Free Trade Agreement Chile-Colombia

which constitutes an additional protocol to the ACE 24

The Government of the Republic of Colombia (Colombia) and the Government of the Republic of Chile (Chile), hereinafter referred to as the parties; whereas:

The will to strengthen the special bonds of friendship, solidarity and cooperation between their peoples;

The development of their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization and the Montevideo Treaty 1980, as well as other bilateral and multilateral instruments of cooperation and integration to which they are party;

The need to strengthen the integration process in Latin America, in order to achieve the objectives set out in the Montevideo Treaty 1980, through the conclusion of bilateral and multilateral agreements the widest possible;

The active participation of the Parties in the Latin American Integration Association (ALADI);

The progress made in the economic integration between the parties arising from the economic complementarity agreement for the establishment of an expanded area between Colombia and Chile (no agreement 24);

The importance of working together towards greater integration with the Asia-Pacific region;

Colombia's participation in the Cartagena Agreement and commitments resulting therefrom for this country;

The advantages of giving operators clear and predictable rules for the development of trade in goods and services as well as for the promotion and protection of investments;

The importance for the economic development of the Parties and improving their competitiveness, adequate international cooperation;

The desirability of achieving a more active participation of economic operators of the Parties in efforts to increase the mutual exchange;

The importance of creating new and better employment opportunities and improve working conditions, in pursuit of ensuring "decent work" for their workers and increasing capacity building in human resources development and social capital;

The commitment to achieving sustainable development and recognizing that its interdependent and mutually reinforcing pillars mutuamente-crecimiento economic, social development and environmental protection;

That trade and environmental policies are mutually supportive in achieving sustainable development;

The importance of cooperation in preventing and combating corrupt practices which may arise in relation to the development of this Agreement.

Agree to conclude the following agreement,

Article 1. Initial Provisions

Article 1.1. Establishment of a Free Trade Area

The parties in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 and article V of the General Agreement on Trade in Services, and eltratado 1980 Montevideo, establish a free trade area.

Article 1.2. Objectives

1. The objectives of this Agreement are:

(a) Promote under conditions of equity, balanced and harmonious development of the Parties;

(b) Encourage expansion and diversification of trade between the parties;

(c) Eliminate barriers to trade and facilitate the cross-border movement of goods and services between the parties;

(d) Substantially increase investment opportunities in the territories of the Parties;

(e) Establish guidelines for further cooperation between the parties, as well as at the regional and multilateral cooperation to expand and enhance the benefits of this Agreement;

(f) Create effective procedures for the implementation and application of this Agreement, for its joint administration and to prevent and resolve disputes;

(g) Promoting cooperation among the parties to obtain the broadest advantage of opportunities for growth and development provided by this Agreement, with particular emphasis on competitiveness and innovation;

(h) Contribute to the efforts of the Parties to ensure that trade and environmental policies are mutually supportive and cooperate in the promotion of

The best ways of sustainable utilisation of natural resources and the protection of ecosystems; and

(i) To promote the development of employment policies and practices that improve working conditions and living standards, in the territory of each party;

2. The Parties shall interpret and apply the provisions of this Agreement in the light of the objectives set out in paragraph 1 and in accordance with applicable rules of international law.

Article 2. General Definitions

Article 2.1. Definitions of General Application

For the purposes of this Agreement and, unless otherwise specified:

ACE 24 means the Economic Complementation Agreement for the Establishment of an Expanded Space between Colombia and Chile (Agreement Nº 24), signed in Santiago, Chile, on 6 December 1993;

Anti-dumping Agreement means the Agreement on Implementation of article VI of the General Agreement on Tariffs and Trade 1994, which is part of the WTO agreement;

Customs valuation agreement means the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade 1994, which is part of the WTO agreement;

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

SPS Agreement means the Agreement on the Application of Sanitary and Phytosanitary Measures, which is part of the WTO agreement;

TBT Agreement means the Agreement on Technical Barriers to Trade, which is part of the WTO agreement;

Agreement on subsidies means the Agreement on Subsidies and Countervailing Measures, which is part of the WTO agreement;

GATS means the General Agreement on Trade in Services, which is part of the WTO agreement;

A customs duty includes any duty or tariff on imports and any charge of any kind imposed in connection with the importation of goods including any form of a surtax or surcharge in connection with such importation but does not include any:

(a) Charge equivalent to an internal tax established in accordance with Article III.2 of GATT 1994 with respect to similar goods directly

Surrogate competitors, or of the party or in respect of goods from which has been manufactured or produced in whole or in part the imported goods;

(b) Anti-dumping or countervailing duty; or

(c) Duty or other charge in connection with importation commensurate with the cost of services rendered;

Customs authority means the authority that according to the legislation of each party is responsible for the administration and enforcement of customs laws and regulations.

(a) In the case of Chile, the National Customs Service; and

(b) In the case of Colombia, the Bureau of National Taxes and Customs.

Commission means the Free Trade Commission established in article 15.1.1 (Free Trade Commission);

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

Calendar days means calendar days, or schedule;

Enterprise means any entity constituted or organized under the applicable law, whether or not for profit and whether private or government owned, society, including any Trust Company, participation, sole proprietorship, co-investment joint venture or other association;

Enterprise of a party constituted means an enterprise or organized under the law of a party;

State enterprise means an enterprise that is owned by a party or under the control of the same through ownership rights;

Existing means in effect on the date of Entry into Force of this Agreement;

GATT 1994 means the General Agreement on Tariffs and Trade 1994, which is part of the WTO agreement;

Levy customs tariff means;

Measure means any law, regulation, rules of procedure, requirement or practice;

Goods originating means goods or products that comply with the rules of origin (set out in chapter 4 of Origin regime);

National means a natural person who has the nationality of a Party in accordance with its Constitution or a permanent resident of a party;

WTO World Trade Organization; the means signatory party means;

Heading means the first four digits in the tariff classification number under the Harmonized System;

Person means a natural person or an enterprise;

Party means a person of a national or an enterprise of a party;

Harmonized System (HS) means the Harmonized Commodity Description and Coding System of goods, including its general rules of interpretation

Section notes and chapter notes, in the form in which the parties have adopted and implemented in their respective tariff laws;

Subheading means the first six digits in the tariff classification number under the Harmonized System;

For a party territory means the territory of that Party as set out in annex 2.1; and

Preferential tariff treatment means the duty applicable to goods originating in accordance with this Agreement.

Annex 2.1 . Country-specific definition

For the purposes of this Agreement, unless otherwise specified; territory means:

(a) For Chile, the Land, Sea and Air Space under its sovereignty and the exclusive economic zone and the continental shelf

over which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law; and

(b) With regard to Colombia, in addition to the mainland, the Archipelago of San Andrés, Providencia and Santa Catalina, Malpelo Island and all the other islands, islets and cays, Saliba and banks belonging to it, as well as airspace and maritime areas over which it has sovereignty or sovereign rights or jurisdiction in accordance with its domestic law and international law, including applicable international treaties.

Article 3. Trade In Goods

Article 3.1. National Treatment

Each Party shall accord to the National Treatment goods of the other Party in accordance with article III of the GATT 1994, including its interpretative notes and to this end the

Article 3.2. Export Taxes

Except as provided in annex 3.2, no Party may adopt or maintain any other tariff, tax or charge on the export of any goods to the territory of the other party unless such tariff imposed or charge is adopted or maintained on any goods for domestic consumption.

Article 3.3. Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with paragraph 1 of Article VIII of the GATT 1994 and its interpretative notes that all fees and charges of whatever character (other than Customs duties, charges equivalent to an internal tax or other national charge applied in accordance with paragraph 2 of article III of the GATT 1994 and the anti-dumping and countervailing duties) imposed on the importation or exportation or under the same, are limited to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. The parties may not require consular transactions, including related fees and charges in connection with the importation of any goods of the other party.

3. Each Party shall make available through the Internet or a comparable computer telecommunications network a current list of the fees and charges in connection with importation or exportation.

Article 3.4. Restrictions on Imports and Exports

1. Except as otherwise provided in this Agreement, no Party may adopt or maintain any prohibition or restriction on the importation of any goods of the other party or on the exportation for sale or export of any good destined for the territory of the other party, except as provided in article XI of the GATT 1994, including its interpretative notes. To this end, article XI of GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof, mutatis mutandis.

2. The parties understand that the rights and obligations incorporated GATT 1994 by paragraph 1 prohibited under any circumstances in which any other form of restriction is prohibited, that adopts or maintains a party:

(a) Requirements on export and import prices, except as permitted in enforcement of orders and anti-dumping and countervailing duties;

(b) Import licensing with the status of a performance requirement; or

(c) No voluntary export restraints inconsistent with article VI of the GATT 1994, as implemented under article 18 of the Agreement on Subsidies and paragraph 1 of Article 8 of the Anti-Dumping Agreement.

Article 3.5. Agricultural Export Subsidies

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

2. Neither Party shall introduce or maintain any export subsidy on any good agricultural destined for the Territory of the

other party.

3. For the purposes of this article, export subsidies shall have the meaning assigned to that term in article 1 (e) of the Agreement on Agriculture, which is part of the WTO Agreement, including any amendment of that article.

Article 3.6. Committee on Trade In Goods

1. The parties establish a committee on trade in goods, comprising representatives of each party.

2. The Committee shall meet at the request of any party or the Commission to consider any matter covered under this chapter and the scheme.

3. The functions of the Committee shall include:

(a) Promoting trade in goods between the parties including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate; and

(b) Consider obstacles to trade in goods between the parties, in particular those related to the application of non-tariff measures and, if necessary, submit such matters to the Commission for its consideration.

Chapter 4. Regime of Origin

Section A. Rules of Origin

Article 4.1. Originating Goods

Except as otherwise provided in this Chapter, shall be considered goods originating if:

(a) The good is wholly obtained or produced entirely in the territory of either Party as defined in article 4.26;

(b) The good is produced in the territory of one or both parties exclusively from materials that qualify as originating in accordance with the provisions of this chapter; or

(c) The good is produced in the territory of one or both parties using non-originating materials that conform to a change in tariff classification, a regional value content or other requirements as specified in annex 4.1. and the good complies with the other applicable provisions of this chapter.

