) carrying out other functions as the Parties may decide.

3. The Joint Committee:

(a) shall be composed of representatives of the Governments of the Parties; and

(b) may establish and delegate its responsibilities to Sub-Committees.

4. The Joint Committee shall establish its rules and procedures.

5. The Joint Committee shall hold the first meeting on the date of entry into force of this Agreement, and thereafter, meet at such times and venues or by means, as may be decided by the Parties.

Article 1.8. Sub-Committees

1. The following Sub-Committees shall be established on the date of entry into force of this Agreement:

(a) Sub-Committee on Trade in Goods, as provided for in Article 2.21;

(b) Sub-Committee on Rules of Origin, as provided for in Article 3.29;

(c) Sub-Committee on Customs Procedures and Trade Facilitation, as provided for in Article 4.23;

(d) Sub-Committee on Sanitary and Phytosanitary Measures, as provided for in Article 5.5;

(e) Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures, as provided for in Article 6.9;

(f) Sub-Committee on Trade in Services, as provided for in Article 7.17;

(g) Sub-Committee on Investment, as provided for in Article 9.19;

(h) Sub-Committee on Government Procurement, as provided for in Article 11.22;

(i) Sub-Committee on Intellectual Property, as provided for in Article 12.66;

(j) Sub-Committee on Improvement of the Business Environment, as provided for in Article 16.2;

(k) Sub-Committee on Labor, as provided for in Article 17.4;

(l) Sub-Committee on Environment, as provided for in Article 18.5; and

(m) Sub-Committee on Cooperation, as provided for in Article 20.4.

2. The Sub-Committees shall carry out the functions specified in the corresponding Articles referred to in paragraph 1.

Article 1.9. Communications

Each Party shall designate a contact point to facilitate communications between the Parties on any matter related to this

Agreement.

Chapter 2. Trade In Goods

Section 1. General Rules

Article 2.1. Definitions

For the purposes of this Chapter:

(a) the term “Agreement on Anti-Dumping” means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

(b) the term “Agreement on Safeguards” means the Agreement on Safeguards in Annex 1A to the WTO Agreement;

(c) the term “bilateral safeguard measure” means a bilateral safeguard measure provided for in paragraph 2 of Article 2.10;

(d) the term “customs duty” means any customs or import duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like goods or, directly competitive or substitutable goods of the Party or in respect of goods from which the imported goods have been manufactured or produced in whole or in part;

(ii) anti-dumping or countervailing duty applied pursuant to a Party’s law and applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on Anti-Dumping and the Agreement on Subsidies and Countervailing Measures; or

(iii) fees or other charges commensurate with the cost of services rendered;

(e) the term “customs value of goods” means the value of goods for the purpose of levying ad valorem customs duties on imported goods;

(f) the term “domestic industry” means the producers as a whole of the like or directly competitive goods operating in a Party, or those whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of those goods;

(g) the term “export subsidy” means subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance including those illustrated in Annex I of the Agreement on Subsidies and Countervailing Measures or export subsidies listed in subparagraphs 1(a) through (f) of Article 9 of the Agreement on Agriculture;

Note 1: This standard is met when the facts demonstrate that the granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings. The mere fact that a subsidy is granted to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of Article 3.1 of the Agreement on Subsidies and Countervailing Measures.

Note 2: Measures referred to in Annex I of the Agreement on Subsidies and Countervailing Measures as not constituting export subsidies shall not be prohibited under Article 3.1 or any other provision of the Agreement on Subsidies and Countervailing Measures.

(h) the term “Import Licensing Agreement” means the Agreement on Import Licensing Procedures in Annex 1A to the WTO Agreement;

(i) the term “import licensing procedure” means an administrative procedure requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body of the importing Party as a prior condition for importation into the territory of the importing Party;

(j) the term “originating good” means a good which qualifies as an originating good in accordance with Chapter 3;

(k) the term “provisional bilateral safeguard measure” means a provisional bilateral safeguard measure provided for in paragraph 1 of Article 2.15;

(l) the term “serious injury” means a significant overall impairment in the position of a domestic industry; and

(m) the term “threat of serious injury” means serious injury that is clearly imminent, on the basis of facts and not merely on allegation, conjecture or remote possibility.

Article 2.2. Classification of Goods

The classification of goods in trade between the Parties shall be in conformity with the Harmonized System.

Article 2.3. National Treatment

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

Article 2.4. Elimination or Reduction of Customs Duties

1. Unless otherwise provided for in this Agreement, each Party shall eliminate or reduce its customs duties on originating goods of the other Party in accordance with its Schedule in Annex 1.

2. Each Party shall, in cases where its most-favored-nation applied rate of customs duty on a particular good becomes lower than the rate of customs duty to be applied in accordance with paragraph 1 on the originating good which is classified under the same tariff line as that particular good, apply the lower rate of customs duty with respect to that originating good regardless of whether an importer has claimed for preferential tariff treatment referred to in subparagraph (o) of Article 3.1 or not.

Article 2,5. Customs Valuation

For the purpose of determining the customs value of goods traded between the Parties, the provisions of Part I of the Agreement on Customs Valuation shall apply mutatis mutandis.

Article 2.6. Export Duties

Each Party shall endeavor to minimize its duties on goods exported from the Party to the other Party.

Article 2.7. Export Subsidies

Neither Party shall introduce or maintain any export subsidy on any good destined for the other Party, inconsistent with the Agreement on Subsidies and Countervailing Measures and the Ministerial Decision of December 19, 2015 on Export Competition (WT/MIN(15)/45, WT/L/980), adopted at Nairobi on December 19, 2015.

Article 2.8. Import and Export Restrictions

1. Neither Party shall introduce or maintain any prohibition or restriction other than customs duties on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the other Party, inconsistent with its obligations under the relevant provisions of the WTO Agreement.

2. In cases where a Party introduces a prohibition or restriction other than customs duties taken consistently with the provisions of the WTO Agreement, with respect to the importation from, or the exportation to, the other Party of a good upon which the Parties agree, the former Party shall make available, and endeavor to notify, relevant information to the other Party, prior to the introduction of such prohibition or restriction, or as soon as possible thereafter, in a manner consistent with the laws and regulations of the former Party.

Note: A Party may comply with this paragraph by providing the relevant information to the other Party through the relevant procedures under the WTO Agreement.

Article 2.9. Import Licensing Procedures

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement. Neither Party shall introduce or maintain a measure that is inconsistent with the Import Licensing Agreement.

2. Each Party shall notify the other Party of any new import licensing procedure and any modification it makes to its existing import licensing procedures, to the extent possible 30 days before the new procedure or modification takes effect. In no case shall a Party provide the notification later than 60 days after the date of its publication. A notification provided under this paragraph shall include the information specified in Article 5 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this paragraph if it notifies a new import licensing procedure or a modification to an existing import licensing procedure to the WTO Committee on Import Licensing in accordance with paragraph 1, 2, or 3 of Article 5 of the Import Licensing Agreement.

3. Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government website. Such publication shall take place, whenever practicable, 21 days prior to the effective date of the requirement but in all events not later than such effective date.

4. Each Party shall, on request of the other Party, promptly and to the extent possible, respond to the request of that other Party for information on a measure relating to an import licensing procedure of general application.

5. If a Party denies an import license application with respect to a good of the other Party, it shall, on request of the applicant or the other Party and within a reasonable period of time after receiving the request, provide the applicant or the other Party with an explanation of the reason for the denial.

Section 2. Safeguard Measures

Article 2.10. Application of Bilateral Safeguard Measures

1. Subject to the provisions of this Section, a Party may apply a bilateral safeguard measure, to the minimum extent necessary to prevent or remedy the serious injury to its domestic industry and to facilitate adjustment thereof, if an originating good of the other Party, as a result of the elimination or reduction of a customs duty in accordance with Article 2.4, is being imported into the former Party in such increased quantities, in absolute terms, and under such conditions that the imports of that originating good constitute cause of serious injury or threat of serious injury, to a domestic industry of the former Party.

2. A Party may, as a bilateral safeguard measure:

(a) suspend the further reduction of any rate of customs duty on the originating good provided for in this Chapter; or

(b) increase the rate of customs duty on the originating good to a level not to exceed the lesser of:

(i) the most-favored-nation applied rate of customs duty in effect on the date on which the bilateral safeguard measure is applied; and

(ii) the most-favored-nation applied rate of customs duty in effect on the date immediately preceding the date of entry into force of this Agreement.

Article 2.11. Investigation

1. A Party may apply a bilateral safeguard measure only after an investigation has been carried out by the competent authorities of that Party in accordance with the same procedures as those provided for in Article 3 and subparagraph 2(c) of Article 4 of the Agreement on Safeguards.

2. The investigation referred to in paragraph 1 shall, except in special circumstances, be completed within one year, and in no case more than 18 months following its date of initiation.

In the investigation referred to in paragraph 1 to determine whether increased imports of an originating good have caused or are threatening to cause serious injury to a domestic industry under the terms of this Article, the competent authorities 3. of a Party which carry out the investigation shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that domestic industry, in particular, the rate and amount of the increase in imports of the originating good in absolute terms, the share of the domestic market taken by the increased imports of the originating good, and the changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

4. The determination that increased imports of an originating good have caused or are threatening to cause serious injury to a domestic industry shall not be made unless the investigation referred to in paragraph 1 demonstrates, on the basis of objective evidence, the existence of the causal link between the increased imports of the originating good and serious injury

or threat of serious injury. When factors other than the increased imports of the originating good are causing injury to the domestic industry at the same time, such injury shall not be attributed to the increased imports of the originating good.

Article 2.12. Notification and Consultations

1. A Party shall immediately deliver a written notice to the other Party upon:

(a) initiating an investigation referred to in paragraph 1 of Article 2.11 related to serious injury or threat of serious injury, and the reasons therefor; and

(b) taking a decision to apply or extend a bilateral safeguard measure.

2. The Party making the written notice referred to in paragraph 1 shall provide the other Party with all pertinent information, which shall include:

(a) in the written notice referred to in subparagraph 1(a), the reason for the initiation of the investigation, a precise description of the originating good subject to the investigation and its subheading under the Harmonized System, the period of time subject to the investigation and the date of initiation of the investigation; and

(b) in the written notice referred to in subparagraph 1(b), evidence of serious injury or threat of serious injury caused by the increased imports of the originating good, a precise description of the originating good subject to the proposed bilateral safeguard measure and its subheading under the Harmonized System, a precise description of the proposed bilateral safeguard measure, and the proposed date of the introduction and expected duration of the bilateral safeguard measure.

3. A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party with a view to reviewing the information arising from the investigation referred to in paragraph 1 of Article 2.11, exchanging views on the bilateral safeguard measure and reaching an agreement on compensation set out in Article 2.14.

Article 2.13. Conditions and Limitations

1. No bilateral safeguard measure shall be maintained except to the extent and for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment, provided that such period of time shall not exceed three years. However, in highly exceptional circumstances, a bilateral safeguard measure may be extended, provided that the total duration of the bilateral safeguard measure, including such extensions, shall not exceed six years. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is over one year, the Party maintaining the bilateral safeguard measure shall progressively liberalize the bilateral safeguard measure at regular intervals during the period of application.

2. No bilateral safeguard measure shall be applied again to the import of a particular originating good which has been subject to such a bilateral safeguard measure, for a period of time equal to the duration of the previous bilateral safeguard measure or one year, whichever is longer.

3. Upon the termination of a bilateral safeguard measure, the rate of customs duty on an originating good subject to the measure shall be the rate which would have been in effect if the bilateral safeguard measure had never been applied.

4. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures relating to bilateral safeguard measures.

Article 2.14. Compensation

1. A Party proposing to apply or extend a bilateral safeguard measure shall provide to the other Party mutually agreed adequate means of trade compensation in the form of concessions of customs duties which are substantially equivalent to the value of the additional customs duties expected to result from the bilateral safeguard measure.

2. If the Parties are unable to agree on the compensation within 30 days after the commencement of the consultations in accordance with paragraph 3 of Article 2.12, the Party to whose originating good the bilateral safeguard measure is applied shall be free to suspend the application of concessions of customs duties under this Agreement, which are substantially equivalent to the bilateral safeguard measure. The Party exercising the right of suspension may suspend the application of concessions of customs duties only for the minimum period of time necessary to achieve the substantially equivalent effects and only during the period of application of the bilateral safeguard measure.

Article 2.15. Provisional Bilateral Safeguard Measures

1. In critical circumstances, where delay would cause damage which it would be difficult to repair, a Party may apply a provisional bilateral safeguard measure, which shall take the form of the measure set out in subparagraph 2(a) or (b) of Article 2.10, pursuant to a preliminary determination that there is clear evidence that increased imports of an originating good of the other Party have caused or are threatening to cause serious injury to a domestic industry of the former Party.

2. A Party shall deliver a written notice to the other Party prior to applying a provisional bilateral safeguard measure. Consultations between the Parties on the application of the provisional bilateral safeguard measure shall be initiated immediately after the provisional bilateral safeguard measure is applied.

3. The duration of a provisional bilateral safeguard measure shall not exceed 200 days. During that period, the pertinent requirements of Article 2.11 shall be met. The duration of the provisional bilateral safeguard measure shall be counted as a part of the period of time referred to in paragraph 1 of Article 2.13.

4. Paragraphs 3 and 4 of Article 2.13 shall apply, mutatis mutandis, to a provisional bilateral safeguard measure. The customs duty imposed as a result of the provisional bilateral safeguard measure shall be refunded if the subsequent investigation referred to in paragraph 1 of Article 2.11 does not determine that increased imports of an originating good of the other Party have caused or threatened to cause serious injury to a domestic industry.

Article 2.16. Relation to Safeguard Measures Under the WTO Agreement

1. Nothing in this Chapter shall prevent a Party from applying a safeguard measure to an originating good of the other Party in accordance with:

(a) Article XIX of the GATT 1994 and the Agreement on Safeguards; or

(b) Article 5 of the Agreement on Agriculture.

2. A Party shall not apply a bilateral safeguard measure or a provisional bilateral safeguard measure under this Chapter on a good that is subject to a measure that the Party has applied pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards, or Article 5 of the Agreement on Agriculture, nor shall a Party continue to maintain a bilateral safeguard measure or a provisional bilateral safeguard measure on a good that becomes subject to a measure that the Party applies pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards, or Article 5 of the Agreement on Agriculture.

3. The period of application of a bilateral safeguard measure referred to in this Section shall not be interrupted by a Party's non-application of the bilateral safeguard measure in accordance with paragraph 2. That Party may resume the application of the bilateral safeguard measure to imports of the originating good upon the termination of the safeguard measures applied in accordance with subparagraph 1(a) or (b), up to the remaining period of time of the bilateral safeguard measure.

Article 2.17. Communications

A written notice referred to in paragraph 1 of Article 2.12 and paragraph 2 of Article 2.15 and any other communication between the Parties in accordance with this Section shall be made in the English language.

Article 2.18. Review

The Parties shall review the provisions of this Section, if necessary, 10 years after the date of entry into force of this Agreement.

Section 3. Other Provisions

Article 2.19. Anti-Dumping and Countervailing Measures

Nothing in this Chapter shall be construed to prevent a Party from taking any measure in accordance with the provisions of Article VI of the GATT 1994, the Agreement on Anti-Dumping and the Agreement on Subsidies and Countervailing Measures.

Article 2.20. Measures to Safeguard the Balance of Payments

1. Nothing in this Chapter shall be construed to prevent a Party from taking any measure for balance-of-payments purposes.

A Party taking such measure shall do so in accordance with the conditions established under Article XII and Section B of Article XVIII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.

2. Nothing in this Chapter shall preclude the use by a Party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund.

Article 2.21. Sub-Committee on Trade In Goods

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Trade in Goods (hereinafter referred to in this Article as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) considering any other matter related to this Chapter as the Parties may decide;

(c) reviewing and making appropriate recommendations, as necessary, to the Joint Committee on the Operational Procedures for Trade in Goods referred to in Article 2.22;

(d) reporting the findings of the Sub-Committee to the Joint Committee; and

(e) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 2.22. Operational Procedures for Trade In Goods

On the date of entry into force of this Agreement, the Joint Committee shall adopt the Operational Procedures for Trade in Goods that provide for detailed regulations pursuant to which the relevant authorities of the Parties shall implement their functions under this Chapter.

Chapter 3. Rules of Origin

Article 3.1. Definitions

For the purposes of this Chapter:

(a) the term "aquaculture" means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed stock such as eggs, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;

(b) the term "competent governmental authority" means the authority that, according to the legislation of each Party, is responsible for the issuance of a certificate of origin or for the designation of certification entities or bodies and for granting the status of an approved exporter;

(c) the term "customs authority" means a customs authority as defined in subparagraph (a) of Article 4.1;

(d) the term "exporter" means a person located in the exporting Party who exports a good from the exporting Party;

(e) the term "factory ships of the Party" or "vessels of the Party" respectively means factory ships or vessels:

(i) which are registered in the Party;

(ii) which sail under the flag of the Party;

(iii) which are owned to an extent of at least 50 percent by nationals of the Parties, or by a juridical person with its head office in either Party, of which the representatives, chairman of the board of directors, and the majority of the members of such board are nationals of the Parties, and of which at least 50 percent of the equity interest is owned by nationals or juridical persons of the Parties; and

(iv) of which at least 25 percent of the total of the master, officers and crew are nationals of the Parties;

(f) the term “fungible originating goods of a Party” or “fungible originating materials of a Party” respectively means originating goods or materials of a Party that are interchangeable for commercial purposes, whose properties are essentially identical;

(g) the term “Generally Accepted Accounting Principles” means those principles recognized by consensus or with substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

(h) the term “good” means any merchandise, product, article or material;

(i) the term “importer” means a person who imports a good into the importing Party;

(j) the term “indirect materials” means goods used in the production, testing or inspection of another good but not physically incorporated into the good, or goods used in the maintenance of buildings or the operation of equipment associated with the production of another good, including:

(i) fuel and energy;

(ii) tools, dies and molds;

(iii) spare parts and goods used in the maintenance of equipment and buildings;

(iv) lubricants, greases, compounding materials and other goods used in production or used to operate equipment and buildings;

(v) gloves, glasses, footwear, clothing, safety equipment and supplies;

(vi) equipment, devices and supplies used for testing or inspecting the good;

(viii) catalysts and solvents; and

(viii) any other goods that are not incorporated into another good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

(k) the term “material” means a good that is used in the production of another good;

(l) the term “non-originating material” means a material which does not qualify as originating under this Chapter, including a material whose originating status cannot be determined;

(m) the term “originating material” means a material which qualifies as originating under this Chapter;

(n) the term “packing materials and containers for transportation and shipment” means goods that are used to protect a good during transportation, other than packaging materials and containers for retail sale referred to in Article 3.13;

(o) the term “preferential tariff treatment” means the rate of customs duties applicable to an originating good of the exporting Party in accordance with paragraph 1 of Article 2.4;

(p) the term “producer” means a person who engages in the production of goods or materials; and

(q) the term “production” means a method of obtaining goods including manufacturing, assembling, processing, raising, growing, breeding, mining, extracting, harvesting, fishing, aquaculture, trapping, gathering, collecting, hunting and capturing.

Article 3.2. Originating Goods

Unless otherwise provided for in this Chapter, a good shall qualify as an originating good of a Party where the good:

(a) is wholly obtained or produced entirely in the Party, as defined in Article 3.3;

(b) is produced entirely in the Party exclusively from originating materials of the Party; or

(c) satisfies the product specific rules (change in tariff classification, qualifying value content or specific manufacturing or processing operation) set out in Annex 2, when the good is produced entirely in the Party using non-originating materials, and the last process of production of such good, other than the operations provided for in Article 3.7, was performed in the

exporting Party,

and meets all other applicable requirements of this Chapter.

Article 3.3. Wholly Obtained Goods

For the purposes of subparagraph (a) of Article 3.2, the following goods shall be considered as being wholly obtained or produced entirely in a Party:

(a) live animals born and raised in the Party;

(b) animals obtained by hunting, trapping, fishing, aquaculture, gathering or capturing in the Party;

(c) goods obtained from live animals in the Party;

Note: For the purposes of subparagraphs (a) through (c), the term “animals” covers all animal life, including mammals, birds, fish, crustaceans, molluscs, reptiles, bacteria and viruses.

(d) plant and plant products grown and harvested, picked or gathered in the Party;

Note: For the purposes of this subparagraph, the term “plant” refers to all plant life, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants.

(e) minerals and other naturally occurring substances, not included in subparagraphs (a) through (d), extracted or taken in the Party;

(f) goods of sea-fishing and other marine life taken by vessels of the Party, and other goods taken by that Party or a person of that Party, from the waters, seabed or subsoil beneath the seabed outside the territorial sea of the Parties and non-Parties, in accordance with international law, provided that, in case of goods of sea-fishing and other marine life taken from the exclusive economic zone of any Party or non-Party, that Party or the person of that Party has the rights to exploit such exclusive economic zone, and in case of other goods, that Party or the person of that Party has the rights to exploit such seabed and subsoil beneath the seabed, in accordance with international law;

Note: For the purpose of determining the origin of goods of sea-fishing and other marine life, the term “rights to exploit” referred to in this subparagraph includes those rights of access to the fisheries resources of a coastal State, as accruing from any agreements or arrangements between a Party and the coastal State.

(g) goods processed or made on board any factory ships of the Party, exclusively from the goods referred to in subparagraph (f);

(h) articles collected in the Party which can no longer perform their original purpose in the Party nor are capable of being restored or repaired and which are fit only for disposal or for the recovery of parts or raw materials;

(i) scrap and waste derived from manufacturing or processing operations or from consumption in the Party and which are fit only for disposal or for the recovery of raw materials;

(j) parts or raw materials recovered in the Party from articles which can no longer perform their original purpose in the Party nor are capable of being restored or repaired and which are fit only for the recovery of raw materials; and

(k) goods obtained or produced in the Party exclusively from the goods referred to in subparagraphs (a) through (j).

Article 3.4. Qualifying Value Content

1. For the purposes of subparagraph (c) of Article 3.2, the qualifying value content of a good shall be calculated by using either of the following methods:

(a) Method based on value of non-originating materials (“Build-down method”)

Q.V.C. = F.O.B. – V.N.M. / F.O.B. x 100

(b) Method based on value of originating materials (“Build-up method”)

Q.V.C. = V.O.M. + Direct Labor Cost + Direct Overhead Cost + Profit + Other Cost / F.O.B. x 100

Where:

Q.V.C. is the qualifying value content of a good, expressed as a percentage;

F.O.B. is, except as provided for in paragraph 2, the free-on-board value of the good payable by the buyer of the good to the seller of the good, regardless of the mode of shipment, not including any internal taxes reduced, exempted or repaid when the good is exported;

V.N.M. is the value of non-originating materials used in the production of the good;

Note: V.N.M. of a good shall not include the value of non-originating materials used in the production of originating materials of the Party which are used in the production of the good.

V.O.M. is the value of originating materials used in the production of the good;

Note: For greater certainty, V.O.M. also includes the value added to the production of non-originating materials produced in the Party.

Direct Labor Cost includes wages, remuneration and other employee benefits; and Direct Overhead Cost is the total overhead expense.

Note: For the purpose of calculating the qualifying value content of a good, the Generally Accepted Accounting Principles in the exporting Party shall apply.

2. F.O.B. referred to in paragraph 1 shall be the value:

(a) adjusted to the first ascertainable price paid for a good from the buyer to the producer of the good, if there is free-on-board value of the good, but it is unknown or cannot be ascertained; or

(b) determined in accordance with Articles 1 through 8 of the Agreement on Customs Valuation, if there is no free-on-board value of the good.

3. For the purpose of calculating the qualifying value content of a good in accordance with paragraph 1, the value of a material used in the production of the good in a Party:

(a) shall be determined in accordance with the Agreement on Customs Valuation, and shall include freight, insurance where appropriate, packing and all the other costs incurred in transporting the material to the importation port in the Party where the producer of the good is located; or

(b) if such value is unknown or cannot be ascertained, shall be the first ascertainable price paid for the material in the Party, but may exclude all the costs incurred in the Party in transporting the material from the warehouse of the supplier of the material to the place where the producer is located, such as freight, insurance and packing as well as any other known and ascertainable cost incurred in the Party.

4. If a good has acquired originating status, the non-originating materials used in the production of the good shall not be considered non-originating when the good is incorporated as a material into another good.

5. For the purposes of subparagraph 2(b) or 3(a), in applying the Agreement on Customs Valuation to determine the value of a good or a material, the Agreement on Customs Valuation shall apply mutatis mutandis to domestic transactions or to the cases where there is no transaction of the good or the material.

Article 3.5. Accumulation

For the purpose of determining whether a good qualifies as an originating good of a Party:

(a) an originating good of the other Party which is used as a material in the production of the good in the former Party may be considered as an originating material of the former Party;

(b) the process of or the value added through the production of non-originating materials in the other Party may be considered as that in the former Party; and

(c) the process of or the value added through the production carried out at different stages by one or more producers within the Party or in the other Party may be taken into account, when the good is produced using non-originating materials,

provided that such good has undergone its last production process in the former Party and such production process goes beyond the operations provided for in Article 3.7.

Article 3.6. De Minimis

For the application of the product specific rules set out in Annex 2, non-originating materials used in the production of a good that do not undergo an applicable change in tariff classification shall be disregarded in determining whether the good qualifies as an originating good of a Party, provided that the totality of such materials does not exceed specific percentage in value, weight or volume of the good as set out in that Annex.

Article 3.7. Non-Qualifying Operations

Notwithstanding subparagraph (c) of Article 3.2, a good shall not be considered as an originating good of a Party if solely one or more of the following operations are conducted on non-originating materials in the production of the good in that Party:

(a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine) and other similar operations;

(b) changes of packaging and breaking-up and assembly of packages;

(c) simple mixing of goods, whether or not of different kinds;

(d) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;

(e) disassembly of products into parts;

(f) placing in bottles, cases or boxes, and other simple packaging operations;

(g) collection of parts and components classified as a good in accordance with Rule 2(a) of the General Rules for the Interpretation of the Harmonized System;

(h) mere making-up of sets of articles; or

(i) sharpening or simple cutting.

2. Paragraph 1 shall prevail over the product specific rules set out in Annex 2.

Article 3.8. Consignment Criteria

1. An originating good of the other Party shall be deemed to meet the consignment criteria when it is:

(a) transported directly from the other Party; or

(b) transported through one or more non-Parties for the purpose of transit or temporary storage in warehouses under the customs control of such non-Parties, provided that it does not undergo operations other than repacking and relabeling for the purpose of satisfying the requirements of the importing Party, splitting up of the consignment, unloading, reloading, storing or any other operation to preserve it in good condition or to transport the good to the importing Party during its transshipment and temporary storage.

2. If the originating good of the other Party does not meet the consignment criteria referred to in paragraph 1, that good shall not be considered as an originating good of the other Party.

Article 3.9. Unassembled or Disassembled Goods

Where a good satisfies the requirements of the relevant provisions of Articles 3.2 through 3.7 and is imported into a Party from the other Party in an unassembled or disassembled form but is classified as an assembled good in accordance with Rule 2(a) of the General Rules for the Interpretation of the Harmonized System, such a good shall be considered as an originating good of the other Party.

Article 3.10. Fungible Goods and Materials

1. For the purpose of determining whether a good qualifies as an originating good of a Party, where fungible originating materials of the Party and fungible non-originating materials that are commingled in an inventory are used in the production of the good, the origin of the materials may be determined in accordance with an inventory management

method under the Generally Accepted Accounting Principles in the Party.

2. Where fungible originating goods of a Party and fungible non-originating goods are commingled in an inventory and, prior to exportation, do not undergo any production process or any operation in the Party where they were commingled other than unloading, reloading and any other operation to preserve them in good condition, the origin of the good may be determined in accordance with an inventory management method under the Generally Accepted Accounting Principles in the Party.

Article 3.11. Indirect Materials

Indirect materials shall be, without regard to where they are produced, considered as originating materials of a Party where the good is produced.

Article 3.12. Accessories, Spare Parts and Tools

1. In determining whether all the non-originating materials used in the production of a good undergo the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 2, accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts or tools, shall be disregarded, provided that:

(a) the accessories, spare parts or tools are not invoiced separately from the good, without regard to whether they are separately described in the invoice; and

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

2. If a good is subject to a qualifying value content requirement, the value of the accessories, spare parts or tools shall be taken into account as the value of originating materials of a Party where the good is produced or non-originating materials, as the case may be, in calculating the qualifying value content of the good, provided that:

(a) the accessories, spare parts or tools are not invoiced separately from the good, without regard to whether they are separately described in the invoice; and

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

Article 3.13. Packaging Materials and Containers for Retail Sale

1. Packaging materials and containers for retail sale, which are classified with the good in accordance with Rule 5 of the General Rules for the Interpretation of the Harmonized System, shall be disregarded in determining the origin of the good, provided that:

(a) the good is wholly obtained or produced entirely in a Party, as defined in subparagraph (a) of Article 3.2;

(b) the good is produced entirely in a Party exclusively from originating materials of the Party, as defined in subparagraph (b) of Article 3.2; or

(c) the good has undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 2.

2. If a good is subject to a qualifying value content requirement, the origin of packaging materials and containers for retail sale shall be taken into account as originating or non-originating, as the case may be, for calculating the qualifying value content of the good.

Article 3.14. Packing Materials and Containers for Transportation and Shipment

Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of the good.

Article 3.15. Sets of Goods

Each Party shall provide that for a set classified as a result of the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System, the originating status of the set shall be determined in accordance with the product specific rules set out in Annex 2 that apply to the set.

Article 3.16. Proof of Origin

1. Any of the following shall be considered as a proof of origin:

(a) a certificate of origin issued by the competent governmental authority of the exporting Party or its designees in accordance with Article 3.17;

(b) a declaration of origin completed by an approved exporter in accordance with subparagraph 1(a) of Article 3.18; or

(c) a declaration of origin completed by an importer, exporter or producer in accordance with subparagraph 1(b) of Article 3.18,

based on the information available that the good is an originating good.

2. The Parties shall implement subparagraph 1(c) from the earlier of the following dates:

(a) the date decided by the Parties; or

(b) the date on which the Parties commence the utilization of a declaration of origin completed by an importer, exporter or producer as a proof of origin, on the basis of an international agreement to which the Parties are parties.

3. Notwithstanding the paragraph 2, Japan may, from the date of entry into force of this Agreement, consider a declaration of origin by an importer as a proof of origin in the same manner as provided for in paragraph 1. In that case, the customs authority of Japan shall not conduct a verification process by means referred to in subparagraphs 1(b) and of Article 3.23 regarding the declaration of origin by the importer, as provided for in paragraph 2 of that Article. The declaration of origin shall only be completed by the importer where that importer has sufficient information to prove that the good qualifies as an originating good.

4. A proof of origin referred to in paragraph 1 shall:

(a) be in writing, or any other medium, including electronic format;

(b) be completed in the English language;

(c) specify that the good is an originating good and meets the requirements of this Chapter; and

(d) contain information which meets the minimum information requirements as set out in Annex 3.

5. Each Party shall provide that a proof of origin remains valid for one year from the date on which it is issued or completed.

Article 3.17. Certificate of Origin

1. A certificate of origin referred to in subparagraph 1(a) of Article 3.16 shall be issued by the competent governmental authority of the exporting Party or other entities or bodies designated by the competent governmental authority in accordance with the applicable laws and regulations of the exporting Party on request of the exporter or its authorized agent.

2. Where the competent governmental authority of the exporting Party designates other entities or bodies to carry out the issuance of certificate of origin, the exporting Party shall notify in writing the other Party of its designees.

3. For the purposes of this Chapter, upon entry into force of this Agreement, the Parties shall establish a common format of certificate of origin in the English language as a part of the Operational Procedures for Rules of Origin referred to in Article 3.30.

4. An issued certificate of origin shall be applicable to a single importation of originating goods of the exporting Party into the importing Party unless otherwise provided for in this Chapter.

5. Where the exporter of a good is not the producer of the good in the exporting Party, the exporter may request a certificate of origin on the basis of:

(a) a declaration provided by the exporter to the competent governmental authority of the exporting Party or its designees based on the information provided by the producer of the good to that exporter; or

(b) a declaration voluntarily provided by the producer of the good directly to the competent governmental authority of the exporting Party or its designees on request of the exporter.

6. A certificate of origin shall be issued only after the exporter who requests the certificate of origin, or the producer of a good in the exporting Party referred to in subparagraph 5(b), proves to the competent governmental authority of the exporting Party or its designees that the good to be exported qualifies as an originating good of the exporting Party.

7. The competent governmental authority of the exporting Party shall provide the importing Party with specimen signatures and impressions of stamps used in the offices of the competent governmental authority or its designees.

8. The competent governmental authority of the exporting Party shall, when it cancels the decision to issue a certificate of origin, promptly notify the cancellation to the exporter to whom the certificate of origin has been issued, and to the customs authority of the importing Party, except where the certificate of origin has been returned to the competent governmental authority.

Article 3.18. Declaration of Origin

1. A declaration of origin referred to in subparagraphs 1(b) and (c) of Article 3.16 may be completed by:

(a) an approved exporter within the meaning of Article 3.19; or

(b) an importer, exporter or producer of the good where applicable.

2. A declaration of origin shall:

(a) bear the name of the certifying person; and

(b) bear the date on which the declaration of origin was completed.

3. Each Party shall provide that a declaration of origin may apply to:

(a) a single shipment of a good into the Party; or

(b) multiple shipments of identical goods within any period of time specified in the declaration of origin, but not exceeding 12 months.

Article 3.19. Approved Exporter

1. Each Party shall provide for the authorization of an exporter who exports goods under this Agreement as an approved exporter, in accordance with its laws and regulations. The competent governmental authority of the exporting Party may grant the status of an approved exporter subject to any conditions which it considers appropriate, including the following:

(a) that the exporter is duly registered in accordance with the laws and regulations of the exporting Party;

(b) that the exporter knows and understands the rules of origin as set out in this Chapter;

(c) that the exporter has a satisfactory level of experience in export in accordance with the laws and regulations of the exporting Party;

(d) that the exporter has a record of good compliance, measured by risk management of the competent governmental authority of the exporting Party;

(e) that the exporter, in the case of a trader, is able to obtain a declaration by the producer confirming the originating status of the good for which the declaration of origin is completed by an approved exporter and the readiness of the producer to cooperate in verification in accordance with Article 3.23, and is able to meet all the requirements of this Chapter; and

(f) that the exporter has a well-maintained bookkeeping and record-keeping system, in accordance with the laws and regulations of the exporting Party.

2. The competent governmental authority of the exporting Party shall:

(a) make its approved exporter procedures and requirements public and easily available;

(b) grant the approved exporter authorization in writing or electronically; and

(c) provide the approved exporter with an authorization code which must be included in the declaration of origin.