Article 4.2.

1. The regional value content of the goods shall be calculated according to the following formula:

RVC = [(TV-VNM)/VNM] * 100

Where:

RVC is the regional value content, expressed as a percentage;

TV is the transaction value of the good adjusted on a FOB basis, except as provided in paragraph 2. in the event that there is no value or cannot be determined according to the principles of article 1 of the Customs Valuation Agreement; the same shall be calculated in accordance with this Agreement; and

VNM is the transaction value of non-originating materials adjusted on a CIF basis, except as provided in paragraph 4. in the event that there is no value or cannot be determined according to the principles of article 1 of the Customs Valuation Agreement; the same shall be calculated in accordance with this Agreement.

2. Where a good is exported directly by the producer, the value shall be adjusted to the point at which the buyer receives the good within the territory of the Party where the producer is located.

3. All records of costs considered for the calculation of regional value content shall be recorded and maintained in accordance with generally accepted accounting principles applicable in the territory of the Party where the good is produced.

4. When the producer of a good acquires a non-originating material in the territory of a party is located, where the value of the non-originating material shall not include freight and insurance costs, packing and all other costs incurred in

transporting the material from the warehouse of the supplier to the place where the producer is located.

5. For purposes of calculating the regional value content of the value of the non-originating materials used by the producer in the production of a good shall not include the value of non-originating materials used by:

(a) Another producer in the production of an originating material that is acquired and used by the producer of the good in the production of that good; or

(b) The producer of the good in the production of an originating material of his own manufacture.

Article 4.3. Non-Originating Transactions

Do not confer origin, individually or in combination with each other, the following operations or processes:

(a) Preservation of goods in good condition during transport and storage (ventilation, aeration, refrigeration, such as freezing;

(b) Facilitating shipment or transportation;

(c) Packaging and packing or packaging of goods for retail sale;

(d) Filtering or dilution in water or in another solvent which does not alter the characteristics of the goods;

(e) Split into lots and / or quantities;

(f) Affixing labels and marks, like other distinguishing signs on their packaging or goods; or

(g) Disassembly of goods in the parties.

Article 4.4. Cumulation

Originating materials or goods originating in either party incorporated in the production of goods in the territory of the other party shall be considered as originating in the territory of the latter party.

Article 4.5. De Minimis

1. A good originating shall be considered if the value of all the non-originating materials used in the production of the good that do not comply with the requirement of a change in tariff classification set out in annex 4.1 (specific rules of origin) does not exceed ten percent (10%) of the transaction value of the good determined in accordance with article 4 (2), and the good complies with the other applicable provisions of this chapter.

2. In the case of goods classified in Chapters 50 to 63 of the Harmonized System, the percentage indicated in paragraph 1 shall relate to the weight of fibers yarns or with respect to the weight of the goods produced.

3. Paragraph 1 does not apply to a non-originating material used in the production of goods covered in chapters 1 to 24 of the Harmonized System unless the non-originating material is included in a different subheading than the good for which the origin is being determined under this article.

4. Paragraph 1 does not apply to a non-originating material classified under chapter 15 of the harmonized system that is used in the production of a good classified under heading 15.01 through 15.15.

Article 4.6. Goods and Fungible Materials

1. Where originating and non-originating fungible goods are physically combined or mixed inventory in the origin of these goods may be determined on the basis of the physical segregation of fungible or each good material, or through the use of any inventory management method, such as, the averages, last entries - First Out (UEPs) or former entrances - First Out (FIFO), recognised in the accounting principles

Generally accepted by the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

2. The inventory management method selected under paragraph 1 for a particular good or fungible material shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that the method selected inventory

management.

Article 4.7. Sets or Assortments

1. A set or assortment of goods that are classified pursuant to rule 3 of the general rules for the interpretation of the Harmonized System. as well as goods whose description according to the nomenclature of the Harmonized System is specifically that of a set or assortment, calificarán as originating, provided that each of the goods in the set or assortment complies with the established rules of origin in this chapter and in annex 4.1 (specific rules of origin).

2. Notwithstanding paragraph 1. a set or assortment of goods originating shall be considered if the value of all non-originating goods used in the training of the Set assortment or does not exceed fifteen per cent (15%) of the transaction value of the good as determined under Article 4.2.

Article 4.8. Accessories, Spare Parts and Tools

1. Spare parts, accessories or tools delivered with the good as a normal part thereof shall not be taken into account in determining whether all the non-originating materials used in the production of the good satisfy the applicable change in tariff classification set out in annex 4.1 (specific rules of origin), provided that:

(a) Spare parts, accessories or tools are classified with and not invoiced separately; and

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

2. For those spare parts, accessories or tools that do not meet the conditions mentioned above shall apply to each of them under this chapter.

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

Article 4.9. Packages and Packing Materials for Retail Sale

1. Where the packaging materials and containers in which a good is submitted for retail sale are classified in the Harmonized System as containing goods, shall not be taken into account in determining whether all the non-originating materials used in the production of the good complies with the

Corresponding change in tariff classification set out in annex 4.1 (specific rules of origin).

2. If the good is subject to a regional value content requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating material as the case may be in calculating the regional value content of the good.

Article 4.10. Packing Materials and Containers for Shipment

Packing materials and containers in which the good is empacada exclusively for transport, shall not be taken into account in determining whether the originating is good.

Article 4.11. Indirect Materials

Indirect materials shall be treated as originating materials regardless of their production.

Article 4.12. Transit and Trans-shipment

Each Party shall provide that goods not lose its originating if:

(a) Does not undergo any further processing or any other operation outside the territories of the Parties other than reloading splitting, unloading, or any other operation necessary to maintain the goods in good condition or to transport it to the territory of a party; and

(b) Remained under the control of the customs authorities in the territory of a non- party.

Article 4.13. Exhibitions

1. The preferential tariff treatment under this Agreement shall be granted to goods originating sent for exhibition in a non-party and sold after the exhibition for importation in a party, when the following conditions are met to the satisfaction of the customs authorities of the importing Party:

(a) An exporter has consigned these products from one of the Parties to the country in which the exhibition is held;

(b) The goods were sold or otherwise of alienated by that exporter to a person in a party;

(c) The goods have been consigned the exhibition during or immediately thereafter in the State in which they were sent for exhibition;

(d) From the time at which the goods were sent for exhibition, have not been used for any purpose other than its presentation at the exhibition; and

(e) The goods have remained under the control of the customs authorities of the country no party during the exhibition.

2. For purposes of paragraph 1, a certificate of origin in accordance with section B (Proceedings of origin), which are submitted to the customs authorities of the importing Party, including the name and address of the exhibition. where necessary, may require additional documentary evidence related to exposure.

Section B. Origin Procedures

Article 4.14. Certification of Origin

1. The importer may claim preferential tariff treatment based on a certificate of origin written or electronic (1) issued by the competent authority of the exporting party at the request of the exporter.

2. The competent authority of the exporting party may delegate the issuance of the certificate of origin in other public or private entities.

3. The competent authority or qualified entities may consider in its territory the quality of goods originating and meeting the requirements of this chapter. for this purpose, they may request any supporting evidence, carry out inspections at the premises of the exporter or producer or any other check which they consider appropriate.

4. The parties shall maintain in force before the General Secretariat of ALADI 53.official the relationship of the departments or public or private entities empowered to issue certificates of origin and the registration of handwritten signatures or electronic officials accredited for this purpose.

5. The certificate of origin shall serve to certify that a good being exported from the territory of one party to the territory of another party qualifies as originating. this certificate may be amended by the Commission. a single form for the Certificate of Origin is set out in annex 4.14.

6. The certificate of origin shall be valid for one year from the date on which it was issued.

(1) Each Party shall implement the certification of origin in electronic form no later than two (2) years after the entry into force of the Agreement.

Article 4.15. Billing by an Operator from a Non-Party Country

The certificate of origin shall be indicated in the remarks "" where goods are invoiced by an operator of a non- party.

Article 4.16. Exceptions

The certificate of origin shall not be required where:

(a) The customs value of the importation does not exceed one thousand five hundred dollars of the United States of America (US $1,500) or the equivalent amount in the currency of the importing Party, or a higher amount as may be established by the importing Party, unless the importing Party considers that the importation forms part of a series of importations carried out or planned for the purpose of evading compliance with the legislation of the governing party claims for preferential tariff treatment under this agreement; or

(b) A good for which the importing Party shall not require the importer to present information demonstrating a certification

or origin.

Article 4.17. Obligations Relating to Imports

1. The customs authority of each Party shall require an importer claiming preferential tariff treatment for a good:

(a) A written declaration in the importation document required by its laws, on the basis of a certificate of origin, that a good qualifies as an originating goods;

(b) The certificate of origin in its possession at the time the declaration is made;

(c) The customs authority shall provide, if so requested, the certificate of origin or copies thereof; and

(d) This declaration and a corrected immediately pay the corresponding tariff when the importer has reason to believe that the certificate of origin in the customs declaration is incorrect information. the importer shall not be penalized voluntarily present whenever the goods declaration, corrected prior to the Customs Authority has initiated the exercise of its powers of verification and control or before the customs authorities notify the review in accordance with the legislation of each party.

2. Where an importer in its territory fails to comply with any of the requirements established in this chapter, the Customs Authority deny the preferential tariff treatment.

Article 4.18. Duty Drawback

When the importer did not request preferential tariff treatment to goods imported into its territory that would have qualified as originating, the importer may not later than one (1) year after the date of importation, request to the customs authority of the importing Party repayment of overpaid tariffs for failure to request preferential tariff treatment for such goods, provided that the application is accompanied by:

(a) A written statement indicating that the good qualifies as originating at the time of importation;

(b) The Certificate of Origin or its copy; and

(c) Any other documentation relating to the importation of the good as the customs authority may require.

Article 4.19. Export Related Obligations

1. Each Party shall provide that:

(a) Where an exporter has reason to believe that the certificate of origin contains incorrect information shall immediately notify in writing the competent authority or qualified entities of any change that could affect the accuracy or validity of the certificate; and

(b) If an exporter has delivered a certificate or false information and with the same is qualified as originating goods exported to the territory of the other party, shall be subject to penalties similar to those that would apply to an importer in its territory for a contravention of its customs laws and regulations by making false statements and in relation to an importation.

2. Neither party shall impose penalties on an exporter by providing incorrect information if it voluntarily notifies in writing to the competent authority or qualified entities, prior to the customs authority of the importing Party have initiated the exercise of its powers of verification and control or before the customs authorities notify the review in accordance with the legislation of each party.

Article 4.20. Record Keeping Requirements

1. The competent authority or qualified entities shall keep a copy of the certificate of origin for a minimum period of five (5) years after the date of its issuance. such record will include all information that formed the basis for the issuance of the certificate.

2. The exporter applying for a certificate of origin in accordance with article 4.14, must retain for a minimum of five (5) years from the date of the issuance of the certificate, all necessary records to demonstrate that the good was originating, including records relating to:

(a) The purchase costs, the value and payment for the good exported;

(b) The purchase costs, the value and payment of all, including indirect materials used in the production of the exported goods; and

(c) The production of the good in the form in which it was exported from its territory.

3. An importer claiming preferential tariff treatment for a good shall maintain for a minimum of five (5) years after the date of the importation of goods, the documentation required by the Customs Authority, including a copy of the certificate of origin.

Article 4.21. Procedures for Verification of Origin

1. The customs authority of the importing Party may request information about the origin of a good to the competent authority of the exporting Party.

2. The customs authority of the importing Party may require the importer to present information relating to the importation of goods for which the preferential tariff treatment is claimed.

3. For purposes of determining whether a good imported qualifies as originating, the customs authority of the importing Party may verify the origin of the goods,

Through the competent authority of the exporting party through the following procedures:

(a) Requests for written information or questionnaires to an exporter or producer of the good in the territory of the other party, which shall specify the goods subject to verification;

(b) Verification visits to the premises of the exporter or producer of the good in the territory of the other party to review the records and documents referred to in article 4.20 and inspect the facilities and materials used in the production of the goods; or

(c) Any other procedure as the parties agree.

4. For the purposes of this article, any written communication sent by the customs authority of the importing Party to the exporter or producer for verification of origin through the competent authority of the exporting Party shall be valid if it is done by means of:

(a) Postal licences or other forms with acknowledgement of receipt to confirm the receipt of documents or communications; or

(b) Any other means agreed by the parties.

5. In accordance with paragraph 3 requests for written information or questionnaires shall contain:

(a) The name and address of the Customs Authority which requests information;

(b) The name and address of the exporter or producer to whom it is requested information and documentation;

(c) Description of the information and documents required; and

(d) Legal basis of requests for information or questionnaire.

6. The exporter or producer who receives a questionnaire or request for information in accordance with paragraph 3 (a), duly complete and return the questionnaire or respond to the request within thirty (30) days after the date of receipt. during the period specified, the exporter or producer may make a written request for extension to the customs authority of the importing Party that is not exceeding thirty (30) days. such a request shall not have the consequence of deny the preferential tariff treatment.

7. The customs authority of the importing Party may request through the competent authority of the exporting Party, additional information by means of a subsequent request questionnaire or the exporter or producer, even if it has been completed or the questionnaire requested information referred to in paragraph 3 (a). in this case the producer or exporter shall have thirty (30) days to respond to such a request.

8. If the exporter or producer does not duly complete and return the questionnaire or provide the information requested within the established period

In paragraphs 6 and 7, the customs authority of the importing Party may deny preferential tariff treatment to the goods

subject to verification, sending the importer and the competent authority of the exporting Party; a determination of origin which shall include the facts and the legal basis for the determination.

9. Prior to conducting a verification visit pursuant to paragraph 3 (b), the customs authority of the importing Party shall notify in writing of its intention to conduct the verification visit. the notification shall be sent to the competent authority of the exporting party or any other means by which it considers the receipt of the notification. the customs authority of the importing Party shall conduct the verification visit the written consent of the exporter or producer to be visited.

10. In accordance with paragraph 3 (b) the notice of intention to conduct the visit of verification of origin referred to in paragraph 9 shall contain:

(a) The name and address of the customs authority of the importing Party that makes the notification;

(b) The name of the exporter or producer to be visited;

(c) The date and place of the proposed verification visit;

(d) The objective and scope of the proposed verification visit including specific reference to the subject of the good verification;

(e) The names and titles of the officials who shall carry out the verification visit; and

(f) The legal authority for the verification visit.

11. If the exporter or the producer of a good does not give consent in writing to conduct the visit within a period of thirty (30) days from the date of receipt of the notification referred to in paragraph 9, the customs authority of the importing Party may deny preferential tariff treatment to the goods, by giving notice in writing to the importer and the competent authority of the exporting party of its resolution, including the facts and legal basis for this.

12. The customs authority of the importing Party shall not deny preferential tariff treatment to a good if within fifteen (15) days after the date of receipt of the notification, once the producer or the exporter requested the postponement of the proposed verification visit with the corresponding justifications for a period not exceeding thirty (30) days of the date the proposal under paragraph 10 (c), or for a longer period as may be agreed between the customs authority of the importing Party and the competent authority of the exporting Party.

13. In accordance with paragraph 3 (b), the customs authority of the importing Party shall permit an exporter or producer that is subject to a verification visit to designate two observers to be present during the visit and only to act as such. the assignment of observers does not constitute grounds for postponement of the visit.

14. For the verification of compliance with any requirement set out in section A (rules of origin), the customs authority of the importing Party shall take, where applicable, the generally accepted accounting principles applied in the territory of the exporting Party.

15. The customs authority of the importing Party may deny preferential tariff treatment to a good subject to a verification of origin when the exporter or producer of the good does not make available to the customs authority of the importing Party the records and documents referred to in article 4.20.

16. Upon completion of the verification visit, the customs authority of the importing Party may develop a record of the visit, which shall include the facts confirmed by it. the exporter or producer subject of this visit may sign the record.

17. Within a period of ninety (90) days of the conclusion of the verification of origin, the customs authority of the importing Party shall deliver a determination of origin including facts and the legal basis for the resolution and the importer shall notify the competent authority of the exporting Party.

18. Within the period specified in paragraph 1 above, the customs authority of the importing Party has issued a determination of origin, the competent authority of the exporting party may have recourse to the dispute settlement mechanism.

19. Where a verification of origin to the customs authority of the importing Party determines that an exporter or producer has provided a more than once declarations to the competent authority of the exporting party or false or unfounded information in the sense that qualifies as a good originating; the Customs authority of the importing party may suspend preferential tariff treatment to identical goods exported by such person. the customs authority of the importing Party shall grant preferential tariff treatment to goods once comply with the provisions of this chapter.

20. For the issuance of a determination of origin of a good subject to a verification process, the customs authority of the

importing Party shall consider and advance rulings on tariff classification Origin issued by the competent authority before the date of the resolution of origin.

Article 4.22. Sanctions

Each Party shall impose criminal, civil or administrative penalties for violations of its laws and regulations relating to the provisions of this chapter.

Article 4.23. Confidentiality

1. Each Party shall maintain, in accordance with its laws, the confidentiality of the information collected pursuant to this chapter and shall protect that information from disclosure.

2. The confidential information collected pursuant to this chapter may be disclosed only to those authorities responsible for the administration and enforcement of determinations of origin and of customs and tax in accordance with the legislation of each party.

Article 4.24. Inquiries and Modifications

1. The Parties shall consult regularly to ensure that this chapter is uniform and effectively administered in accordance with the spirit and the objectives of this Agreement and shall cooperate in the administration of this chapter.

2. A Party which considers that one or more of the provisions of this chapter may be modified, may submit a proposal to the other party.

3. Origin of the Committee shall consider proposals for the amendment of the rules of origin, taking into account developments in production processes, amendments to the Harmonized System, other matters related to the determination of the origin of a good or other matters related to this chapter.

4. Origin of the Committee shall meet to consider proposals within sixty (60) days from the date of receipt of the communication or in another date that the Committee may decide.

5. The Committee of origin shall provide a report to the Commission, setting out its findings and recommendations.

6. On receipt of the report, the Commission may take appropriate measures in accordance with article 15.1.3.

Article 4.25. Review and Appeal

1. Each Party shall accord the same rights of appeal and review of determinations of origin with respect to its importers, exporters or producers of the other party who have been notified by the competent authority of the exporting Party, these resolutions pursuant to article 4.21.

2. The rights referred to in paragraph 1 shall include access to at least one independent administrative review of the office or official responsible for the determinations of origin under review and access to a judicial review of the same as last instance of administrative measures, according to the legislation of each party.

Article 4.26. Definitions

For purposes of this chapter:

Competent authority means the authority that according to the legislation of each party is responsible for the issuing of the certificate of origin or the delegation of issuance in qualified entities. in the case of Chile, the General Directorate of International Economic Relations and in the case of Colombia, the Ministry of Commerce, Industry and Tourism;

CIF means the value of the good imported and includes the cost of insurance and freight up to the port or place of entry into the country of importation;

Packing materials and containers for shipment means goods used to protect a good during its transportation and does not include and packaging materials in which the goods are empaca for retail sale;

Exporter means a person who conducts an export;

FOB means the value of the good free on board regardless of the means of transport, in the place of shipment abroad;

Importer means a person who conducts an importation;

A good means any material or material, substance ingredient, component or part used or consumed in the transformation of production or another good;

His own manufacture of material means that material is produced by the producer of a good and used in the production of those goods;

Indirect means a good material used in production, testing or inspection of another good but not physically incorporated into the Party; or a good used in the maintenance of buildings or the operation of equipment associated with the production of another goods, including:

(a) Fuel and energy; catalysts and solvents;

(b) Aircraft, equipment and devices used for testing or inspecting the goods;

(c) Gloves, spectacles, footwear, clothing, equipment and devices;

(d) Tools and moulds, dies;

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

(f) Lubricants, fats, composite materials and other materials used in production or operation or maintenance of equipment and buildings;

(g) Any other goods that are not incorporated into the good but whose use in the production of the good can be a part of that production;

Identical goods means goods that are the same in all aspects relevant to the rule of origin that qualify as originating the goods;

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

Non-originating non-originating material means a good or good or material that does not comply with the requirements established in this chapter to be considered as originating products;