3. The exporting Party shall ensure that an approved exporter has the following obligations:

(a) to allow the competent governmental authority of the exporting Party access to records and premises for the purpose of monitoring the use of authorization, in accordance with Article 3.26;

(b) to complete declarations of origin only for goods for which the approved exporter has been allowed to do so by the competent governmental authority of the exporting Party and for which it has all appropriate documents proving the originating status of the goods concerned at the time of completing the declaration;

(c) to take full responsibility for all declarations of origin completed, including any misuse; and

(d) to promptly inform the competent governmental authority of the exporting Party of any changes related to the information referred to in subparagraph (b).

4. Each Party shall promptly inform the following information of its approved exporters to the other Party. Any change in the items referred to in subparagraphs (a) through (c), or withdrawals or suspensions of authorizations, shall be promptly notified to the other Party:

(a) the legal name and address of the exporter;

(b) the approved exporter authorization code; and

(c) the issuance date and, if applicable, the expiry date of its approved exporter authorization.

5. The competent governmental authority of the exporting Party shall monitor the use of the authorization, including verification of the declarations of origin by an approved exporter, and withdraw the authorization where the conditions referred to in paragraph 1 are not met.

6. The exporting Party shall ensure that an approved exporter is prepared to submit at any time, on request of the customs authorities of the importing Party, all appropriate documents proving the originating status of the goods concerned, including statements from the suppliers or producers in accordance with the laws and regulations of the importing Party as well as the fulfillment of the other requirements of this Chapter.

Article 3.20. Claim for Preferential Tariff Treatment

1. The importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good on the basis of a proof of origin.

2. Unless otherwise provided for in this Chapter, the importing Party shall provide that, for the purpose of claiming preferential tariff treatment, the importer shall:

(a) make a declaration in its customs declaration that the good qualifies as an originating good;

(b) have a valid proof of origin in its possession at the time when the declaration referred to in subparagraph (a) is made;

(c) provide the proof of origin to the customs authority of the importing Party when required by the importing Party; and

(d) if a claim for preferential tariff treatment is based on a declaration of origin referred to in subparagraph 3(b) of Article 3.18, provide a copy of the declaration of origin to the customs authority of the importing Party when required by the importing Party.

3. Notwithstanding paragraphs 1 and 2, the importing Party may not require a proof of origin if:

(a) the customs value of the importation does not exceed US$ 200 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish; or

(b) it is a good for which the importing Party has waived the requirement,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the laws and regulations of the importing Party governing claims for preferential tariff treatment under this Agreement.

4. The customs authority of the importing Party may require, where appropriate, the importer to submit supporting evidence that a good qualifies as an originating good, in accordance with the requirements of this Chapter.

5. Where a proof of origin is submitted to the customs authority of the importing Party after the expiration of the period of time for its submission, such proof of origin may still be accepted, subject to the laws, regulations or administrative practices

of the importing Party, when failure to observe the period of time results from force majeure or other valid causes beyond the control of the importer or exporter.

6. Where an originating good of the exporting Party is imported through one or more non-Parties, the importing Party may require the importer who claims preferential tariff treatment for that good to meet the consignment criteria referred to in Article 3.8 to submit:

(a) a copy of the through bill of lading; or

(b) a certificate or any other information given by the customs authorities of such non-Parties or other relevant entities, which evidences that the good has not undergone operations other than unloading, reloading and any other operation to preserve it in good condition in those non-Parties.

Article 3.21. Importation by Installments

If, on request of the importer, unassembled or disassembled goods within the meaning of Rule 2(a) of the General Rules for the Interpretation of the Harmonized System are imported by installments, a single proof of origin for such goods may be used in accordance with the requirements laid down by the customs authority of the importing Party.

Article 3.22. Post-Importation Claims for Preferential Tariff

Each Party shall provide that where a good would have qualified as an originating good when it was imported into the Party, the importer of the good may, within a period of time specified by its laws and regulations, apply for a refund of any excess duties, deposit or guarantee paid as the result of the good not having been granted preferential tariff treatment, if the importer has notified the customs authority of the importing Party of its intention to claim preferential tariff treatment at the time of importation. The importer shall present the following to the customs authority of the importing Party:

(a) a proof of origin and other evidence that the good qualifies as an originating good; and

(b) such other documentation in relation to the importation as the customs authority of the importing Party may require to satisfactorily evidence the preferential tariff treatment claimed.

Article 3.23. Verification

1. For the purpose of determining whether a good imported into a Party from the other Party qualifies as an originating good under this Chapter, where necessary, the customs authority of the importing Party may conduct a verification process normally in the following order:

(a) a written request for information from the importer;

(b) a written request for information from:

(i) the competent governmental authority of the exporting Party that issued a certificate of origin referred to in subparagraph 1(a) of Article 3.16, or an approved exporter who completed a declaration of origin referred to in subparagraph 1(b) of that Article, through the competent governmental authority of the exporting Party; or

(ii) the exporter or producer that completed a declaration of origin referred to in subparagraph 1(c) of Article 3.16, through the competent governmental authority or the customs authority of the exporting Party; and

(c) a verification visit to the premises of the exporter or producer in the exporting Party with prior notice to the exporting Party.

Note: A verification visit referred to in subparagraph (c) shall only be undertaken after a verification process in accordance with subparagraph (b) has been conducted.

2. If a claim for preferential tariff treatment is based on a declaration of origin completed by an importer referred to in subparagraph 1(c) of Article 3.16, the customs authority of the importing Party shall not conduct a verification process by means referred to in subparagraphs 1(b) and (c).

3. Except for the case of a claim for preferential tariff treatment based on a declaration of origin completed by the importer, the customs authority of the importing Party shall conduct a verification process under subparagraph 1(b) or (c) before it denies the claim for preferential tariff treatment, if the importer, in response to a request for information under subparagraph 1(a), does not provide:

(a) required information to the customs authority of the importing Party; or

(b) sufficient information to support a claim for preferential tariff treatment.

4. The customs authority of the importing Party shall:

(a) for the purposes of subparagraph 1(b)(i), send a written request with a copy of the proof of origin and the reasons for the request to the competent governmental authority of the exporting Party;

(b) for the purposes of subparagraph 1(b)(ii), send a written request with a copy of the proof of origin and the reasons for the request to the competent governmental authority or the customs authority of the exporting Party; and

(c) for the purposes of subparagraph 1(c), request a written consent of the exporter or producer whose premises are to be visited through the exporting Party, stating the proposed date and location for a verification visit and its specific purpose.

5. On request of the importing Party, a verification visit to the premises of the exporter or producer may be conducted with the consent and assistance of the exporting Party, according to the procedures decided by the Parties.

6. For a verification under subparagraphs 1(b) and (c):

(a) the competent governmental authority or the customs authority of the exporting Party shall provide the information requested in a period not exceeding six months after the date of receipt of the written request referred to in subparagraph 4(a) or (b); and

(b) the exporting Party shall respond to the request for a written consent referred to in subparagraph 4(c) with consent or refusal in a period not exceeding 30 days after the date of receipt of the request.

7. For a verification under subparagraphs 1(b) and (c), the customs authority of the importing Party shall endeavor to make a determination following a verification within 90 days of the date of its receipt of the information necessary to make the determination, and shall provide a written notification of the result of verification with the reasons for that result to the importer, or the competent governmental authority or the customs authority of the exporting Party that received the verification request.

8. For a verification under subparagraph 1(b), the customs authority of the importing Party may require additional information if it considers necessary. The customs authority of the importing Party shall allow the exporter, producer or the competent governmental authority of the exporting Party a period of 90 days from the date of receipt of the written request to respond.

9. The customs authority of the importing Party may suspend the application of preferential tariff treatment while waiting for the result of verification. The customs authority of the importing Party shall permit the release of the good, but may require that such release be subject to lodgement of a security in accordance with its laws and regulations.

10. The customs authority of the importing Party shall not conduct any verification under subparagraphs 1(a) through (c) after the period of time specified in paragraph 1 of Article 3.26.

11. For the purposes of this Article, each Party shall designate a single contact point with a view to facilitating a verification of a good exported from the Party.

Article 3.24. Denial of Preferential Tariff Treatment

1. The customs authority of the importing Party may deny preferential tariff treatment where:

(a) the good does not meet the requirements of this Chapter; or

(b) the importer, exporter or producer of the good fails or has failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment.

2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

3. The customs authority of the importing Party may determine that a good does not qualify as an originating good and may deny preferential tariff treatment where:

(a) the customs authority of the importing Party has not received sufficient information to determine that the good is an originating good;

(b) the importer, exporter, producer, the competent governmental authority or the customs authority of the exporting Party fails to respond to a written request for information in accordance with Article 3.23; or

(c) the exporting Party refuses the request for a verification visit in accordance with Article 3.23, or the exporting Party fails to respond to the request.

4. Each Party shall endeavor to make publicly available any information on denial cases which it considers to be of significant interest to other interested persons, taking into account the need to protect commercial confidential information.

Article 3.25. Third-Party Invoicing

The importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of a good provided that the good meets the requirements of this Chapter.

Article 3.26. Record-Keeping Requirement

1. Each Party shall require that:

(a) its exporters, producers or the competent governmental authorities retain, for at least a period of five years from the date of issuance of a proof of origin, or a longer period of time in accordance with its laws and regulations, all records necessary to prove that the good for which the proof of origin was issued was an originating good; and

(b) its importers retain, for at least a period of five years from the date of importation of a good, or a longer period of time in accordance with its laws and regulations, all records necessary to prove that the good for which preferential tariff treatment was claimed was an originating good.

2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval, including in digital, electronic, optical, magnetic or written form, in accordance with its laws and regulations.

Article 3.27. Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it as confidential in accordance with this Chapter, and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. Information obtained by the customs authority of the importing Party from the other Party in accordance with this Chapter:

(a) may only be used by such authority for the purposes of this Chapter; and

(b) shall not be used by the importing Party in any criminal proceedings carried out by a court or a judge, except to comply with the laws and regulations of the importing Party and unless the information is requested to the exporting Party and provided to the importing Party through the diplomatic channels or other channels established in accordance with the applicable laws and regulations of the exporting Party.

Article 3.28. Penalties

Each Party shall adopt or maintain appropriate penalties or other measures against violations of its laws and regulations relating to this Chapter.

Article 3.29. Sub-Committee on Rules of Origin

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (hereinafter referred to in this Article as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and making appropriate recommendations, as necessary, to the Joint Committee on:

(i) the implementation and operation of this Chapter;

(ii) any amendments to Annex 2 or 3, proposed by either Party; and

(iii) the Operational Procedures for Rules of Origin referred to in Article 3.30;

(b) considering any other matter related to this Chapter as the Parties may decide;

(c) reporting the findings of the Sub-Committee to the Joint Committee; and

(d) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 3.30. Operational Procedures for Rules of Origin

On the date of entry into force of this Agreement, the Joint Committee shall adopt the Operational Procedures for Rules of Origin that provide detailed regulations pursuant to which the competent governmental authorities, the customs authorities and other relevant authorities of the Parties shall implement their functions under this Chapter.

Chapter 4. Customs Procedures and Trade Facilitation

Article 4.1. Definitions

For the purposes of this Chapter:

(a) the term “customs authority” means any authority that is responsible under the law of each Party for the administration and enforcement of its customs laws and regulations;

(b) the term “customs laws and regulations” means the statutory and regulatory provisions relating to importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to a customs authority, and any regulations made by a customs authority, under its statutory powers;

(c) the term “customs procedures” means the measures applied by the customs authority of a Party to goods that are subject to its customs laws and regulations;

(d) the term “express consignment” means all goods imported by or through international courier services that operate a consignment service for expeditious cross-border movement of goods and assume liability to the customs authority for those goods; and

(e) the term “supporting documents” means documentation that is required to support the information presented to a Party for importation, exportation, and movement of goods under customs control within its territory, and may include documents such as invoices, bills of lading and packing lists.

Article 4.2. Objectives

The objectives of this Chapter are to:

(a) ensure predictability, consistency and transparency in the application of customs laws and regulations of each Party;

(b) promote efficient administration of customs procedures of each Party and expeditious clearance of goods;

(c) simplify customs procedures of each Party and harmonize them to the extent possible with relevant international standards;

(d) promote cooperation between the customs authorities of the Parties; and

(e) facilitate trade between the Parties, including through a strengthened environment for global and regional supply chains.

Article 4.3. Scope

This Chapter shall apply to customs procedures applied to goods traded between the Parties which enter or leave the customs territory including all economic zones, all export processing zones and any other free zones of each Party.

Article 4.4. Consistency

1. Each Party shall ensure that its customs laws and regulations, including for determination on tariff classification, origin and customs valuation of goods, are consistently implemented and applied throughout its customs territory.

2. Each Party shall adopt or maintain administrative measures to ensure consistent implementation and application of its customs laws and regulations throughout its customs territory, preferably by creating a conducive administrative environment for consistent application of its customs laws and regulations among its regional customs offices.

3. Each Party is encouraged to share with the other Party its practices and experiences relating to the conducive administrative environment referred to in paragraph 2 with a view to improving the customs operations thereof.

4. If a Party fails to comply with the obligations in paragraphs 1 and 2, the other Party may consult with the former Party on the matter in accordance with the consultation procedures under Article 4.22.

Article 4.5. Transparency

1. Each Party shall promptly make publicly available on the Internet the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders and other interested persons to become acquainted with them:

(a) procedures for importation, exportation, and movement of goods under customs control within its territory (including port, airport and other entry-point procedures), and required forms and documents;

(b) applied rates of customs duties and taxes of any kind imposed on or in connection with importation and exportation;

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation, and movement of goods under customs control within its territory;

(d) rules for the classification or valuation of products for customs purposes;

(e) laws, regulations and administrative rulings of general application relating to rules of origin;

(f) any kind of restrictions or prohibitions on importation, exportation, and movement of goods under customs control within its territory;

(g) penalty provisions for breaches of formalities of importation, exportation, and movement of goods under customs control within its territory;

(h) procedures for appeal or review;

(i) agreements to which it is a party, or parts thereof with any country or countries relating to importation, exportation, and movement of goods under customs control within its territory;

(j) procedures relating to the administration of tariff quotas, if any;

(k) contact information for the enquiry points as well as information on how to make enquiries on customs matters as provided for in Article 4.6; and

(l) the description of procedures in the English language on the request for an advance ruling.

2. To the extent possible, when developing new, or amending existing customs laws and regulations, each Party shall publish, or otherwise make readily available, such proposed new or amended customs laws and regulations and provide a reasonable opportunity for interested persons to comment on the proposed customs laws and regulations, unless such advance notice is precluded.

3. Each Party shall, to the extent practicable and in a manner consistent with its laws and regulations and legal system, ensure that new or amended laws and regulations of general application related to the movement, release and clearance of goods, including movement of goods under customs control within its territory, are published or information on them is otherwise made publicly available, as early as possible before the date of their entry into force, in order to enable traders and other interested persons to become acquainted with them.

Article 4.6. Enquiry Points

Each Party shall designate one or more enquiry points to answer reasonable enquiries of interested persons concerning customs matters and to facilitate access to forms and documents required for importation, exportation, and movement of

goods under customs control within its territory.

Article 4.7. Customs Procedures

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent, and facilitate trade, including through expeditious clearance of goods.

2. Each Party shall ensure that its customs procedures, where possible and to the extent permitted by its customs laws and regulations, conform with the standards and recommended practices of the World Customs Organization.

3. The customs authority of each Party shall review its customs procedures with a view to simplifying such procedures to facilitate trade.

Article 4.8. Preshipment Inspection

1. Neither Party shall require the use of preshipment inspections in relation to tariff classification and customs valuation.

2. Without prejudice to the rights of each Party to use other types of preshipment inspection not covered by paragraph 1, each Party is encouraged not to introduce or apply new requirements regarding their use.

Note: This paragraph refers to preshipment inspections covered by the Agreement on Preshipment Inspection in Annex 1A to the WTO Agreement, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

Article 4.9. Pre-Arrival Processing

1. Each Party shall adopt or maintain procedures allowing for the submission of documents and other information required for the importation of goods, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

2. Each Party shall, as appropriate and in principle, provide for advance lodging of documents and other information referred to in paragraph 1 in electronic format for pre-arrival processing of such documents.

Article 4.10. Advance Rulings

1. Each Party shall, prior to the importation of a good from the other Party into its territory, issue a written advance ruling to an importer, exporter, or any person with a justifiable cause, or a representative thereof, who has submitted a written request containing all necessary information, with regard to:

(a) tariff classification;

(b) whether the good is an originating good in accordance with Chapter 3;

(c) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts, in accordance with the Agreement on Customs Valuation; and

Note: To the extent possible, Bangladesh shall implement this subparagraph no later than 10 years after the date of entry into force of this Agreement.

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

2. Each Party shall adopt or maintain procedures for issuing advance rulings which:

(a) specify the information required to apply for an advance ruling;

(b) provide that the Party may at any time during the course of an evaluation of an application for an advance ruling, request that the applicant provide additional information, which may include a sample of the goods, necessary to evaluate the application;

(c) ensure that an advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the decision-making customs offices; and

(d) ensure that the advance ruling includes the relevant facts and the basis for its decision.

3. Each Party shall issue an advance ruling in the official language of the issuing Party or in the language it decides. The

advance ruling shall be issued in a reasonable, specified and time-bound manner, and to the extent possible within 90 days, to the applicant on the receipt of all necessary information. Each Party shall specify and make public such period of time for the issuance of an advance ruling prior to such an application. Should the customs authority have reasonable grounds to issue the advance ruling later than the specified period of time after the receipt of the application, it shall notify the applicant of the grounds for such a delay prior to the end of the specified period of time.

4. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of an administrative or judicial review. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the relevant facts, circumstances, and the basis for its decision to decline to issue the advance ruling.

5. A Party may reject a request for an advance ruling where the Party has requested additional information from the applicant, in writing, in accordance with subparagraph 2(b), and the additional information requested is not provided within a reasonable, specified period of time which was determined at the time of the request.

6. Each Party shall provide that an advance ruling shall be valid from the date on which it is issued, or another date specified in the ruling, provided that the laws, regulations, administrative rules, and facts and circumstances on which the ruling is based remain unchanged. Subject to paragraph 7, an advance ruling shall remain valid for at least three years.

7. Where a Party revokes, modifies or invalidates an advance ruling under any of the following circumstances, it shall promptly provide written notice to the applicant setting out the relevant facts and the basis for its decision:

(a) there is a change in its laws, regulations or administrative rules;

(b) incorrect information was provided or relevant information was withheld;

(c) there is a change in a material fact or circumstances on which the advance ruling was based; or

(d) the advance ruling was in error.

8. Where a Party revokes, modifies or invalidates an advance ruling with retroactive effect, it may only do so where the advance ruling was based on incomplete, incorrect, false or misleading information.

9. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it.

10. Each Party shall publish, at a minimum:

(a) the requirements for an application for an advance ruling, including the information to be provided and the format;

(b) the period of time by which it will issue an advance ruling; and

(c) the length of time for which an advance ruling is valid.

11. Each Party may make publicly available any information on advance rulings including issued advance rulings which it considers to be of significant interest to other interested persons, taking into account the need to protect commercially confidential information.

Article 4.11. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for efficient release of goods in order to facilitate trade between the Parties. For greater certainty, this paragraph shall not require a Party to release a good if its requirements for release have not been met.

2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that allow goods to be cleared from customs within a period of time no longer than that required to ensure compliance with its customs laws and regulations and, to the extent possible, within 48 hours of the arrival of goods and lodgement of all the necessary information for customs clearance.

3. If any goods are selected for further examination, such an examination shall be limited to what is reasonable and necessary, and undertaken and completed without undue delay.

4. Each Party shall adopt or maintain procedures allowing the release of goods, prior to the final determination of customs duties, taxes, fees and charges, if such determination is not done prior to, upon, or as rapidly as possible after, the arrival of the goods, provided that all other regulatory requirements have been met. As a condition for such release, a Party may require a guarantee in accordance with its laws and regulations that does not exceed the amount the Party requires to

ensure payment of customs duties, taxes, fees and charges ultimately due for the goods covered by the guarantee.

Note: For the purposes of this paragraph, the term “guarantee” means a surety, a deposit or another appropriate instrument provided for in each Party’s laws and regulations.

5. Nothing in this Article shall affect the right of a Party to examine, detain, seize, confiscate or deal with the goods in any manner consistent with its laws and regulations.

6. With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Party shall provide for the release of perishable goods from customs control:

(a) under normal circumstances in the shortest possible period of time, and to the extent possible, in less than six hours after the arrival of the goods and submission of the information required for release; and

(b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of its customs authority.

7. Each Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

8. Each Party shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. Each Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. Each Party shall, where practicable and consistent with domestic legislation, on request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

Article 4.12. Application of Information Technology

1. Each Party shall, to the extent possible, apply information technology to support customs operations based on internationally accepted standards for expeditious customs clearance and release of goods.

2. Each Party shall, to the extent possible, employ electronic or automated systems for risk analysis and targeting and shall use, to the extent possible, information technology that expedites customs procedures for the release of goods, including the submission of data before the arrival of those goods.

3. Each Party shall endeavor to make any form controlled by its customs authority, including declarations, for importation, exportation, and movement of goods under customs control within its territory, available to the public in electronic format.

4. Each Party shall accept any documents in electronic format required by and submitted to its customs authorities for importation, exportation, and movement of goods under customs control within its territory, including declarations and supporting documents, as the legal equivalent of the paper version of those documents.

Note: To the extent possible, Bangladesh shall implement this paragraph no later than 10 years after the date of entry into force of this Agreement.

5. Neither Party shall be required to apply paragraph 4 if:

(a) there is a domestic or an international legal requirement to the contrary; or

(b) doing so would reduce the effectiveness of the customs or other trade procedures required for importation, exportation, and movement of goods under customs control within its territory.

6. In developing initiatives that provide for the use of paperless trade administration, each Party is encouraged to take into account international standards or methods made under the auspices of international organizations, if any.

7. Each Party shall cooperate with the other Party and in international fora to enhance the acceptance of documents in electronic format required by and submitted to their respective customs authorities for importation, exportation, and movement of goods under customs control within its territory, including declarations and supporting documents.

Article 4.13. Trade Facilitation Measures for Authorized Operators

1. Each Party shall provide additional trade facilitation measures referred to in paragraph 3 related to formalities and procedures of importation, exportation, and movement of goods under customs control within its territory, to operators who meet specified criteria (hereinafter referred to in this Chapter as “authorized operators”). Alternatively, a Party may

offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

2. The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with the requirements specified in a Party's laws, regulations or procedures.

(a) Such criteria, which shall be published, including on the Internet, may include:

(i) an appropriate record of compliance with customs and other related laws and regulations;

(ii) a system of managing records to allow for necessary internal controls;

(iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and

(iv) supply chain security.

(b) Such criteria shall not:

(i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and

(ii) to the extent possible, restrict the participation of small and medium enterprises.

3. The trade facilitation measures provided pursuant to paragraph 1 shall include at least three of the following measures:

(a) low documentary and data requirements, as appropriate;

(b) low rate of physical inspections and examinations, as appropriate;

(c) rapid release time, as appropriate;

(d) deferred payment of customs duties, taxes, fees and charges;

(e) use of comprehensive guarantees or reduced guarantees;

(f) a single customs declaration for all imports or exports in a given period of time; and

(g) clearance of goods at the premises of the authorized operator or another place authorized by the customs authority.

Note: Measures listed in subparagraphs (a) through (g) will be deemed to be provided to authorized operators if it is generally available to all operators.

4. Each Party is encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfillment of the legitimate objectives pursued.

Article 4.14. Risk Management

1. Each Party shall adopt or maintain a risk management system for customs control.

2. Each Party shall design and apply risk management in a manner so as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on trade.

3. Each Party shall concentrate customs control and, to the extent possible, other relevant border controls on high risk consignments, and expedite the release of low risk consignments. Each Party may also select, on a random basis, consignments for such controls as part of its risk management.

4. Each Party shall base risk management on the assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, inter alia, HS code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders and type of transport.

Article 4.15. Express Consignments

1. Each Party shall adopt or maintain customs procedures to expedite the clearance of express consignments for at least those goods entered through air cargo facilities while maintaining appropriate customs control and selection, by:

(a) providing for pre-arrival processing of information related to express consignments;

(b) permitting, to the extent possible, the single submission of information covering all goods contained in an express consignment, through electronic means;

(c) minimizing the documentation required for the release of express consignments;

(d) providing for express consignment to be released under normal circumstances as rapidly as possible, and within six hours when possible, after the arrival of the goods and submission of the information required for release;

(e) endeavoring to apply the treatment referred to in subparagraphs (a) through (d) to shipments of any weight or value, recognizing that a Party is permitted to require additional entry procedures, including declarations, supporting documents and payment of customs duties and taxes, and to limit such treatment based on the type of good, provided that the treatment is not limited to low value goods such as documents; and

(f) providing, to the extent possible, for a de minimis shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994, shall not be subject to this subparagraph.

Note: In cases where a Party has an existing procedure that provides the treatment referred to in this paragraph, this paragraph would not require that Party to introduce separate expedited release procedures.

2. Nothing in paragraph 1 shall affect the right of a Party to examine, detain, seize, confiscate or refuse the entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in that paragraph shall prevent a Party from requiring, as a condition for release, the submission of additional information and the fulfillment of non-automatic licensing requirements.

Article 4.16. Post-Clearance Audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with its customs and other related laws and regulations.

2. Each Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved, the Party shall, without delay, notify the person whose record was audited of the:

(a) results;

(b) reasons for the results; and

(c) person’s rights and obligations.

3. The Parties acknowledge that the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

4. Each Party shall, wherever practicable, use the result of post-clearance audit in applying risk management.

Article 4.17. Time Release Studies

1. Each Party recognizes the importance of collecting and analyzing the time required for the release of goods by its customs authority, for the purpose of ensuring the effective implementation of this Chapter.

2. Each Party shall, to the extent possible, measure the time required for the release of goods by its customs authority periodically and in a consistent manner, and publish the findings thereof, using tools such as the Guide to Measure the Time Required for the Release of Goods issued by the World Customs Organization with a view to:

(a) assessing its trade facilitation measures; and

(b) considering opportunities for further improvement of the time required for the release of goods.

3. Each Party shall share, on request of the other Party, with that other Party its experiences in the time release studies referred to in paragraph 2, including the methodologies used and the bottlenecks identified.

Article 4.18. Appeal and Review

1. Each Party shall provide that any person to whom its customs authority issues an administrative decision has the right, within its territory, to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and/or

(b) a judicial appeal or review of the decision.

Note: For the purposes of this Article, the term “administrative decision” means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision referred to in this Article covers an administrative action within the meaning of Article X of the GATT 1994 or failure to take an administrative action or decision as provided for in a Party’s laws and regulations and legal system. For addressing such failure, a Party may maintain an alternative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph (a).

2. The legislation of a Party may require that an administrative appeal or review be initiated prior to a judicial appeal or review.

3. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

4. Each Party shall ensure that if a person receives a decision on an appeal or review as provided under paragraph 1, that decision shall be applicable in the same manner throughout the territory of the Party with respect to that person.

5. Each Party shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given either:

(a) within set periods of time as specified in its laws or regulations; or

(b) without undue delay,

the person referred to in paragraph 1 has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority.

Note: Nothing in this paragraph shall prevent a Party from recognizing administrative silence on appeal or review as a decision in favor of the person referred to in paragraph 1 in accordance with its laws and regulations.

6. Each Party shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to procedures for appeal or review where necessary.

7. Each Party shall ensure that the person referred to in paragraph 1 is not treated unfavorably merely because that person seeks review of an administrative decision or omission referred to in that paragraph.

8. Each Party is encouraged to make this Article applicable to an administrative decision issued by a relevant border agency other than its customs authority.

9. The decision, and the reasons for the decision, of an administrative or judicial appeal or review shall be provided in writing.

Article 4.19. Standards of Conduct

1. Each Party shall adopt or maintain measures to deter its customs officials from engaging in any action that would result in, or that reasonably creates the appearance of, use of their public service position for private gain, including any monetary benefit.

2. Each Party shall provide a mechanism for any interested persons to submit complaints regarding perceived improper or corrupt behavior in its territory, including at ports of entry and other customs offices, of its customs officials. Each Party shall take appropriate action on a complaint in a timely manner in accordance with its laws, regulations and procedures.

Article 4.20. Penalties

1. Each Party shall adopt or maintain measures that allow for the imposition of a penalty by its customs authority for a breach of its customs laws, regulations or procedural requirements, including those governing tariff classification, customs

valuation, country of origin and claims for preferential treatment under this Agreement.

2. Each Party shall ensure that a penalty imposed by its customs authority for a breach of a customs law, regulation or procedural requirement is imposed only on the person legally responsible for the breach.

3. Each Party shall ensure that the penalty imposed by its customs authority is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.

Note: Facts and circumstances shall be established objectively according to each Party's law.

4. Each Party shall ensure that it maintains measures to avoid:

(a) conflicts of interest in the assessment and collection of penalties and duties; and

(b) creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.

5. Each Party shall ensure that if a penalty is imposed by its customs authority for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the law, regulation or procedure used for determining the penalty amount.

6. If a person voluntarily discloses to a Party's customs authority the circumstances of a breach of a customs law, regulation or procedural requirement prior to the discovery of the breach by the customs authority, the Party's customs authority shall, if appropriate, consider this fact as a potential mitigating factor when a penalty is established for that person.

7. Each Party shall provide in its laws, regulations or procedures, or otherwise give effect to, a fixed and finite period of time within which its customs authority may initiate proceedings to impose a penalty relating to a breach of a customs law, regulation or procedural requirement.

Note: For greater certainty, the term "proceedings" means administrative measures by the customs authority and does not include judicial proceedings.

Article 4.21. Customs Cooperation

1. Without prejudice to other forms of cooperation provided for in this Agreement, the customs authorities of the Parties shall cooperate, including by exchanging information, and provide mutual administrative assistance in the matters referred to in this Chapter in accordance with the Agreement between the Government of Japan and the Government of the People's Republic of Bangladesh on Cooperation and Mutual Assistance in Customs Matters, signed at Tokyo on April 26, 2023.

2. Each Party shall, to the extent possible, provide the other Party with timely notice of any significant administrative change, modification of a law or regulation, or similar measure related to its laws or regulations that govern importations or exportations, that is likely to substantially affect the operation of this Chapter. The notice can be made in the English language or the Party's language and will be provided to the contact point designated pursuant to Article 4.22.

Article 4.22. Consultations and Contact Points

1. A Party may at any time request consultations with the other Party regarding any significant customs matter arising from the operation or implementation of this Chapter, providing relevant details related to the matter. Such consultations shall be conducted through the respective contact points designated pursuant to paragraph 3 and shall commence within 30 days following the date of receipt of the request, unless the Parties determine otherwise.

2. In the event that such consultations fail to resolve the matter, the requesting Party may refer the matter to the Sub-Committee on Customs Procedures and Trade Facilitation established pursuant to Article 4.23.

3. Each Party shall, upon entry into force of this Agreement, designate one or more contact points for the purposes of this Chapter and notify the other Party of the contact details and other relevant information, if any. The Parties shall promptly notify each other of any change of those contact details.

Article 4.23. Sub-Committee on Customs Procedures and Trade Facilitation

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Customs Procedures and Trade Facilitation (hereinafter referred to in this Article as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) identifying areas, related to this Chapter, to be improved for facilitating trade between the Parties;

(c) reporting the findings of the Sub-Committee to the Joint Committee; and

(d) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of:

(a) for Bangladesh, officials from Bangladesh Customs and Ministry of Commerce, and other government officials with the necessary expertise relevant to the issues to be discussed who may be included on an ad hoc basis; and

(b) for Japan, officials from the Ministry of Foreign Affairs and the Ministry of Finance, and other government officials with the necessary expertise relevant to the issues to be discussed who may be included on an ad hoc basis.

4. The Parties shall ensure that the composition of their delegations to the meetings of the Sub-Committee corresponds to the agenda items.

5. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Chapter 5. Sanitary and Phytosanitary Measures

Article 5.1. Scope

This Chapter shall apply to all sanitary and phytosanitary (hereinafter referred to as “SPS”) measures of the Parties under the SPS Agreement that may, directly or indirectly, affect trade in goods between the Parties.

Article 5.2. Reaffirmation of Rights and Obligations

The Parties reaffirm their rights and obligations related to SPS measures under the SPS Agreement.

Article 5.3. Transparency

1. Upon request, a Party shall, within 30 days of the request, provide the requesting Party with the documents or a summary of the documents describing the requirements of draft sanitary or phytosanitary measures that may have a significant effect on the trade of the other Party, and that have been notified to the WTO through the online WTO Sanitary and Phytosanitary Measures Notification Submission System, in the English language.

2. Following the notification of sanitary or phytosanitary measures to the WTO, upon request, a Party shall provide the requesting Party with the documents or a summary of the documents describing the requirements of the adopted sanitary or phytosanitary measures, within a reasonable period of time as decided by the Parties, in the English language.

Article 5.4. Enquiry Points

Each Party shall designate an enquiry point to answer all reasonable enquiries from the other Party regarding SPS measures and, where appropriate, to provide the other Party with relevant information.

Article 5.5. Sub-Committee on Sanitary and Phytosanitary Measures

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on SPS Measures (hereinafter referred to in this Article as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) exchanging information on such matters as change or introduction of SPS-related regulations and standards of the Parties and occurrences of SPS incidents in the Areas of the Parties, which may, directly or indirectly, affect trade in goods between the Parties;

(c) undertaking science-based consultations to identify and address specific issues that may arise from the application of SPS measures with the objective of achieving mutually acceptable solutions;

(d) discussing technical cooperation between the Parties on SPS measures with a view to strengthening it;

(e) reporting the findings of the Sub-Committee to the relevant bodies;

(f) carrying out other functions as may be delegated by the Joint Committee; and

(g) discussing any other issues related to this Chapter.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties with appropriate participation of relevant experts.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 5.6. Non-Application of Chapter 21

Chapter 21 shall not apply to this Chapter.

Chapter 6. Technical Regulations, Standards and Conformity Assessment Procedures

Article 6.1. Definitions

For the purposes of this Chapter:

(a) the term “TBT Agreement” means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement; and

(b) the terms and definitions set out in Annex 1 of the TBT Agreement shall apply.

Article 6.2. Objectives

The objectives of this Chapter are to promote trade between the Parties by:

(a) enhancing transparency;

(b) ensuring that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade;

(c) promoting mutual understanding of the technical regulations, standards and conformity assessment procedures in each Party;

(d) strengthening information exchange and cooperation between the Parties in relation to the preparation, adoption and application of technical regulations, standards and conformity assessment procedures;

(e) strengthening cooperation between the Parties at international and regional fora on the work related to standardization and conformity assessments;

(f) improving the implementation of the TBT Agreement; and

(g) promoting greater regulatory cooperation and good regulatory practice.

Article 6.3. Scope

1. This Chapter shall apply to technical regulations, standards and conformity assessment procedures as defined in the TBT Agreement, that may affect trade in goods between the Parties.