Goods wholly obtained or produced entirely in the territory of one Party, or other means:

(a) Minerals extracted or obtained in the territory of either party;

(b) Vegetable products harvested or gathered harvested in the territory of either party;

(c) Live animals born and raised in the territory of either party;

(d) Goods obtained from live animals in the territory of either party;

(e) Goods obtained from hunting, fishing, hunting with traps, aquaculture, gathering or capturing in the territory of either party;

(f) Fish, crustaceans and other marine species obtained from the sea outside the territory of the Parties by fishing vessels registered or recorded with a party and flying the flag of that Party or by fishing vessels rented by firms established in the territory of a party;

(g) Goods produced or obtained on board ships exclusively from factory goods referred to in subparagraph (f), provided such factory ships are registered or recorded with a party and flying the flag of that Party or leased by a company established in the territory of a party;

(h) The goods or extracted from the seabed beneath the seabed outside the territorial sea of a party by a party or a person of a Party, provided that the Party has rights to exploit such seabed subsoil; or

(i) Waste and scrap derived from:

(i) Manufacturing or processing operations in the territory of either party; or

(ii) Used goods collected in the territory of one or other party provided that such goods are only for the recovery of raw materials; or

(j) Goods produced in the territory of one or more of the Parties exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production;

Generally accepted accounting principles recognized means the consensus on which there are or have a substantial authoritative support in the territory of a party and at any time, with respect to the recording of income, expenditure, assets and liabilities; the disclosure of information and the preparation of financial statements. the principles of general application may cover procedures as well as detailed rules, practices and procedures;

Methods of production means obtaining goods including but not limited to, breeding, rearing, harvest, mining, fishing, hunting, capture, aquaculture, collection, production, manufacture, processing or assembled desensamblado of goods;

Producer means a person who conducts a production process;

Resolution origin means of a written document issued by the customs authority as a result of a procedure which verifies whether qualifies as a good originating under this chapter;

Value means the value of a good or material for the purposes of the implementation of this chapter; and

Transaction value means the price actually paid or payable for a good identified in accordance with the provisions of the Agreement on customs valuation.

Chapter 5. Trade Facilitation

Article 5.1. Publication

1. Each Party shall publish its laws, regulations and administrative procedures customs on the Internet or a comparable computer telecommunications network of its customs authority.

2. Each Party shall, as far as possible, shall publish in advance any regulations of general application in customs matters that it proposes to adopt and provide an opportunity to comment prior to its adoption.

3. Each Party shall designate or maintain one or more enquiry points to address concerns of interested persons on Customs matters and shall make available on the Internet information concerning procedures for making and meet the consultations.

Article 5.2. Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient and expeditious clearance of goods.

2. For purposes of paragraph 1, the Parties shall:

(a) In accordance with their customs legislation, allow goods to be released at the point of arrival, without warehouses or temporary transfer to other locations;

(b) To the extent possible, release the goods within forty-eight (48) hours following the arrival of the goods;

(c) Allow importers to withdraw goods from customs before the liquidation and payment of customs duties, taxes and charges which are applicable, without prejudice to the final determination by its customs authority on the same. for this purpose, a Party may require an importer to provide security in the form of a bond, deposit or any other instrument and that appropriate, to the satisfaction of the Customs Authority, cover the final payment of customs duties, taxes and charges in connection with the importation of goods.

3. Without prejudice to paragraphs 1 and 2, the Parties shall adopt or maintain customs procedures that will inform the applicant the rejection of the release of the goods subject to import, when the same does not comply with the requirements and formalities required by the customs laws and regulations of the importing Party. the party that rejects the release of the goods shall indicate the reasons which generate the same.

Article 5.3. Risk Management

Each party shall endeavor to adopt or maintain risk management systems with a view to facilitating and simplification and

the procedures for the clearance of goods and low-risk focus their inspection and control on the release of high-risk goods.

Article 5.4. Automation

The Customs Authorities shall work in the adoption of information technology to implement procedures for the expeditious clearance of goods. in the selection of the information technology to be used for that purpose, each Party shall:

(a) Used standards or international standards;

(b) Make electronic systems accessible to users Customs Authority;

(c) Shall provide for the submission and processing of information and data before arrival of the shipment to enable the release of goods on arrival;

(d) Shall employ or electronic automated systems for risk analysis and routing;

(e) Work on the development of electronic systems compatible with those of the customs authority of the other party in order to facilitate the exchange of international trade data between the parties; and

(f) Work to develop a set of common data elements and processes in accordance with the Customs Data Model of the World Customs Organization and related guidelines and recommendations of the World Customs Organization (WCO).

Article 5.5. Paperless Trade Administration

1. Each Party shall make available to the public in electronic form the forms that must be handled by an importer or exporter in relation to the import or export of goods.

2. Each Party shall, as far as possible, shall accept the forms, which must be handled by an importer or exporter or their representatives to be submitted electronically as the legal equivalent of the paper version.

Article 5.6. Customs Cooperation

1. In order to facilitate the effective operation of this agreement each Party shall endeavour to notify the other party of any significant modification of its legislation or regulations on Customs matters affecting the implementation of this Agreement.

2. The Parties shall promote and facilitate cooperation between their respective customs authorities and, in particular, on the simplification of formalities and customs procedures, without prejudice to their powers of control.

3. The Parties shall cooperate in achieving compliance with their respective laws and regulations with respect to:

(a) The implementation and application of the provisions of this Agreement in respect of imports or exports, including the provisions related to trade in goods, release programme, of Origin regime) and this chapter;

(b) The implementation and operation of the Customs Valuation Agreement;

(c) The prohibitions or restrictions on imports or exports; and

(d) Other customs matters as the parties may agree.

4. Where a Party has a reasonable suspicion of unlawful activity related to its laws or regulations on imports and exports, it may request that the other party provide specific confidential information normally collected in the development of the export and import of goods.

5. The application by a Party pursuant to paragraph 4 shall be made in writing and specify the purpose for which the information is required and identify the requested information with sufficient specificity for the other party to locate and provide.

6. The party which requested information shall, in accordance with its law and any relevant international agreement to which they are party; to provide a written response containing such information.

7. For the purposes of paragraph 4, "a reasonable suspicion of unlawful activity" means a suspicion based on relevant factual information obtained from public or private sources, covering one or more of the following circumstances:

(a) Historical evidence of non-compliance with laws or regulations governing imports and exports by an importer or

exporter;

(b) Historical evidence of non-compliance with laws or regulations governing imports and exports by a manufacturer, producer, or any other person involved in the movement of goods from the territory of one party to the territory of another party;

(c) Historical evidence that some or all of the persons involved in the movement of goods from the territory of one party to the territory of the other party in a specific sector of goods, not a Party has complied with laws or regulations governing imports and exports; or

(d) Other information that the parties agree is sufficient in the context of a particular request.

8. The requested Party shall endeavour to provide to the applicant party any additional information that would assist in determining whether imports or exports compliance with the laws or regulations governing importations exportations or of the other party, in particular those related to the prevention of unlawful activities such as smuggling and similar offences.

9. In order to facilitate trade between the parties, each party shall endeavor to provide the other party with technical advice and assistance for the purpose of improving the technical evaluation and risk management, expediting and simplifying customs procedures for the timely and efficient clearance of goods, improving technical skills of staff and enhancing the use of technologies that can lead to improved compliance with laws or regulations governing importations of a party.

10. The Parties shall endeavour to cooperate in:

(a) Strengthening the technical capacity of each party in implementing regulations governing their imports and exports;

(b) To achieve the simplification of the requirements and formalities in respect of the release of goods;

(c) Establish and maintain other channels of communication to facilitate the secure and rapid exchange of information;

(d) Mutually assist in the development and adoption of mechanisms to prevent and preventing illegal activities; and

(e) Improving coordination on matters relating to the importation.

11. The Parties shall cooperate for an efficient and expeditious clearance of goods. for this purpose, they shall endeavour to take into account additional elements in its certification as whole chain of foreign trade, in the country of export, international business partnerships

Continue to promote international standards and safe trade in cooperation with Governments and international agencies.

12. The parties agree to conclude a mutual assistance agreement between their customs authorities within three (3) months following the signing of this Agreement.

Article 5.7. Confidentiality

1. Where a Party providing information to the other Party in accordance with this Chapter and the designated as confidential, the party receiving the information shall maintain the confidentiality of the information in accordance with the legislation of that Party. the party providing the information may require the party may require that a written assurance that the information is kept in reserve, which shall be used only for the purposes specified in the request for information from the other party, and it shall not be disclosed without the specific permission of the Party that provided.

2. A party may decline to provide information requested by the other party if the requesting party does not provide the security referred to in paragraph 1.

3. Each Party shall adopt or maintain procedures to ensure that confidential information provided by a party, including the disclosure of information which could prejudice the competitive position of the person providing, shall be protected from unauthorized disclosure in accordance with its domestic legislation.

4. Notwithstanding the above, and for greater certainty, the confidential information collected pursuant to this chapter may be disclosed for law enforcement and judicial authorities responsible for the administration and enforcement of customs and tax matters, where appropriate

Article 5.8. Consignments of Express Delivery

The Parties shall adopt or maintain separate customs procedures and expedited shipments for express delivery while

maintaining appropriate systems of control and selection. these procedures shall:

(a) Shall provide the electronic transmission and processing of information necessary for the release of express delivery of a consignment prior to the arrival of the shipment express delivery;

(b) Allow electronic submission of a single manifest covering all goods contained in a shipment transported by an express delivery services;

(c) Shall provide for clearance of certain goods with a minimum of documentation according to the legislation of each party;

(d) Under normal circumstances, provide for the release of express delivery shipments within six (6) hours of customs documents necessary, provided that the shipment has arrived;

Article 5.9. Review and Appeal

Each Party shall respect of its administrative actions relating to customs matters that importers in its territory have access to:

(a) A level of independent administrative review of the employee or office that issued the administrative acts; and

(b) Judicial review of administrative actions.

Article 5.10. Sanctions

The Parties shall adopt or maintain a system for the imposition of civil or administrative sanctions and, where appropriate, penal sanctions for violations of its customs laws, including those governing the customs tariff classification and valuation rules of origin, and requests for preferential tariff treatment under this Agreement.