2. This Chapter shall not apply to:

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

(b) SPS measures as defined in Annex A of the SPS Agreement.

Article 6.4. Reaffirmation of Rights and Obligations

The Parties reaffirm their rights and obligations related to technical regulations, standards and conformity assessment procedures under the TBT Agreement.

Article 6.5. Transparency

1. The Parties recognize the importance of the provisions relating to transparency in the TBT Agreement.

2. Upon written request, a Party shall provide to the requesting Party, if already available, the full text or summary of technical regulations and conformity assessment procedures notified to the WTO, in the English language. If unavailable, the requested Party shall provide to the requesting Party a summary stating the requirements of the notified technical regulations and conformity assessment procedures, in the English language, within a reasonable period of time decided by the Parties and, if possible, within 30 days after receiving the written request. In implementing the preceding sentence, the contents of the summary shall be determined by the requested Party.

Article 6.6. Technical Regulations

1. Upon request of a Party that has an interest in developing a technical regulation similar to a technical regulation of the other Party, such other Party shall provide, to the extent practicable, relevant information, including studies or documents, except for confidential information, on which it has relied in its development.

2. Each Party shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if those regulations differ from its own, provided that it is satisfied that those regulations adequately fulfill the objectives of its own regulations.

Article 6.7. Acceptance of Results of Conformity Assessment Procedures

Each Party shall ensure, whenever possible, that results of the conformity assessment procedures in the other Party are accepted, even if those procedures differ from its own, provided that it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

Article 6.8. Enquiry Points

Each Party shall designate an enquiry point to answer all reasonable enquiries from the other Party regarding technical regulations, standards and conformity assessment procedures and, where appropriate, to provide the other Party with other relevant information which it considers the other Party should be made aware of.

Article 6.9. Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures (hereinafter referred to in this Article as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) discussing any issues related to this Chapter, including exchanging information and undertaking consultations on technical regulations, standards and conformity assessment procedures;

(c) reporting the findings of the Sub-Committee to the relevant bodies; and

(d) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.

4. The Sub-Committee shall be coordinated by:

(a) for Bangladesh, the Ministry of Commerce, or its successor; and

(b) for Japan, the Ministry of Foreign Affairs, or its successor.

5. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 6.10. Cooperation

1. The Parties shall strengthen their cooperation on mutually determined terms and conditions in the field of technical regulations, standards and conformity assessment procedures, consistent with the objectives of this Chapter.

2. Such cooperation, which shall be on mutually determined terms and conditions, may include:

(a) advice or technical assistance relating to the development and application of technical regulations, standards and conformity assessment procedures;

(b) encouraging the bodies responsible for technical regulations, standards and conformity assessment procedures in each Party to cooperate on matters of mutual interest and to participate in the frameworks for mutual recognition developed by relevant international bodies; and

(c) strengthening communication and coordination in the WTO TBT Committee and other relevant international or regional fora.

3. Each Party shall, on request of the other Party, give consideration to sector specific proposals for mutual benefit for cooperation under this Chapter.

Article 6.11. Non-Application of Chapter 21

1. Chapter 21 shall not apply to this Chapter.

2. If any issues which may cause disputes between the Parties related to this Chapter arise, the Parties shall endeavor to discuss those issues with the objective of finding an amicable solution.

Chapter 7. Trade In Services

Article 7.1. Scope

1. This Chapter shall apply to measures affecting trade in services, including the measures with respect to the following, adopted or maintained by central or local governments or authorities of a Party, or non-governmental bodies in the exercise of powers delegated by central or local governments or authorities of a Party:

(a) the purchase, payment or use of a service;

(b) 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

(c) the presence, including commercial presence, of persons of a Party for the supply of a service in the Area of the other Party.

In fulfilling its obligations and commitments under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by local governments and authorities and non-governmental bodies within its Area.

Note: This Chapter shall apply to taxation measures to the same extent as covered by the GATS.

2. This Chapter shall not apply to:

(a) cabotage in maritime transport services;

(b) air transport services, measures affecting traffic rights however granted, or measures affecting services directly related to the exercise of traffic rights, other than measures affecting:

(i) aircraft repair and maintenance services;

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

(iii) computer reservation system services;

(iv) ground handling services; and

(v) airport operation services;

(c) government procurement;

(d) subsidies provided by a Party including grants, government-supported loans, guarantees and insurance, except as provided for in Article 7.15;

(e) measures affecting natural persons of a Party seeking access to the employment market of the other Party, or measures regarding nationality or citizenship, or residence or employment on a permanent basis; and

(f) services supplied in the exercise of governmental authority.

3. Annex 4 provides supplementary provisions to this Chapter on measures affecting supply of financial services, including scope and definitions.

Article 7.2. Definitions

For the purposes of this Chapter:

(a) the term “aircraft repair and maintenance services” means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from services and does not include so-called line maintenance;

(b) the term “airport operation services” means the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services;

(c) the term “commercial presence” means any type of business or professional establishment, including through:

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

(ii) the creation or maintenance of a branch or a representative office, within the Area of a Party for the purpose of supplying a service;

(d) the term “computer reservation system services” means services provided by computerized systems that contain information about air carriers’ schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

(e) the term “existing” means in effect on the date of entry into force of this Agreement;

(f) the term “ground handling services” means the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering, except the preparation of the food; air cargo and mail handling; fueling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include: self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralized airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra-airport transport systems;

(g) the term “monopoly supplier of a service” means any person, public or private, which in the relevant market of the Area of a Party is authorized or established formally or in effect by that Party as the sole supplier of that service;

(h) the term “natural persons of a Party” means natural persons who under the law of the Party:

(i) for Bangladesh, are citizens of Bangladesh; and

(ii) for Japan, are nationals of Japan;

(i) the term “selling and marketing of air transport services” means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

(j) the term “services” means any service in any sector except services supplied in the exercise of governmental authority;

(k) the term “service consumer” means any person that receives or uses a service;

(l) the term “service supplied in the exercise of governmental authority” means any service which is supplied neither on a

commercial basis nor in competition with one or more service suppliers;

(m) the term “service supplier” means any person that seeks to supply or supplies a service;

(n) the term “supply of a service” includes the production, distribution, marketing, sale and delivery of a service;

(o) the term “trade in services” means the supply of a service:

(i) from the Area of a Party into the Area of the other Party (“cross-border supply mode”);

(ii) in the Area of a Party to the service consumer of the other Party (“consumption abroad mode”);

(iii) by a service supplier of a Party, through commercial presence in the Area of the other Party (“commercial presence mode”); and

(iv) by a service supplier of a Party, through presence of natural persons of that Party in the Area of the other Party (“presence of natural persons mode”); and

(p) the term “traffic rights” means the rights for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within or over the Area of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership and control.

Article 7.3. Market Access

1. With respect to market access through the modes of supply identified in subparagraph (o) of Article 7.2, each Party shall accord services and service suppliers of the other Party treatment no less favorable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of Specific Commitments in Annex 5.

Note: If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (o)(i) of Article 7.2 and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (o)(iii) of that Article, that Party is thereby committed to allow related transfers of capital into its Area.

2. The measures which a Party shall not adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire Area, in sectors where market access commitments are undertaken and in accordance with its specific commitments as provided for in Article 7.5, are defined as:

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

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

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

Note: This subparagraph shall not apply to measures which limit inputs for the supply of services.

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirements of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) 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.

Article 7.4. National Treatment

1. A Party shall, in the sectors inscribed in its Schedule of Specific Commitments in Annex 5 and subject to any conditions and qualifications set out therein, accord to services and service suppliers of the other Party, in respect of all measures

affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers.

Note: Specific commitments assumed under this Article shall not be construed to require either Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or 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 favorable if it modifies the conditions of competition in favor of services or service suppliers of a Party compared to like services or service suppliers of the other Party.

Article 7.5. Schedules of Specific Commitments

1. A Party shall set out, in its Schedule of Specific Commitments in Annex 5, the specific commitments it undertakes under Articles 7.3, 7.4, and 7.6. With respect to sectors where such commitments are undertaken, each Schedule of Specific Commitments in Annex 5 shall specify:

(a) terms, limitations and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments; and

(d) where appropriate, the time frame for implementation of such commitments.

2. Measures inconsistent with both Articles 7.3 and 7.4 shall be inscribed in the column relating to Article 7.3. In this case, the inscription shall be considered to provide a condition or qualification to Article 7.4 as well.

Article 7.6. Additional Commitments

1. The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 7.3 and 7.4, including those regarding qualifications, standards or licensing matters.

2. A Party making additional commitments under paragraph 1 shall inscribe such commitments in its Schedule of Specific Commitments in Annex 5.

Article 7.7. Most-Favored-Nation Treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favorable than that it accords to like services and service suppliers of any non-Party.

2. Paragraph 1 shall not apply to:

(a) any treatment granted under other agreements concluded by a Party and notified under Article V of the GATS; and

(b) any measure by a Party with respect to sectors, sub-sectors or activities, as set out in the List of Most-Favored-Nation Treatment Exemptions in Annex 6.

Article 7.8. Transparency

1. The Parties recognize that transparent measures governing trade in services are important in facilitating the ability of service suppliers to gain access to, and operate in, each other’s markets. Each Party shall promote regulatory transparency in trade in services.

2. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force:

(a) all relevant measures of general application affecting trade in services; and

(b) all international agreements pertaining to or affecting trade in services to which the Party is a party.

3. To the extent possible, each Party shall make the measures and international agreements referred to in paragraph 2 publicly available on the Internet and, to the extent provided under its legal framework, in the English language.

4. Where publication referred to in paragraphs 2 and 3 is not practicable, such information shall be made otherwise publicly available.

5. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Chapter. On request of a Party, the contact point of the other Party shall:

(a) identify the office or official responsible for the relevant matter; and

(b) assist as necessary in facilitating communications between the responsible offices or officials of the Parties with respect to that matter.

6. Each Party shall respond promptly to any request of the other Party for specific information and provide information on:

(a) any measures referred to in subparagraph 2(a) or international agreements referred to in subparagraph 2(b); and

(b) any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services.

Article 7.9. Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected service supplier, for prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Nothing in paragraph 2 shall be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services in sectors where specific commitments are undertaken, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet its policy objectives, each Party shall endeavor to ensure that any such measures that it adopts or maintains are:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service; and

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

5. In determining whether a Party is in conformity with its obligations under subparagraph 4(a), international standards of relevant international organizations applied by that Party shall be taken into account.

Note: The term “relevant international organizations” refers to international bodies whose membership is open to the relevant bodies of each Party.

6. Where a Party requires authorization for the supply of a service, it shall ensure that its competent authorities:

(a) ensure that any authorization fees charged for the completion of relevant application procedures are reasonable, transparent, and do not in themselves restrict the supply of a service. For the purposes of this subparagraph, authorization fees do not include fees for the use of natural resources, payment for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal services provision;

(b) within a reasonable period of time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application;

(c) to the extent practicable, establish an indicative time frame for processing of an application;

(d) on request of the applicant, provide, without undue delay, information concerning the status of the application;

(e) in the case of an incomplete application and on request of the applicant, identify, where practicable, all the additional information that is required to complete the application, and provide the opportunity to remedy deficiencies within a

reasonable time frame;

(f) if an application is terminated or denied, to the extent possible and without undue delay, inform the applicant in writing of the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application;

(g) to the extent permissible under its laws and regulations, do not require physical presence in the Area of a Party for the submission of an application for a license or qualification;

(h) endeavor to accept applications in electronic format under the equivalent conditions of authenticity as paper submissions, in accordance with its laws and regulations; and

(i) where they deem appropriate, accept copies of documents authenticated in accordance with its laws and regulations, in place of original documents.

7. Each Party shall provide adequate procedures to verify the competence of professionals of the other Party. If licensing or qualification requirements include the completion of an examination, each Party shall, to the extent practicable, ensure that:

(a) the examination is scheduled at reasonable intervals; and

(b) a reasonable period of time is provided to enable interested persons to submit applications.

8. Each Party shall, subject to its laws and regulations, permit service suppliers of the other Party to use, without undue restrictions, the business names under which they trade in the Area of that other Party.

9. If the results of the multilateral negotiations related to paragraph 4 of Article VI of the GATS enter into effect, the Parties shall review the results of such negotiations and shall amend this Article as appropriate, after consultations between the Parties to bring the results of such negotiations into effect under this Chapter.

Article 7.10. Recognition

1. A Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other Party for the purpose of the fulfillment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of service suppliers of the other Party, either through harmonization or otherwise, and either based upon an agreement or arrangement between the Parties or competent authorities of the Parties, or unilaterally.

2. Where a Party recognizes the education or experience obtained, requirements met, or licenses or certifications granted in any non-Party:

(a) nothing in Article 7.7 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licenses or certifications granted in the other Party;

(b) in cases where such recognition is accorded by an agreement or arrangement between the Party and the non-Party, the Party shall afford the other Party, on request, adequate opportunity to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it; and

(c) in cases where such recognition is accorded unilaterally, the Party shall afford the other Party an adequate opportunity to demonstrate that the education or experience obtained, requirements met, or licenses or certifications granted in the other Party should also be recognized.

3. A Party shall not accord recognition in a manner which would constitute a means of discrimination between the other Party and non-Parties in the application of its standards or criteria for the authorization, licensing or certification of service suppliers, or a disguised restriction on trade in services.

4. Wherever appropriate, recognition provided for in paragraph 1 should be based on multilaterally agreed criteria. In appropriate cases, the Parties shall work in cooperation with relevant intergovernmental and non-governmental organizations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

Article 7.11. Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its Area does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with the Party's commitments under this Chapter.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated juridical person, in the supply of a

service outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its Area in a manner inconsistent with such commitments.

3. If a Party has a reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraph 1 or 2, it may request the other Party establishing, maintaining or authorizing such supplier to provide specific information concerning the relevant operations in the Area of that other Party.

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorizes or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its Area.

Article 7.12. Business Practices

1. The Parties recognize that certain business practices of service suppliers, other than those falling under Article 7.11, may restrain competition and thereby restrict trade in services.

2. Each Party shall, on request of the other Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The Party addressed shall also provide other information available to the requesting Party, subject to its laws and regulations and to the conclusion of a satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

Article 7.13. Payments and Transfers

1. Except under the circumstances envisaged in Article 7.14, a Party shall not apply restrictions on international transfers and payments for current transactions related to trade in services.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund under the Articles of Agreement of the International Monetary Fund, including the use of exchange actions which are in conformity with the Articles of Agreement of the International Monetary Fund, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its obligations under this Chapter regarding such transactions, except under Article 7.14, or on request of the International Monetary Fund.

Article 7.14. Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services, including on payments or transfers for transactions.

2. The restrictions referred to in paragraph 1 shall:

(a) be applied on the basis of national treatment and most-favored-nation treatment;

(b) be consistent with the Articles of Agreement of the International Monetary Fund;

(c) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(d) not exceed those necessary to deal with the situation described in paragraph 1; and

(e) be temporary and be phased out progressively as the situation described in paragraph 1 improves.

3. In determining the incidence of such restrictions, a Party may give priority to the supply of services which are more essential to its economic or development programs. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party.

Article 7.15. Subsidies

1. Each Party shall review the treatment of subsidies related to trade in services taking into account the development of the

multilateral disciplines pursuant to paragraph 1 of Article XV of the GATS.

2. In the event that either Party considers that its interests have been adversely affected by a subsidy of the other Party, the Parties shall, on request of the former Party, enter into consultations with a view to resolving the matter.

3. During the consultations referred to in paragraph 2, the Party granting a subsidy shall, if it deems fit, consider a request of the other Party for information relating to the subsidy program such as:

(a) laws and regulations under which the subsidy is granted;

(b) form of the subsidy (e.g. grant, loan, tax concession);

(c) policy objective or purpose of the subsidy;

(d) dates and duration of the subsidy and any other time limits attached to it; and

(e) eligibility requirements of the subsidy.

4. The dispute settlement procedures provided for in Chapter 21 shall not apply to this Article.

5. In the event of any inconsistency between this Article and any other provisions of this Agreement, this Article shall prevail.

Article 7.16. Denial of Benefits

1. A Party may deny the benefits of this Chapter:

(a) to the supply of a service, if it establishes that the service is supplied from or in the Area of a non-Party; or

(b) in the case of the supply of a maritime transport service, if it establishes that the service is supplied:

(i) by a vessel registered under the laws of a non-Party; and

(ii) by a person of a non-Party which operates or uses the vessel in whole or in part.

2. A Party may deny the benefits of this Chapter to a service supplier of the other Party that is a juridical person of the other Party if the former Party establishes that the juridical person is owned or controlled by persons of a non-Party, and the former Party:

(a) does not maintain diplomatic relations with the non-Party; or

(b) adopts or maintains measures with respect to the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person.

3. A Party may deny the benefits of this Chapter to a service supplier of the other Party that is a juridical person of the other Party if the former Party establishes that the juridical person is owned or controlled by persons of a non-Party or of the former Party and the juridical person has no substantial business activities in the Area of the other Party.

Article 7.17. Sub-Committee on Trade In Services

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Trade in Services (hereinafter referred to in this Article as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) discussing any issues related to this Chapter;

(c) reporting the findings of the Sub-Committee to the Joint Committee; and

(d) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of and co-chaired by representatives of the Governments of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 7.18. Review of Commitments

With the objective of further liberalizing trade in services between the Parties, including the possibility of renegotiating the format of schedule, the Parties shall consider in due course undertaking a review of this Chapter and the Annexes referred to therein on occasions as may be decided by the Parties.

Chapter 8. Movement of Natural Persons

Article 8.1. General Principles

1. This Chapter reflects the preferential trading relationship between the Parties, and the desire of the Parties to facilitate entry and temporary stay of natural persons on a mutually beneficial basis and to establish transparent criteria and procedures for entry and temporary stay, while recognizing the need to ensure border security and to protect the domestic labor force and permanent employment in each Party.

2. Each Party shall apply its measures related to the provisions of this Chapter in accordance with the general principles referred to in paragraph 1, and, in particular, shall apply those measures expeditiously so as to avoid unduly impairing or delaying activities related to trade in goods, trade in services and investment under this Agreement.

Article 8.2. Scope

1. This Chapter shall apply to measures of a Party affecting temporary movement of natural persons of the other Party into the Area of the former Party, where such natural persons are:

(a) business visitors;

(b) intra-corporate transferees;

(c) investors;

(d) business managers;

(e) professional service suppliers;

(f) independent professionals;

(g) contractual service suppliers;

(h) spouses and dependents; or

(i) other categories as may be specified in each Party's Schedule in Annex 7.

2. This Chapter shall not apply to measures of a Party affecting natural persons of the other Party seeking access to the employment market of the former Party, nor shall it apply to measures of the former Party regarding nationality or citizenship, or residence or employment on a permanent basis.

3. This Chapter shall not prevent a Party from applying measures to regulate entry and temporary stay of natural persons of the other Party, including those measures 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 accruing to the other Party under the terms of specific commitments of each Party set out in Annex 7.

4. The sole fact of requiring a visa for natural persons of the other Party and not for those of certain non-Parties shall not be regarded as nullifying or impairing the benefits under the terms of specific commitments of each Party set out in Annex 7.

Article 8.3. Definitions

For the purposes of this Chapter:

(a) the term "entry and temporary stay" means entry into and stay in a Party by a natural person of the other Party, without the intent to establish permanent residence; and

(b) the term "natural person of the other Party" means a natural person who under the law of that other Party:

(i) for Bangladesh, is a citizen of Bangladesh; and

(ii) for Japan, is a national of Japan.

Article 8.4. Specific Commitments

1. Each Party shall grant entry and temporary stay to natural persons of the other Party in accordance with the terms and conditions of the categories of specific commitments of each Party set out in Annex 7, provided that the natural persons comply with the laws and regulations of the former Party related to movement of natural persons applicable to entry and temporary stay which are not inconsistent with the provisions of this Chapter.

2. Neither Party shall impose or maintain any limitations on the total number of natural persons of the other Party to be granted entry and temporary stay under paragraph 1, unless otherwise specified in Annex 7.

3. The sole fact that a Party grants entry and temporary stay to a natural person of the other Party pursuant to this Chapter shall not be construed to exempt that natural person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practice a profession or otherwise engage in business activities.

Article 8.5. Processing of Applications

1. Each Party shall process without undue delay complete applications for the grant of entry and temporary stay or extensions thereof submitted for natural persons of the other Party.

2. If the competent authorities of a Party require additional information from the applicant in order to process the application, they shall, where applicable, endeavor to notify the applicant without undue delay.

3. Each Party shall, upon request and within a reasonable period of time after receiving a complete application for a visa from a natural person of the other Party, notify the applicant of:

(a) the receipt of the application;

(b) the status of the application; and

(c) the decision concerning the application including, if approved, the period of stay and other conditions.

4. Each Party shall endeavor, to the extent practicable, to take measures to simplify the requirements and to facilitate and expedite the procedures relating to the movement of natural persons of the other Party, subject to its laws and regulations.

5. Any fees imposed by a Party in respect of the processing of an application referred to in paragraph 1 shall be reasonable and in accordance with its laws and regulations.

Article 8.6. Transparency

1. Each Party shall endeavor to make publicly available information relating to entry and temporary stay by natural persons of the other Party, referred to in Annex 7.

2. The information referred to in paragraph 1 shall include, where applicable, the following information:

(a) categories of visa, permits or any similar type of authorization regarding entry and temporary stay;

(b) documentation required and conditions to be met;

(c) method of filing an application and options on where to file, such as consular offices or online;

(d) application fees and an indicative timeframe of the processing of an application;

(e) the maximum length of stay under each type of authorization described in subparagraph (a);

(f) conditions for any available extension or renewal;

(g) rules regarding accompanying dependents; and

(h) relevant laws and regulations of general application pertaining to entry and temporary stay of natural persons.

3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavor to promptly inform the other Party of the introduction of any new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, temporary stay in and, where applicable, permission to work

in the former Party.

Article 8.7. Cooperation

The Parties may discuss mutually determined areas of cooperation to further facilitate entry and temporary stay of natural persons of the other Party, which shall take into consideration areas proposed by each Party during the course of negotiations or other areas as may be identified by each Party.

Article 8.8. Dispute Settlement

1. Without prejudice to Chapter 21, the Parties shall endeavor to resolve any differences arising out of the implementation of this Chapter through consultations.

2. The dispute settlement procedures provided for in Chapter 21 shall not apply to this Chapter unless:

(a) the matter of refusal to grant entry and temporary stay involves a pattern of practice; and

(b) the available domestic administrative remedies of a Party have been exhausted by the natural persons of the other Party affected by that matter.

3. The remedies referred to in subparagraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority of a Party within a reasonable period of time after the date of the institution of the administrative remedy, and the failure to issue such a determination is not attributable to the delay caused by the natural persons.

Chapter 9. Investment

Article 9.1. Scope

1. This Chapter shall apply to measures adopted or maintained by a Party related to:

(a) investors of the other Party;

(b) investments of investors of the other Party in the Area of the former Party; and

(c) with respect to Article 9.8, all investments of an investor of either Party in the Area of the former Party.

Note 1: For greater certainty, this Chapter shall also apply to measures adopted or maintained by a Party related to investments made by investors of the other Party in the Area of the former Party prior to entry into force of this Agreement.

Note 2: For greater certainty, this Chapter shall not apply to claims arising out of events which occurred prior to entry into force of this Agreement.

2. Articles 9.6 through 9.8, 9.10, 9.18 and 9.19 shall apply to taxation measures, subject to the terms and conditions specified in those Articles, if any, to the extent that equivalent provisions in any other international investment agreement to which Bangladesh is a party apply to taxation measures.

3. In the event of any inconsistency between this Chapter and Chapter 7:

(a) with respect to matters covered by Articles 9.4, 9.5 and 9.8, Chapter 7 shall prevail to the extent of the inconsistency; and

(b) with respect to matters not falling under subparagraph (a), this Chapter shall prevail to the extent of the inconsistency.

Article 9.2. Definitions

For the purposes of this Chapter:

(a) the term “investment” means every kind of asset that an investor owns or controls, directly or indirectly, and that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gains or profits, or the assumption of risk. Forms that an investment may take include:

(i) a juridical person;

(ii) shares, stocks or other forms of equity participation in a juridical person, including rights derived therefrom;

(iii) bonds, debentures, loans and other forms of debt, including rights derived therefrom;

Note: A loan issued by a Party to the other Party is not included.

(iv) futures, options and other derivatives;

(v) rights under a contract, including turnkey, construction, management, production or revenue-sharing contracts;

(vi) claims to money and to any performance under a contract having a financial value;

Note: For greater certainty, the term “investment” does not mean claims to money that arise solely from:

(a) commercial contracts for the sale of goods or services; or

(b) the extension of credit in connection with such commercial contracts.

(vii) intellectual property rights, including copyrights and related rights, patent rights and rights relating to utility models, trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;

(viii) rights conferred pursuant to laws and regulations or contracts such as concessions, licenses, authorizations and permits, including those for the exploration and exploitation of natural resources; and

(ix) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

Note: An investment includes the amounts yielded by an investment, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as an investment.

(b) the term “investor of a Party” means:

(i) a natural person having the nationality of that Party in accordance with its applicable laws and regulations; or

(ii) a juridical person of that Party,

that is making or has made an investment in the Area of the other Party;

(c) the term “investment activities” means operation, management, maintenance, use, enjoyment and sale or other disposal of investments;

(d) the term “freely usable currency” means a freely usable currency as defined under the Articles of Agreement of the International Monetary Fund;

(e) the term “claimant” means an investor of a Party that is a party to an investment dispute with the other Party;

(f) the term “respondent” means the Party that is a party to an investment dispute;

(g) the term “disputing party” means either the claimant or the respondent;

(h) the term “disputing parties” means the claimant and the respondent;

(i) the term “non-disputing Party” means the Party that is not a party to an investment dispute;

(j) the term “ICSID” means the International Centre for Settlement of Investment Disputes;

(k) the term “ICSID Additional Facility Rules” means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes;

(l) the term “ICSID Additional Facility Arbitration Rules” means the Rules that apply to any arbitration proceeding conducted pursuant to the ICSID Additional Facility Rules;

(m) the term “ICSID Convention” means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington on March 18, 1965;

(n) the term “New York Convention” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on June 10, 1958;

(o) the term “UNCITRAL Arbitration Rules” means the Arbitration Rules of the United Nations Commission on International

Trade Law; and

(p) the term “Bilateral Investment Agreement” means the Agreement between Japan and the People’s Republic of Bangladesh Concerning the Promotion and Protection of Investment, signed at Tokyo on November 10, 1998.

Article 9.3. Promotion and Admission of Investment

1. Each Party shall encourage and create favorable conditions for investors of the other Party to make investments in its Area.

2. Each Party shall, subject to its rights to exercise powers in accordance with its applicable laws and regulations, including those with regard to foreign ownership and control, admit investment of investors of the other Party.

Article 9.4. National Treatment

1. Each Party shall in its Area accord to investors of the other Party and to their investments treatment no less favorable than that it accords in like circumstances to its own investors and to their investments with respect to investment activities.

Note: For greater certainty, whether the treatment is accorded in “like circumstances” under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

2. Paragraph 1 shall not be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with investment activities of investors of the other Party in its Area, provided that such special formalities do not impair the substance of the rights of such investors under this Chapter.

3. Notwithstanding paragraphs 1 and 2 as well as Article 9.5, a Party may require an investor of the other Party or its investments to provide information concerning such investments solely for informational or statistical purposes. The Party shall protect any confidential information which has been provided from any disclosure that would prejudice the legitimate commercial interests or the competitive position of the investor or its investments. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its laws and regulations.

Article 9.5. Most-Favored-Nation Treatment

1. Each Party shall in its Area accord to investors of the other Party and to their investments treatment no less favorable than that it accords in like circumstances to investors of a non-Party and to their investments with respect to investment activities.

Note: For greater certainty, whether the treatment is accorded in “like circumstances” under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

2. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute settlement procedures or mechanisms under any international agreement.

Article 9.6. General Treatment

1. Each Party shall in its Area accord to investments of investors of the other Party treatment in accordance with customary international law, including fair and equitable treatment and full protection and security.

2. Neither Party shall in its Area impair in any way investment activities of investors of the other Party by arbitrary measures.

3. The obligations under paragraph 1 to provide:

(a) “fair and equitable treatment” includes the obligation not to deny justice in criminal, civil or administrative adjudicatory proceedings in accordance with due process of law; and

(b) “full protection and security” requires each Party to provide the level of police protection required under customary international law.

Article 9.7. Access to the Courts of Justice

Each Party shall in its Area accord to investors of the other Party treatment no less favorable than that it accords in like circumstances to its own investors or to investors of a non-Party with respect to access to its courts of justice and administrative tribunals and agencies in all degrees of jurisdiction, both in pursuit and in defense of such investors' rights.

Article 9.8. Prohibition of Performance Requirements

1. Neither Party may impose or enforce any of the following requirements, or enforce any of the following commitments or undertakings, in connection with investment activities of an investor of either Party in its Area:

(a) to export a given level or percentage of goods or services;

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

(c) to purchase, use or accord a preference to goods produced or services provided in its Area, or to purchase goods or services from a natural person or a juridical person in its Area;

(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with the investments of the investor;

(e) to restrict sales of goods or services in its Area that the investments of the investor produce or provide by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;

(f) to restrict the exportation or sale for export;

(g) to adopt a given duration of the term of a license contract, in regard to any license contract freely entered into between the investor and a natural person or a juridical person in its Area, whether it has been entered into or not, provided that the requirement is imposed or enforced or the commitment or undertaking is enforced by an exercise of governmental authority of the Party; or

Note: A "license contract" referred to in this subparagraph means any license contract concerning transfer of technology, a production process or other proprietary knowledge.

(h) to transfer technology, a production process or other proprietary knowledge to a natural person or a juridical person in its Area.

2. Neither Party may condition the receipt or continued receipt of an advantage, in connection with investment activities of an investor of either Party in its Area, on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use or accord a preference to goods produced in its Area, or to purchase goods from a natural person or a juridical person in its Area;

(c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with the investments of the investor;

(d) to restrict sales of goods or services in its Area that the investments of the investor produce or provide by relating such sales in any way to the volume or value of its exports or foreign exchange earnings; or

(e) to restrict the exportation or sale for export.

3. (a) Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with investment activities of an investor of either Party in its Area, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its Area.

(b) Subparagraphs 1(g) and (h) shall not apply when the requirement is imposed or enforced or the commitment or undertaking is enforced by a court of justice, administrative tribunal or competition authority to remedy an alleged violation of competition laws.

(c) Subparagraph 1(h) shall not apply when the requirement concerns the transfer of intellectual property rights which is undertaken in a manner not inconsistent with the TRIPS Agreement.

(d) Subparagraphs 2(a) and (b) shall not apply to requirements imposed or enforced by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

4. Paragraphs 1 and 2 shall not apply to any requirement other than the requirements set out in those paragraphs.

Article 9.9. Measures Against Corruption

Each Party shall ensure that measures and efforts are undertaken to prevent and combat corruption regarding matters covered by this Chapter in accordance with its laws and regulations.

Article 9.10. Expropriation and Compensation

1. Neither Party shall expropriate or nationalize an investment in its Area of an investor of the other Party or take any measure equivalent to expropriation or nationalization (hereinafter referred to in this Article as “expropriation”) except:

(a) for a public purpose;

(b) in a non-discriminatory manner;

(c) upon payment of prompt, adequate and effective compensation in accordance with paragraphs 3 through 6; and

(d) in accordance with due process of law.

2. (a) The determination of whether an action or a series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:

(i) the economic impact of the government action, although the fact that an action or a series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and

(iii) the character of the government action, including its objectives.

(b) Non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public moral, public health, safety and the environment, do not constitute indirect expropriations, except in rare circumstances.

3. The compensation shall be equivalent to the fair market value of the expropriated investments at the time when the expropriation was publicly announced or when the expropriation occurred, whichever is earlier. The fair market value shall not reflect any change in value occurring because the expropriation had become publicly known earlier.

4. The compensation shall be paid without delay, shall include interest, at a commercially reasonable rate, accrued from the date of expropriation until the date of payment, and shall be effectively realizable and freely transferable.

5. If payment is made in a freely usable currency, the compensation paid shall include interest, at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

6. If a Party elects to pay in a currency other than a freely usable currency, the compensation paid shall be no less than the sum of the following, converted into the currency of payment at the market exchange rate prevailing on the date of payment:

(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market exchange rate prevailing on that date; and

(b) interest, at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until the date of payment.

7. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

8. Subject to paragraph 2 of Article 9.1, this Article shall apply to taxation measures to the extent that such taxation measures constitute expropriation.

Article 9.11. Protection from Strife

1. Each Party shall accord to investors of the other Party that have suffered loss or damage relating to their investments in the Area of the former Party due to armed conflict or a state of emergency such as revolution, insurrection, civil disturbance or any other similar event in the Area of that former Party, treatment, as regards restitution, indemnification, compensation or any other settlement, that is no less favorable than that it accords to its own investors or to investors of a non-Party, whichever is more favorable to the investors of the other Party.

2. Any payment as a means of settlement referred to in paragraph 1 shall be effectively realizable, freely transferable and freely convertible at the market exchange rate prevailing on the date of payment into the currency of the Party of the investors concerned or into freely usable currencies.

3. Nothing in paragraph 1 of Article 9.14 shall derogate from the obligation of a Party under paragraph 1.

Article 9.12. Subrogation

If a Party or its designated agency makes a payment to any investor of that Party under an indemnity, guarantee or insurance contract, pertaining to an investment of such investor in the Area of the other Party, the latter Party shall recognize the assignment to the former Party or its designated agency of any right or claim of such investor on account of which such payment is made and shall recognize the right of the former Party or its designated agency to exercise by virtue of subrogation any such right or claim to the same extent as the original right or claim of the investor.

Article 9.13. Transfers

1. Each Party shall ensure that all transfers relating to investments in its Area of an investor of the other Party may be freely made into and out of its Area without delay. Such transfers shall include, in particular, though not exclusively:

(a) the initial capital and additional amounts to maintain or increase investments;

(b) profits, interest, capital gains, dividends, royalties, fees or other current incomes accruing from investments;

(c) payments made under a contract including loan payments in connection with investments;

(d) proceeds of the total or partial sale or liquidation of investments;

(e) earnings and remuneration of personnel from abroad who work in connection with investments in the Area of the former Party;

(f) payments made in accordance with Articles 9.10 and 9.11; and

(g) payments arising out of a dispute.

2. Each Party shall further ensure that such transfers may be made without delay in freely usable currencies at the market exchange rate prevailing on the date of transfer.

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

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

(b) issuing, trading or dealing in securities, futures, options or derivatives;

(c) criminal or penal offences;

(d) reporting or record keeping of transfers of currency or other monetary instruments when necessary to assist law enforcement or financial regulatory authorities; or

(e) ensuring compliance with orders or judgements in adjudicatory proceedings.

Article 9.14. Security Exceptions

1. Notwithstanding paragraph 3 of Article 1.5, subject to paragraph 3 of Article 9.11, nothing in this Chapter shall be construed to prevent a Party from adopting or enforcing measures:

(a) which it considers necessary for the protection of its essential security interests, including measures:

(i) taken in time of war, armed conflict or other emergency in that Party or in international relations; or

(ii) relating to the implementation of national policies or international agreements respecting the non-proliferation of weapons; or

(b) in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. Nothing in this Chapter shall be construed to require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests.

3. In cases where a Party takes any measure, pursuant to paragraph 1, that does not conform with the obligations of the provisions of this Chapter, that Party shall not use such measure as a means of avoiding its obligations.

Article 9.15. Temporary Safeguard Measures

1. A Party may adopt or maintain restrictive measures with regard to cross-border capital transactions as well as payments or transfers including transfers referred to in Article 9.13 for transactions related to investments:

(a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or

(b) in exceptional cases where movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular monetary and exchange rate policies.

2. Restrictive measures referred to in paragraph 1 shall:

(a) be promptly notified to the other Party;

(b) be applied in such a manner that the other Party is treated no less favorably than any non-Party;

(c) be consistent with the Articles of Agreement of the International Monetary Fund;

(d) avoid unnecessary damages to the commercial, economic and financial interests of the other Party;

(e) not exceed those necessary to deal with the situation described in paragraph 1; and

(f) be temporary and be phased out progressively as the situation described in paragraph 1 improves.

3. The Party which has adopted any measures under paragraph 1 shall, upon request, commence consultations with the other Party in order to review the restrictions adopted by the former Party.

Article 9.16. Prudential Measures

1. Notwithstanding any other provisions of this Chapter, a Party shall not be prevented from taking measures relating to financial services for prudential reasons, including measures for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a juridical person supplying financial services, or to ensure the integrity and stability of its financial system.

2. Where the measures taken by a Party pursuant to paragraph 1 do not conform with this Chapter, they shall not be used as a means of avoiding the obligations of the Party under this Chapter.

Article 9.17. Denial of Benefits

1. A Party may deny the benefits of this Chapter to an investor of the other Party that is a juridical person of the other Party and to its investments if the juridical person is owned or controlled by an investor of a non-Party, and the former Party:

(a) does not maintain diplomatic relations with the non-Party; or

(b) adopts or maintains measures with respect to the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person or to its investments.

2. A Party may deny the benefits of this Chapter to an investor of the other Party that is a juridical person of the other Party and to its investments if the juridical person is owned or controlled by an investor of a non-Party and the juridical person has no substantial business activities in the Area of the other Party.

Article 9.18. Settlement of Investment Disputes between a Party and an Investor of the

other Party

1. In the event of an investment dispute between a claimant and a respondent, they should initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding, third-party procedures.

2. In the event that a disputing party considers that an investment dispute cannot be settled by consultation and negotiation:

(a) the claimant, on its own behalf, may submit to arbitration under this Article a claim:

(i) that the respondent has breached an obligation under this Chapter; and

(ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach; and

(b) the claimant, on behalf of a juridical person of the respondent that has a legal personality, and which the claimant owns or controls directly or indirectly, may submit to arbitration under this Article a claim:

(i) that the respondent has breached an obligation under this Chapter; and

(ii) that the juridical person has incurred loss or damage by reason of, or arising out of, that breach.

3. At least 90 days before submitting any claim to arbitration under this Article, the claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (hereinafter referred to in this Article as "notice of intent"). The notice of intent shall specify:

(a) the name and address of the claimant and, in the case of subparagraph 2(b), the name, address and place of incorporation of the juridical person;

(b) for each claim, the provision of this Chapter alleged to have been breached and any other relevant provisions;

(c) the legal and factual basis for each claim; and

(d) the relief sought and the approximate amount of damages claimed.

4. Provided that six months have elapsed since the events giving rise to the claim, the claimant may submit a claim referred to in paragraph 2 to the arbitration:

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

(b) under the ICSID Additional Facility Rules, provided that:

(i) none of the Parties is a party to the ICSID Convention; or

(ii) either Party, but not both, is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules; or

(d) if the disputing parties agree, under any other arbitration institution or arbitration rules.

5. A claim shall be deemed submitted to arbitration under this Article when the claimant's notice of or request for arbitration (hereinafter referred to in this Article as "notice of arbitration"):

(a) referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General of ICSID;

(b) referred to in Rule 2 of the ICSID Additional Facility Arbitration Rules is received by the Secretary-General of ICSID;

(c) referred to in Article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in Article 20 of the UNCITRAL Arbitration Rules, is received by the respondent; or

(d) under any other arbitration institution or arbitration rules selected under subparagraph 4(d) is received by the respondent, unless otherwise specified by such institution or in such rules.

6. Each Party hereby consents to the submission of a claim to arbitration under this Article in accordance with this Agreement.

7. Notwithstanding paragraph 6, no claim may be submitted to arbitration under this Article if more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under paragraph 2 and knowledge that the claimant in the case of subparagraph 2(a) or the juridical person referred to in subparagraph 2(b) in the case of that subparagraph has incurred loss or damage.

8. No claim may be submitted to arbitration under this Article unless:

(a) in the case of subparagraph 2(a):

(i) the claimant consents in writing to arbitration in accordance with the procedures set out in this Article; and

(ii) the claimant waives in writing any right to initiate or continue before any administrative tribunal or court of justice under the law of either Party, or other dispute settlement procedures, any proceedings with respect to any measure alleged to constitute a breach referred to in subparagraph 2(a)(i); and

(b) in the case of subparagraph 2(b):

(i) both the claimant and the juridical person referred to in that subparagraph consent in writing to arbitration in accordance with the procedures set out in this Article; and

(ii) both the claimant and the juridical person referred to in that subparagraph waive in writing any right to initiate or continue before any administrative tribunal or court of justice under the law of either Party, or other dispute settlement procedures, any proceedings with respect to any measure alleged to constitute a breach referred to in subparagraph 2(b)(i).

9. The waiver provided pursuant to subparagraph 8(a)(ii) or (b)(ii) shall cease to apply where the arbitral tribunal rejects the claim on the basis of a failure to meet the requirements of paragraph 3, 4, 7 or 8, or on any other procedural or jurisdictional grounds.

10. Notwithstanding subparagraphs 8(a)(ii) and (b)(ii), the claimant or the juridical person referred to in subparagraph 2(b) may initiate or continue an action that seeks interim injunctive relief that does not involve the payment of monetary damages before an administrative tribunal or court of justice under the law of the respondent.

11. When a claim is submitted under this Article, the arbitral tribunal shall decide the issues in dispute in accordance with this Chapter and other provisions of this Agreement as applicable and applicable rules of international law.

12. The respondent shall deliver to the non-disputing Party:

(a) notice of arbitration no later than 30 days after the date on which the claim was submitted; and

(b) copies of all pleadings filed in the arbitration.

13. The non-disputing Party may, upon written notice to the disputing parties, make submissions to the arbitral tribunal on a question of interpretation of this Chapter and other provisions of this Agreement as applicable.

14. In an arbitration under this Article, the respondent shall not assert, as a defense, counterclaim, right of setoff or otherwise, that the claimant has received or will receive indemnification or other compensation for all or part of the alleged damages pursuant to an insurance or guarantee contract.

15. The arbitral tribunal may award only:

(a) a judgement whether or not there has been a breach by the respondent of any obligation under this Chapter with respect to the claimant and its investments; and

(b) one or both of the following remedies, only if there has been such a breach:

(i) monetary damages and applicable interest; and

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

The arbitral tribunal may also award cost and attorney's fees in accordance with applicable arbitration rules.

16. Subject to paragraph 15, in the case of subparagraph 2(b):

(a) an award of monetary damages and any applicable interest shall provide that the sum be paid to the juridical person referred to in that subparagraph;

(b) an award of restitution of property shall provide that restitution be made to the juridical person referred to in that subparagraph; and

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

17. The respondent may make available to the public in a timely manner all documents, including the award, submitted to or issued by the arbitral tribunal, subject to redaction of:

(a) confidential business information;

(b) information which is privileged or otherwise protected from disclosure under the laws and regulations of either Party; and

(c) information which shall be withheld pursuant to the relevant arbitration rules.

18. Unless the disputing parties agree otherwise, the place of arbitration shall be in a country that is a party to the New York Convention.

19. The award rendered by the arbitral tribunal shall be final and binding upon the disputing parties. This award shall be executed in accordance with the applicable laws and regulations, as well as relevant international law including the ICSID Convention and the New York Convention, concerning the execution of award in force in the country where such execution is sought.

20. Subject to paragraph 2 of Article 9.1, this Article shall apply to disputes regarding taxation measures to the extent covered by Article 9.6 through 9.8 or 9.10.

21. Notices and other documents relating to arbitration under this Article shall be served on a Party by delivery to:

(a) for Bangladesh, the Ministry of Commerce; and

(b) for Japan, International Legal Affairs Bureau, the Ministry of Foreign Affairs.

22. Each Party shall promptly make publicly available and notify to the other Party any change to the name of the authority referred to in paragraph 21.

Article 9.19. Sub-Committee on Investment

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Investment (hereinafter referred to in this Article as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) exchanging information on any matters related to this Chapter;

(c) discussing any issues related to this Chapter;

(d) reporting the findings and the outcome of discussions of the Sub-Committee to the Joint Committee; and

(e) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.

4. The Sub-Committee may invite representatives of relevant entities other than the Governments of the Parties with the necessary expertise relevant to the issues to be discussed.

5. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

6. Subject to paragraph 2 of Article 9.1, this Article shall apply to matters regarding taxation measures to the extent covered by Article 9.6 through 9.8 or 9.10.

Article 9.20. Review

Upon request of either Party, the Parties should undertake a review of this Chapter, with a view to further promoting and

progressively liberalizing investment between the Parties.

Article 9.21. Relation to the Bilateral Investment Agreement

1. Notwithstanding paragraph 2 of Article 14 of the Bilateral Investment Agreement, the Bilateral Investment Agreement shall be terminated on the date of entry into force of this Agreement.

2. The Parties confirm that with respect to investments and returns acquired prior to the date of termination of the Bilateral Investment Agreement, the provisions of Articles 1 through 13 of the Bilateral Investment Agreement shall continue to be effective for a further period of 15 years from that date in accordance with paragraph 3 of Article 14 of the Bilateral Investment Agreement.

3. For the purposes of paragraph 2, nothing in this Agreement shall affect the rights and obligations of either Party under the relevant provisions of the Bilateral Investment Agreement.

Article 9.22. Duration and Termination

With respect to investments acquired prior to the date of termination of this Agreement, the provisions of this Chapter, as well as the provisions of this Agreement which are directly related to this Chapter, shall continue to be effective for a further period of 15 years from the date of termination of this Agreement.

Chapter 10. Electronic Commerce

Article 10.1. Definitions

For the purposes of this Chapter:

(a) the term “algorithm” means a defined sequence of steps, taken to solve a problem or obtain a result;

(b) the term “commercial electronic message” means an electronic message which is sent for commercial purposes to an electronic address of a person through telecommunication services, comprising at least electronic mail and, to the extent stipulated under domestic laws and regulations, other types of messages;

Note: For greater certainty, the “electronic address of a person” does not include IP addresses.

(c) the term “computing facilities” means computer servers and storage devices for processing or storing information for commercial use;

(d) the term “covered enterprise” means, with respect to a Party, an enterprise in its Area, owned or controlled, directly or indirectly, by an investor of the other Party, in existence as of the date of entry into force of this Agreement, or established, acquired or expanded thereafter;

(e) the term “covered person” means:

(i) covered enterprise; or

(ii) person of the other Party;

(f) the term “electronic authentication” means the process or act of verifying the identity of a party to an electronic communication or transaction, or ensuring the integrity of an electronic communication;

(g) the term “electronic invoicing” means the processing and exchange of an invoice between a seller and a buyer using a structured digital format;

(h) the term “electronic invoicing framework” means a system that facilitates electronic invoicing;

(i) the term “electronic signature” means data in electronic form that is in, affixed to or logically associated with an electronic data message and that may be used to identify the signatory in relation to the data message and indicate the signatory’s approval of the information contained in the data message;

(j) the term “electronic transmission” or “transmitted electronically” means a transmission made using any electromagnetic means, including by photonic means;

(k) the term “government data” means data held by the central government, disclosure of which is not restricted under the

Party's law and which that Party makes digitally available for public access and use;

(l) the term "metadata" means structural or descriptive information about data, such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection or context;

(m) the term "MSMEs" means micro, small and medium-sized enterprises; and

(n) the term "unsolicited commercial electronic message" means a commercial electronic message that is sent without the consent of the recipient or despite the explicit rejection of the recipient.

Article 10.2. Principles and Objectives

1. The Parties recognize the economic growth and opportunities provided by electronic commerce, the importance of frameworks that promote consumer confidence in electronic commerce and the importance of facilitating the development and use of electronic commerce.

2. The objectives of this Chapter are to:

(a) promote electronic commerce between the Parties;

(b) contribute to creating an environment of trust and confidence in the use of electronic commerce; and

(c) enhance cooperation between the Parties regarding development of electronic commerce.

Article 10.3. Scope

1. This Chapter shall apply to measures adopted or maintained by a Party that affect trade by electronic means.

2. This Chapter shall not apply to:

(a) government procurement; or

(b) except for Article 10.15, information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection.

3. In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

Article 10.4. Domestic Electronic Transaction Framework

1. Each Party shall endeavor to maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996 or the United Nations Convention on the Use of Electronic Communications in International Contracts, done at New York on November 23, 2005.

2. Each Party shall endeavor to:

(a) avoid any unnecessary regulatory burden on electronic transactions; and

(b) facilitate input by interested persons in the development of its legal framework for electronic transactions.

Article 10.5. Domestic Regulation

Each Party shall ensure that all its measures of general application affecting electronic commerce, including measures related to its collection of information, are administered in a reasonable, objective and impartial manner.

Article 10.6. Electronic Authentication and Electronic Signatures

1. Except in circumstances otherwise provided for under its laws and regulations, a Party shall not deny the legal effect, legal validity or admissibility as evidence in legal proceedings of an electronic signature solely on the basis that the signature is in electronic form.

2. Neither Party shall adopt or maintain measures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication method or electronic signature for that transaction; or

(b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with any legal requirements with respect to electronic authentication or electronic signature.

3. Notwithstanding paragraph 2, each Party may require that, for a particular category of transactions, the method of authentication or electronic signature meets certain performance standards or is certified by an accredited authority in accordance with its laws and regulations.

4. To the extent provided for under its laws and regulations, each Party shall apply paragraphs 1 through 3 to electronic seals, electronic time stamps and electronic registered delivery services.

5. The Parties shall encourage the use of interoperable electronic authentication.

6. The Parties may work together on a voluntary basis to encourage the mutual recognition of electronic signatures.

7. For greater certainty, nothing in this Article shall prevent a Party from according greater legal effect to an electronic signature that satisfies certain requirements, such as indicating that the electronic data message has not been altered or verifying the identity of the signatory.

Note: Bangladesh shall not be obliged to apply this Article for a period of five years after the date of entry into force of this Agreement.

Article 10.7. Online Consumer Protection

1. The Parties recognize the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent and misleading commercial activities referred to in Article 13.7 when they engage in electronic commerce.

Note: For the purposes of this Article, the term “engage in electronic commerce” includes the pre-transaction phase of electronic commerce.

2. Each Party shall adopt or maintain laws and regulations to provide protection for consumers using electronic commerce against fraudulent and misleading commercial activities that cause harm or potential harm to such consumers.

3. To protect consumers engaged in electronic commerce, each Party shall endeavor to adopt or maintain measures that aim to ensure:

(a) that suppliers of goods or services deal fairly and honestly with consumers;

(b) that suppliers of goods or services provide complete, accurate and transparent information on those goods or services including any terms and conditions of purchase; and

(c) the safety of goods and, if applicable, services during normal or reasonably foreseeable use.

4. The Parties recognize the importance of affording to consumers who are engaged in electronic commerce consumer protection at a level not less than that afforded to consumers who are engaged in other forms of commerce.

5. The Parties recognize the importance of cooperation between their respective consumer protection agencies or other relevant bodies, including the exchange of information and experience, as well as cooperation in appropriate cases of mutual concern regarding the violation of consumer rights in relation to electronic commerce in order to enhance online consumer protection, where mutually decided.

6. Each Party shall promote access to, and awareness of, consumer redress or recourse mechanisms, including for consumers transacting cross-border.

Article 10.8. Personal Information Protection

1. The Parties recognize the economic and social benefits of protecting personal information of users of electronic commerce and the contribution that this makes to enhancing consumer confidence in electronic commerce.

2. Each Party shall adopt or maintain a legal framework that provides for the protection of personal information of users of

electronic commerce. In the development of its legal framework for the protection of personal information and privacy, each Party should take into account the principles and guidelines of relevant international bodies.

3. Each Party shall endeavor to adopt non-discriminatory practices in protecting users of electronic commerce from personal information protection violations occurring within its jurisdiction.

4. Each Party shall publish information on the personal information protections it provides to users of electronic commerce, including how:

(a) natural persons can pursue remedies; and

(b) business can comply with any legal requirements.

5. Recognizing that each Party may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. These mechanisms may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement, or broader international frameworks. To this end, the Parties shall endeavor to exchange information on any such mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them.

6. The Parties recognize the importance of ensuring compliance with measures to protect personal information and ensuring that any restrictions on cross-border flows of personal information are necessary and proportionate to the risks presented.

Article 10.9. Principles on Access to and Use of the Internet for Electronic Commerce

Subject to its applicable policies, laws and regulations, each Party should adopt or maintain appropriate measures to ensure that a consumer in its Area may:

(a) access and use services and applications of the consumer's choice available on the Internet, subject to reasonable, transparent and non-discriminatory network management;

(b) connect the devices of the consumer's choice to the Internet, provided that such devices do not harm the network; and

(c) access information on the network management practices of the consumer's Internet access service supplier.

Note: For the purposes of this Article, the term "consumer" means any natural or juridical person using the Internet.

Article 10.10. Cross-Border Transfer of Information by Electronic Means

1. The Parties recognize that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. Neither Party shall prevent cross-border transfer of information by electronic means where such activity is for the conduct of the business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining:

(a) measures inconsistent with paragraph 2 that are necessary to achieve a legitimate public policy objective, provided that the measure:

(i) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(ii) does not impose restrictions on transfers of information greater than are necessary to achieve the objective; or

(b) any measures that it considers necessary for the protection of its essential security interests. Such measures shall not be disputed by the other Party.

Article 10.11. Location of Computing Facilities

1. The Parties recognize that each Party may have its own measures regarding the use or location of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. Neither Party shall require a covered person to use or locate computing facilities in its Area as a condition for conducting business in its Area.

3. Nothing in this Article shall prevent a Party from adopting or maintaining:

(a) measures inconsistent with paragraph 2 that are necessary to achieve a legitimate public policy objective, provided that the measure:

(i) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(ii) does not impose restrictions on the use or location of computing facilities greater than are necessary to achieve the objective; or

(b) any measures that it considers necessary for the protection of its essential security interests. Such measures shall not be disputed by the other Party.

Article 10.12. Unsolicited Commercial Electronic Messages

1. The Parties recognize the importance of promoting confidence and trust in electronic commerce, including through transparent and effective measures that limit unsolicited commercial electronic messages. To this end, each Party shall adopt or maintain measures that:

(a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to stop receiving such messages;

(b) require the consent, as specified in its laws and regulations, of recipients to receive commercial electronic messages; or

(c) otherwise provide for the minimization of unsolicited commercial electronic messages.

2. Each Party shall endeavor to ensure that commercial electronic messages are clearly identifiable as such, clearly disclose on whose behalf they are sent, and contain the necessary information to enable recipients to request cessation of such messages free of charge and at any time.

3. Each Party shall provide access to redress or recourse against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained pursuant to paragraph 1.

4. The Parties shall endeavor to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

Article 10.13. Cybersecurity

The Parties recognize the importance of:

(a) building the capabilities of their respective competent authorities responsible for computer security incident responses including through the exchange of best practices; and

(b) using existing collaboration mechanisms to cooperate on matters related to cybersecurity.

Article 10.14. Source Code

1. Nothing in this Article shall preclude the inclusion or implementation of terms and conditions related to the provision of source code in commercially negotiated contracts.

2. Neither Party shall require the transfer of or access to source code of software owned by a person of the other Party, or the transfer of or access to an algorithm expressed in that source code, as a condition for the import, distribution, sale or use of that software, or of products containing that software, in its Area.

3. This Article does not preclude a regulatory body or judicial authority of a Party from requiring a person of the other Party to preserve and make available the source code of software, or an algorithm expressed in that source code, for a specific investigation, inspection, examination, enforcement action or judicial proceeding, subject to safeguards against unauthorized disclosure.

Note: This making available shall not be construed to negatively affect the software source code's or algorithm's status as a

trade secret, if such status is claimed by the trade secret owner.

Article 10.15. Open Government Data

1. This Article applies to measures by a Party with respect to government data.

Note: For greater certainty, this Article is without prejudice to a Party's law pertaining to intellectual property and personal data protection.

2. The Parties recognize the benefit of making data held by local governments digitally available for public access and use in a manner consistent with paragraphs 3 through 5.

3. The Parties recognize that facilitating public access to and use of government data fosters economic and social development, competitiveness and innovation. To this end, the Parties are encouraged to expand the coverage of such data, such as through engagement and consultation with interested persons.

4. To the extent that a Party chooses to make government data digitally available for public access and use, it shall endeavor, to the extent practicable, to ensure that such data is:

(a) made available in a machine-readable and open format;

(b) searchable and retrievable;

(c) updated, as applicable, in a timely manner;

(d) accompanied by metadata that is, to the extent possible, based on commonly used formats that allow the user to understand and utilize the data; and

(e) made generally available at no or reasonable cost to the user.

5. To the extent that a Party chooses to make government data digitally available for public access and use, it shall endeavor to avoid imposing conditions that unduly prevent or restrict the user of such data from:

(a) reproducing, redistributing or republishing the data;

(b) regrouping the data; or

(c) using the data for commercial and non-commercial purposes, including in the process of producing a new product or service.

Note: For greater certainty, nothing in this paragraph shall prevent a Party from requiring a user of such data to link to original sources.

6. The Parties shall endeavor to cooperate on matters that facilitate and expand public access to and use of government data, including exchanging information and experiences on practices and policies, with a view to encouraging the development of electronic commerce and creating business opportunities, particularly for MSMEs.

Article 10.16. Conclusion of Contracts by Electronic Means

Unless otherwise provided for in its laws and regulations, a Party shall not adopt or maintain measures regulating contracts by electronic means that:

(a) deny the legal effect, validity or enforceability of a contract, solely on the grounds that it is concluded by electronic means; or

(b) otherwise create obstacles to the use of contracts concluded by electronic means.

Article 10.17. Electronic Invoicing

1. The Parties recognize that electronic invoicing frameworks can help to improve the cost effectiveness, efficiency, accuracy and reliability of electronic commerce transactions.

2. To the extent that a Party develops a measure related to electronic invoicing frameworks, that Party shall endeavor to design the measure to support cross-border interoperability, including by taking into account relevant international

standards, guidelines or recommendations, where they exist.

3. Each Party shall endeavor, as appropriate, to share best practices pertaining to electronic invoicing.

Article 10.18. Transparency

1. Each Party shall publish as promptly as possible or, if that is not practicable, otherwise make publicly available, including on the Internet if feasible, all relevant measures of general application pertaining to or affecting the operation of this Chapter.

2. Each Party shall respond as promptly as possible to a relevant request from the other Party for specific information on any of its measures of general application pertaining to or affecting the operation of this Chapter.

Article 10.19. Cooperation

Recognizing the global nature of electronic commerce, the Parties shall endeavor to:

(a) work together to assist MSMEs to overcome obstacles in the use of electronic commerce;

(b) exchange information and share experiences on regulations, policies, enforcement and compliance regarding electronic commerce, including:

(i) personal information protection;

(ii) online consumer protection, including means for consumer redress and building consumer confidence;

(iii) unsolicited commercial electronic messages;

(iv) security in electronic communications;

(v) electronic authentication and electronic signature;

(vi) e-government, conclusion of contracts by electronic means, electronic invoicing and open government data; and

(vii) any other area as jointly decided by the Parties;

(c) exchange information and share views on consumer access to products and services offered online between the Parties;

(d) encourage development by the private sector of methods of self-regulation that foster electronic commerce, including codes of conduct, model contracts, guidelines and enforcement mechanisms; and

(e) cooperate in any other area as jointly decided by the Parties.

Article 10.20. Electronic Payments

1. For the purposes of this Article:

(a) the term “electronic payment” means the payer’s transfer of a monetary claim on a person that is acceptable to the payee and made through electronic means, but does not include payment services of central banks involving settlement between financial service suppliers; and

Note: For greater certainty, nothing in this Article shall require a Party to grant electronic payments service suppliers of the other Party not established in its Area access to payment services of central banks that involve settlement between financial service suppliers.

(b) the term “self-regulatory organization” means a non-governmental body that is recognized by a Party as a self-regulatory body and exercises regulatory or supervisory authority over electronic payments service suppliers or financial service suppliers by statute of or delegation from that Party’s central or local government.

2. Noting the rapid growth of electronic payments, in particular those supplied by new electronic payments service suppliers, the Parties recognize:

(a) the benefit of supporting the development of safe, efficient, trustworthy, secure, affordable and accessible cross-border electronic payments by fostering the adoption and use of internationally accepted standards, promoting interoperability of electronic payments systems, and encouraging useful innovation and competition in electronic payments services;

(b) the importance of enabling the introduction of safe, efficient, trustworthy, secure, affordable and accessible electronic payment products and services in a timely manner; and

(c) the importance of upholding safe, efficient, trustworthy, secure and accessible electronic payments systems through laws and regulations that, if appropriate, account for the risks of such systems.

3. In accordance with its laws and regulations, each Party shall endeavor to:

(a) further to Article 10.18, make its laws and regulations on electronic payments, including those pertaining to regulatory approvals, licensing requirements, procedures and technical standards, publicly available in a timely manner;

(b) finalize decisions on regulatory or licensing approvals in a timely manner;

(c) take into account, for relevant electronic payments systems, internationally accepted payment standards to enable greater interoperability between electronic payments systems; and

(d) encourage electronic payments service suppliers and financial service suppliers to facilitate greater interoperability, competition, security and innovation in electronic payments, which may include partnerships with third-party providers, subject to appropriate risk management.

4. Further to Article 10.18, each Party shall, to the extent applicable, take such reasonable measures as may be available to it to ensure that the rules of general application adopted or maintained by its self-regulatory organizations are promptly published or otherwise made publicly available.

5. For greater certainty, nothing in this Article shall be construed to impose an obligation on a Party to modify its domestic rules on payments, including, inter alia, the need to obtain licenses or permits or the approval of access applications.

Article 10.21. Reassessment and Review

The Parties shall, within three years of the date of entry into force of this Agreement, reassess the need for inclusion of provisions into this Chapter on not imposing customs duties on electronic transmissions, and review subparagraph 3(b) of Article 10.10 and subparagraph 3(b) of Article 10.11.

Chapter 11. Government Procurement

Article 11.1. Objectives

The Parties recognize that it is important for a Party to accord national treatment and most-favored-nation treatment to goods, services and suppliers of the other Party with respect to the measures regarding government procurement, with a view to achieving greater liberalization and expansion of trade between the Parties. Each Party shall ensure transparency and fair and effective implementation of the measures regarding government procurement.

Article 11.2. Definitions

For the purposes of this Chapter:

(a) the term “construction service” means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC);

(b) the term “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;

(c) the term “limited tendering” means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

Note: For the purposes of this Chapter, the term “limited tendering” means, for Bangladesh, “direct procurement method”.

(d) the term “multi-use list” means a list of suppliers that a procuring entity recognizes as satisfying the conditions for participation in that list, and that the procuring entity intends to use more than once;

Note: For the purposes of this Chapter, the term “multi-use list” means, for Bangladesh, “enlistment”.

(e) the term “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;

Note: For the purposes of this Chapter, the term “notice of intended procurement” means, for Bangladesh, “invitation for tender”.

(f) the term “offset” means any condition or undertaking that encourages local development or improves each Party’s balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade and similar action or requirement;

(g) the term “open tendering” means a procurement method whereby all interested suppliers may submit a tender;

(h) the term “procuring entity” means an entity covered under Annex 8;

(i) the term “qualified supplier” means a supplier that a procuring entity recognizes as satisfying the conditions for participation;

Note: For the purposes of this Chapter, the term “qualified supplier” includes, for Bangladesh, qualified supplier and pre-qualified supplier as defined in its laws and regulations.

(j) the term “selective tendering” means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

Note: For the purposes of this Chapter, the term “selective tendering” means, for Bangladesh, “limited tendering”.

(k) the term “services” includes construction services, unless otherwise specified;

(l) the term “standard” means a document approved by a recognized body 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 labeling requirements, as they apply to a good, service, process or production method;

(m) the term “supplier” means a person or group of persons that provides or could provide goods or services; and

Note: For the purposes of this Chapter, the term “suppliers” means, for Bangladesh, “suppliers and contractors”.

(n) the term “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 labeling requirements, as they apply to a good or service.

Article 11.3. Scope and Coverage

Application of this Chapter

1. This Chapter shall apply 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, the term “covered procurement” means procurement for governmental purposes:

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

(i) as specified in Annex 8; 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;

(c) for which the value, as estimated in accordance with paragraphs 4 and 5, equals or exceeds the relevant threshold specified in Annex 8, at the time of publication of a notice in accordance with Article 11.7;

(d) by a procuring entity; and

(e) that is not otherwise excluded from the coverage under Annex 8.

3. Where a procuring entity, in the context of covered procurement, requires persons not covered under Annex 8 to procure in accordance with particular requirements, Article 11.5 shall apply mutatis mutandis to such requirements.

Valuation

4. 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

Note: For the purposes of this Chapter, the term “fees” includes, for Bangladesh, reimbursable cost, transportation cost, and overhead, profit, Value Added Tax (VAT) and Advanced Income Tax (AIT).

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

5. 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 (hereinafter referred to in this Chapter as “recurring contracts”), the calculation of the estimated maximum total value shall be based on:

(a) the value of recurring contracts of the same type of good or service awarded during the preceding 12 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 following 12 months; or

(b) the estimated value of recurring contracts of the same type of good or service to be awarded during the 12 months following the initial contract award or the procuring entity’s fiscal year.

Article 11.4. Security and General Exceptions

1. Notwithstanding paragraph 3 of Article 1.5, nothing in this Chapter shall be construed to prevent a Party from taking any action or 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 defense 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 or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent either 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 labor.

Article 11.5. General Principles

Non-Discrimination

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

2. With respect to any measure regarding covered procurement, neither Party, including its procuring entities, shall:

(a) treat a locally established supplier less favorably than another locally established supplier on the basis of the 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, a procuring entity 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. A procuring entity 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 purpose of covered procurement, neither Party shall apply rules of origin to goods or services that are different from the rules of origin the Party applies in the normal course of trade to those goods or services.

Offsets

6. With regard to covered procurement, neither Party, including its procuring entities, shall seek, take account of, impose or enforce any offset.

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 11.6. 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 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;

(b) provide an explanation thereof to the other Party, on request; and

(c) endeavor to make the information referred to in subparagraph (a) available in the English language.

2. Each Party shall, in Annex 8, list the electronic or paper media in which the Party publishes the following:

(a) the information described in subparagraph 1(a); and

(b) the notices required by Article 11.7, paragraph 7 of Article 11.9 and paragraph 2 of Article 11.15.

3. Each Party shall promptly notify the other Party of any modification to the Party's information listed in Annex 8.

Article 11.7. Notices

Notice of Intended Procurement

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement in the appropriate

paper or electronic medium listed in Annex 8, except in the circumstances described in Article 11.13. Such medium shall be widely disseminated and such notices shall remain readily accessible to the public, at least until expiration of the time-period indicated in the notice. The notices shall:

(a) for procuring entities covered under Section 1 of each Party's List in Annex 8, be accessible by electronic means free of charge through a single point of access, for at least any minimum period of time specified in that Annex; and

(b) for procuring entities covered under Section 2 or 3 of each Party's List in Annex 8, where accessible by electronic means, be provided, at least, through links in a gateway electronic site that is accessible free of charge.

The Parties, including its procuring entities covered under Section 2 or 3 of each Party's List in Annex 8, are encouraged to publish their notices by electronic means free of charge through a single point of access.

2. Except as otherwise provided for 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;

(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 of the Party of the procuring entity;

(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, pursuant to Article 11.9, a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them 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 Chapter.

Summary Notice

3. For each case of intended procurement, a procuring entity shall endeavor to publish a summary notice that is readily accessible, at the same time as the publication of the notice of intended procurement, in the English language. The summary 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.

Notice of Planned Procurement

4. Procuring entities are encouraged to publish in the appropriate paper or electronic medium listed in Annex 8 as early as possible in each fiscal year a notice regarding their future procurement plans (hereinafter referred to in this Chapter as "notice of planned procurement"). The 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.

Note: For the purposes of this Chapter, the term “notice of planned procurement” means, for Bangladesh, “annual procurement plan”.

5. A procuring entity covered under Section 2 or 3 of each Party’s List in Annex 8 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 to the procuring entity and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

Article 11.8. Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In establishing the conditions for participation, a procuring entity:

(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 its Party; and

(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, a procuring entity:

(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 Area of the Party of the procuring entity; and

(b) shall base its evaluation on the conditions that the procuring entity has specified in advance in notices or tender documentation.

4. Where there is supporting evidence, each 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 contract or contracts;

(d) final judgments in respect of serious crimes or other serious offences;

(e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or

(f) failure to pay taxes.

Article 11.9. 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 minimize differences in their qualification procedures; and

(b) where its procuring entities maintain registration systems, the procuring entities make efforts to minimize 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. In the case of selective tendering, a procuring entity shall allow all qualified suppliers to participate in a particular

procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.

5. Where a procuring entity intends to use selective tendering, the procuring entity shall:

(a) include in the notice of intended procurement at least the information specified in subparagraphs 2(a), (b), (f), (g) and (j) through (l) of Article 11.7 and invite suppliers to submit a request for participation; and

(b) provide, by the commencement of the time-period for tendering, at least the information specified in subparagraphs 2(c) through (e), (h) and (i) of Article 11.7 to the qualified suppliers selected in accordance with paragraph 4 and invited to tender.

6. Where the tender documentation is not made publicly available from the date of publication of the notice of intended procurement referred to in subparagraph 5(a), a procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers selected in accordance with paragraph 4 and invited to tender.

Multi-Use Lists

7. A procuring entity may maintain a multi-use list of suppliers, provided that a notice inviting interested suppliers to apply for inclusion on the multi-use list is:

(a) published annually; and

(b) where published by electronic means, made available continuously,

in the appropriate medium listed in Annex 8.