Article 5.11. Advance Rulings

1. In order to ensure uniform application of customs legislation, provide predictability in customs procedures; eliminate the discretion and provide legal certainty to customs user, the importing Party through its Customs Authority or other competent governmental authority, at the written request of an importer or exporter or producer (1) prior to the importation of a good into its territory, shall deliver a written advance ruling regarding:

(a) Tariff classification;

(b) The application of customs valuation criteria for a particular case, in accordance with the application of the provisions contained in the agreement on customs valuation;

(c) The implementation of returns derogations, waivers of customs duties; or

(d) If a good is originating under chapter 4 (of origin regime); and

(e) Other matters as the parties agree.

2. Each Party shall establish guidelines for the issuance of advance rulings, including:

(a) The obligation of the person providing the information required by the customs authority or other competent governmental authority, to process an application for an advance ruling, where required, including a sample of goods for which an advance ruling is sought;

(b) The obligation of the customs authority or other competent governmental authority to issue an advance ruling within a maximum period of one hundred and twenty (120) days, once all necessary information has been submitted by the applicant; and

(c) The obligation of the customs authority or other competent governmental authority to issue an advance ruling, considering the facts and circumstances presented by the applicant.

3. When an importer requests that the treatment accorded to an imported good should be governed by an advance ruling issued beforehand, the customs authority or other competent governmental authority may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances on which the advance ruling was issued.

4. Each Party shall provide that advance rulings will enter into force from the date of its issuance or such other date

specified in the ruling provided that the facts or circumstances on which the ruling is based have not changed.

5. The customs authority or other competent governmental authority issuing the advance ruling may modify or revoke after the party notifies the applicant. the Party issuing may modify or revoke an advance ruling retroactively to collect customs duties, taxes and charges which are applicable, lost, whichever was based on incorrect or false information, and shall notify the applicant without delay.

6. Subject to any confidentiality requirements in its legislation, each Party shall make its advance rulings publicly available.

7. If a requester provides false information or omits relevant circumstances or facts relating to the advance ruling or does not act in accordance with the terms and conditions of the resolution, the importing party may apply appropriate measures, including civil, criminal and administrative actions, monetary penalties or other sanctions.

(1) For greater certainty, an importer, exporter or producer may submit a request for an advance ruling through a duly authorized representative.

Article 5.12. Committee on Trade Facilitation

1. The parties establish a committee on trade facilitation, comprising representatives of each party, which shall meet at the request of the Commission or one of the Parties.

2. The functions of the Committee shall include:

(a) The Commission to propose the adoption of guidelines customs and practices that facilitate trade between the parties, in line with the evolution of the guidelines of the WCO and the WTO;

(b) The Commission to propose solutions on differences that arise relating to:

(i) The interpretation, implementation and administration of this chapter;

(ii) Matters of tariff classification and customs valuation; and

(iii) The other issues related to practices or procedures adopted by the parties that impede the rapid release of goods.

(c) To ensure the proper application of customs legislation by customs authorities;

(d) The Commission to propose the obstacles or difficulties related to this chapter that arise between the parties;

(e) Uniform Guidelines propose to the Commission, based on international standards for the improvement of customs procedures;

(f) Consider the proposed modification of customs standards in matters pertaining to this chapter that may affect the flow of trade between the parties;

(g) Report to the Commission on the development of its activities;

(h) Provide a report to the Commission, setting out its findings and recommendations, when a request and upon request of a Party proposing the modification of this chapter; and

(i) Any other matter that it considers relevant.

Article 5.13. Implementation

The obligations of Article 5.11.1 (b), shall enter into force three (3) years after the date of Entry into Force of this Agreement.

Chapter 6. Sanitary and Phytosanitary Measures

Article 6.1. Objectives

1. The objective of this chapter is to protect human life and health, animal and plant health; facilitate trade between the parties and strengthen capacities for the implementation of the SPS Agreement.

2. The Parties shall ensure that their sanitary and phytosanitary standards constitute unjustified barriers to trade.

Article 6.2. General Provisions

1. The Parties shall be governed by the provisions of the SPS Agreement and the decisions taken by the Committee on Sanitary and Phytosanitary Measures of the WTO, subject to the adoption and implementation of all sanitary and phytosanitary measures.

2. This chapter shall apply to the definitions in annex A of the SPS Agreement, as well as those set out in the harmonized glossaries of terms of the relevant international organizations: the OIE and IPPC and the Codex Alimentarius.

3. Standards of animal health and food safety referred to in this chapter also refer relating to the biological resources, including products and by-products.

Article 6.3. Rights and Obligations

1. The Parties confirm their rights and obligations under the SPS Agreement. in addition, as the parties shall be governed by the provisions of this chapter.

2. The parties agree to work together in the effective implementation of the SPS Agreement and of the provisions in this chapter, for the purpose of facilitating bilateral trade.

3. The parties, through mutual cooperation, shall endeavour to ensure food safety, to prevent the entry into and spread of pests or diseases and to improve plant and animal health and animal health.

Article 6.4. Harmonization

Developing as set out in article 3 of the SPS Agreement and its supplementary decisions, the Parties shall agree on procedures for the harmonization of sanitary and phytosanitary measures, particularly where there are differences in the adoption of standards and recommended by the relevant international organizations.

Article 6.5. Equivalence

1. Pursuant to the provisions of article 4 of the SPS Agreement and its supplementary decisions, the Parties may request the evaluation of sanitary and phytosanitary measures and systems and structures sanitary and phytosanitary, for the purpose of holding equivalence agreements.

2. Equivalence may be recognised in connection with an individual measure, a group of measures and / or systems applicable to a product or group of products.

3. The Parties shall agree on a procedure for the process of recognition of equivalence and will work to establish such a procedure within a period of six (6) months from the date of Entry into Force of the Agreement, which shall be completed within a mutually agreed by the parties.

Article 6.6. Risk Assessment and Appropriate Level of Protection

1. In article 5 of the SPS Agreement and its supplementary decisions, where there is a need to undertake an assessment of risk of a product or group of products, the importing Party shall take into account international standards or where no and be of interest to the parties may agree on a procedure for this purpose.

2. Any updating of an assessment of risk in situations where there is a significant fluid and regulate trade in goods between the parties shall not be a reason to disrupt the trade of products in question, except in the case of a sanitary or phytosanitary emergency.

3. In the absence of the risk analysis of the importing Party, the exporting party may send scientific evidence, including proposals for mitigation, to support the process of risk analysis of the importing Party. such information shall be considered in the framework of the procedures of the importing Party and consistently with article 5 of the SPS Agreement. having received the documentation, the importing Party shall initiate the risk analysis.

Article 6.7. Recognition of Free Zones and Low Pest or Disease Prevalence Zones

1. The surveys bilateral free areas of low disease or pest prevalence shall be based on international standards of the OIE

and IPPC.

2. In accordance with article 6 of the SPS Agreement, the parties shall expeditiously disease-free areas and areas of low disease or pest prevalence recognized by the relevant international organizations.

3. Where there is recognition of a free zone or area of low prevalence by the relevant international organizations, the parties agree to develop a procedure for the recognition of the bilateral free areas and areas of low or pest disease prevalence, taking into account existing international standards.

4. For those areas that have recognition of free or low prevalence of pests or diseases, in the event of the occurrence of outbreaks, to recover recognised health status, the recognition procedure shall be expedited, along the lines of the relevant international organizations.

5. The Parties shall agree on the procedures referred to in the preceding paragraphs and will work to establish such procedures within a period of six (6) months from the date of Entry into Force of the Agreement, which shall be completed within a mutually agreed by the parties.

Article 6.8. Control Procedures, Inspection, Certification and Adoption

1. The procedures of control, inspection, certification and approval in sanitary and phytosanitary matters shall be harmonized with international standards of the OIE and IPPC and the Codex Alimentarius.

2. Pursuant to the provisions of Article 8 and Annex C of the SPS Agreement and its supplementary decisions, the Parties shall establish a procedure for claims related to the application of the procedures of control, inspection, certification and approval. the Parties shall commence work to establish such a procedure within a period of six (6) months from the date of Entry into Force of the Agreement, which shall be completed within a mutually agreed by the parties.

Article 6.9. Conventions between Competent Authorities

1. For the purpose of facilitating the implementation of the SPS Agreement and of this chapter, the competent authorities in sanitary and phytosanitary matters the Parties may conclude agreements for cooperation and coordination for the exchange of goods without presenting a health risk for both countries.

2. Such agreements may deepen and / or establish mechanisms and instruments necessary to ensure transparency and fluidity, deadlines for assessment procedures for recognition of equivalence, disease-free or areas of low prevalence, disease or pest control, inspection, certification and approval, among others, and in all cases shall be consistent with the provisions of this chapter.

Article 6.10. Committee on Sanitary and Phytosanitary Measures

1. The parties establish a Committee on Sanitary and Phytosanitary Measures, with the aim of addressing issues relating to the implementation of this chapter.

2. The Committee shall be composed of representatives of the competent authorities in sanitary and phytosanitary matters and trade, identified in annex 6.10

3. The Committee shall meet at least once a year, through face-to-face an audio, video or email or through other means to ensure an adequate level of operation.

4. At its first meeting the Committee shall establish its rules of procedure and programme of work, which shall be updated on matters of interest proposed by the parties.

5. The functions of the Committee shall be:

(a) Improving bilateral understanding related to specific implementation issues concerning the SPS Agreement;

(b) Provide a forum to monitor the commitments set out in the work programmes, assess progress with regard to the processing and resolution of the sanitary and phytosanitary matters that may arise between the competent authorities of the Parties;

(c) Provide a forum to promote and facilitate technical consultations provided for in article 6.11, when a party so notified to the Committee;

(d) Establishing working groups or technical groups, when required, and determine its mandates, objectives, functions and deadlines for filing the results of its work;

(e) To ensure the development and implementation of the procedures established under the provisions of this chapter;

(f) Consultations on matters, positions and agendas for meetings of the Committee on Sanitary and Phytosanitary Measures of the WTO, of which shall be carried out in the framework of the Codex Alimentarius, of the IPPC, OIE and other international and regional fora which are members of both parties;

(g) Promote, coordinate and monitor the technical cooperation programs on sanitary and phytosanitary matters; and

(h) Other functions mutually agreed by the parties.