8. The notice provided for in paragraph 7 shall include:

(a) a description of the goods or services, or categories thereof, for which the multi-use list may be used;

(b) the conditions for participation to be satisfied by suppliers for inclusion on the multi-use 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 multi-use list; and

(d) an indication that the multi-use list may be used for procurement covered by this Chapter.

9. Notwithstanding paragraph 7, where a multi-use list will be valid for three years or less, a procuring entity may publish the notice referred to in paragraph 7 only once, at the beginning of the period of validity of the multi-use 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.

Section 2 and Section 3 Procuring Entities

10. A procuring entity covered under Section 2 or 3 of each Party's List in Annex 8 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 required under paragraph 8, as much of the information required under paragraph 2 of Article 11.7 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 interest in a given procurement to the procuring entity, sufficient information to permit them to assess their interest in the procurement, including all remaining information required under paragraph 2 of Article 11.7, to the extent such information is available.

Information on Procuring Entity Decisions

11. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement or application for inclusion on a multi-use list of the procuring entity's decision with respect to the request or application.

12. Where a procuring entity rejects a supplier's request for participation in a procurement or application for inclusion on a

multi-use list, ceases to recognize a supplier as qualified, or removes a supplier from a multi-use list, the procuring entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

Article 11.10. Technical Specifications and Tender Documentation

Technical Specifications

1. A procuring entity 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 trade between the Parties.

2. In prescribing the technical specifications for the goods or services being procured, a procuring entity 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 international standards exist; otherwise, on national technical regulations, recognized national standards or building codes.

3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfill the requirements of the procurement by including words such as “or equivalent” in the tender documentation.

4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, the procuring entity includes words such as “or equivalent” in the tender documentation.

5. A procuring entity 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.

Tender Documentation

7. A procuring entity shall make available to suppliers participating in the tendering procedure 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 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 there will be a public opening of tenders, the date, time and place for the opening and, where appropriate, the persons authorized to be present;

(f) 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

(g) any dates for the delivery of goods or the supply of services.

8. In establishing any date for the delivery of goods or the supply of services being procured, a procuring entity 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.

9. The evaluation criteria set out in the 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.

10. A procuring entity 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.

Article 11.11. Time-Periods

General

1. A procuring entity shall, consistent with its 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;

(c) the method of procurement and cost; and

(d) 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. For each covered procurement, the final date and time for submission of tenders determined by the procuring entity shall be the same for all suppliers participating in the tendering procedure. For greater certainty, this requirement shall also apply where:

(a) as a result of a need to amend information provided to suppliers during the procurement process, the procuring entity extends the time-limits for qualification or tendering procedures; or

(b) the tendering process is terminated and the procuring entity repeats procurement.

Article 11.12. Negotiation

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 11.7; or

(b) where it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or tender documentation.

2. A procuring entity 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 tender documentation; and

(b) where negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders, if applicable.

Article 11.13. Limited Tendering

1. A procuring entity may use limited tendering and may choose not to apply Articles 11.7 through 11.9, paragraphs 7 through 10 of Article 11.10 and Articles 11.11, 11.12 and 11.14, provided that it does not apply this paragraph for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, and 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 requirements of the tender documentation are not substantially modified;

(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:

(i) the requirement is for a work of art;

(ii) the protection of patents, copyrights or other exclusive rights; or

(iii) due to an absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and

(iii) 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 the procuring entity procures a prototype or a first product 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 product or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the product or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers; or

(h) where a contract is awarded to a winner of a design contest, provided that:

(i) the contest has been organized in a manner that is consistent with the principles of this 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. A procuring entity 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 11.14. Treatment of Tenders and Awarding of Contracts

Treatment of Tenders

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality

of the procurement process, and the confidentiality of tenders.

2. A procuring entity shall not penalize any supplier whose tender is received after the time specified for receiving tenders if the delay is 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 be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notices and tender documentation and 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 or than market price, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

7. 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 11.15. Transparency of Procurement Information

Information Provided to Suppliers

1. A procuring entity shall promptly inform participating suppliers of the procuring entity's contract award decisions and, on request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article 11.16, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the procuring entity did not select its tender.

Publication of Award Information

2. No later than 72 days after the award of each contract covered by this Chapter, a procuring entity shall publish a notice in the appropriate paper or electronic medium listed in Annex 8. 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 in accordance with Article 11.13, 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 time specified in each Party's government procurement law and regulations, maintain:

(a) the documentation and reports of tendering procedures and contract awards relating to covered procurement, including the reports required under Article 11.13; and

(b) data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.

Article 11.16. Disclosure of Information

Provision of Information to the other Party

1. Each Party shall, on request of the other Party, provide promptly 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 the information shall not disclose it to any supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

Non-Disclosure of Information

2. Notwithstanding any other provision of this Chapter, neither Party, including its procuring entities, shall provide to any particular supplier information that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require either 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 11.17. 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 a right to challenge directly a breach of this Chapter under the domestic law of the Party, a failure to comply with the Party's measures implementing this Chapter,

arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made publicly available.

2. In the event of a complaint by a supplier, arising in the context of a covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure referred to in paragraph 1, 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 ongoing or future procurements or its right to seek corrective measures under the administrative or judicial review procedure in accordance with the laws and regulations of each Party.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be less than 10 days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority or review panel that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.

5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority or review panel that is independent of the procuring entity whose procurement is the subject of the challenge.

6. Each Party shall ensure that a review body or review panel 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 or review panel;

(b) the participants to the proceedings (hereinafter referred to in this paragraph as "participants") shall have the right to be heard prior to a decision of the review body or review panel being made 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 or review panel shall make its decisions or recommendations in a timely manner, 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:

(a) 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; and

(b) where a review body or review panel has determined that there has been a breach or a failure referred to in paragraph 1, correction of breaches of this Chapter or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or for the costs relating to the challenge, or both.

Article 11.18. Modifications and Rectifications to Coverage

1. Each Party shall notify the other Party of its rectifications or, in exceptional cases, other modifications relating to Annex 8 along with the information as to the likely consequences of the change for the mutually agreed coverage provided for in this Chapter. If the rectifications or other modifications are of a purely formal or minor nature, notwithstanding Article 22.3, they shall become effective provided that no objection from the other Party has been raised within 30 days. In other cases, the Parties shall consult the proposal and any claim for compensatory adjustments with a view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided for in this Chapter prior to such rectification or other modification. In the event of an agreement between the Parties not being reached, the Party which has received such notification may have recourse to the dispute settlement procedure under Chapter 21.

2. Notwithstanding any other provision of this Chapter, each Party may undertake reorganizations of its procuring entities, including programs through which the procurement of such entities is decentralized or the corresponding government functions cease to be performed by any government entity, whether or not subject to this Chapter. In cases of reorganizations, compensation need not be proposed. Neither Party shall undertake such reorganizations to avoid the obligations under this Chapter.

Article 11.19. Privatization of Procuring Entities

When government control over a procuring entity specified in Annex 8 has been effectively eliminated, notwithstanding that the government may possess holding thereof or appoint members of the board of directors thereto, this Chapter shall no longer apply to that entity and compensation need not be proposed. A Party shall notify the other Party of the name of such entity before elimination of government control or as soon as possible thereafter.

Article 11.20. Denial of Benefits

1. A Party may deny the benefits of this Chapter to a juridical person of the other Party if the juridical person is owned or controlled by persons of a non-Party, and the former Party:

(a) does not maintain diplomatic relations with the non-Party; or

(b) adopts or maintains measures with respect to the non-Party that prohibit transactions with the juridical person or that would be violated or circumvented if the benefits of this Chapter were accorded to the juridical person.

2. Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a supplier of the other Party that is a juridical person of the other Party if the former Party establishes that the juridical person is owned or

controlled by persons of a non-Party and the juridical person has no substantial business activities in the Area of the other Party.

Article 11.21. Further Negotiation

1. In the event that, after entry into force of this Agreement, either Party offers a non-Party additional advantages of access to its government procurement market beyond what the other Party has been provided with under this Chapter, the former Party shall, upon request of the other Party, enter into negotiations with the other Party with a view to extending those advantages to the other Party on a reciprocal basis.

2. The Parties shall enter into negotiations to review this Chapter with a view to achieving a comprehensive Chapter on Government Procurement, when Bangladesh expresses its intention to become a party to the Agreement on Government Procurement in Annex 4 to the WTO Agreement (hereinafter referred to in this paragraph as "the GPA").

Note: If the GPA is amended or is superseded by another agreement, "the GPA", for the purposes of this paragraph, shall refer to the GPA as amended or such other agreement.

Article 11.22. Sub-Committee on Government Procurement

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Government Procurement (hereinafter referred to in this Article as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) analyzing available information on each Party's government procurement market;

(c) evaluating the effective access of suppliers of a Party to government procurement market of the other Party;

(d) reporting the findings of the Sub-Committee to the Joint Committee; and

(e) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Chapter 12. Intellectual Property

Section 1. General Provisions and Basic Principles

Article 12.1. General Provisions

1. The Parties shall ensure adequate, effective and non-discriminatory protection of intellectual property in accordance with the provisions of this Chapter and the international agreements related to intellectual property to which both Parties are parties.

2. The Parties shall also promote efficiency and transparency in the administration of the intellectual property system.

3. Nothing in this Chapter shall derogate from existing rights and obligations that the Parties have under the TRIPS Agreement or other international agreements related to intellectual property to which both Parties are parties.

4. The Parties shall be free to determine the appropriate method of implementing the provisions of this Chapter within their own legal system and practice.

Article 12.2. Scope of Intellectual Property

For the purposes of this Chapter, the term "intellectual property" means copyright and related rights, trademarks, geographical indications, industrial designs, patents, protection of plant varieties, layout-designs (topographies) of integrated circuits and protection of undisclosed information, as referred to in Sections 1 through 7 of Part II of the TRIPS Agreement.

Note: Without prejudice to Article 12.1, this Article shall apply only to Article 12.3 with respect to layout-designs (topographies) of integrated circuits.

Article 12.3. National Treatment and Most-Favored-Nation Treatment

1. Each Party shall accord to nationals of the other Party treatment no less favorable than that it accords to its own nationals with regard to the protection of intellectual property in accordance with Articles 3 and 5 of the TRIPS Agreement.

2. Each Party shall accord to nationals of the other Party treatment no less favorable than that it accords to the nationals of a non-Party with regard to the protection of intellectual property in accordance with Articles 4 and 5 of the TRIPS Agreement.

3. For the purposes of this Article:

(a) the term “nationals” shall have the same meaning as in the TRIPS Agreement; and

(b) the term “protection” shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in this Chapter.

Article 12.4. Multilateral Agreements

1. Each Party affirms that it has ratified or acceded to the following multilateral agreements:

(a) the Paris Convention for the Protection of Industrial Property, done at Paris on March 20, 1883, as revised at Stockholm on July 14, 1967 and amended on September 28, 1979 (hereinafter referred to in this Chapter as the “Paris Convention”); and

(b) the Berne Convention for the Protection of Literary and Artistic Works, done at Berne on September 9, 1886, as revised at Paris on July 24, 1971 and amended on September 28, 1979.

2. Each Party shall ratify or accede to the following multilateral agreements to which it is not yet a party:

(a) the Patent Cooperation Treaty, done at Washington on June 19, 1970, as amended on September 28, 1979 and modified on February 3, 1984 and October 3, 2001 (hereinafter referred to in this Chapter as the “PCT”); and

(b) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989, as amended on October 3, 2006 and November 12, 2007 (hereinafter referred to in this Chapter as the “Madrid Protocol”).

3. Each Party shall endeavor to ratify or accede to the following multilateral agreements to which it is not yet a party:

(a) the 1991 Act of the International Convention for the Protection of New Varieties of Plants, as revised at Geneva on March 19, 1991;

(b) the WIPO Copyright Treaty, adopted at Geneva on December 20, 1996; and

(c) the WIPO Performances and Phonograms Treaty, adopted at Geneva on December 20, 1996.

Article 12.5. Improvement of Procedures for the Administration of Intellectual Property Rights

The Parties recognize the importance of providing efficient administration of the intellectual property system, and in this regard each Party shall continue to review and endeavor, where appropriate, to make improvements to its procedures for the administration of intellectual property rights.

Article 12.6. Transparency

1. Each Party shall endeavor to make available on the Internet its laws, regulations and procedures of general application concerning the protection and enforcement of intellectual property rights.

2. Each Party shall endeavor to make available on the Internet its examination guidelines for patents, utility models, industrial designs and trademarks, if such guidelines exist.

Article 12.7. Promotion of Public Awareness Concerning Protection of Intellectual Property

The Parties shall endeavor to take necessary measures to enhance public awareness of protection of intellectual property, such as educational and dissemination projects on the use of intellectual property as well as on the enforcement of intellectual property rights, including in the digital environment.

Article 12.8. Exhaustion of Intellectual Property Rights

Each Party shall be free to establish its own regime for exhaustion of intellectual property rights.

Article 12.9. Intellectual Property and Public Health

1. The Parties reaffirm the Doha Declaration on the TRIPS Agreement and Public Health, adopted on November 14, 2001. In particular, the Parties have reached the following understandings regarding this Chapter:

(a) the Parties affirm the right to fully use the flexibilities as duly recognized in the Doha Declaration on the TRIPS Agreement and Public Health;

(b) the Parties agree that this Chapter does not and should not prevent either Party from taking measures to protect public health; and

(c) the Parties affirm that this Chapter can and should be interpreted and implemented in a manner supportive of each Party's right to protect public health and, in particular, to promote access to medicines for all.

2. In recognition of the Parties' commitments to access to medicines and public health, this Chapter does not and should not prevent the effective utilization of Article 31bis of the TRIPS Agreement, and the Annex and Appendix to the Annex to the TRIPS Agreement.

3. The Parties recognize the importance of contributing to the international efforts to implement Article 31bis of the TRIPS Agreement, and the Annex and Appendix to the Annex to the TRIPS Agreement.

Article 12.10. Objectives

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

Article 12.11. Principles

1. Each Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Chapter and the TRIPS Agreement.

2. Appropriate measures, provided that they are consistent with the provisions of this Chapter and the TRIPS Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

Section 2. Copyright and Related Rights

Article 12.12. Exclusive Rights of Authors, Performers and Producers of Phonograms

1. Each Party shall provide to authors of works the exclusive right to authorize any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.

2. Each Party shall provide to performers and producers of phonograms the exclusive right to authorize the making available to the public of their performances fixed in phonograms and phonograms, respectively, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

3. Each Party shall provide to authors, performers and producers of phonograms the exclusive right to authorize or prohibit the reproduction of their works, performances fixed in phonograms and phonograms in any manner or form.

Article 12.13. Protection of Broadcasting Organizations

Each Party shall provide to broadcasting organizations the right to prohibit the following acts when undertaken without their consent:

(a) the rebroadcasting of their broadcasts;

(b) the fixation of their broadcasts; and

(c) the reproduction of fixations of their broadcasts.

Article 12.14. Collective Management Organizations

1. Each Party shall endeavor to ensure that its collective management organizations for copyright and related rights are encouraged to:

(a) operate to collect and distribute revenues to their members in a manner that is fair, efficient, transparent and accountable; and

(b) adopt open and transparent record keeping of the collection and distribution of revenues.

2. Each Party shall endeavor to take appropriate measures to facilitate the activities to be conducted by its collective management organizations for copyright and related rights.

Section 3. Trademarks

Article 12.15. Protection of Trademarks

Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colors as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, each Party may make registrability depend on distinctiveness acquired through use. Each Party may require, as a condition of registration, that signs be visually perceptible.

Article 12.16. Protection of Collective Marks and Certification Marks

Each Party shall provide for the protection of trademarks including collective marks and certification marks. Neither Party is obligated to treat certification marks as a separate category in its laws and regulations, provided that those marks are protected.

Article 12.17. Trademark Classification

Each Party shall use a trademark classification of goods and services in accordance with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Nice on June 15, 1957, as amended from time to time.

Article 12.18. Rights Conferred

Each Party shall provide that the owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of either Party making rights available on the basis of use.

2. Article 6bis of the Paris Convention shall apply, mutatis mutandis, to services. In determining whether a trademark is well-

known, each Party shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Party concerned which has been obtained as a result of the promotion of the trademark.

3. Article 6bis of the Paris Convention shall apply, mutatis mutandis, to goods or services which are not similar to those in respect of which a trademark is registered, provided that the use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.

4. Neither Party shall require, as a condition for determining that a trademark is a well-known trademark, that the trademark has been registered in that Party or in another jurisdiction or included on a list of well-known trademarks.

Article 12.19. Exceptions

Each Party may provide for limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

Article 12.20. Protection of Trademarks That Predate Geographical Indications

Each Party shall protect trademarks where they predate, in its jurisdiction, geographical indications, in accordance with paragraph 5 of Article 24 of the TRIPS Agreement.

Article 12.21. Bad Faith Trademarks

Each Party shall endeavor to take necessary measures to refuse a trademark application if it was made in bad faith, in accordance with its laws and regulations.

Article 12.22. Procedural Aspects of Examination and Registration for Trademarks

Each Party shall endeavor to provide a system for the registration of trademarks, which shall include:

(a) a requirement to provide to the applicant a communication in writing, which may be provided manually or electronically, of the reasons for a refusal to register a trademark;

(b) an opportunity for the applicant to respond to communications from the Party's competent authorities, to contest the reasons for a refusal and to make a judicial appeal of a final refusal to register a trademark;

(c) an opportunity to do at least one of the following in relation to a trademark before it has been registered:

(i) oppose the trademark application; or

(ii) provide the competent authority with information that the trademark application does not satisfy the requirements for registration;

(d) an opportunity to do at least one of the following in relation to a trademark after it has been registered:

(i) seek cancellation of the registration; or

(ii) seek invalidation of the registration; and

(e) a requirement that administrative decisions in opposition, cancellation or invalidation procedures shall be reasoned and in writing. Such decisions may be provided manually or electronically.

Note: For the purposes of this subparagraph, the term "administrative decisions" may include quasi-judicial decisions.

Article 12.23. System for Electronic Applications of Trademarks

Each Party is encouraged to provide a system for electronic filing of applications for the registration of trademarks in accordance with its laws and regulations.

Section 4. Geographical Indications

Article 12.24. Definition of Geographical Indications

For the purposes of this Chapter, the term “geographical indications” means indications which 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 its geographical origin.

Article 12.25. Protection of Geographical Indications

Each Party shall provide the legal means to protect geographical indications in accordance with its laws and regulations and in conformity with relevant international agreements to which both Parties are parties.

Article 12.26. Exchange of Views on Mutual Recognition of Geographical Indications

1. The Parties recognize the importance of discussions on mutual recognition of geographical indications.

2. The Parties will exchange views on matters related to protecting geographical indications including the mutual recognition of geographical indications and other cooperation on geographical indications.

3. The Sub-Committee on Intellectual Property established pursuant to Article 12.66 is encouraged to provide a forum for exchanging views on the matters referred to in paragraph 2.

Section 5. Industrial Designs

Article 12.27. Protection of Industrial Designs

1. Each Party shall provide for the protection of independently created industrial designs that are new or original. Each Party may provide that designs are not new or original if they do not significantly differ from known designs or combinations of known design features. Each Party may provide that such protection shall not extend to designs dictated essentially by technical or functional considerations.

2. Each Party shall ensure that requirements for securing protection of textile designs, in particular in regard to any cost, examination or publication, do not unreasonably impair the opportunity to seek and obtain such protection. Each Party shall be free to meet this obligation through industrial design law or through copyright law.

3. Each Party shall provide that the owner of a protected industrial design has the right to prevent third parties not having the owner’s consent from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected industrial design, when such acts are undertaken for commercial purposes.

4. Each Party may provide for limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with a normal exploitation of the protected industrial design and do not unreasonably prejudice the legitimate interests of the owner of the protected industrial design, taking account of the legitimate interests of third parties.

Article 12.28. Information as Prior Art for Designs Made Available to the Public on the Internet

Each Party shall endeavor to ensure that information made available to the public on the Internet may form part of the prior art for designs.

Article 12.29. Procedural Aspects of Examination and Registration for Industrial Designs

Each Party shall endeavor to provide a system for the registration or grant of industrial designs, which shall include:

(a) a requirement to provide to the applicant a communication in writing, which may be provided manually or electronically, of the reasons for a refusal to register or grant an industrial design;

(b) an opportunity for the applicant to respond to communications from the Party’s competent authorities for industrial designs and to appeal a refusal to register or grant an industrial design;

(c) an opportunity to do at least one of the following in relation to an industrial design after it has been registered or granted:

(i) seek cancellation of the registration or grant; or

(ii) seek invalidation of the registration or grant; and

(d) a requirement that administrative decisions in cancellation or invalidation procedures shall be reasoned and in writing. Such decisions may be provided manually or electronically.

Note: For the purposes of this subparagraph, the term “administrative decisions” may include quasi-judicial decisions.

Article 12.30. Introduction of International Classification System for Industrial Designs

Each Party shall endeavor to use a classification system for industrial designs that is consistent with the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on October 8, 1968, as amended from time to time.

Article 12.31. Grace Period for Industrial Designs

The Parties acknowledge the importance of grace periods for industrial designs to disregard certain public disclosures of creations when determining if a design is new or original in order to support innovation.

Article 12.32. System for Electronic Applications of Industrial Designs

Each Party is encouraged to provide a system for electronic filing of applications for the registration of industrial designs in accordance with its laws and regulations.

Section 6. Patents

Article 12.33. Patentable Subject Matter

1. Subject to paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step, and are capable of industrial application. Patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology, and whether products are imported or locally produced.

2. Each Party may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.

3. Each Party may also exclude from patentability:

(a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals; and

(b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, each Party shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof.

Article 12.34. Rights Conferred

1. Each Party shall provide that a patent shall confer on its owner the following exclusive rights:

(a) where the subject matter of a patent is a product, to prevent third parties not having the owner’s consent from the acts of making, using, offering for sale, selling or importing for these purposes, that product; and

Note: This right to prevent from the act of importing, like all other rights conferred under this Chapter in respect of the use, sale, importation or other distribution of goods, is subject to the provisions of Article 6 of the TRIPS Agreement.

(b) where the subject matter of a patent is a process, to prevent third parties not having the owner’s consent from the act of using the process, and from the acts of using, offering for sale, selling or importing for these purposes, at least the product obtained directly by that process.

2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing

contracts.

Article 12.35. Exceptions to Rights Conferred

Each Party may provide for limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

Article 12.26. Procedural Aspects of Examination and Registration for Patents

1. The Parties recognize the importance of improving the quality and efficiency of their respective patent systems as well as simplifying and streamlining the procedures and processes of their respective competent authorities for the benefit of all users of their respective patent systems and the public as a whole.

2. Each Party shall endeavor to provide a patent system, which shall include:

(a) a requirement to provide to the applicant a communication in writing, which may be provided manually or electronically, of the reasons for a refusal to register or grant a patent;

(b) an opportunity for the applicant to make amendments in connection with their applications;

Note : For the purposes of this subparagraph, the Parties understand that the term “amendments” may include corrections.

(c) an opportunity to do at least one of the following in relation to a patent before it has been registered or granted:

(i) file an opposition against the patent application; or

(ii) provide the competent authority with information that could deny novelty or an inventive step of the invention claimed in the patent application;

(d) an opportunity to do at least one of the following in relation to a patent after it has been registered or granted:

(i) oppose the registration or grant;

(ii) seek cancellation of the registration or grant; or

(iii) seek invalidation of the registration or grant; and

(c) a requirement that administrative decisions in opposition, cancellation or invalidation procedures shall be reasoned and in writing. Such decisions may be provided manually or electronically.

Note: For the purposes of this subparagraph, the term “administrative decisions” may include quasi-judicial decisions.

Article 12.37. System for Electronic Applications of Patents

Each Party is encouraged to adopt a system for electronic applications of patents so as to facilitate ease of applications by patent applicants.

Article 12.38. 18-Month Publication

1. Each Party shall endeavor to publish any patent application promptly after the expiry of 18 months from its filing date or, if priority is claimed, from its earliest priority date, unless the application has been published earlier, or has been withdrawn, abandoned or refused.

Note: The Parties understand that, for the purposes of this Article, an application is withdrawn, abandoned or refused in accordance with their respective laws and regulations.

2. Nothing in this Article shall be construed to require either Party to publish any information the disclosure of which it considers to be contrary to its national security or to ordre public or morality.

3. Each Party shall provide that the applicant may request the early publication of its application prior to the expiry of the period of time referred to in paragraph 1.

Article 12.39. Information as Prior Art Made Available to the Public on the Internet

Each Party shall endeavor to provide that information made available to the public on the Internet may form part of the prior art.

Article 12.40. Introduction of International Patent Classification System

Each Party shall endeavor to use a classification system for patents that is consistent with the Strasbourg Agreement Concerning the International Patent Classification, done at Strasbourg on March 24, 1971, as amended from time to time.

Article 12.41. Providing Online Electronic Databases on Patents

Each Party is encouraged to provide a publicly accessible online electronic database of publications of patent applications and registrations.

Article 12.42. Duration of Protection for Patents

The term of protection available for patents shall not end before the expiration of a period of 20 years counted from the filing date.

Section 7. New Varieties of Plants

Article 12.43. New Varieties of Plants

Each Party recognizes the importance of protecting new varieties of plants in a manner based on international standards. Each Party shall provide for the protection of new varieties of plants through an effective system for the protection of plant varieties in accordance with the sui generis system. All plant genera and species shall be included in the scope of this Article in accordance with its laws and regulations.

Section 8. Unfair Competition

Article 12.44. Effective Protection Against Unfair Competition

1. Each Party shall ensure effective protection against acts of unfair competition in accordance with its laws and regulations.

2. The following in particular shall be prohibited:

(a) all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, the services, or the industrial or commercial activities, of a competitor;

(b) false allegations in the course of trade of such a nature as to discredit the establishment, the goods, the services, or the industrial or commercial activities, of a competitor; and

(c) indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose, or the quantity, of the goods or services, or the manufacturing process of the goods.

Article 12.45. Domain Names

In connection with each Party's system for the management of its country-code top-level domain (ccTLD) domain names, appropriate remedies shall be available, in accordance with its laws and regulations, at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trademark.

Note: The Parties understand that such remedies may, but need not, include, among other things, revocation, cancellation, transfer, damages or injunctive relief.

Article 12.46. Protection of Undisclosed Information

The Parties recognize the importance of protecting undisclosed information in relation to the objectives specified in Article 7 of the TRIPS Agreement.

Section 9. Enforcement of Intellectual Property Rights

Subsection 1. General Obligations

Article 12.47. General Obligations

1. Each Party shall ensure that enforcement procedures as specified in this Section are available under its laws and regulations so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

Note: For the purposes of this Section, the term “laws and regulations” are not limited to legislation and may include established judicial practices.

2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

3. In implementing this Section, each Party shall take into account the need for proportionality between the seriousness of the infringement of the intellectual property right and the applicable remedies and penalties, as well as, if applicable, the interests of third parties.

4. The Parties understand that this Section does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of each Party to enforce its law in general. Nothing in this Section shall create any obligation with respect to the distribution of resources between the enforcement of intellectual property rights and the enforcement of law in general.

5. In civil procedures involving copyright of authors, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person whose name is indicated in the usual manner as the author of the work is the author of the work. The obligation contained in the preceding sentence shall apply to criminal and administrative procedures if applicable in the Party’s laws and regulations.

Note: For greater certainty, each Party may implement this paragraph on the basis of sworn statements or documents having evidentiary value, such as statutory declarations. Each Party may also provide that these presumptions are rebuttable presumptions that may be rebutted by evidence to the contrary.

Article 12.48. Enforcement Practices with Respect to Intellectual Property Rights

1. Each Party shall provide that:

(a) judicial decisions pertaining to the enforcement of intellectual property rights are preferably in writing and state any relevant findings of fact and the reasoning or the legal basis on which the decisions are based; and

(b) final judicial decisions and administrative rulings of general application pertaining to the enforcement of intellectual property rights are published, or where such publication is not practicable, made publicly available, in a national language, in such a manner as to enable the Governments of the Parties and right holders to become acquainted with them.

Note: For greater certainty, each Party may satisfy the requirement for publication by making the decision or ruling available to the public on the Internet.

2. Each Party shall endeavor to publish or otherwise make available to the public information on its efforts to provide effective enforcement of intellectual property rights in its civil, administrative and criminal systems.

Note: For greater certainty, such information may include statistical data that the Party collects for these purposes.

Subsection 2. Civil Remedies

Article 12.49. Fair and Equitable Procedures

Each Party shall make available to right holders civil judicial procedures concerning the enforcement of any intellectual property right covered by this Chapter. Defendants shall have the right to written notice which is timely and contains sufficient detail, including the basis of the claims. All parties to the procedures shall be allowed to be represented by

independent legal counsel, and procedures shall not impose overly burdensome requirements concerning mandatory personal appearances. All parties to such procedures shall be duly entitled to substantiate their claims and to present all relevant evidence. The procedures shall provide a means to identify and protect confidential information, unless this would be contrary to the Party's constitutional requirements.

Note: For the purposes of this Article, the term "right holders" includes federations and associations that have legal standing to assert such rights.

Article 12.50. Injunctions

Each Party shall provide that its judicial authorities have the authority to order injunctive relief that conforms to Article 44 of the TRIPS Agreement, including to prevent goods that involve the infringement of an intellectual property right under the law of the Party providing that relief from entering into the channels of commerce.

Article 12.51. Damages

Each Party shall provide that, in civil judicial procedures concerning the enforcement of intellectual property rights, its judicial authorities have the authority to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of the infringement of that right holder's intellectual property right by the infringer who knowingly or with reasonable grounds to know, engaged in the infringing activity.

Article 12.52. Destroying Infringing Goods and Materials and Implements

1. Each Party shall provide that, in civil judicial procedures, its judicial authorities have the authority, at least at the right holder's request, to order that goods infringing rights to industrial designs or trademarks, or copyright or related rights be destroyed, except in exceptional circumstances, without compensation of any sort.

Note: For greater certainty, the Parties understand that while judicial authorities have the authority to order the destruction of the goods, they may also have the authority to order, without compensation of any sort, the disposal of such goods outside the channels of commerce in such a manner as to avoid any harm to the right holder, instead of destruction.

2. Each Party shall further provide that, in civil judicial procedures, its judicial authorities have the authority to order that materials and implements, the predominant use of which has been in the creation of such infringing goods, be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements.

Note: For greater certainty, the Parties understand that while judicial authorities have the authority to order the disposal of the materials and implements, they may also have the authority to order, without compensation of any sort, the destruction of such materials and implements, instead of disposal.

3. In regard to goods infringing rights to trademarks, the simple removal of the trademark unlawfully affixed shall not be sufficient, except in exceptional circumstances, to permit the release of the goods into the channels of commerce.

Article 12.53. Provisional Measures

1. Each Party shall provide that its judicial authorities have the authority to order prompt and effective provisional measures:

(a) to prevent an infringement of any intellectual property right from occurring, and in particular to prevent the entry into the channels of commerce in their jurisdiction of goods, including imported goods immediately after customs clearance; 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.

3. The judicial authorities shall have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and 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.

4. For greater certainty, the Parties understand that the provisional measures under this Article shall be implemented in accordance with paragraphs 4 through 8 of Article 50 of the TRIPS Agreement.

Article 12.54. Suspension of Release of Goods Infringing Rights

Each Party shall provide for procedures under which a right holder may submit applications requesting its customs authority to suspend the release of goods suspected of infringing rights to trademarks or suspected pirated copyright goods, which are destined for importation into or exportation from the customs territory of the Party.

Note: For the purposes of this Sub-Section and Article 12.63, the term “pirated copyright goods” means any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article, where the making of that copy would have constituted an infringement of a copyright or a related right under the law of each Party.

Article 12.55. Applications for Suspension

Each Party shall provide that an accepted application for suspension remains in force for an appropriate period of time in accordance with its laws and regulations with a view to minimizing the administrative burden on the right holder.

Article 12.56. Security or Equivalent Assurance

Each Party shall provide that its competent authorities shall have the authority to require a right holder initiating the procedures described in Article 12.54 to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Each Party shall provide that the security or equivalent assurance shall not unreasonably deter recourse to these procedures.

Article 12.57. Suspension of Release of Goods Infringing Rights by Ex Officio Action

Each Party shall provide for procedures concerning the suspension at the border by its customs authority, ex officio, of the release of goods suspected of infringing rights to trademarks or suspected pirated copyright goods, which are destined for importation into or exportation from the customs territory of the Party.

Article 12.58. Information Provided by Competent Authorities to Right Holders

Where a Party’s competent authorities have suspended the release of goods suspected of infringing rights to trademarks or suspected pirated copyright goods pursuant to Article 12.54 or 12.57 with respect to importation into or exportation from the customs territory of the Party, that Party may, without prejudice to its laws and regulations pertaining to the confidentiality of information, provide that its competent authorities have the authority to inform the right holder of the name and address of the consignor, importer, exporter or consignee; a description of the goods; the quantity of the goods; and, if known, the country of origin of the goods.

Article 12.59. Information Provided by Right Holders to Competent Authorities In Case of Ex Officio Action

Each Party shall, in the case of the suspension pursuant to Article 12.57 with respect to importation into or exportation from the customs territory of the Party, provide that its competent authorities shall have the authority to request the right holder to supply relevant information to assist the competent authorities. That Party may also allow the right holder to supply relevant information to its competent authorities.

Article 12.60. Infringement Determination Within Reasonable Period of Time by Competent Authorities

Each Party shall, with respect to importation into or exportation from the customs territory of the Party, adopt or maintain procedures under which its competent authorities may determine, within a reasonable period of time after the initiation of the procedures described in Article 12.54 or 12.57, whether goods suspected of infringing rights to trademarks or suspected pirated copyright goods are infringing intellectual property rights.

Article 12.61. Destruction Order by Competent Authorities

Each Party shall provide that, without prejudice to other rights of action open to the right holder and subject to the right of the defendant to seek review by a judicial authority, its competent authorities shall have the authority to order the destruction or the disposal of the goods that are determined to be goods infringing rights to trademarks or pirated copyright goods. In cases where such goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the channels of commerce in such a manner as to avoid any harm to the right holder. In regard to goods infringing rights to trademarks, the simple removal of the trademark unlawfully affixed shall not be sufficient, except in exceptional circumstances, to permit the release of the goods into the channels of commerce.

Article 12.62. Fees

Where an application fee, merchandise storage fee or destruction fee is established or assessed in connection with border measures to enforce an intellectual property right, each Party shall provide that the fee shall not be set at an amount that unreasonably deters recourse to these measures.

Subsection 4. Criminal Remedies

Article 12.63. Criminal Procedures and Penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of willful infringements of rights to trademarks or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence. Each Party may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed willfully and on a commercial scale.

2. Each Party shall treat willful importation of goods infringing rights to trademarks or pirated copyright goods on a commercial scale as unlawful activities subject to the criminal procedures and penalties.

Subsection 5. Enforcement In the Digital Environment

Article 12.64. Effective Action Against Infringement In the Digital Environment

1. Each Party shall, subject to its available resources, take measures to curtail infringements of copyright and related rights and rights to trademarks in the digital environment, especially when notified by the other Party of a specific matter of such infringements in the territory of the former Party.

Note: For greater certainty, it is understood that such measures may include, but are not limited to, legislation, guidelines, policies, awareness campaigns, etc.

2. Each Party is encouraged to take appropriate steps to promote the adoption of measures to address infringements of copyright and related rights and trademarks occurring in the digital environment.

Section 10. Cooperation and Institutional Arrangement

Article 12.65. Cooperation

1. The Parties, recognizing the growing importance of protection of intellectual property in further promoting trade and investment between them and acknowledging the significant differences in capacity between them, in accordance with their respective laws and regulations and subject to their respective available resources, shall cooperate in the field of intellectual property. Cooperation activities and initiatives undertaken under this Chapter shall be on terms and conditions mutually confirmed between the Parties. Costs of cooperation under this Article shall be borne in an equitable manner as reasonably as possible.

2. For the purposes of paragraph 1, areas and forms of cooperation may include, but are not limited to:

(a) strengthening institutional capacity including training and exchanging of examiners of trademarks, industrial designs and patents;

(b) supporting Bangladesh’s accession to and its implementation of the PCT and the Madrid Protocol;

(c) the field of information systems on trademarks, industrial designs and patents;

(d) exchanging information and best practices and sharing experiences on copyright and related rights, trademarks, geographical indications, industrial designs, patents and protection of plant varieties;

(e) further to subparagraph (d), other cooperation on the protection of plant varieties; and

(f) disseminating information and strengthening institutional capacity on the enforcement of intellectual property rights.

3. The dispute settlement procedures provided for in Chapter 21 shall not apply to this Article.

Article 12.66. Sub-Committee on Intellectual Property

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Intellectual Property (hereinafter referred to in this Chapter as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) discussing any issues related to intellectual property with a view to enhancing the protection and enforcement of intellectual property rights in accordance with the provisions of this Chapter and to promoting efficient and transparent administration of the intellectual property system;

(c) further to subparagraph (b), exchanging views on the issues of geographical indications in accordance with paragraph 2 of Article 12.26;

(d) receiving notifications provided by Bangladesh, in accordance with paragraph 3 of Article 12.68, relating to the implementation of the provisions with the transition periods identified in Annex 9;

(e) reporting the findings and the outcome of discussions of the Sub-Committee to the Joint Committee; and

(f) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Section 11. Transition Periods

Article 12.67. Transitional Periods Under the TRIPS Agreement

1. Nothing in this Chapter shall derogate from the rights of Bangladesh to avail itself of any applicable transitional period under the TRIPS Agreement that has been or may be agreed upon in the WTO, either before, on or after the date of entry into force of this Agreement.

2. During the transitional periods referred to in paragraph 1, Bangladesh shall not amend a measure to make it less consistent with the obligations under the provisions with the transitional periods, or adopt a new measure that is less consistent with those obligations than the relevant measures of Bangladesh that are in effect on the date of signature of this Agreement.

Article 12.68. Transition Periods

1. Noting Bangladesh’s stage of development, and without prejudice to Article 12.67, Bangladesh may delay the implementation of specific provisions of this Chapter in accordance with Annex 9.

2. During the transition periods set out in Annex 9, Bangladesh shall not amend a measure to make it less consistent with the obligations under the provisions with the transition periods identified in that Annex, or adopt a new measure that is less consistent with those obligations than the relevant measures of Bangladesh that are in effect on the date of signature of this Agreement.

3. Bangladesh shall provide notifications to the Sub-Committee on its plans for and progress towards implementing the provisions with the transition periods identified in Annex 9, after the date of entry into force of this Agreement, as follows:

(a) a notification on the fifth anniversary of the date of entry into force of this Agreement;

(b) an annual notification on each anniversary after the fifth anniversary; and

(c) a notification six months before the expiration of any transition period.

4. Japan may request additional information regarding Bangladesh's progress towards implementing the provisions with the transition periods identified in Annex 9. Bangladesh shall promptly reply to such a request.

5. As soon as a transition period for any provision identified in Annex 9 expires, Bangladesh shall provide a notification to Japan of the measures it has taken to implement that provision.

6. If Bangladesh fails to provide a notification in accordance with paragraph 5, the matter shall be automatically placed on the agenda for the next meeting of the Sub-Committee.

Article 12.69. Dispute Settlement

1. Without prejudice to paragraph 1 of Article 64 of the TRIPS Agreement, for Bangladesh, the dispute settlement procedures provided for in Chapter 21 shall not apply to this Chapter, further to paragraph 3 of Article 12.65, for a period of five years from the date of entry into force of this Agreement, provided that Bangladesh engages in consultations with Japan in good faith and without unreasonable delay, and all of the following conditions are met:

(a) if Japan recognizes non-compliance by Bangladesh with any provisions of this Chapter and notifies it to Bangladesh, Bangladesh shall, within three months after the date of receipt of the notification, conduct investigations into the facts regarding the possible non-compliance and provide Japan with explanations of the facts;

(b) if, as a result of the explanations by Bangladesh under subparagraph (a), Japan considers that an improvement by Bangladesh is necessary to ensure compliance with this Chapter, Bangladesh shall make every effort through consultations with Japan to reach a mutually satisfactory solution. In such consultations, Bangladesh may make a request for cooperation to Japan; and

(c) Bangladesh shall provide Japan with periodic reports on the development of the mutually satisfactory solution under subparagraph (b).

2. In no case shall the five-year period specified in paragraph 1 be extended.

Chapter 13. Competition Policy

Article 13.1. Definitions

For the purposes of this Chapter:

(a) the term "anticompetitive activities" means any conduct or transaction that adversely affects competition and may be subject to penalties or other relief under the competition law of either Party;

(b) the term "competition authority" means:

(i) for Bangladesh, the Bangladesh Competition Commission, or its successor; and

(ii) for Japan, the Fair Trade Commission, or its successor.

(c) the term "competition law" means:

(i) for Bangladesh, the Competition Act, 2012 (Act No. 23 of 2012) and its implementing regulations, guidelines as well as any amendments thereto; and

(ii) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54 of 1947) and its implementing regulations as well as any amendments thereto.

Article 13.2. Competition Law, Competition Authorities and Anticompetitive Activities

1. Each Party shall maintain its competition law that proscribes anticompetitive activities, with the objective of promoting economic efficiency and consumer welfare through economic efficiency, and shall take appropriate measures with respect to these activities.

2. Each Party shall apply its competition law to all entities engaged in commercial activities in its Area. However, each Party may provide for certain exemptions from the application of its competition law provided that those exemptions shall be mentioned in its competition law and be based on public policy grounds or public interest grounds.

Note: For greater certainty, nothing in this paragraph shall be construed to preclude a Party from applying its competition law to commercial activities outside its borders that have anticompetitive effects within its jurisdiction.

3. Each Party shall endeavor to maintain an operationally independent competition authority which is responsible and competent for the effective enforcement of its competition law.

4. Each Party shall apply and enforce its competition law in a manner that does not discriminate on the basis of nationality.

Article 13.3. Procedural Fairness In Competition Law Enforcement

1. For the purposes of this Article, the term “enforcement proceeding” means an administrative or judicial proceeding following an investigation into the alleged violation of competition law.

2. Each Party shall implement administrative and judicial procedures in a fair manner to control anticompetitive activities in accordance with its relevant laws and regulations.

3. Each Party shall ensure that before it imposes a sanction or remedy against a person for violating its competition law, it affords that person:

(a) information about competition concerns regarding the sanction or remedy;

(b) a reasonable opportunity to be represented by that person or counsel; and

(c) a reasonable opportunity to be heard and present evidence in its defense, except that a competition authority may provide for the person to be heard and present evidence within a reasonable period of time after it imposes an interim sanction or remedy.

In particular, each competition authority shall afford that person a reasonable opportunity to present evidence or testimony in its defense, including: if applicable, to offer the analysis of a properly qualified expert, to cross-examine any testifying witness, and to review and rebut the evidence introduced in the enforcement proceeding.

Note: For greater certainty, for the purposes of this paragraph and paragraphs 5 and 6, the term “sanction” does not exclude orders or legal measures.

4. Each competition authority shall adopt or maintain written procedures pursuant to which its relevant investigations are conducted. If these investigations are not subject to definitive deadlines, the competition authority shall endeavor to conduct its investigations within a reasonable time frame.

5. Each Party shall adopt or maintain rules of procedure and evidence that apply to enforcement proceedings concerning alleged violations of its competition law and the determination of sanctions and remedies thereunder. These rules of procedure and evidence shall be applied equally to all parties to an enforcement proceeding.

6. Each Party shall provide a party to the enforcement proceeding that is subject to the imposition of a sanction or remedy under competition law with the opportunity to seek review of the sanction or remedy, including review of alleged substantive or procedural errors, before the competition authority or in a court or other independent tribunal as established and empowered under that Party’s laws and regulations.

7. Each Party shall authorize its competition authority to resolve alleged violations voluntarily by mutual consent of the parties to the proceeding concerning the alleged violation with the approval of the competition authority in such manner as may be prescribed by the respective laws of each Party.

8. If a Party alleges a violation of its competition law, that Party shall be responsible for establishing the legal and factual basis for the alleged violation in an enforcement proceeding.

Note: Nothing in this paragraph shall prevent a Party from requiring that a person against whom such an allegation is made be responsible for establishing certain elements in defense of the allegation.

9. Each Party shall provide for the protection of business confidential information, and other information treated as confidential under its laws and regulations, obtained by that Party during the investigative process. If a Party uses or intends to use that information in an enforcement proceeding, that Party shall, if it is permissible under its laws and regulations and

as appropriate, provide a procedure to allow the person under investigation timely access to information that is necessary to prepare an adequate defense to its allegations.

10. Each Party shall endeavor to ensure that its competition authority affords a person under investigation for possible violation of the competition law of that Party reasonable opportunity to consult with the competition authority with respect to significant legal, factual or procedural matters relating to the investigation.

Article 13.4. Private Rights of Action

1. For the purposes of this Article, the term “private right of action” means the right of a person to seek redress, including injunctive, monetary or other remedies, from a court or other independent tribunal for injury to that person’s business or property caused by a violation of competition law, either independently or following a finding of violation by a competition authority.

2. Recognizing that a private right of action is an important supplement to the public enforcement of competition law, each Party shall adopt or maintain law or other measures that provide an independent private right of action.

3. If a Party does not adopt or maintain law or other measures that provide an independent private right of action, that Party shall adopt or maintain law or other measures that provide a right that allows a person:

(a) to request that the competition authority initiate an investigation into an alleged violation of competition law; and

(b) to seek redress from a court or other independent tribunal as prescribed by the law following a finding of violation by the competition authority.

4. Each Party shall ensure as may be prescribed by the law that a right provided pursuant to paragraph 2 or 3 is available to a person of the other Party on terms that are no less favorable than those available to its own persons.

5. A Party may establish reasonable criteria for the exercise of any rights it creates or maintains in accordance with this Article.

Article 13.5. Cooperation

1. The Parties recognize the importance of cooperation and coordination between their respective competition authorities to foster effective competition law enforcement. Accordingly, each Party shall:

(a) cooperate in the area of competition policy by exchanging information on the development of competition policy; and

(b) cooperate, as appropriate, on issues of competition law enforcement, including through notification, consultation and the exchange of information.

2. A Party’s competition authority may consider entering into a cooperation arrangement with the competition authority of the other Party that sets out terms of cooperation.

3. The Parties agree to cooperate in a manner compatible with their respective laws, regulations and common interests, and within their reasonably available resources.

Article 13.6. Technical Cooperation

Recognizing that the Parties can benefit by sharing their diverse experience in developing, applying and enforcing competition law and in developing and implementing competition policies, the Parties shall consider undertaking mutually determined technical cooperation activities, subject to available resources, including:

(a) providing advice or training on relevant issues, including through the exchange of officials;

(b) exchanging information and experiences on competition advocacy, including ways to promote a competition culture; and

(c) assisting the other Party as it implements its competition law.

Article 13.7. Consumer Protection

1. The Parties recognize the importance of consumer protection policy and enforcement to creating efficient and competitive markets and enhancing consumer welfare.

2. For the purposes of this Article, the term “fraudulent and misleading commercial activities” means those fraudulent and misleading commercial practices that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, for example:

(a) a practice of making misrepresentations of material fact, including implied factual misrepresentations;

(b) advertising goods or services for supply without intention or reasonable capability to supply;

(c) a practice of failing to deliver products or provide services to consumers after the consumers are charged; or

(d) a practice of charging or debiting consumers’ financial, telephone or other accounts without authorization as may be prescribed by the law.

3. Each Party shall adopt or maintain consumer protection laws or other laws or regulations that proscribe fraudulent and misleading commercial activities.

Note: For greater certainty, fraudulent and misleading commercial activities can be proscribed by civil or criminal laws or regulations a Party adopts or maintains.

4. The Parties recognize that fraudulent and misleading commercial activities increasingly transcend national borders and that cooperation and coordination between the Parties is desirable.

5. Accordingly, the Parties shall promote, as appropriate, cooperation and coordination on matters of mutual interest related to fraudulent and misleading commercial activities, including in the enforcement of their consumer protection laws.

6. The Parties shall endeavor to cooperate and coordinate on the matters set out in this Article through the relevant national public bodies or officials responsible for consumer protection policy, laws or enforcement, as determined by each Party, in a manner compatible with their respective laws, regulations and common interests, and within their reasonably available resources.

Article 13.8. Transparency

1. The Parties recognize the value of making their competition enforcement policies as transparent as possible.

2. Each Party shall endeavor to maintain and update its public information concerning its competition law, policies and enforcement activities through links on its official websites consolidated into a single portal that is publicly accessible, recognizing the value of transparency of competition law, policies and enforcement activities.

3. On request of the other Party, a Party shall make available to the requesting Party public information concerning:

(a) its competition law enforcement policies and practices; and

(b) exemptions and immunities to its competition law, provided that the request specifies the particular good or service and market of concern and includes information explaining how the exemption or immunity may hinder trade or investment between the Parties.

4. Each Party shall ensure that a final decision finding a violation of its competition law is made in writing and sets out, in administrative matters, findings of fact and the reasoning, including legal and, if applicable, economic analysis, on which the decision is based.

5. Each Party shall further ensure that a final decision referred to in paragraph 4 and any order implementing that decision are published, or if publication is not practicable, are otherwise made available to interested persons and the other Party. Each Party shall ensure that the version of the decision or order that is made available to the public does not include confidential information that is protected from public disclosure by its law.

Article 13.9. Consultations

In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, including the content of administrative or judicial enforcement of competition law, on request of the other Party, a Party shall enter into consultations with the requesting Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties. The Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party.

Article 13.10. Non-Application of Chapter 21

Chapter 21 shall not apply to this Chapter.

Chapter 14. Subsidies

Article 14.1. Principles

The Parties recognize that subsidies may be granted by a Party when they are necessary to achieve public policy objectives. However, certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of liberalization of trade and investment. In principle, subsidies should not be granted by a Party when it finds that they have or could have a significant negative effect on trade or investment between the Parties.

Article 14.2. Definitions

For the purposes of this Chapter:

(a) the term “economic activities” means those activities pertaining to the offering of goods and services in a market;

(b) the term “specific subsidy” means a subsidy which is determined mutatis mutandis to be specific in accordance with Article 2 of the Agreement on Subsidies and Countervailing Measures; and

(c) the term “subsidy” means a measure which fulfills mutatis mutandis the conditions set out in paragraph 1 of Article 1 of the Agreement on Subsidies and Countervailing Measures, irrespective of whether the recipients of the subsidy deal in goods or services.

Article 14.3. Scope

1. This Chapter shall apply to specific subsidies to the extent they are related to economic activities.

Note: For greater certainty, education provided under the domestic educational system of each Party shall be considered as a non-economic activity.

2. This Chapter shall not apply to subsidies granted to enterprises entrusted by the government with the provision of services to the general public for public policy objectives. Such exceptions from the rules on subsidies shall be transparent and shall not go beyond their targeted public policy objectives.

3. This Chapter shall not apply to subsidies granted to compensate the damage caused by natural disasters or other exceptional occurrences.

Note: For greater certainty, the term “other exceptional occurrences” does not exclude pandemic.

4. Articles 14.4 and 14.5 shall not apply to subsidies, the total amounts or the budgets for which are less than 450,000 special drawing rights (hereinafter referred to as “SDR”) per recipient or sector for a period of three consecutive years.

5. This Chapter shall not apply to subsidies related to trade in goods covered by Annex 1 to the Agreement on Agriculture, and subsidies related to trade in fish, fish products and forestry products.

6. Article 14.6 shall not apply to subsidies granted temporarily to respond to a national or global economic emergency. Such subsidies shall be targeted, economical, effective and efficient in order to remedy the identified temporary national or global economic emergency

7. This Chapter shall not apply to subsidies related to audio-visual services.

8. Article 14.6 shall not apply to subsidies granted by local governments of each Party. In fulfilling its obligations under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure the observance of the provisions of this Chapter by local governments of that Party.

9. In the event of any inconsistency between this Chapter and Chapter 7, Chapter 7 shall prevail to the extent of the inconsistency.

Article 14.4. Notification

1. Each Party shall notify the other Party in the English language of the legal basis, form, amount or budget for subsidies

and, where possible, the name of the recipient of any specific subsidy granted or maintained by the former Party, every two years from the date of entry into force of this Agreement.

Note: For the purposes of this paragraph, in the case of subsidies which have previously been notified, the information provided in updated notifications may be limited to indicating any modifications, or the absence thereof, from the previous notification.

2. If either Party makes publicly available on an official website the information specified in paragraph 1, the notification pursuant to that paragraph shall be deemed to have been made. If either Party notifies subsidies pursuant to paragraph 2 of Article 25 of the Agreement on Subsidies and Countervailing Measures, the Party shall be considered to have met the requirement of paragraph 1 with respect to such subsidies.

3. With regard to subsidies related to services, this Article shall only apply to the following sectors:

(a) architectural and engineering services;

(b) banking services;

(c) computer services;

(d) construction services;

(e) energy services;

(f) environmental services;

(g) express delivery services;

(h) insurance services;

(i) telecommunications services; and

(j) transport services.

Article 14.5. Consultations

1. In the event that either Party considers that a subsidy of the other Party has or could have a significant negative effect on trade or investment between the Parties, the former Party may submit a request for consultations in writing. The Parties shall enter into consultations with a view to resolving the matter, provided that the request includes an explanation of how the subsidy has or could have a significant negative effect on trade or investment between the Parties.

2. During the consultations referred to in paragraph 1, the Party receiving the request for consultations shall consider providing relevant information on the subsidy, on request of the other Party, such as:

(a) the legal basis of the subsidy and policy objective or purpose of the subsidy;

(b) the form of the subsidy such as a grant, loan, guarantee, repayable advance, equity injection or tax concession;

(c) dates and duration of the subsidy and any other time limits attached to it, including the date of inception of provision of the subsidy;

(d) eligibility requirements of the subsidy;

(e) the total amount or the annual amount budgeted for the subsidy and the possibility of limiting the subsidy;

(f) where possible, the recipient of the subsidy; and

(g) any other information, including statistical data, permitting an assessment of the effects of the subsidy on trade or investment between the Parties.

3. To facilitate the consultations referred to in paragraph 1, the Party receiving the request for consultations shall provide the other Party with relevant information on the subsidy in question in writing no later than 90 days after the date of receipt of the request for consultations.

4. In the event that any information specified in paragraph 2 is not provided by the Party receiving the request for consultations, that Party shall provide a written response which includes the explanation for the absence of such

information no later than 90 days after the date of receipt of the request for consultations.

Article 14.6. Prohibited Subsidies

The following subsidies of a Party that have or could have a significant negative effect on trade or investment between the Parties shall be prohibited:

(a) legal or other arrangements whereby a government or a public body is responsible for guaranteeing debts or liabilities of an enterprise, without any limitation as to the amount and duration of such guarantee; and

(b) subsidies for restructuring an ailing or insolvent enterprise without the enterprise having prepared a credible restructuring plan. Such a restructuring plan shall be prepared within a reasonable period of time after such enterprise have received temporary liquidity support. The restructuring plan shall be based on realistic assumptions with a view to ensuring the return to long-term viability of the ailing or insolvent enterprise within a reasonable period of time. The enterprise itself or its owners shall contribute significant funds or assets to the costs of restructuring.

Note: For greater certainty, nothing in this Article shall prevent either Party from providing subsidies by way of temporary liquidity support in the form of loan guarantees or loans limited to the amount needed to keep the enterprise in business for the time necessary to prepare a restructuring or liquidation plan.

Article 14.7. Use of Subsidies

Each Party shall endeavor to ensure that enterprises use subsidies only for the specific purpose for which the subsidies were granted.

Chapter 15. State-Owned Enterprises and Designated Monopolies

Article 15.1. Objectives

The Parties recognize the importance of ensuring that state-owned enterprises and designated monopolies do not adopt or maintain anti-competitive practices affecting trade between the Parties, insofar as the application of the provision of this Chapter does not obstruct the performance, in law or in fact, of the particular public tasks or public service obligations assigned to them.

Article 15.2. Definitions

For the purposes of this Chapter:

(a) the term “Arrangement” means the Arrangement on Officially Supported Export Credits, developed within the framework of the Organisation for Economic Co-operation and Development (hereinafter referred to as “OECD”) or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of January 1, 1979;

(b) the term “commercial activities” means activities which an enterprise undertakes with an orientation towards profit-making and which result in the production of a good or the supply of a service, which will be sold to a consumer in the relevant market in quantities and at prices determined by the enterprise;

Note: For greater certainty, activities undertaken by an enterprise which operates on a non-profit basis or a cost-recovery basis are not activities undertaken with an orientation towards profit-making.

(c) the term “commercial considerations” means considerations of price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately-owned enterprise operating in the relevant business or industry;

(d) the term “designate a monopoly” means to establish or authorize a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

(e) the term “designated monopoly” means an entity, including a consortium or a government agency, that in a relevant market in the Area of a Party is designated as the sole supplier or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

(f) the term “public service mandate” means a government mandate pursuant to which a state-owned enterprise makes

available a service, directly or indirectly, to the general public in its Area;

Note: For greater certainty, a service to the general public includes:

(a) the distribution of goods; and

(b) the supply of general infrastructure services that includes, but not limited to, public utility services such as transport, electricity, gas and water supply.

(g) the term “service supplied in the exercise of governmental authority” means a service supplied in the exercise of governmental authority as defined in the GATS and, if applicable, in the Annex on Financial Services to the GATS; and

(h) the term “state-owned enterprise” means an enterprise that is principally engaged in commercial activities in which a Party:

(i) directly owns more than 50 percent of the share capital;

(ii) controls, through ownership interests, the exercise of more than 50 percent of the voting rights;

(iii) holds the power to appoint a majority of members of the board of directors or any other equivalent management body; or

(iv) has the power to legally direct the actions of the enterprise or otherwise exercises an equivalent degree of control in accordance with its laws and regulations.

Article 15.3. Scope

1. This Chapter shall apply to state-owned enterprises and designated monopolies, engaged in commercial activities. Where they engage both in commercial and in non-commercial activities, only the commercial activities shall be covered by this Chapter.

2. This Chapter shall apply to state-owned enterprises and designated monopolies at all levels of government.

3. This Chapter shall not apply to government procurement.

4. This Chapter shall not apply to any service supplied in the exercise of governmental authority.

5. This Chapter shall not apply to a state-owned enterprise or a designated monopoly, if in any one of the three previous consecutive fiscal years the annual revenue derived from the commercial activities of the enterprise or monopoly concerned was less than 200 million SDR.

6. Article 15.6 shall not apply with respect to the supply of financial services by astate-owned enterprise pursuant to a government mandate, if that supply of financialservices:

(a) supports exports or imports, provided that those financial services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favorable than those that could be obtained for comparable financial services in the commercial market;

(b) supports private investment outside the Area of the Party, provided that those financial services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favorable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.

7. Article 15.6 shall not apply to the sectors set out in paragraph 2 of Article 7.1.

Article 15.4. Relation to the WTO Agreement

The Parties affirm their rights and obligations under paragraphs 1 through 3 of Article XVII of the GATT 1994, the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994, as well as

paragraphs 1, 2 and 5 of Article VIII of the GATS.

Article 15.5. General Provisions

1. Without prejudice to the rights and obligations of each Party under this Chapter, nothing in this Chapter shall prevent a Party from establishing or maintaining a state-owned enterprise or designating a monopoly.

2. Neither Party shall require or encourage a state-owned enterprise or a designated monopoly to act in a manner inconsistent with this Chapter.

Article 15.6. Non-Discriminatory Treatment and Commercial Considerations

1. Each Party shall ensure that each of its state-owned enterprises and designated monopolies, when engaging in commercial activities:

(a) acts in accordance with commercial considerations in its purchase or sale of a good or service, except to fulfill any terms of its public service mandate that are not inconsistent with subparagraph (b) or (c);

(b) in its purchase of a good or service:

(i) accords to a good or service supplied by an enterprise of the other Party treatment no less favorable than that it accords to a like good or a like service supplied by its own enterprises or enterprises of a non-Party; and

(ii) accords to a good or service supplied by an enterprise that is an investment of an investor of the other Party in its Area treatment no less favorable than that it accords to a like good or a like service supplied by enterprises in the relevant market in its Area that are investments of its own investors or investors of a non-Party; and

(c) in its sale of a good or service:

(i) accords to an enterprise of the other Party treatment no less favorable than that it accords to its own enterprises or enterprises of a non-Party; and

(ii) accords to an enterprise that is an investment of an investor of the other Party in its Area treatment no less favorable than that it accords to enterprises in the relevant market in its Area that are investments of its own investors or investors of a non-Party.

Note: This paragraph shall not apply with respect to the purchase or sale of shares, stock or other forms of equity by a state-owned enterprise or a designated monopoly as a means of its equity participation in another enterprise.

2. Each Party shall ensure that each of its designated monopolies does not use its monopoly position to engage in, either directly or indirectly, including through its dealings with its parent, subsidiaries or other entities the Party or the designated monopoly owns, anticompetitive practices in a non-monopolized market in its Area that negatively affect trade or investment between the Parties.

Note: For greater certainty, a Party may comply with the requirements of this paragraph through the enforcement or implementation of its generally applicable competition law, its economic regulatory laws and regulations or other appropriate measures.

3. Subparagraphs 1(b) and (c) shall not preclude a state-owned enterprise or a designated monopoly from:

(a) purchasing or selling goods or services on different terms or conditions, including those relating to price, provided that such different terms or conditions are made in accordance with commercial considerations; or

(b) refusing to purchase or sell goods or services, provided that such refusal is made in accordance with commercial considerations.

Article 15.7. Regulatory Framework

1. The Parties respect and shall endeavor to follow relevant international standards including, inter alia, the OECD Guidelines on Corporate Governance of State-Owned Enterprises.

2. Each Party shall endeavor to ensure that any regulatory body or any other body exercising a regulatory function that the Party establishes or maintains is independent from, and not accountable to, any of the enterprises regulated by that body, and acts impartially in like circumstances with respect to all enterprises regulated by that body, including state-owned

enterprises and designated monopolies.

Note: For greater certainty, the impartiality with which the body exercises its regulatory functions is to be assessed by reference to a general pattern or practice of that body.

3. Each Party shall apply its laws and regulations to state-owned enterprises and designated monopolies in a consistent and non-discriminatory manner.

Article 15.8. Information Exchange

1. Each Party shall provide to the other Party, or otherwise make publicly available on an official website, a list of its state-owned enterprises, at the central level of government, no later than six months after the date of entry into force of this Agreement, and thereafter shall update the list annually.

Note: For the purposes of this paragraph, the term “the central level of government” means:

(a) for Bangladesh, the Government of Bangladesh; and

(b) for Japan, the Government of Japan.

2. Each Party shall promptly notify the other Party of, or otherwise make publicly available on an official website, the designation of a monopoly and the terms of its designation.

3. A Party which has a reason to believe that its interests under this Chapter are being adversely affected by the commercial activities of a state-owned enterprise or a designated monopoly (hereinafter referred to in this Article as “the entity”) of the other Party may request the other Party in writing to provide information on the commercial activities of the entity related to the carrying out of the provisions of this Chapter in accordance with paragraph 4.

4. The requested Party shall provide the following information, provided that the request includes an explanation of how the activities of the entity may be affecting the interests of the requesting Party under this Chapter and indicates which of the following information shall be provided:

(a) the organizational structure, and the composition of the board of directors or any other equivalent management body, of the entity;

(b) the percentage of shares that the requested Party, its state-owned enterprises or its designated monopolies cumulatively own, and the percentage of voting rights that they cumulatively hold, in the entity;

(c) a description of any special shares or special voting or other rights that the requested Party, its state-owned enterprises or its designated monopolies hold, where such rights are different from those attached to the general common shares of the entity;

(d) a description of the government departments or public bodies which regulate the entity, a description of the reporting requirements imposed on the entity by those departments or public bodies, and the rights and practices, where possible, of those departments or public bodies with respect to the appointment, dismissal or remuneration of senior executives and members of the board of directors or any other equivalent management body of the entity;

(e) annual revenue and total assets of the entity over the most recent three-year period for which information is available;

(f) any exemptions, immunities and related measures from which the entity benefits under the laws and regulations of the requested Party; and

(g) any additional information regarding the entity that is publicly available, including annual financial reports, third party audits and financial support by the government.

5. When a Party provides written information pursuant to a request under this Article and informs the requesting Party that it considers the information to be confidential, the requesting Party shall not disclose the information without the prior consent of the Party providing the information.

6. The requested Party shall endeavor to provide the information requested pursuant to paragraph 4 no later than two months after the date of that request.

Article 15.9. Technical Cooperation

The Parties shall, where appropriate and subject to available resources, engage in mutually agreed technical cooperation activities, including:

(a) exchanging information regarding the Parties' experiences in improving the corporate governance and operations of their state-owned enterprises;

(b) sharing best practices on policy approaches to ensure a level playing field between state-owned and privately-owned enterprises, including policies related to competitive neutrality; and

(c) organizing international seminars, workshops, training or any other appropriate forum for sharing technical information and expertise related to the corporate governance and operations of state-owned enterprises.

Chapter 16. Improvement of the Business Environment

Article 16.1. Basic Principles

1. Each Party shall, in accordance with its laws and regulations, take appropriate measures to further improve the business environment for the juridical persons of the other Party conducting business activities in the Area of the former Party.

2. The Parties shall, in accordance with their respective laws and regulations, promote cooperation to further improve the business environment in the respective Parties.

Article 16.2. Sub-Committee on Improvement of the Business Environment

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Improvement of the Business Environment (hereinafter referred to in this Chapter as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

(a) reviewing findings reported by a Liaison Office on Improvement of the Business Environment (hereinafter referred to in this Chapter as "the Liaison Office") to be designated by each Party in accordance with Article 16.3;

(b) discussing, and seeking ways to resolve in a timely manner, issues related to the business environment on its own initiative or based on the findings reported by the Liaison Office;

(c) reporting its findings and making recommendations, including those on measures that should be taken by the Parties, to the Parties;

(d) reviewing, where appropriate, the measures taken by the Parties related to such recommendations referred to in subparagraph (c);

(e) making available to the public, in a mutually determined manner, the recommendations referred to in subparagraph (c) and the results of the review referred to in subparagraph (d);

(f) cooperating, in an appropriate manner, with other Sub-Committees established under this Agreement, with a view to avoiding unnecessary duplication of works. The forms of such cooperation may include:

(i) informing the results of its consideration to such other Sub-Committees;

(ii) seeking opinions from such other Sub-Committees;

(iii) inviting to the Sub-Committee the members of such other Sub-Committees; and

(iv) if appropriate, transferring the relevant issues to such other Sub-Committees;

(g) reporting in a timely manner the findings and recommendations referred to in subparagraph (c) to the Joint Committee; and

(h) carrying out other functions as may be delegated by the Joint Committee.

3. The issues to be discussed by the Sub-Committee may include:

(a) improvement of transparency in business related rules, regulations, administrative procedures and administrative decisions;

(b) measures to simplify and expedite administrative procedures;

(c) ways to facilitate business activities in the Parties; and

(d) other issues related to the business environment.

4. The Sub-Committee shall be composed of representatives of the Governments of the Parties including officials of relevant Ministries or Agencies in charge of the issues to be discussed. The Sub-Committee may invite representatives of relevant entities other than the Governments of the Parties with the necessary expertise relevant to the issues to be discussed.

5. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 16.3. Liaison Office

1. Each Party shall designate and maintain the Liaison Office for the purposes of this Chapter.

2. The functions of the Liaison Office designated by each Party shall be:

(a) receiving complaints and inquiries from the juridical persons of the other Party with respect to the laws, regulations and other measures of the former Party which may adversely affect the business activities of the juridical persons;

(b) transmitting the complaints and inquiries referred to in subparagraph (a) to the relevant authorities of the former Party;

(c) seeking responses from the relevant authorities of the former Party referred to in subparagraph (b) within a reasonable period of time, if appropriate, in writing with sufficient explanations, reasons and legal basis, if any;

(d) transmitting the responses referred to in subparagraph (c) to the juridical persons referred to in subparagraph (a);

(e) providing the juridical persons referred to in subparagraph (a) with necessary information and advice in collaboration with the relevant authorities of the former Party; and

(f) reporting the findings to the Sub-Committee.

3. Each Party may designate an entity located in the other Party that will facilitate the communications between the Liaison Office of the other Party and the juridical persons of the former Party.

4. Paragraphs 2 and 3 shall not be construed to prevent or restrict any contacts made by the juridical persons of a Party directly to the relevant authorities of the other Party.

Article 16.4. Non-Application of Chapter 21

Chapter 21 shall not apply to this Chapter.

Chapter 17. Labor

Article 17.1. Right to Regulate and Levels of Protection

1. Recognizing the right of each Party to determine its sustainable development policies and national economic priorities, to establish its own levels of domestic labor protection, and to adopt or modify accordingly its relevant laws and regulations, consistently with its commitments to the Conventions and Protocols of the International Labour Organization (hereinafter referred to as “ILO”), including the fundamental ILO Conventions, to which the Party is a party, each Party shall strive to ensure that its laws, regulations and related policies provide high levels of labor protection and shall strive to continue to improve those laws and regulations and their underlying levels of protection.

2. The Parties shall not encourage trade or investment by relaxing or lowering the levels of protection provided by their respective labor laws and regulations. To that effect, the Parties shall strive not to waive or otherwise derogate from those laws and regulations.

3. The Parties acknowledge that their respective labor laws and regulations should not constitute a means of arbitrary or unjustifiable discrimination, or a disguised restriction on trade or investment.