6. The Committee shall have the power to adopt and implement decisions relating to the implementation of the provisions in this chapter, which shall be incorporated by each Party in accordance with its law (1) where appropriate. such decisions shall be notified to the Commission.

(1) Chile shall implement the decisions of the Committee referred to in Article 6.10.6, by means of implementing agreements, in accordance with its Political Constitution.

Article 6.11. Technical Consultations

1. If a Party considers that a sanitary or phytosanitary measure unduly affecting its trade with the other party and that consultations and the exchange of information between competent authorities have failed to resolve the situation, the complaining party may notify the request for technical consultations to the SPS Committee of this Agreement, through its competent authority coordinator who shall be responsible for coordinating with the competent authority of the other party, to facilitate technical consultations requested.

2. Such consultations shall take place within thirty (30) days of receipt of the request, unless the parties agree otherwise, and may be conducted via teleconference video-conference or any other means mutually agreed by the parties.

3. Where the parties have had recourse to consultations under this article without satisfactory results, such consultations shall replace those provided for in article 16.4 (consultations).

Article 6.12. Definitions

For purposes of this chapter:

Competent authorities means the competent authorities of the Parties mentioned in annex 6.10;

Means the OIE World Organisation for Animal Health; and

IPPC means the International Plant Protection Convention.

Chapter 7. Technical Barriers to Trade

Article 7.1. Objectives

The objectives of this chapter are to increase and facilitate trade and obtain effective market access through the improvement of the implementation of the TBT Agreement; eliminate unnecessary technical barriers to trade, and the enhancement of bilateral cooperation.

1. This chapter applies to the development, adoption and application of standards and technical regulations and conformity assessment procedures (1) of the parties, both national and local levels, that may directly or indirectly affect the reciprocal trade in goods between the parties.

2. The provisions of this chapter does not apply to sanitary and phytosanitary measures, which shall be governed by Chapter 6 of this Agreement.

3. This chapter shall not apply to purchasing specifications prescribed by governmental institutions, which shall be governed by chapter 8 of this Agreement.

(1) Conformity assessment procedures include metrology.

Article 7.3. Confirmation of the TBT Agreement

The Parties confirm their rights and obligations existing between them in accordance with the TBT Agreement.

Article 7.4. International Standards

In determining whether an international standard, guidance or recommendation within the meaning of articles 2 and 5 and annex 3 of the TBT Agreement Each Party shall apply the principles set endecisiones and recommendations adopted by the Committee since 1 January 1995, G / TBT / Rev. 1 /

8, 23 May 2002, section IX (Decision of the Committee on Principles for the development of international standards, guidelines and recommendations related to articles 2 and 5 and annex 3 of the Agreement), issued by the Committee on Technical Barriers to Trade (TBT Agreement).

Article 7.5. Trade Facilitation

The Parties shall intensify their joint work in the field of standards and technical regulations and conformity assessment procedures with a view to facilitating access to their respective markets. in particular, the parties shall seek to identify, develop and promote bilateral initiatives that are appropriate for particular issues or sectors. such initiatives may include cooperation on regulatory issues, such as convergence or equivalence of technical regulations and standards; alignment with international standards; reliance on a supplier declaration of conformity, the recognition and acceptance of the results of the conformity assessment, and the use of accreditation of agencies to qualify the conformity assessment, as well as cooperation through the mutual recognition.

Article 7.6. Technical Regulations

1. Technical Regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking into account the risks that would be to achieve them. such legitimate objectives include: national security requirements; the prevention of misleading practices; protection of human health or safety of animal or plant life or health or the environment. in assessing such risks, the relevant elements to take into consideration include: available scientific and technical information; related processing technology; or intended end uses of goods.

2. With regard to technical regulations, each Party shall accord to products of the other party National Treatment and treatment no less favourable than that accorded to like products originating in a country that is not a party.

3. Technical Regulations adopted not be maintained if the circumstances that led to their adoption no longer exist or if the specific objectives can be less restrictively.

4. Each Party shall give favourable consideration to accepting as equivalent technical regulations of the other Contracting Party, even if these regulations differ from its, provided that those technical regulations produce outcomes that are equivalent to those produced by its own technical regulations in pursuing its legitimate objectives and achieving the same level of protection.

5. A Party, at the request of the other Party explain the reasons why it has not accepted a technical regulation of that Party as equivalent.

Article 7.7. Conformity Assessment

1. Recognizing the existence of differences in the conformity assessment procedures in their respective territories, the Parties shall make compatible with the highest possible degree in accordance with international standards and with the provisions in this chapter, the conformity assessment procedures.

2. The Parties recognize that a broad range of mechanisms exists to facilitate the acceptance of the results of conformity assessment, including:

(a) The importing party supplier on a declaration of conformity;

(b) Voluntary arrangements between conformity assessment bodies in the territory of each party;

(c) Agreements on mutual acceptance of the results of conformity assessment procedures with respect to specified regulations conducted by bodies located in the territory of the other party;

(d) Accreditation procedures for qualifying conformity assessment bodies;

(e) The designation of government bodies and conformity assessment;

(f) Recognition by one party of the results of conformity assessments performed in the territory of the other party.

3. The Parties shall intensify their exchange of information on the range of mechanisms to facilitate the acceptance of the results of conformity assessment.

4. In the event that a Party does not accept the results of the conformity assessment performed in the territory of the other party, shall, at the request of the other Party explain the reasons to take the necessary remedial actions.

5. Each Party shall adopt, permit or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those accorded to conformity assessment bodies in its territory. if a Party authorizes, accredits, approves or otherwise recognises a body assessing conformity with a particular

Technical regulation or standard in its territory and refuses to accredit, adopt, authorise or otherwise recognize a body that assessing conformity with technical regulation or standard in the territory of the other Party shall, upon request, explain the reasons for its refusal to take the necessary remedial actions.

6. If a Party rejects a request from the other party to engage in or conclude negotiations to reach agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the territory of the other party, it shall, upon request, explain the reasons for its decision.

7. The Parties shall seek to ensure that conformity assessment procedures applied between them facilitate trade by ensuring that they are no more restrictive than is necessary to provide an importing party with confidence that products conform with the applicable technical regulations, taking into account the risk that non-conformity would create.

8. In order to enhance confidence in the continued reliability of each other the results of the conformity assessment, the parties may consult, as appropriate, to reach a mutually satisfactory agreement on such matters as the technical competence of the conformity assessment bodies involved.

Article 7.8. International System of Units

The Parties shall endeavour to use, for the purpose of trade, the international system of units.

Article 7.9. Transparency

1. Each Party shall permit persons of the other Party to participate in the development of standards and technical regulations and conformity assessment procedures. each Party shall permit persons of the other Party to participate in the development of such measures on terms no less favourable than those accorded to its own persons.

2. Each Party shall recommend that non-governmental standardizing bodies in its territory observe paragraph 1.

3. The Parties shall transmit electronically through the contact point for each Party established under article 10 of the TBT Agreement, the draft technical regulations and conformity assessment procedures that it intends to adopt, at the same time as the party notifies the other members of the WTO, in accordance with the TBT Agreement and this Agreement.

4. Each Party shall allow a period of at least 60 days from the transmission of the notification referred to in paragraph 3, to enable interested parties to submit comments and consultations and such measures to ensure that the notifying party may absolverlas and taken into account. to the extent possible, the notifying party shall give favourable consideration to requests from the other party for an extension of the deadline for comments.

5. In the event that arise or threaten to arise urgent problems related to a legitimate objectives of the Parties and adopt a technical regulation or conformity assessment procedure shall notify the other party to electronically through the contact point referred, at the same time as it notifies the other members of the WTO.

6. Each Party shall, as far as possible, notify and publish technical regulations including those that are consistent with the technical content of any relevant international standard.

7. Each Party shall publish or in print, electronically or otherwise make available to the public its responses to significant

comments at the same time as the publication of the technical regulation or conformity assessment procedure.

8. Each Party shall, at the request of the other Party shall provide information regarding the objectives and the reasons of a technical regulation or conformity assessment procedure that it has taken or intends to take.

9. Each Party shall ensure that there is at least an Information Centre in its territory able to answer questions and all reasonable requests of the Party and other interested persons and provide the relevant documentation on all matters pertaining to this chapter. the information centre shall be the same operating in the TBT Agreement.

10. With the exception of the preceding paragraph, each Party shall implement this article as soon as is practicable and in no event later than three (3) years from the Entry into Force of this Agreement.

Article 7.10. Committee on Technical Barriers to Trade

1. The parties establish a Committee on Technical Barriers to Trade composed of representatives appointed by each Party in accordance with annex 7.10.

2. The functions of the Committee shall include:

(a) Monitor the implementation and administration of this chapter;

(b) Promptly address matters that a Party proposes to the development, adoption application or implementation of technical regulations or standards and conformity assessment procedures, including authorization or approval procedures;

(c) Enhancing cooperation in the development and improvement of laws, regulations or technical conformity assessment procedures;

(d) As appropriate, facilitate sectoral cooperation between governmental and non-governmental entities in the field of standards and technical regulations and conformity assessment procedures in the territories of the Parties as well as to facilitate the process of mutual recognition agreements and equivalence of technical regulations;

(e) Exchange information on the work in non-governmental fora, regional and multilateral cooperation programmes involved in activities related to technical regulations, standards and conformity assessment procedures;

(f) At the request of a party, consultation on any matter arising under this chapter;

(g) Any other action that will assist the parties consider them in implementing this chapter and the TBT Agreement and in facilitating trade in goods;

(h) Reviewing this chapter in light of developments within the Committee of the TBT Agreement and developing recommendations for amendments to this chapter if necessary;

(i) Report to the Commission on the implementation of this chapter;

(j) Establish as necessary for particular issues or sectors, working groups for the treatment of specific matters related to this chapter and the TBT Agreement.

3. The Parties shall make every effort to reach a mutually satisfactory solution, on the consultations referred to in paragraph 1 (f), within a period not exceeding sixty (60) days.

4. Where the parties have had recourse to consultations in accordance with paragraph 1 (f), such consultations shall constitute consultations under Article 16.4 (consultations).

5. Upon request, a Party will give favourable consideration to any other party the sector-specific proposal makes for further cooperation under this chapter.

6. The Committee shall meet at least once a year or more frequently at the request of one of the parties via teleconference or videoconference, other means agreed.

Article 7.11. Technical Cooperation

1. At the request of a party, the other party may provide technical cooperation and assistance on mutually agreed terms and conditions to strengthen their systems of standardization, technical regulations and conformity assessment.

2. Each Party shall encourage standardizing bodies and conformity assessment in its territory to cooperate with the other

party in its territory, as appropriate, in the development of its activities, such as through membership in international standardisation and conformity assessment bodies.

Article 7.12. Information Exchange

1. Any information or explanation is provided that at the request of a Party under the provisions of this chapter shall be provided in a manner

In print or electronically within a period of sixty (60) days, which may be extended prior justification for the reporting Party.

2. With regard to the exchange of information, in accordance with article 10 of the TBT Agreement, the Parties shall implement the recommendations contained in document decisions and recommendations adopted by the Committee since 1 January 1995, G / TBT / Rev. 1 / 8, 23 May 2002, section IV (procedure for the exchange of information) issued by the Committee on Technical Barriers to Trade, in paragraphs 3 and 4.

Article 7.13. Definitions

For purposes of this chapter shall apply the terms contained in annex 1 of the TBT Agreement.

Chapter 8. Trade Defence

Section A. Safeguard Measures

Article 8.1. Imposition of a Safeguard Measure

1. A Party may apply a measure described in paragraph 2, only during the transition period, if as a result of the reduction or elimination of a customs duty pursuant to this Agreement, originating goods of the other party is being imported into its territory in such increased quantities in absolute terms or relative to domestic production and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry producing a like or directly competing goods.

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

(a) Suspend any further reduction of the rate of duty provided for under this Agreement for the product; or

(b) Increasing the tariff rate for the good to a level not to exceed the lesser of:

(i) The most-favoured-nation tariff rate applied at the time the measure is applied; and

(ii) the most-favored-nation tariff rate applied on the day immediately preceding the entry into force of this agreement. (1)

3. No party may apply simultaneously a safeguard measure under article XIX of GATT 1994 bilateral and a safeguard measure under this chapter.

4. No party may apply a global safeguard measure on an originating product of the other party where the corresponding to the imports of the product concerned in the importing Party does not exceed three per cent (3 per cent), provided that the exporting party and other developing countries with a share of imports less than three per cent (3 per cent) do not represent together more than nine (9 percent) per cent of total imports of the product in question.

(1) The Parties understand that neither tariff quotas nor quantitative restrictions would be a permissible form of safeguard measure.

Article 8.2. Standards for a Safeguard Measure

1. No party may maintain a safeguard measure:

(a) For a period exceeding two (2) years; except that the period shall be extended for a further year (1), if the competent authority determines, in accordance with the procedures set out in Article 8.3, the measure that continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry is adjusting; or

(b) After the expiration of the transition period.

2. In order to facilitate adjustment in a situation where the expected duration of a safeguard measure is over one year (1), the party applying the measure shall progressively liberalize it at regular intervals during the period of application.

3. No party may apply a safeguard measure more than once on the same good.

4. Upon the termination of the safeguard measure, the tariff rate shall be that which would be in effect under Agenda for release, according to article 22.3.3 (effect), if the safeguard never been applied.

Article 8.3. Investigation Procedures and Transparency Requirements

1. A Party may not apply a safeguard measure only after an investigation by the competent authority of the Party in accordance with articles 3 and 4.2 (c) of the safeguards agreement; and to this end, these articles are incorporated into and form part of this Agreement mutatis mutandis.

2. In the investigation described in paragraph 1, the Party shall comply with the requirements of Article 4.2 (a) of the safeguards agreement; and to this end, this article is incorporated into and form part of this Agreement mutatis mutandis.

Article 8.4. Notification and Consultation

1. A Party shall be promptly notified in writing to the other party, when:

(a) Initiating a safeguard proceeding under this chapter;

(b) The determination of the existence of serious injury or threat thereof caused by increased imports under Article 8.1; and

(c) Taking a decision to apply, modify or extend a safeguard measure.

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

3. At the request of a Party whose good is subject to a safeguard investigation under this chapter, the party conducting that proceeding shall enter into consultations with the requesting party to review a notification under paragraph 1 or any public notice or report issued by the competent investigating authority with respect to the procedure.

Article 8.5. Compensation

1. A Party applying a safeguard measure, after consultation with the other party whose good against the measure is applied; provide a mutually agreed compensation liberalizing trade in the form of trade concessions having substantially equivalent effects or equivalent to the value of the additional duties expected to result from the measure. the party applying the safeguard measure shall provide opportunity for such consultations within thirty (30) days after the application of the safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on compensation liberalizing trade within thirty (30) days, the Party whose good against the measure is applied may suspend the application of trade concessions substantially equivalent to the trade of the party applying the safeguard measure.

3. A Party whose good against the measure is applied shall notify in writing the party applying the safeguard measure at least thirty (30) days before suspending concessions under paragraph 2.

4. The obligation of compensation under paragraph 1 and the right to suspend concessions under paragraph 2 shall terminate when the tariff rate or tariff rate provided in the schedule of release of the Party under Article 22.3.3 (effect).

Article 8.6. Global Safeguard Measures

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

2. This agreement does not confer any additional rights or obligations on the parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Agreement on Safeguards.

Article 8.7. Definition

For purposes of this section:

Agreement on safeguards means the Agreement on Safeguards, which is part of the WTO agreement;

The competent investigating authority means:

(a) In the case of Chile, National Commission to investigate the existence of price distortions in imported goods; and

(b) In the case of Colombia, branch of business practices of the Ministry of Commerce, Industry and Tourism.

With respect to domestic industry means an imported goods, the producers as a whole of the like or directly competing goods operating in the territory of a party or those producers whose collective output of the like or directly competing goods constitutes a majority proportion of the total domestic production of those goods;

Measure means a safeguard measure described in article 8.1.2;

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

Substantial cause means which is a cause and not less important than any other cause;

Threat of serious injury means clearly imminent serious damage on the basis of facts and not merely on allegation, conjecture or remote possibility;

Transition period means the period in which a good is zero tariff according to its programme of relief.

Section B. Anti-dumping and Countervailing Duties

Article 8.8. Antidumping and Countervailing Duties

1. Each Party retains its rights and obligations under the WTO Agreement with regard to the application of anti-dumping and countervailing duties.

2. No provision of this Agreement, including those of Chapter 16 (Dispute Settlement), shall be construed as imposing any rights or obligations on the parties with regard to actions on anti-dumping and countervailing duties.

Chapter 9. Investment

Section A. Investment

Article 9.1. Scope (1)

1. This chapter applies to measures adopted or maintained by a Party relating to:

(a) Investors of the other party;

(b) covered investments; (2) and

(c) As regards articles and 9.6 9.13, all investments in the territory of the party.

2. In the event of any inconsistency between this chapter and another chapter The other chapter shall prevail to the extent of the inconsistency.

3. A requirement by a party that a service provider of the other party constitute a bond or other form of financial security as a condition of providing a service into its territory does not of itself make this chapter applicable to the provision of cross-border that service. this chapter applies to measures adopted or maintained by a Party with respect to the bond or financial security organised in such a bond or financial security is covered investment.

4. This chapter does not apply to measures adopted or maintained by a Party to investors of the other party and to investments of investors in such financial institutions in the territory of the party.

5. Nothing in this chapter shall be construed as imposing obligations on a party to privatise any investment owned or controlled or prohibit a party from designating a monopoly, provided that if a party adopts or maintains a measure to privatize such investment or a measure to designate a monopoly, this chapter shall apply to the measure.

(1) Each Party shall implement the Certification of origin in electronic form (2) within two years after the Entry into Force of the Agreement.

(2) For greater certainty, this Chapter, including Sections A and B, applies to all investments regardless of the investment regime under which they were entered.

Article 9.2 . National Treatment

1. Each Party shall accord to investors of the other party treatment no less favourable than that accorded in like circumstances to its own investors with respect to the establishment, expansion and acquisition, administration, management, operation and sale or other disposition of investments in its territory.

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

Article 9.3. Most-favoured-nation Treatment (3)

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

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

(3) The Parties reflect their agreement with respect to Article 9.3 in Annex 9.3.

Article 9.4 . Minimum Standard of Treatment (4)

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

2. For greater certainty, paragraph 1 prescribes that the minimum standard of treatment of aliens as customary international law the minimum standard of treatment to be granted to covered investments. the concepts of Fair and Equitable Treatment and full protection and security do not require additional treatment or beyond that required by that level, and do not create additional substantive rights. the obligation to provide in paragraph 1:

(a) "Fair and Equitable Treatment includes the obligation not to deny justice in criminal, civil or administrative proceedings, in accordance with the principle of due process embodied in the principal legal systems of the world; and

(b) "full protection and security requires each party to provide the level of police protection that is required by the International Law.

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

(4) For greater certainty, Article 9.4 shall be interpreted in accordance with Annex 9-A (Customary International Law).

Article 9.5. Treatment In Case of Dispute

1. Without prejudice to article 9.8.4 (b), each Party shall accord to investors of the other party and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

2. Without prejudice to paragraph 1, if an investor of a party which, in any of the situations referred to under the same, suffers a loss in the territory of the other Party resulting from:

(a) The requisitioning of its investment covered or part thereof by the authorities or forces of the latter party; or

(b) The destruction of its investment covered or part thereof by the authorities or forces of the latter party, which was not required by the necessity of the situation,

The latter Party shall grant the investor restitution or compensation, or a combination of both, as appropriate, which in either case shall be prompt, adequate and effective and with respect to compensation shall be in accordance with paragraphs 2 to 4 of Article 9.10.

3. Paragraph 1 does not apply to existing measures relating to subsidies or grants that would be inconsistent with article 9.2, except for article 9.8.4 (B).