Article 17.2. Statement of Shared Commitments

1. The Parties recognize full and productive employment and decent work for all, as one of key elements to respond to economic, labor and social challenges. The Parties further recognize the importance of promoting the development of international trade in a way that is conducive to achieve full and productive employment and decent work for all. In this context, the Parties shall exchange views and information on labor issues of mutual interest in the meetings of the Sub-Committee on Labor established pursuant to Article 17.4.

2. The Parties reaffirm their respective commitments with regard to the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as amended in 2022. Accordingly, the Parties shall respect, promote and realize in their respective laws, regulations and practices, the internationally recognized principles concerning the fundamental rights at work, which are:

(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 labor;

(c) the effective abolition of child labor;

(d) the elimination of discrimination in respect of employment and occupation; and

(e) a safe and healthy working environment.

3. Each Party reaffirms its commitments to effectively implement, in its laws, regulations and practices, the ILO Conventions it has ratified.

4. The Parties recognize that the violation of the internationally recognized principles concerning the fundamental rights at work referred to in paragraph 2 cannot be invoked or otherwise used as a legitimate comparative advantage, and that labor standards should not be used for protectionist trade purposes.

Article 17.3. Forced and Compulsory Labor

Recognizing the goal of eliminating all forms of forced or compulsory labor, including forced or compulsory child labor, the Parties reaffirm their commitments to respect, promote and realize the principles of the fundamental ILO Conventions on forced and compulsory labor to which the Parties are parties.

Article 17.4. Sub-Committee on Labor

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Labor (hereinafter referred to in this Article as “the Sub-Committee”).

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter and, when necessary, making appropriate recommendations to the Joint Committee;

(b) considering any other matter related to this Chapter as the Parties may decide;

(c) carrying out other functions as may be delegated by the Joint Committee;

(d) seeking solutions to resolve differences between the Parties as to the interpretation or application of this Chapter; and

(e) facilitating public awareness of the implementation of this Chapter in a mutually determined manner.

3. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 17.5. Contact Points

Each Party shall, upon entry into force of this Agreement, designate a contact point to facilitate communications between the Parties on any matter relating to this Chapter and notify the other Party of the contact details including information regarding the relevant officials. The Parties shall promptly notify each other of any change of those contact details.

Article 17.6. Non-Application of Chapter 21

Chapter 21 shall not apply to this Chapter.

Chapter 18. Environment

Article 18.1. Right to Regulate and Levels of Protection

1. Recognizing the right of each Party to determine its sustainable development policies and priorities, to establish its own levels of domestic environmental protection, and to adopt or modify accordingly its relevant laws and regulations, consistently with its commitments to the internationally recognized standards and international agreements to which the Party is a party, each Party shall strive to ensure that its laws, regulations and related policies provide adequate levels of environmental protection and shall strive to seek to improve those laws and regulations and their underlying levels of protection.

2. The Parties shall not encourage trade or investment by relaxing or lowering the levels of protection provided by their respective environmental laws and regulations. To that effect, the Parties shall strive not to waive or otherwise derogate from those laws and regulations or fail to effectively enforce them.

3. The Parties shall not use their respective environmental laws and regulations in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on trade.

Article 18.2. Statement of Shared Commitments

1. The Parties stress the importance of multilateral environmental agreements, in particular those to which both Parties are parties, as a means of multilateral environmental governance for the international community to address global or regional environmental challenges. The Parties further stress the importance of achieving mutual supportiveness between trade and environment. In this context, the Parties shall exchange views and information on trade-related environmental matters of mutual interest in the meetings of the Sub-Committee on Environment established pursuant to Article 18.5, and as appropriate in other fora.

2. Each Party reaffirms its commitments to effectively implement, in its laws, regulations and practices, the multilateral environmental agreements to which the Party is a party.

3. Each Party shall exchange information with the other Party regarding ratification, acceptance or approval of, or accession to, the multilateral environmental agreements, including their amendments, which each Party considers appropriate to be bound by.

4. The Parties recognize the importance of achieving the ultimate objective of the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992 (hereinafter referred to as “UNFCCC”), in order to address the urgent threat of climate change, and the role of trade to that end. The Parties reaffirm their commitments to effectively implement the UNFCCC and the Paris Agreement, done at Paris on December 12, 2015, by the Conference of the Parties to the UNFCCC at its 21st session. The Parties commit to working together to take actions to address climate change towards achieving the ultimate objective of the UNFCCC and the purpose of the Paris Agreement.

5. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures to implement the multilateral environmental agreements to which the Party is a party, provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on trade.

Article 18.3. Transparency

Each Party shall ensure that any measure of general application pursuing the objectives of this Chapter is administered in a transparent manner, in accordance with its laws and regulations and the provisions of Chapter 19, including by providing the public with reasonable opportunities and sufficient time to comment as may be applicable, and by publishing such measures.

Article 18.4. Cooperation

Recognizing the importance of cooperation on trade-related and investment-related aspects of environmental policies in order to achieve the objectives of this Agreement, the Parties may inter alia:

(a) cooperate at bilateral or multilateral level in the fields of environmental protection including through appropriate international organizations or bodies in which both Parties participate;

(b) cooperate on evaluating the mutual impact between trade and environment as well as on identifying ways to enhance, prevent or mitigate such impact, taking into account the results of the monitoring and assessment carried out by the Parties;

(c) cooperate to facilitate and promote trade and investment in environmental goods and services, in a manner consistent with this Agreement, including through the exchange of information;

(d) cooperate on labelling schemes, including through the exchange of information on eco-labels;

(e) cooperate to promote corporate social responsibility on environmental issues;

(f) cooperate to benefit from the establishment of predictable, fair and competitive markets that respect the environment;

(g) cooperate on trade and investment-related aspects of multilateral environmental agreements, including through the exchange of views and information on the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on March 3, 1973, and the Convention on Biological Diversity, done at Rio de Janeiro on June 5, 1992 and its protocols, and through technical and customs cooperation;

(h) cooperate on trade-related aspects of the international climate change regime, including on means to promote low-carbon technologies, other climate-resilient and climate-friendly technologies and energy efficiency;

(i) cooperate to promote the conservation and sustainable use of biological diversity, to protect and restore terrestrial, marine and other aquatic ecosystems, as well as to combat illegal trade in endangered species of wild fauna and flora;

(j) cooperate to promote the conservation and sustainable management of forests and trade in legally harvested timber, timber and non-timber products, as well as to combat illegal logging;

(k) cooperate, bilaterally or through appropriate international organizations or bodies in which both Parties participate, to promote sustainable fishing and aquaculture practices and trade in legally obtained fisheries resources, as well as to combat illegal, unreported and unregulated fishing;

(l) cooperate, bilaterally or through appropriate international organizations or bodies in which both Parties participate, to protect human health and the environment by controlling the transboundary movement of hazardous waste and their disposal;

(m) cooperate to promote efficient and sustainable production, use and recycling of resources as part of more circular economies to help reduce the need to create new sources of goods while respecting each Party's domestic laws, regulations and policies; and

(n) cooperate to promote, where needed, technological innovation, improved standards, compliance, sustainability, capacity building and technology transfer in the fields of environmental protection of the other Party.

Article 18.5. Sub-Committee on Environment

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Environment (hereinafter referred to in this Article as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter and, when necessary, making appropriate recommendations to the Joint Committee;

(b) considering any other matter related to this Chapter as the Parties may decide;

(c) carrying out other functions as may be delegated by the Joint Committee; and

(d) seeking solutions to resolve differences between the Parties as to the interpretation or application of this Chapter.

3. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

4. The Sub-Committee will pursue coherence and cooperation between its work and the activities of relevant multilateral environmental organizations or bodies.

Article 18.6. Contact Points

Each Party shall, upon entry into force of this Agreement, designate a contact point to facilitate communications between the Parties on any matter relating to this Chapter and notify the other Party of the contact details including information regarding the relevant officials. The Parties shall promptly notify each other of any change of those contact details.

Article 18.7. Non-Application of Chapter 21

Chapter 21 shall not apply to this Chapter.

Chapter 19. Transparency

Article 19.1. Publication

1. Each Party shall promptly publish, or otherwise make publicly available, including on the Internet where feasible, its laws, regulations, procedures, administrative rulings in accordance with its laws and regulations and judicial decisions of general application as well as international agreements to which the Party is a party, with respect to any matter covered by this Agreement.

2. To the extent possible, each Party shall publish, or otherwise make readily available any such laws, regulations, procedures and administrative rulings of general application in accordance with its laws and regulations with respect to any matter covered by this Agreement that it proposes to adopt.

3. Each Party shall, in accordance with its laws and regulations and to the extent possible, maintain public comment procedures concerning any such laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement that it proposes to adopt.

Article 19.2. Enquiries

1. Each Party shall make easily available to the public the names and addresses of the competent authorities responsible for laws, regulations, procedures and administrative rulings referred to in paragraph 1 of Article 19.1.

2. Each Party shall, on request of the other Party, within a reasonable period of time, respond to specific questions from, and provide information to, that other Party with respect to matters referred to in paragraph 1 of Article 19.1, in the English language.

Article 19.3. Administrative Proceedings

1. Upon receiving an application submitted by a person who seeks an administrative decision which pertains to or affects the implementation and operation of this Agreement, the competent authorities of a Party shall, in accordance with the laws and regulations of that Party:

(a) inform the applicant of the decision within a reasonable period of time after the submission of the application considered complete in accordance with the laws and regulations of that Party, taking into account the established standard period of time referred to in paragraph 3; and

(b) provide, within a reasonable period of time, information concerning the status of the application, on request of the applicant.

2. The competent authorities of a Party shall, in accordance with the laws and regulations of that Party, establish criteria for reviewing the application referred to in paragraph 1. The competent authorities shall make such criteria:

(a) as specific as possible; and

(b) publicly available except when it would extraordinarily raise administrative difficulties for that Party.

3. For the purpose of reviewing the applications referred to in paragraph 1, the competent authorities of a Party shall, in accordance with the laws and regulations of that Party:

(a) endeavor to establish standard periods of time between the receipt of the applications and the administrative decisions taken in response to the applications; and

(b) make publicly available such periods of time, if established.

4. The competent authorities of a Party shall, in accordance with the laws and regulations of that Party, prior to any final decision which imposes obligations on or restricts legal rights of a person, provide that person with:

(a) a reasonable notice, including a description of the nature of the measure, specific provisions upon which such measure will be based, and the facts which may be a cause of taking such measure; and

(b) a reasonable opportunity to present facts and arguments in support of position of such person,

provided that time, nature of the measure and public interest permit.

Article 19.4. Review and Appeal

1. Each Party shall maintain administrative or judicial tribunals or procedures for the purpose of prompt review and, where warranted, correction of administrative actions regarding matters covered by this Agreement. Such tribunals or procedures shall be impartial and independent of the authorities entrusted with the administrative enforcement of such actions.

2. Each Party shall ensure that the parties in any such tribunals or procedures are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record.

3. Each Party shall ensure, subject to appeal or further review as provided in its laws and regulations, that such decision is implemented by the relevant authorities with respect to the administrative action at issue.

Article 19.5. Measures Against Corruption

1. Each Party reaffirms its rights and obligations under international agreements to which both Parties are parties, including the United Nations Convention against Corruption, done at New York on October 31, 2003.

2. Each Party shall adopt or maintain legislative and other measures in accordance with its laws and regulations as may be necessary to prevent, combat and eradicate corruption of its public officials regarding matters covered by this Agreement.

3. Each Party shall take appropriate measures, within its means and in accordance with fundamental principles of its legal system, to promote the active participation of individuals and groups outside the public sector, such as enterprises, civil society, non-governmental organizations and community-based organizations, in preventing, combatting and eradicating corruption in matters affecting international trade or investment, and to raise public awareness regarding the existence, causes and gravity of corruption, and the threat posed by it. To this end, a Party may, for example:

(a) enhance the transparency of and promote the contribution of the public to decision-making processes;

(b) ensure that the public has effective access to information;

(c) undertake public information activities that contribute to non-tolerance of corruption, as well as public education programs, including school and university curricula; and

(d) respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) for respect of the rights or reputations of others; or

(ii) for the protection of national security or ordre public or of public health or morals.

Chapter 20. Cooperation

Article 20.1. Basic Principles

1. The Parties shall, in accordance with their respective laws and regulations, promote cooperation under this Agreement for their mutual benefit, in order to further liberalize trade and investment between the Parties and to promote sustainable development of the Parties. For this purpose, the Parties shall enhance further cooperation between their Governments, and encourage and facilitate mutual cooperation between relevant entities of the Parties, one or both of whom are entities other than the Governments of the Parties, in the following fields:

(a) trade and investment;

(b) infrastructure, construction and urban development;

(c) human resource development;

(d) supply chain;

(e) environment;

(f) intellectual property;

(g) labor;

(h) women's economic empowerment;

(i) transparency;

(j) agriculture, forestry and fisheries, including Halal foods;

(k) manufacturing industry and textile industry;

(l) small and medium enterprises;

(m) science and technology;

(n) financial services;

(o) education;

(p) tourism;

(q) mining, energy and renewable energy;

(r) healthcare;

(s) competition;

(t) information and communications technology;

(u) electronic commerce;

(v) entertainment;

(w) skills development;

(x) strengthening institutions and systems; and

(y) other fields to be mutually determined by the Governments of the Parties.

2. The Parties shall initiate discussions, after entry into force of this Agreement, to explore potential cooperation activities in the fields referred to in paragraph 1 and to ensure timely, efficient and effective implementation of cooperation activities under this Chapter.

Article 20.2. Forms of Cooperation

The forms of cooperation under this Chapter may be set forth in guidelines developed by the Parties, taking into consideration the relevant provisions of this Chapter and the needs identified by the Sub-Committee on Cooperation established pursuant to Article 20.4.

Article 20.3. Costs of Cooperation

1. The Parties shall endeavor to make necessary funds and other resources available for the implementation of cooperation under this Chapter in accordance with their respective laws and regulations.

2. Costs for cooperation under this Chapter shall be borne in an equitable manner to be mutually determined by the Parties through efficient and effective utilization of funds and resources.

Article 20.4. Sub-Committee on Cooperation

1. For the purpose of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Cooperation (hereinafter referred to in this Article as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

(a) reviewing and monitoring the effective implementation and operation of this Chapter;

(b) exchanging information on cooperation in each of the fields referred to in Article 20.1;

(c) identifying ways for further cooperation between the Parties;

(d) discussing any issues related to this Chapter;

(e) making recommendations to the Joint Committee, if appropriate, on cooperation activities under this Chapter;

(f) reporting to the Joint Committee the findings and outcome of discussions of the Sub-Committee regarding the implementation of this Chapter, including the measures to be taken by the Parties; and

(g) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall, if appropriate, recognize and share information with the Parties' existing consultation mechanisms for cooperation schemes to ensure timely, efficient and effective implementation of cooperation activities under this Agreement.

4. The Sub-Committee shall be composed of representatives of the Governments of the Parties. The Sub-Committee may invite representatives of relevant entities other than the Governments of the Parties with the necessary expertise relevant to the issues to be discussed.

5. The Sub-Committee shall hold meetings at such times and venues or by means, as may be decided by the Parties.

Article 20.5. Non-Application of Chapter 21

Chapter 21 shall not apply to this Chapter.

Chapter 21. Dispute Settlement

Article 21.1. Definitions

For the purposes of this Chapter:

(a) the term "Complaining Party" means a Party that requests consultations pursuant to paragraph 1 of Article 21.6;

(b) the term "Responding Party" means a Party to which the request for consultations is made pursuant to paragraph 1 of Article 21.6; and

(c) the term "Rules of Procedure" means the Rules of Procedure for Arbitration Proceedings adopted by the Joint Committee.

Article 21.2. Objective

The objective of this Chapter is to provide effective, efficient and transparent rules and procedures for settlement of disputes arising under this Agreement.

Article 21.3. Scope

1. Unless otherwise provided for in this Agreement, this Chapter shall apply:

(a) to the settlement of disputes between the Parties regarding the interpretation and application of this Agreement; and

(b) if a Party considers that a measure of the other Party is not in conformity with the obligations under this Agreement or that the other Party has otherwise failed to carry out its obligations under this Agreement.

2. This Chapter shall not apply to non-violation complaints.

3. Subject to Article 21.5, this Chapter shall be without prejudice to the rights of a Party to have recourse to dispute settlement procedures available under other agreements to which both Parties are parties.

Article 21.4. General Provisions

1. This Agreement shall be interpreted in accordance with the customary rules of interpretation of public international law.

2. With respect to any provision of the WTO Agreement that has been incorporated into this Agreement, an arbitral tribunal established pursuant to paragraph 1 of Article 21.8 should also consider relevant interpretations in reports of WTO panels and the WTO Appellate Body, adopted by the WTO Dispute Settlement Body. The findings and determinations of the arbitral tribunal cannot add to or diminish the rights and obligations under this Agreement.

Note: The Parties confirm that the first sentence of this paragraph does not prevent the arbitral tribunal from considering relevant interpretations in reports of WTO panels and the WTO Appellate Body, adopted by the WTO Dispute Settlement Body, with respect to a provision of the WTO Agreement which is not incorporated into this Agreement.

3. All notifications, requests and replies made pursuant to this Chapter shall be in writing.

4. The Parties are encouraged at every stage of a dispute to make every effort through cooperation and consultations to reach a mutually satisfactory solution to the dispute.

5. Any period of time provided for in this Chapter may be modified for a particular dispute by mutual consent of the Parties.

6. The prompt settlement of disputes in which a Party considers that any benefits accruing to it directly or indirectly under this Agreement is being impaired by measures taken by the other Party is essential to the effective functioning of this Agreement and the maintenance of a proper balance between the rights and obligations of the Parties.

Article 21.5. Choice of Forum

1. If a dispute concerns substantially equivalent rights and obligations under this Agreement and another international trade or investment agreement to which both Parties are parties, the Complaining Party may select the forum in which to settle the dispute and that forum shall be used to the exclusion of other fora.

2. For the purposes of this Article, the Complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of an arbitral tribunal pursuant to paragraph 1 of Article 21.8 or requested the establishment of, or referred a matter to, a dispute settlement panel or tribunal under another international trade or investment agreement.

3. This Article shall not apply if the Parties consent in writing that this Article shall not apply to a particular dispute.

Article 21.6. Consultations

1. Either Party may request consultations with the other Party with respect to any matter described in paragraph 1 of Article 21.3. The Responding Party shall accord due consideration to a request for consultations made by the Complaining Party and shall accord adequate opportunity for such consultations.

2. A request for consultations made pursuant to paragraph 1 shall give the reasons for the request, including identification of the measures at issue and an indication of the factual and legal basis for the complaint.

3. The Responding Party shall immediately acknowledge its receipt of the request for consultations made pursuant to paragraph 1, by way of notification to the Complaining Party, indicating the date on which the request was received, otherwise the date on which the request was made shall be deemed to be the date of the Responding Party’s receipt of the request.

4. The Responding Party shall reply to the request for consultations made pursuant to paragraph 1 no later than seven days after the date of its receipt of the request.

5. The Responding Party shall enter into consultations no later than:

(a) 15 days after the date of its receipt of the request for consultations made pursuant to paragraph 1 in cases of urgency including those which concern perishable goods; or

(b) 30 days after the date of its receipt of the request for consultations made pursuant to paragraph 1 regarding any other matter.

6. The Parties shall engage in consultations in good faith and make every effort to reach a mutually satisfactory solution through consultations. To this end, the Parties shall:

(a) provide sufficient information in the course of consultations to enable a full examination of the matter, including how the measures at issue might affect the implementation or application of this Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) endeavor to make available for the consultations personnel of their government agencies or other regulatory bodies who have responsibility for or expertise in the matter.

7. The consultations under this Article shall be confidential and without prejudice to the rights of either Party in any further or other proceedings.

8. The consultations under this Article may be held in person or by any technological means by mutual consent of the Parties. If the Parties decide to hold consultations in person, the consultations shall be held in a venue decided upon by the Parties, or if there is no consent on the venue, in the capital of the Responding Party.

Article 21.7. Good Offices, Conciliation or Mediation

1. The Parties may at any time decide to voluntarily undertake an alternative method of dispute resolution, including good offices, conciliation or mediation. Procedures for such alternative methods of dispute resolution may begin at any time, and may be terminated by either Party at any time.

2. If the Parties decide, such procedures referred to in paragraph 1 may continue while the matter is being examined by an arbitral tribunal under this Chapter.

3. Proceedings involving such procedures referred to in paragraph 1 and positions taken by either Party during these proceedings shall be confidential and without prejudice to the rights of either Party in any further or other proceedings.

Article 21.8. Establishment and Reconvening of Arbitral Tribunal

1. The Complaining Party may request in writing the establishment of an arbitral tribunal to the Responding Party, if:

(a) the Responding Party does not:

(i) reply to the request for consultations in accordance with paragraph 4 of Article 21.6; or

(ii) enter into consultations in accordance with paragraph 5 of Article 21.6; or

(b) the consultations fail to resolve a dispute within:

(i) 20 days after the date of the Responding Party's receipt of the request for consultations made pursuant to paragraph 1 of Article 21.6 in cases of urgency including those which concern perishable goods; or

(ii) 60 days after the date of the Responding Party's receipt of the request for consultations made pursuant to paragraph 1 of Article 21.6 regarding any other matter.

2. A request for the establishment of an arbitral tribunal made pursuant to paragraph 1 shall identify the specific measures at issue and provide details of the factual and legal basis for the complaint, including the relevant provisions of this Agreement, to be addressed by the arbitral tribunal, sufficient to present the problem clearly.

3. The Responding Party shall immediately acknowledge its receipt of the request for the establishment of an arbitral tribunal made pursuant to paragraph 1, by way of notification to the Complaining Party, indicating the date on which the request was received, otherwise the date on which the request was made shall be deemed to be the date of the Responding Party's receipt of the request.

4. Each Party shall, within 30 days after the date of receipt of the request for the establishment of an arbitral tribunal, appoint one arbitrator who may be its national and propose up to three candidates to serve as the third arbitrator who shall be the chair of the arbitral tribunal. The third arbitrator shall not be a national of either Party, nor have his or her usual

place of residence in either Party, nor be employed by either Party, nor have dealt with the dispute in any capacity.

5. The Parties shall endeavor to agree on and appoint the third arbitrator within 45 days after the date of receipt of the request for the establishment of an arbitral tribunal, taking into account the candidates proposed pursuant to paragraph 4.

6. If a Party has not appointed the one arbitrator pursuant to paragraph 4, the arbitrator shall be appointed, on request of either Party, by lot from the lists of the candidates proposed pursuant to paragraph 4. The appointment by lot shall be undertaken within seven days after the date of receipt of the request for appointment by lot, unless otherwise mutually determined by the Parties.

7. If the Parties fail to agree on the third arbitrator pursuant to paragraph 5, either Party, within a further period of 10 days, may request the Secretary-General of the Permanent Court of Arbitration to appoint the third arbitrator promptly. The lists of candidates proposed pursuant to paragraph 4 shall also be provided to the Secretary-General of the Permanent Court of Arbitration and may be used in making the required appointments under paragraph 8.

Note: For greater certainty, the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules shall not be used to appoint the third arbitrator under this paragraph.

8. In appointing the third arbitrator under paragraph 7, and in accordance with the requirements referred to in paragraphs 10 and 11, the following procedure shall be used, unless otherwise mutually determined by the Parties:

(a) the Secretary-General of the Permanent Court of Arbitration shall notify the Parties of an identical list containing at least four nominees for arbitrators;

(b) within 15 days after the date of receipt of the list referred to in subparagraph (a), each Party may return the list to the Secretary-General of the Permanent Court of Arbitration after having deleted one of the nominees which it objects to and having numbered the remaining nominees on the list in the order of its preference;

(c) after the expiry of the period of time referred to in subparagraph (b), the Secretary-General of the Permanent Court of Arbitration shall appoint the third arbitrator from the remaining nominees on any list returned to him or her and in accordance with the order of preference indicated by the Parties;

(d) if for any reason the third arbitrator cannot be appointed in accordance with the procedure set out in this paragraph, the Secretary-General of the Permanent Court of Arbitration may appoint, in his or her discretion, the third arbitrator in accordance with this Chapter; and

(e) if the Secretary-General of the Permanent Court of Arbitration notifies the Parties that he or she is unavailable or does not appoint the third arbitrator within 60 days after the date of the request made pursuant to paragraph 7, the third arbitrator shall be appointed, on request of either Party and within seven days after the date of that request, by lot from the lists of the candidates proposed pursuant to paragraph 4.

9. The date of the establishment of the arbitral tribunal shall be the date on which the third arbitrator is appointed.

10. All arbitrators shall:

(a) have expertise or experience in law, international trade or other matters covered by this Agreement, or the resolution of disputes arising under international agreements;

(b) be chosen strictly on the basis of objectivity, reliability and sound judgment;

(c) be independent and impartial;

(d) not be affiliated with or take instructions from either Party;

(e) not have dealt with the matter in any capacity;

(f) disclose, to the Parties, information which may give rise to justifiable doubts as to his or her independence or impartiality; and

(g) comply with the Code of Conduct adopted by the Joint Committee.

11. In addition to the requirements of paragraph 10, the chair of the arbitral tribunal appointed under paragraph 7, wherever possible, shall:

(a) have served on a WTO panel or the WTO Appellate Body; and

(b) have expertise or experience relevant to the subject matter of the dispute.

12. Each arbitrator shall serve in his or her individual capacity and not as a government representative, nor as a representative of any organization. Neither Party shall give instructions to any arbitrator or seek to influence any arbitrator as an individual with regard to matters before the arbitral tribunal.

13. If an arbitrator appointed under this Article resigns, dies or otherwise becomes unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator. The successor arbitrator shall have all the powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended from the date on which the original arbitrator resigns, dies or otherwise becomes unable to act until the date on which the successor arbitrator is appointed.

14. If an arbitral tribunal is reconvened pursuant to Article 21.13 or 21.14, the reconvened arbitral tribunal shall, where feasible, have the same arbitrators as the original arbitral tribunal. If this is not feasible, a replacement arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator. The replacement arbitrator shall have all the powers and duties of the original arbitrator.

Article 21.9. Functions of Arbitral Tribunal

1. The arbitral tribunal shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the facts of the case;

(b) the applicability of the provisions of this Agreement cited by the Parties; and

(c) whether:

(i) the measure at issue is not in conformity with the obligations under this Agreement; or

(ii) the Responding Party has otherwise failed to carry out its obligations under this Agreement.

2. The arbitral tribunal shall have the following terms of reference unless otherwise mutually determined by the Parties within 20 days after the date of the establishment of the arbitral tribunal:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral tribunal made pursuant to paragraph 1 of Article 21.8, and to make findings and determinations as provided for in this Agreement."

3. The arbitral tribunal shall set out in its award:

(a) a descriptive section summarizing the arguments of the Parties;

(b) its findings on the facts of the case and on the applicability of the provisions of this Agreement;

(c) its determinations as to whether:

(i) the measure at issue is not in conformity with the obligations under this Agreement; or

(ii) the Responding Party has otherwise failed to carry out its obligations under this Agreement; and

(d) the reasons for its findings and determinations referred to in subparagraphs (b) and (c).

4. In addition to paragraph 3, the arbitral tribunal shall include in its award any other findings and determinations pertaining to the dispute which have been jointly requested by the Parties or provided for in its terms of reference. The arbitral tribunal may suggest ways in which the Responding Party could implement the findings and determinations.

5. Unless otherwise mutually determined by the Parties, the arbitral tribunal shall base its award on the relevant provisions of this Agreement, the submissions and arguments of the Parties, and any information or technical advice it has received in accordance with paragraphs 10 and 11.

6. The arbitral tribunal shall only make the findings, determinations and suggestions provided for in this Agreement.

7. The findings and determinations of the arbitral tribunal cannot add to or diminish the rights and obligations under this Agreement.

8. The arbitral tribunal shall consult regularly with the Parties and provide adequate opportunities for the Parties to develop

a mutually satisfactory solution.

9. Paragraphs 1 through 4 shall not apply to the arbitral tribunal reconvened pursuant to Article 21.13 or 21.14.

10. The arbitral tribunal may seek, from the Parties, such relevant information as it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the arbitral tribunal for such information as the arbitral tribunal considers necessary and appropriate.

11. On request of either Party or on its own initiative, the arbitral tribunal may seek additional information and technical advice from any individual or body which it deems appropriate. Before doing so, the arbitral tribunal shall seek the views of the Parties. If the Parties decide that the arbitral tribunal should not seek the additional information or technical advice, the arbitral tribunal shall not do so. The arbitral tribunal shall provide the Parties with any additional information or technical advice it receives and an opportunity to provide comments. If the arbitral tribunal takes into account the additional information or technical advice in preparation of its award, it shall also take into account any comments by either Party on the additional information or technical advice.

Article 21.10. Proceedings of Arbitral Tribunal

1. The arbitral tribunal shall adhere to this Chapter and, unless otherwise mutually determined by the Parties, shall follow the Rules of Procedure.

2. On request of either Party or on its own initiative, the arbitral tribunal established pursuant to Article 21.8 may, after consulting the Parties, adopt additional rules of procedure which do not conflict with this Chapter and with the Rules of Procedure. The arbitral tribunal reconvened pursuant to Article 21.13 or 21.14 may, after consulting the Parties, establish its own rules of procedure which do not conflict with this Chapter and with the Rules of Procedure, drawing as it deems appropriate from this Chapter or the Rules of Procedure.

3. Proceedings of the arbitral tribunal should provide sufficient flexibility so as to ensure a high-quality award, while not unduly delaying the arbitral tribunal process.

4. After consulting the Parties, the arbitral tribunal established pursuant to Article 21.8 shall, as soon as practicable and whenever possible within 15 days after the date of its establishment, fix the timetable for the arbitral tribunal process. The period of time from the date of establishment of the arbitral tribunal until the date of issuance of the award to the Parties shall, as a general rule, not exceed seven months.

5. The arbitral tribunal reconvened pursuant to Article 21.13 or paragraph 13 of Article 21.14 shall, as soon as practicable and whenever possible within 15 days after the date of its reconvening, fix the timetable for the compliance review process taking into account the periods of time specified in Article 21.13.

6. The arbitral tribunal shall meet in closed session. The Parties shall be present at the meetings only when invited by the arbitral tribunal to appear before it.

7. The venue for the proceedings of the arbitral tribunal shall be decided by mutual consent of the Parties, failing which it shall alternate between the Parties with the first meeting of the arbitral tribunal proceedings to be held in the capital of the Responding Party.

8. The deliberations of the arbitral tribunal and the submissions to it shall be kept confidential.

9. Written submissions submitted by a Party to the arbitral tribunal shall be treated as confidential but shall be made available to the other Party. The Parties and the arbitral tribunal shall treat as confidential, information submitted by either Party to the arbitral tribunal which that Party has designated as confidential. For greater certainty, nothing in this paragraph shall preclude either Party from disclosing statements of its own positions to the public, provided that there is no disclosure of statements or information submitted by either Party to the arbitral tribunal which that Party has designated as confidential. A Party shall, on request of the other Party, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

10. The Parties shall be given the opportunity to attend any of the presentations, statements or rebuttals in the proceeding. Any information or written submissions submitted by a Party to the arbitral tribunal, including any comments on the descriptive part of the draft award and responses to questions put by the arbitral tribunal, shall be made available to the other Party.

11. The award of the arbitral tribunal shall be drafted without the presence of the Parties in light of the information provided and the statements made.

12. The arbitral tribunal established pursuant to Article 21.8 shall submit its draft award to the Parties within 150 days after the date of its establishment. In cases of urgency including those which concern perishable goods, the arbitral tribunal shall endeavor to submit its draft award within 90 days after the date of its establishment.

13. In exceptional cases, if the arbitral tribunal established pursuant to Article 21.8 considers that it cannot submit its draft award within the period of time referred to in paragraph 12, it shall notify the Parties of the reasons for the delay together with an estimate of the period of time within which it will submit its draft award to the Parties. Any delay shall not exceed a further period of 30 days.

14. Either Party may submit written comments to the arbitral tribunal on its draft award within 15 days after the date of receipt of the draft award. After considering any written comments by the Parties on the draft award, the arbitral tribunal may make any further examination it considers appropriate and modify its draft award.

15. The arbitral tribunal shall issue its award to the Parties within 30 days after the date of submission of the draft award.

16. The arbitral tribunal shall make its findings and determinations by consensus, provided that where the arbitral tribunal is unable to reach consensus, it may make its findings and determinations by majority vote. An arbitrator may furnish dissenting or separate opinions on matters not unanimously decided. Opinions expressed by an individual arbitrator in the award shall be anonymous.

17. The award of the arbitral tribunal shall be final and binding on the Parties.

18. There shall be no ex parte communications with the arbitral tribunal concerning matters under consideration by it.

19. Each Party shall have the opportunity to set out in writing the facts of its case, its arguments and counter arguments. Further to paragraphs 4 and 5, the timetable fixed by the arbitral tribunal shall include precise deadlines for submissions by the Parties.

20. Further to paragraphs 4 and 5, the timetable fixed by the arbitral tribunal shall provide for at least one hearing for the Parties to present their case to the arbitral tribunal. As a general rule, the timetable shall not provide more than two hearings unless special circumstances exist.

21. Either Party may make the award of the arbitral tribunal publicly available subject to the protection of any confidential information contained in the award.

Article 21.11. Suspension and Termination of Proceedings

1. The Parties may decide at any time that the arbitral tribunal suspend its work for a period not exceeding 12 months from the date of such decision. Within this period, the suspended arbitral tribunal proceedings shall resume on request of either Party. In the event of such suspension, any relevant period of time for the arbitral tribunal proceedings shall be extended by the period of time that the work was suspended. If the work of the arbitral tribunal has been continuously suspended for more than 12 months, the authority for the establishment of the arbitral tribunal shall lapse unless otherwise mutually determined by the Parties.

2. The Parties may decide to terminate the arbitral tribunal proceedings if a mutually satisfactory solution has been found. In such event, the Parties shall jointly notify the chair of the arbitral tribunal.

3. Before the arbitral tribunal issues its award, it may at any stage of the proceedings propose to the Parties that the dispute be settled amicably.

Article 21.12. Implementation of Award

1. The findings and determinations of the arbitral tribunal shall be final and binding on the Parties. The Responding Party shall:

(a) if the arbitral tribunal makes a determination that the measure at issue is not in conformity with the obligations under this Agreement, bring the measure into conformity; or

(b) if the arbitral tribunal makes a determination that the Responding Party has otherwise failed to carry out its obligations under this Agreement, carry out those obligations.

2. Within 30 days after the date of issuance of the award of the arbitral tribunal to the Parties pursuant to paragraph 15 of Article 21.10, the Responding Party shall notify the Complaining Party of its intentions with respect to implementation and:

(a) if the Responding Party considers that it has complied with the obligation under paragraph 1, it shall notify the Complaining Party without delay. The Responding Party shall include in the notification a description of any measure it considers achieves compliance, the date on which the measure came into effect, and the text of the measure, if any; or

(b) if it is impracticable to comply immediately with the obligation under paragraph 1, the Responding Party shall notify the Complaining Party of the reasonable period of time the Responding Party considers it would need to comply with the obligation under paragraph 1, along with an indication of possible actions it may take for such compliance.

3. If the Responding Party makes a notification pursuant to subparagraph 2(b) that it is impracticable for the Responding Party to comply immediately with the obligation under paragraph 1, it shall have a reasonable period of time to comply with the obligation under paragraph 1.

4. The reasonable period of time referred to in paragraph 3 shall, whenever possible, be agreed on by the Parties. If the Parties are unable to agree on the reasonable period of time within 45 days after the date of issuance of the award of the arbitral tribunal to the Parties, either Party may request that the chair of the arbitral tribunal determine the reasonable period of time, by way of notification to the chair of the arbitral tribunal and to the other Party. Such a request shall be made within 120 days after the date of issuance of the award of the arbitral tribunal to the Parties.

5. Where a request is made pursuant to paragraph 4, the chair of the arbitral tribunal shall present the Parties with a determination of the reasonable period of time and the reasons for such determination within 45 days after the date of receipt by the chair of the arbitral tribunal of the request.

6. As a guideline, the reasonable period of time determined by the chair of the arbitral tribunal should not exceed 15 months after the date of issuance of the award of the arbitral tribunal to the Parties. Such reasonable period of time may be shorter or longer, depending upon the particular circumstances.

7. If the Responding Party considers that it has complied with the obligation under paragraph 1 while or after establishing the reasonable period of time in accordance with this Article, it shall notify the Complaining Party without delay. The Responding Party shall include in the notification a description of any measure it considers achieves compliance, the date on which the measure came into effect, and the text of the measure, if any.

Article 21.13. Compliance Review

1. If the Parties disagree on the existence or consistency with this Agreement of any measure taken by the Responding Party to comply with the obligation under paragraph 1 of Article 21.12, such dispute shall be settled through recourse to an arbitral tribunal reconvened for this purpose (hereinafter referred to in this Chapter as “Compliance Review Arbitral Tribunal”). The Complaining Party may request the reconvening of a Compliance Review Arbitral Tribunal by way of notification to the Responding Party.

2. The request referred to in paragraph 1 may only be made after the earlier of either:

(a) the expiry of the reasonable period of time established in accordance with Article 21.12; or

(b) a notification to the Complaining Party made by the Responding Party pursuant to subparagraph 2(a) or paragraph 7 of Article 21.12 that it has complied with the obligation under paragraph 1 of that Article.

3. The Compliance Review Arbitral Tribunal shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the factual aspects of any action taken by the Responding Party to comply with the obligation under paragraph 1 of Article 21.12; and

(b) the existence or consistency with this Agreement of any measure taken by the Responding Party to comply with the obligation under paragraph 1 of Article 21.12.

4. The Compliance Review Arbitral Tribunal shall set out in its award:

(a) a descriptive section summarizing the arguments of the Parties;

(b) its findings on the facts of the case arising under this Article and on the applicability of the provisions of this Agreement;

(c) its determinations on the existence or consistency with this Agreement of any measure taken by the Responding Party to comply with the obligation under paragraph 1 of Article 21.12; and

(d) the reasons for its findings and determinations referred to in subparagraphs (b) and (c).

5. If a request is made pursuant to paragraph 1, the Compliance Review Arbitral Tribunal shall reconvene within 15 days after the date of the request. The Compliance Review Arbitral Tribunal shall, if possible, submit its draft award to the Parties within 90 days after the date of its reconvening, and issue its award to the Parties within 30 days thereafter. If the Compliance Review Arbitral Tribunal considers that it cannot issue or submit its award or draft award within the relevant period of time, it shall notify the Parties of the reasons for the delay together with an estimate of the period of time within which it will issue or submit its award or draft award to the Parties.

6. The period of time from the date of the request made pursuant to paragraph 1 until the date of issuance of the award of the Compliance Review Arbitral Tribunal shall not exceed 150 days.

7. For greater certainty, consultations under Article 21.6 are not required for the procedures under this Article.

Article 21.14. Compensation and Suspension of Concessions or other Obligations

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the Responding Party does not comply with the obligation under paragraph 1 of Article 21.12 within the reasonable period of time. Neither compensation nor the suspension of concessions or other obligations is preferred to compliance with the obligation under that paragraph. Compensation is voluntary and, if granted, shall be consistent with this Agreement.

2. If any of the following circumstances exists, the Responding Party shall, on request of the Complaining Party, enter into negotiations with a view to developing mutually acceptable compensation:

(a) the Responding Party has notified the Complaining Party that it does not intend to comply with the obligation under paragraph 1 of Article 21.12;

(b) the Responding Party fails to notify the Complaining Party in accordance with paragraph 2 of Article 21.12;

(c) the Responding Party fails to notify the Complaining Party in accordance with paragraph 7 of Article 21.12 by the expiry of the reasonable period of time; or

(d) the Compliance Review Arbitral Tribunal determines, in accordance with Article 21.13, that the Responding Party has failed to comply with the obligation under paragraph 1 of Article 21.12.

3. If the Parties have:

(a) been unable to agree on compensation within 30 days after the date of receipt of the request made pursuant to paragraph 2; or

(b) agreed on compensation but the Responding Party has failed to observe the terms and conditions of that agreement, the Complaining Party may at any time thereafter notify the Responding Party that it intends to suspend the application to the Responding Party of concessions or other obligations equivalent to the level of nullification or impairment, and shall have the right to begin suspending concessions or other obligations 30 days after the date of receipt of the notification.

4. Notwithstanding paragraph 3, the Complaining Party shall not exercise the right to begin suspending concessions or other obligations under that paragraph if:

(a) a review is being undertaken pursuant to paragraph 9; or

(b) a mutually satisfactory solution has been reached.

5. The notification made pursuant to paragraph 3 shall specify the level of the intended suspension of concessions or other obligations and indicate the relevant sector or sectors in which the Complaining Party proposes to suspend such concessions or other obligations.

6. In considering what concessions or other obligations to suspend, the Complaining Party shall apply the following principles:

(a) the Complaining Party should first seek to suspend concessions or other obligations in the same sector or sectors in which the arbitral tribunal has determined that there is non-conformity with, or failure to carry out, an obligation under this Agreement; and

(b) if the Complaining Party considers that it is not practicable or effective to suspend concessions or other obligations in the

same sector or sectors, it may suspend concessions or other obligations in other sectors.

7. The level of the suspension of concessions or other obligations shall be equivalent to the level of nullification or impairment.

8. If the Responding Party:

(a) objects to the level of the suspension proposed;

(b) considers that it has observed the terms and conditions of the compensation agreement; or

(c) considers that the principles set out in paragraph 6 have not been followed,

it may, within 30 days after the date of receipt of the notification made pursuant to paragraph 3, request the reconvening of the arbitral tribunal to examine the matter by way of notification to the Complaining Party.

9. If a request is made pursuant to paragraph 8, the arbitral tribunal shall reconvene within 15 days after the date of the request. The reconvened arbitral tribunal shall provide its determination to the Parties within 45 days after the date of its reconvening.

10. If the arbitral tribunal reconvened pursuant to paragraph 9 determines that the level of suspension is not equivalent to the level of nullification or impairment, it shall determine the appropriate level of suspension it considers to be of equivalent effect. If the arbitral tribunal determines that the Responding Party has observed the terms and conditions of the compensation agreement, the Complaining Party shall not suspend concessions or other obligations referred to in paragraph 3. If the arbitral tribunal determines that the Complaining Party has not followed the principles set out in paragraph 6, the Complaining Party shall apply them consistently with that paragraph.

11. In the circumstances described in paragraphs 9 and 10, the Complaining Party may suspend concessions or other obligations only in a manner consistent with the determination of the arbitral tribunal referred to in paragraph 9 or 10.

12. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the obligation under paragraph 1 of Article 21.12 has been complied with or a mutually satisfactory solution has been reached.

13. If:

(a) the right to suspend concessions or other obligations has been exercised by the Complaining Party under this Article;

(b) the Responding Party has made a notification, pursuant to paragraph 7 of Article 21.12, that it has complied with the obligation under paragraph 1 of that Article; and

(c) the Parties disagree on the existence or consistency with this Agreement of any measure taken by the Responding Party to comply with the obligation under paragraph 1 of Article 21.12,

either Party may request the reconvening of the arbitral tribunal to examine the matter by way of notification to the other Party.

Note: If the arbitral tribunal is reconvened pursuant to this paragraph, it may also, upon request, determine whether the level of any suspension of concessions or other obligations is still appropriate in light of its findings on the measure taken by the Responding Party and, if not, determine an appropriate level.

14. If the arbitral tribunal reconvenes pursuant to paragraph 13, paragraphs 3 through 6 of Article 21.13 shall apply mutatis mutandis.

15. If the arbitral tribunal reconvened pursuant to paragraph 13 determines that the Responding Party has complied with the obligation under paragraph 1 of Article 21.12, the Complaining Party shall promptly terminate the suspension of concessions or other obligations.

Article 21.15. Expenses

1. Unless otherwise mutually determined by the Parties, each Party shall bear the costs of its appointed arbitrator and its own expenses and legal costs.

2. Unless otherwise mutually determined by the Parties, the costs of the chair of the arbitral tribunal and other expenses associated with the conduct of the arbitral tribunal proceedings shall be borne in equal parts by the Parties.

Article 21.16. Contact Points

1. Each Party shall, upon entry into force of this Agreement, designate a contact point for this Chapter and notify the other Party of the contact details of that contact point. The Parties shall promptly notify each other of any change of those contact details.

2. Any notification, request, reply, written submission or other document relating to any proceedings under this Chapter shall be delivered to the other Party through its designated contact point. The other Party shall provide confirmation of the receipt of such documents in writing through its designated contact point.

3. Notwithstanding paragraphs 1 and 2, the Parties may decide to jointly entrust an external body with providing support for certain administrative tasks for the dispute settlement procedure under this Chapter.

Article 21.17. Language

1. All proceedings under this Chapter shall be conducted in the English language.

2. Any document submitted for use in any proceedings under this Chapter shall be in the English language. If any original document is not in the English language, a Party submitting it for use in the proceedings shall submit that document together with an English translation.

Chapter 22. Final Provisions

Article 22.1. Table of Contents and Headings

The table of contents and headings of the Chapters, Sections, Sub-Sections and Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

Article 22.2. Annexes and Notes

The Annexes and Notes to this Agreement shall form an integral part of this Agreement.

Article 22.3. Amendment

1. This Agreement may be amended by written agreement between the Parties.

2. Such amendment shall be approved by the Parties in accordance with their respective legal procedures, and shall enter into force on the date to be agreed upon by the Parties and by means of diplomatic notes exchanged between the Governments of the Parties informing each other that their respective legal procedures necessary for its entry into force have been completed.

3. Notwithstanding paragraph 2, amendments related only to the following may be made by diplomatic notes exchanged between the Governments of the Parties:

(a) Annex 1, provided that the amendments are made in accordance with the amendment of the Harmonized System, and include no change on the rates of customs duty to be applied by a Party to the originating goods of the other Party in accordance with that Annex;

(b) Annex 2; and

(c) Annex 3.

Article 22.4. Entry Into Force

This Agreement shall enter into force on the first day of the second month following the date on which the Governments of the Parties exchange diplomatic notes informing each other that their respective legal procedures necessary for entry into force of this Agreement have been completed. It shall remain in force unless terminated as provided for in Article 22.6.

Article 22.5. General Review

Without prejudice to the provisions concerning review in other Chapters, the Parties shall undertake a general review of the implementation and operation of this Agreement in the fifth year following the date of entry into force of this Agreement, and at such times as may be mutually determined by the Parties thereafter.

Article 22.6. Termination

Either Party may terminate this Agreement by giving one year's advance notice in writing through the diplomatic channels to the other Party.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Tokyo this sixth day of February in the year 2026 in duplicate in the English language.

For Japan:

Iwao Horii

For the People's Republic of Bangladesh:

Sk. Bashir Uddin

Annex 4 referred to in Chapter 7. Financial Services

Article 1. Definitions

For the purposes of this Annex:

(a) the term "financial service" means any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

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

(A) life; and

(B) non-life;

(ii) reinsurance and retrocession;

(iii) insurance intermediation, such as brokerage and agency;

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

Banking and other financial services (excluding insurance)

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

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

(vii) financial leasing;

(viii) all payment and money transmission services, including credit, charge and debit cards, travelers checks and bankers drafts;

(ix) guarantees and commitments;

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

(A) money market instruments (including checks, bills and certificates of deposits);

(B) foreign exchange;

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

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

(E) transferable securities; and

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

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

(xii) money broking;

(xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

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

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

(xvi) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) the term “financial service computing facility” means a computer server or storage device for processing or storage of information relevant for the conduct of the ordinary business of a financial service supplier;

(c) the term “financial service supplier” means any natural person or juridical person of a Party seeking to supply or supplying financial services but the term “financial service supplier” does not include a public entity;

(d) the term “new financial service” means any financial service which is not supplied in the Area of a Party but is supplied and regulated in the Area of the other Party. This may include a service related to current and new products, or the manner in which a product is delivered;

(e) the term “public entity” means:

(i) a government, a central bank or a 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, not including 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 a monetary authority, when exercising those functions; and

(f) the term “self-regulatory organization” means any non-governmental body, including any securities or futures exchange or market, clearing or payment settlement agency, or other organization or association, that:

(i) is recognized as a self-regulatory organization and exercises regulatory or supervisory authority over financial service suppliers by legislation or delegation from central or local governments or authorities; or

(ii) exercises regulatory or supervisory authority over financial service suppliers by legislation or delegation from central or local governments or authorities.

Article 2. Scope

1. This Annex shall apply to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in subparagraph (o) of Article 7.2.

2. For the purposes of subparagraph (j) of Article 7.2, the term “services supplied in the exercise of governmental authority” means the following:

(a) activities conducted by a central bank or a monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system of social security or public retirement plans; or

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.

If a Party allows any of the activities referred to in subparagraph (b) or (c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, the term “services” shall include such activities.

3. Subparagraph (l) of Article 7.2 shall not apply to services covered by this Annex.

Article 3. New Financial Services

1. A Party shall permit financial service suppliers of the other Party to offer in its Area any new financial service, provided that the introduction of this new financial service does not require the former Party to adopt a new law or modify an existing law.

2. Notwithstanding subparagraph 2(e) of Article 7.3, a Party may determine the juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. If a Party requires a financial service supplier to obtain authorization to supply a new financial service, the Party shall decide within a reasonable period of time whether to issue the authorization and may refuse the authorization only for prudential reasons.

Article 4. Prudential Measures

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

Article 5. Treatment of Certain Information

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

Article 6. Recognition

1. A Party may recognize prudential measures of any international standard-setting body, the other Party or a non-Party in determining how its measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the international standard-setting body, the other Party or the non-Party concerned, or may be accorded autonomously.

Note: For greater certainty, nothing in Article 7.7 shall be construed to require a Party to accord such recognition to prudential measures of the other Party.

2. A Party that is a party to an agreement or arrangement referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party to negotiate its accession to such an agreement or arrangement, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.

3. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the circumstances referred to in paragraph 2 exist.

Article 7. Transparency

1. The Parties recognize that transparent measures governing the activities of financial service suppliers are important in facilitating their ability to gain access to, and operate in, each other’s markets. Each Party commits to promote regulatory transparency in financial services.

2. A Party shall ensure that all measures of general application to which this Annex applies are administered in a reasonable, objective and impartial manner.

3. A Party shall ensure that measures of general application adopted or maintained are promptly published or otherwise made publicly available.

4. To the extent practicable, a Party shall:

(a) publish in advance any regulation of general application related to the subject matter of this Annex that it proposes to adopt and the purpose of the regulation; and

(b) provide interested persons and the other Party with a reasonable opportunity to comment on such proposed regulation.

5. To the extent practicable, a Party should allow a reasonable period of time between the date of publication of any final regulation of general application and the date when it enters into effect.

6. A Party shall ensure that the rules of general application adopted or maintained by a self-regulatory organization of the Party are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.

7. A Party shall maintain or establish appropriate mechanisms for responding to enquiries from interested persons of the other Party regarding measures of general application covered by this Annex.

8. A Party's regulatory authority shall make available to interested persons of the other Party its requirements, including any documentation required, for completing applications relating to the supply of financial services.

9. On request of an applicant in writing, a Party's regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

10. A Party's regulatory authority shall make an administrative decision on a complete application of a financial service supplier of the other Party relating to the supply of a financial service within a reasonable period of time, and shall notify the applicant of the decision without undue delay. An application shall not be considered complete until all relevant proceedings are conducted and all necessary information is received. Where it is not practicable for such a decision to be made within a reasonable period of time, the regulatory authority shall notify the applicant without undue delay and shall endeavor to make the decision within a reasonable period of time thereafter.

11. On request of an unsuccessful applicant in writing, a Party's regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for the denial of the application.

Article 8. Financial Services Exceptions

For greater certainty, nothing in this Annex shall be construed to prevent a Party from adopting or enforcing measures necessary to secure compliance with laws or regulations that are not inconsistent with this Annex, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, 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 or between the other Party and non-Parties where like conditions prevail, or a disguised restriction on investment in financial service suppliers or trade in financial services.

Article 9. Transfers of Information and Processing of Information

1. The Parties recognize that each Party may have its own regulatory requirements concerning the transfer of information, the processing of information and the location of financial service computing facilities, provided that this paragraph does not affect a Party's rights and obligations under this Annex.

2. A Party shall not take measures that prevent:

(a) transfers of information, including transfers of data by electronic or other means, necessary for the conduct of the ordinary business of a financial service supplier in its Area; or

(b) processing of information necessary for the conduct of the ordinary business of a financial service supplier in its Area.

3. Nothing in paragraph 2 shall prevent a regulatory authority of a Party, for regulatory or prudential reasons, from requiring a financial service supplier in its Area to comply with its laws and regulations in relation to data management and storage and system maintenance, as well as to retain within its Area copies of records, provided that such requirements shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

4. Nothing in paragraph 2 shall restrict the right of a Party to protect personal data, personal privacy, and the confidentiality of individual records and accounts including in accordance with its laws and regulations, provided that such a right shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.

5. Nothing in paragraph 2 shall be construed to require a Party to allow the cross-border supply or consumption abroad of services in relation to which it has not made commitments, including to allow non-resident suppliers of financial services to supply, as a principal, through an intermediary or as an intermediary, the provision and transfer of financial information and financial data processing as referred to in subparagraph (a)(xv) of Article 1.

Article 10. Self-Regulatory Organizations

If a Party requires a financial service supplier of the other Party to be a member of, participate in or have access to a self-regulatory organization to provide a financial service in its Area, that Party shall ensure that the self-regulatory organization observes that Party's obligations under Article 7.4.

Article 11. Payment and Clearing Systems

Under the terms and conditions that accord national treatment, a Party shall grant financial service suppliers of the other Party established in its Area 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 the former Party's lender of last resort facilities.

Article 12. Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall consider such a request.

2. Consultations under this Article shall include the relevant representatives of the contact points specified in Article 13.

Article 13. Contact Points

Each Party shall, upon entry into force of this Agreement, designate a contact point for the effective implementation and operation of this Annex and notify the other Party of the contact details including information regarding the relevant officials. The Parties shall promptly notify each other of any change of those contact details.

Article 14. Dispute Settlement

Arbitrators of the arbitral tribunal established pursuant to Chapter 21 for disputes on any provision of this Annex shall have the necessary expertise relevant to the specific financial service under dispute.

Annex 5 referred to in Chapter 7. Schedules of Specific Commitments in relation to Article 7.5

Part 1

Explanatory Notes

Alphabets indicated against individual sectors or sub-sectors and numbers in brackets are references to the Services Sectoral Classification List (GATT Document MTN.GNS/W/120, dated July 10, 1991) and the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991) (hereinafter referred to in this Annex as "CPC"). These alphabetical and numerical divisions are indicated to enhance the clarity in the description of the specific commitments but shall not be construed as being a part of the specific commitments.

The scheduling of the specific commitments follows the Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated March 28, 2001). The Guidelines shall not, however, be construed as being legally binding.

The modes of supply 1) through 4) indicated in the Schedules of Specific Commitments correspond respectively to the supply of services defined in subparagraphs (o)(i) through (iv) of Article 7.2.

The entry “Unbound*” means unbound due to lack of technical feasibility.

The use of footnotes or “**” against individual CPC codes indicates that the specific commitment for that code does not extend to the total range of services covered under that code.

For greater certainty, limitations on Market Access or National Treatment described in the Schedules of Specific Commitments may include measures taken by each Party in accordance with Article 1.5.

A “None” in II. SECTOR-SPECIFIC COMMITMENTS must be read as meaning “None, except for the conditions set out in I. HORIZONTAL COMMITMENTS.”

Annex 7 referred to in Chapter 8. Schedule of Specific Commitments on Movement of Natural Persons

Part 1. Specific Commitments of Bangladesh

This Schedule sets out Bangladesh’s commitments in accordance with Chapter 8 with respect to its commitments for the entry and temporary stay of natural persons of Japan covered under Article 8.2. Accordingly, the categories provided for in this Schedule correspond to the categories provided for in that Article. The visa type referred to in this Schedule corresponds to the visa category used for immigration purposes.

For the purposes of Chapter 8 and this Schedule, natural persons of Japan as set out in each category of this Schedule may be subject to numerical restriction.

Nothing in this Agreement shall be construed to impose any obligation on Bangladesh regarding its immigration measures, except for Chapters 1 and 8, Chapter 21 to the extent provided for in Article 8.8, and Chapter 22.

Description of Category	Conditions and Limitations (including length of stay)
A. Business Visitors of Japan	
A natural person of Japan who will stay in Bangladesh without acquiring remuneration from within Bangladesh and without engaging in making direct sales to the general public or in supplying services himself or herself, for the purpose of: (a) analyzing investment potential; (b) participating in business-related board meetings, general meetings, technical meetings, etc.; (c) recruiting manpower from Bangladesh; (d) participating in trade fair, exhibitions and for discussions on these activities; (e) quality verification of Bangladeshi products and negotiations with suppliers for placing orders; (f) acting as a tour conductor; (g) enhancing academic network; or (h) acting as a foreign partner of the business or functioning as a director in the company.	Temporary stay for a period of up to two months per entry. Note: VISA Type B Up to one year with multiple entry facility, two months stay per entry. Visa may be extended up to three years with multiple entry facility, six months stay per entry with the recommendation of the relevant authority. Furthermore, the visa may be extended for a total duration of up to five years with the recommendation of the relevant authority.
B. Intra-Corporate Transferees of Japan	
A natural person of Japan who is in a top-level	Temporary stay (work permit) for a period of up to three months, which may be extended during the validity period of the work permit or three years, whichever is less. Note: VISA Type E. Up to three months with multiple entry facility after verifying the authenticity of the institution as per rules. Visa may be extended during the validity period of the work

position of a foreign company will be allowed to work in a foreign company as an intra-corporate transferee.	permit or three years, whichever is less, based on the recommendation of the employing institution, the report of the authority concerned regarding the activities of the institution and the security clearance. In the case of visa extension, if the same person has been employed in the same institution for more than three years, the authority concerned may recommend the extension of activities without the approval of the Ministry of Home.
C. Investors of Japan	
A natural person of Japan who is a foreign investor investing equity in joint venture or with 100% foreign ownership in an establishment.	Temporary stay (work permit) for a period of up to one year. Note: VISA Type PI. Up to one year with multiple entry facility. Visa may be extended up to five years with the recommendation of the relevant authority. “No visa required” facility for investment of at least 5 million US$ upon certification from Bangladesh Investment Development Authority/Bangladesh Export Processing Zone Authority and other applicable authorities in Bangladesh. Work permit of BIDA/BEZA/BEPZA/HiTech Park/PPPAB and other applicable authorities if the investor works in his or her own company.
E. Professional Service Suppliers of Japan	
F. Independent Professionals of Japan	
A natural person of Japan will be allowed to work in Bangladesh if Bangladeshi experts are not available for: (a) the activities that require technology or knowledge at an advanced level; or (b) working in a top-level position in engineering, administration, finance, accounting, sales or marketing.	Temporary stay (work permit) for a period of up to three months, which may be extended during the validity period of the work permit or three years, whichever is less. Note: VISA Type E. Up to three months with multiple entry facility after verifying the authenticity of the institution as per rules. Visa may be extended during the validity period of the work permit or three years, whichever is less, based on the recommendation of the employing institution, the report of the authority concerned regarding the activities of the institution and the security clearance.
G. Contractual Service Suppliers of Japan	
A natural person of Japan may engage in any activities during his or her temporary stay in Bangladesh as an expert. For the purposes of this category, the term “expert” means: (a) consultant/executive in high level post/technologist/manager; and (b) engineer/technician/designer; quality controller/standard inspector/production supervisor/inspector.	Temporary stay (work permit) for a period of up to three months, which may be extended during the validity period of the work permit or three years, whichever is less. Note: VISA Type E. Up to three months with multiple entry facility after verifying the authenticity of the institution as per rules. Visa may be extended during the validity period of the work permit or three years, whichever is less, based on the recommendation of the employing institution, the report of the authority concerned regarding the activities of the institution and the security clearance.

H. Spouses and Dependents	
A spouse and dependents accompanying a natural person of Japan who has been granted entry and temporary stay pursuant to categories B, C and E through G. For the purposes of this category, the term “spouse” or “dependents” means a spouse or dependents recognized as such in accordance with the laws and regulations of Bangladesh.	Entry and temporary stay shall be granted to the spouse and dependents for, in principle, the same period as the period of temporary stay granted to the natural person of Japan pursuant to categories B, C and E through G, provided that such spouse and dependents obtain maintenance from the natural person and engage in daily activities recognized under the status of residence of “Dependent” provided for in the immigration laws of Bangladesh. In the case of visa extension, a recommendation letter of the ministry/organization concerned and a police report from Special Branch (SB) will be required.
I. Installers and Servicers of Japan	
A natural person of Japan who will arrive in Bangladesh for the purpose of machinery or software supply installation/maintenance/supervision/project inspection/research and development support/technical support to any organization or a similar job.	Temporary stay for a period of up to one month per entry. Note: VISA Type EI. Up to six months with multiple entry facility, one month stay per entry. Visa may be extended by one month upon proper justification by the local institution and after examining the relevant documents.

Part 2. Specific Commitments of Japan

Japan may require a natural person of Bangladesh seeking entry and temporary stay under the terms and conditions set out in each category of this Schedule to obtain an appropriate visa or its equivalent prior to entry.

Nothing in this Agreement shall be construed to impose any obligation on Japan regarding its immigration measures, except for Chapters 1 and 8, Chapter 21 to the extent provided for in Article 8.8, and Chapter 22.

For the purposes of Chapter 8 and this Schedule, natural persons of Bangladesh as set out in each category of this Schedule may be subject to numerical restriction.

Japan does not take commitments in respect of category C (Investors of Bangladesh, referred to in subparagraph 1(c) of Article 8.2). Entry and temporary stay shall be granted to investors of Bangladesh in accordance with the conditions and limitations of category D (Business Managers of Bangladesh, referred to in subparagraph 1(d) of Article 8.2), provided that they will engage in one of the activities described in subparagraphs (a) through (c) in the definition of that category.

Description of Category	Conditions and Limitations (including length of stay)
A. Business Visitors of Bangladesh	
A natural person of Bangladesh who will stay in Japan without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself or herself, for the purpose of participating in business contacts including negotiations for the sale of goods or services, or other similar activities including those to prepare for establishing commercial presence in Japan.	Entry and temporary stay for a period of up to 90 days, which may be extended, shall be granted to a natural person of this category.
B. Intra-Corporate Transferees of Bangladesh	

1. A natural person of Bangladesh who: (a) has been employed by a public or private organization that supplies services or invests in Japan, for a period not less than one year immediately preceding the date of his or her application for the entry and temporary stay in Japan; (b) is being transferred to a branch or representative office of that public or private organization in Japan, or another public or private organization constituted or organized in Japan owned or controlled by or affiliated with the former public or private organization; and (c) will engage in one of the following activities during his or her temporary stay in Japan: (i) the activities to direct the branch or representative office as its head; (ii) the activities to direct the latter public or private organization as its board member or auditor; (iii) the activities to direct one or more departments of the latter public or private organization; or; (iv) the activities that require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences; or jurisprudence, economics, business management, accounting or other human sciences; or the activities that require ideas and sensitivity based on culture of a country other than Japan, recognized under the status of residence of "Engineer/Specialist in Humanities/International Services", provided for in the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951, as may be amended). Note: For the purposes of this category, a public or private organization is "affiliated" with another public or private organization when the latter can significantly affect the decision making of the former on finance and business policy. 2. The activities that require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraph 1(c)(iv) mean the activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by him or her by, in principle, completing college education (i.e. bachelor's degree) or higher education.	1. Entry and temporary stay for a period of up to five years, which may be extended, shall be granted to a natural person of this category. 2. Entry and temporary stay for a period of three months shall be granted to a natural person of this category, only where the expected period of his or her activity in Japan is three months or less.
D. Business Managers of Bangladesh	
A natural person of Bangladesh who will engage in one of the following activities during his or her temporary stay in Japan: (a) the activities to invest in business in Japan and manage such business; (b) the activities to manage business in Japan on behalf of a person other than that of Japan who has invested in such business; or (c) the conduct of business in Japan in which a person other than that of Japan has invested.	1. Entry and temporary stay for a period of up to five years, which may be extended, shall be granted to a natural person of this category. 2. Entry and temporary stay for a period of three months shall be granted to a natural person of this category, only where the expected period of his or her activity in Japan is three months or less.
E. Professional Service Suppliers of Bangladesh	
A natural person of Bangladesh who is a legal, accounting or taxation service supplier qualified under the laws and regulations of Japan and who will engage in one of the following activities during his or her temporary stay in Japan: (a) legal services supplied by a lawyer qualified as "Bengoshi" under the laws and regulations of Japan; (b) legal advisory services on law of jurisdiction where the service supplier is a qualified lawyer on condition that the service supplier is qualified as "GaikokuHo-Jimu-Bengoshi" under the laws and regulations of Japan; (c) legal services supplied by a patent attorney qualified as "Benrishi" under the laws and regulations of Japan;	1. Entry and temporary stay for a period of up to five years, which may be extended, shall be granted

(d) legal services supplied by a maritime procedure agent qualified as "Kaijidairishi" under the laws and regulations of Japan; (e) accounting, auditing and bookkeeping services supplied by an accountant qualified as "Koninkaikeishi" under the laws and regulations of Japan; (f) taxation services supplied by a tax accountant qualified as "Zeirishi" under the laws and regulations of Japan; (g) legal services supplied by a judicial scrivener qualified as "Shiho-Shoshi" under the laws and regulations of Japan; (h) legal services supplied by an administrative scrivener qualified as "Gyousei-Shoshi" under the laws and regulations of Japan; (i) legal services supplied by a certified social insurance and labor consultant qualified as "Shakai-HokenRomushi" under the laws and regulations of Japan; or (j) legal services supplied by a land and house surveyor qualified as "TochiKaoku-Chosashi" under the laws and regulations of Japan.	to a natural person of this category. 2. Entry and temporary stay for a period of three months shall be granted to a natural person of this category, only where the expected period of his or her activity in Japan is three months or less.
F. Independent Professionals of Bangladesh	
1. A natural person of Bangladesh who will engage in the activities of supplying services during his or her temporary stay in Japan on the basis of a personal contract with a public or private organization in Japan which correspond to: (a) the activities that require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences; or jurisprudence, economics, business management, accounting or other human sciences, recognized under the status of residence of "Engineer/Specialist in Humanities/International Services", provided for in the Immigration Control and Refugee Recognition Act; (b) the activities that require ideas and sensitivity based on culture of a country other than Japan, recognized under the status of residence of "Engineer/Specialist in Humanities/International Services", provided for in the Immigration Control and Refugee Recognition Act; or (c) the activities that require specialized skills relating to Bangladeshi cuisine under the status of residence of "Skilled Labor", provided for in the Immigration Control and Refugee Recognition Act. 2. The activities that require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraph 1(a) mean the activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by him or her by, in principle, completing college education (i.e. bachelor's degree) or higher education.	1. Entry and temporary stay for a period of up to five years, which may be extended, shall be granted to a natural person of this category. 2. Entry and temporary stay for a period of three months shall be granted to a natural person of this category, only where the expected period of his or her activity in Japan is three months or less.
G. Contractual Service Suppliers of Bangladesh	
1. A natural person of Bangladesh who is an employee of a public or private organization in Bangladesh having no commercial presence in Japan (hereinafter referred to in this category as "the Bangladeshi organization") and who will engage in one of the following activities of supplying services during his or her temporary stay in Japan: (a) the activities that require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences; or jurisprudence, economics, business management, accounting or other human sciences, recognized under the status of residence of "Engineer/Specialist in Humanities/International Services", provided for in	1. Entry and temporary stay for a period of up to five years, which may be extended, shall be granted to a natural person of this category, subject to paragraph 3. 2. Entry and temporary stay for a period of three months shall be granted to a natural person of this category, only where the expected period of his or her activity in Japan is three months or less, subject to paragraph 3. 3. Entry and temporary stay

the Immigration Control and Refugee Recognition Act; (b) the activities that require ideas and sensitivity based on culture of a country other than Japan, recognized under the status of residence of “Engineer/Specialist in Humanities/International Services”, provided for in the Immigration Control and Refugee Recognition Act; or (c) the activities that require specialized skills relating to Bangladeshi cuisine under the status of residence of “Skilled Labor”, provided for in the Immigration Control and Refugee Recognition Act. 2. The activities that require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraph 1(a) mean the activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by him or her by, in principle, completing college education (i.e. bachelor’s degree) or higher education.	referred to in paragraphs 1 and 2 shall be granted, provided that: (a) a service contract between a public or private organization in Japan (hereinafter referred to in this category as “the Japanese organization”) and the Bangladeshi organization has been concluded; and (b) it is recognized, in the context of the service contract referred to in subparagraph (a), that a labor contract between the natural person and the Japanese organization has been concluded.
H. Spouses and Dependents	
A spouse and dependents accompanying a natural person of Bangladesh who has been granted entry and temporary stay pursuant to categories B and D through G. Note: For the purposes of this category, the term “spouse” or “dependents” means a spouse or dependents recognized as such in accordance with the laws and regulations of Japan.	1. Entry and temporary stay shall be granted to the spouse and dependents for, in principle, the same period as the period of temporary stay granted to the natural person of Bangladesh pursuant to categories B and D through G, provided that such spouse and dependents obtain maintenance from the natural person and engage in daily activities recognized under the status of residence of “Dependent” provided for in the Immigration Control and Refugee Recognition Act. 2. A spouse who has been granted entry and temporary stay pursuant to paragraph 1 may, upon application, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with the Immigration Control and Refugee Recognition Act.