Article 9.6. Performance Requirements

Mandatory performance requirements

1. Neither party may impose or enforce any of the following requirements, obligations or commitments with respect to the establishment, expansion and acquisition, administration, management, operation or sale or other disposition of an investment of an investor of a party or of a non- party in its territory to (5):

(a) Export a given level or percentage of goods or services;

(b) To achieve a given level or percentage of domestic content;

(c) To purchase or use a accord preference to goods produced in its territory or to purchase goods from persons in its territory;

(d) In any way relate to the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;

(e) In its territory to restrict sales of goods or services that such investment produces or provides such sales by relating in any way to the volume or value of its exports or foreign exchange earnings which generate;

(f) Transfer to a person in its territory a particular technology production process or other proprietary knowledge of their; or

(g) To act as the exclusive supplier from the territory of the party that such investment produces the goods or the services that it supplies to a specific regional market or to the world market.

Advantages subject to performance requirements

2. Neither party may condition the receipt of an advantage or which shall continue to receive the same in connection with the establishment, acquisition, expansion, administration, management, operation or sale or other disposition of an investment in its territory by an investor of a party or of a non- on party compliance with any of the following requirements:

(a) To achieve a given level or percentage of domestic content;

(b) To purchase or use a accord preference to goods produced in its territory or to purchase goods from persons in its territory;

(c) In any way relate to the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or

(d) In its territory to restrict sales of goods or services that such investment produces or provides such sales by relating in any way to the volume or value of its exports or foreign exchange earnings which generate.

Derogations and exemptions

3. (a) Nothing in paragraph 2 shall be construed to prevent a party from conditioning the receipt of an advantage or continued receipt in connection with an investment in its territory by an investor of a party or of a non- on party compliance with a requirement to locate production; provide services train or employ workers, construct or expand particular facilities or carry out research and development in its territory.

(b) Paragraph 1 (f) does not apply:

(i) When a Party authorizes use of an intellectual property right in accordance with article 31 (6) of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information within the scope and are consistent with article 39 of the

TRIPS Agreement; or

(ii) When the requirement is imposed or the commitment or enforced by a judicial or administrative tribunal or competition authority to remedy a practice which has been determined after judicial or administrative process as anti-competitive competition under the laws of the Party. (7)

(c) Provided that such measures are not applied in an arbitrary or unjustified or do not constitute a disguised restriction on international trade or investment, nothing in paragraphs 1 (b), (c), (f) and paragraphs 2 (a) and (b) shall be construed to prevent a Party from adopting or maintaining measures including environmental nature:

(i) Necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;

(ii) Necessary to protect human life or health, animal or plant; or

(iii) Relating to the conservation of exhaustible natural living resources whether or not.

(d) Paragraphs 1 (a), (b) and (c), and paragraphs 2 (a) and (b) do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid.

(e) Paragraphs 1 (b), (c), (f) and (g), and 2 (a) and (b) do not apply to government procurement.

(f) Paragraphs 2 (a) and (b) do not apply to requirements imposed by an importing party relating to the content of goods necessary to qualify for preferential tariffs or fees.

4. For greater certainty, paragraphs 1 and 2 do not apply to any requirement other than those set out in those paragraphs.

5. This article does not preclude enforcement of any commitment, obligation or requirement between private parties, when a party did not impose or require the commitment, obligation or requirement.

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

(6) The reference to "Article 31" includes footnote 7 to Article 31.

(7) The Parties recognize that a patent does not necessarily confer market power.

Article 9.7. Senior Executives and Boards of Directors (8)

1. No party may require that an enterprise of that Party that is to appoint a covered investment natural persons of any particular nationality to senior management positions.

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

(8) In the case of Colombia, it is understood that the term "directors" refers to "boards of directors".

Article 9.8. Non-conforming Measures

1. Articles 9.2, 9.3, 9.6 and 9.7 do not apply to:

(a) Any Non-Conforming Measure existing Non-Conforming Measure that is maintained by:

(i) The national level of government authority or of a Party as set out in its schedule to annex I; or

(ii) A local government of a party;

(b) The continuation or prompt renewal of any Non-Conforming Measure referred to in subparagraph (a); or

(c) The modification of any Non-Conforming Measure referred to in subparagraph (a), provided that the amendment does not decrease the level of conformity of the measure as it existed immediately before the amendment with articles 9.2, 9.3, 9.6 and 9.7.

2. Articles 9.2, 9.3, 9.6 and 9.7 do not apply to any measure that adopts or maintains a Party with respect to the sectors or sub-sectors or activities as set out in annex II to its schedule.

3. No party may require under any measure adopted after the date of Entry into Force of covered by this Agreement and its schedule to annex II, to an investor of the other party, by reason of their nationality, to sell or otherwise dispose of an existing investment at the time the measure copper.

4. Articles 9.2, 9.3 9.7 and do not apply to:

(a) Public procurement; or

(b) Subsidies or grants provided by a party, including loans, guarantees and insurance, supported by the Government.

Article 9.9. Transfer (9)

1. Each Party shall permit all transfers relating to a covered investment to be made freely and without delay into and out of its territory. such transfers include:

(a) Contributions of capital;

(b) Profits, dividends, interests, capital gains, royalties, fees payments for administration, technical assistance and other fees;

(c) The proceeds of sale or liquidation of all or part of the covered investment;

(d) Payments made pursuant to a contract of the Party of the investor or investment including covered the payments made pursuant to a loan agreement;

(e) Payments made under the párafos 1 and 2 of article 9.5 and with article 9.10; and

(f) Payments arising out of the implementation of section B.

2. Each Party shall permit transfers of returns in kind relating to a covered investment to be made or authorized as specified in a written agreement. (10)

3. Each Party shall permit transfers relating to a covered investment to be made in a currency of free use at the rate of exchange prevailing on the date of transfer.

4. Notwithstanding paragraphs 1 through 3. a Party may prevent a transfer through the equitable and non-discriminatory application in good faith of its laws relating to:

(a) Bankruptcy or insolvency or the protection of the rights of creditors;

(b) Issuance, trade or operations of securities and futures, options or derivatives;

(c) Criminal offences;

(d) Financial reports or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; and

(e) Ensuring compliance with judgments, orders or awards rendered in judicial, administrative or arbitral.

5. Without prejudice to paragraph 2, a party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under this Agreement, including as set out in paragraph 4.

(9) For greater certainty, Article 9.9 is subject to Annex 9-B (Payments and Transfers).

(10) Notwithstanding any other provision of this Chapter, this paragraph is effective as of the date of entry into force of this Agreement.

Article 9.10. Expropriation and Compensation (11)

1. No party expropriated or nacionalizará a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization (expropriation), except:

(a) For reasons of public interest or social purpose;

(b) In a non-discriminatory manner;

(c) Through the payment of prompt, adequate and effective compensation in accordance with paragraphs 2 to 4; and

(d) In accordance with the principle of due process of law and article 9.4.

2. The compensation referred to in paragraph 1 (c) shall:

(a) Be paid without delay;

(b) Be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (date of expropriation)

(c) Not reflect any change in value occurring because the intended expropriation had become known earlier date of expropriation; and

(d) Be realized fully and freely transferable.

3. If the fair market value is denominated in a free use of currency, the compensation referred to in paragraph 1 (c) shall be no less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency accrued from the date of expropriation until the date of payment.

4. If the fair market value is denominated in a currency that is not freely use, the compensation referred to in paragraph 1 (c) converted into the currency of payment at the rate of exchange prevailing on the date of payment shall be no less than:

(a) The fair market value on the date of expropriation, in a currency made use of free, at the rate of exchange prevailing on that date; plus

(b) At a commercially reasonable interest rate for that currency Free use, accrued from the date of expropriation until the date of payment.

5. This article does not apply to the Issuance of Licenses Complusory in relation to Intellectual Property Rights, limitation or revocation, or creation of such rights to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

(11) For greater certainty, Article 9.10 shall be interpreted in accordance with Annex 9-C (Expropriation).

Article 9.11. Special Formalities and Information Requirements

1. Nothing in article 9.2 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities related to a covered investment, such as a requirement that investors be residents of the party or that covered investments be constituted in accordance with the laws and regulations of the Party provided that such formalities do not materially impair the protections afforded by a party to an investor of covered investments and the other party pursuant to this chapter.

2. Notwithstanding articles 9.2, 9.3 and a Party may require an investor of the other party or a covered investment to provide information concerning that investment or informational solely for statistical purposes. the such Party shall protect any confidential information that is from that disclosure would prejudice the competitive position of the covered the investor or investment. nothing in this paragraph shall be construed as preventing a party from obtaining or disclosing information in connection with the good faith and equitable application of its domestic legislation.

Article 9.12. Denial of Benefits

Subject to article 16.4 (consultations), a Party may deny the benefits of this chapter to:

(a) An investor of the other Party that is an enterprise of investments and other such Party to that of investor if an investor of a non-party owns or controls and the enterprise that has no substantial business activities in the territory of the other party; or

(b) An investor of the other Party that is an enterprise of investments and other such Party to that of investor if an investor of denying the party owns or controls, and that the enterprise has no substantial business activities in the territory of the other party.

Article 9.13. Investment and Environment

Nothing in this chapter shall be construed as preventing a party from maintaining or enforcing any measure that otherwise consistent with this chapter considers it appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental legislation that party.

1. The Parties shall consult annually, or otherwise agreed, to review the implementation of this chapter and consider investment matters of mutual interest, including consideration of the development of procedures that could contribute to greater transparency of measures referred to in article 9.8.1 (c).

2. The Parties shall promote cooperation in training and in adequate representation in disputes inversionista-estado, for which the Parties shall encourage the specific training, representational services and technical cooperation to act to conciliation or arbitration through consultative mechanisms investment or a similar regional or multilateral to provide such services.

Article 9.14. Implementation

1. The Parties shall consult annually, or as otherwise agreed, to review the implementation of this Chapter and to consider investment matters of mutual interest, including consideration of the development of procedures that may contribute to greater transparency of the measures referred to in Article 9.8.1(c).

2. The Parties shall promote cooperation in training and adequate representation in investor-state disputes, for which purpose the Parties shall promote specific training, representation services, and technical cooperation to act in conciliation or arbitration proceedings, through investment advisory mechanisms or a similar regional or multilateral center providing such services.

Section B. Investor-State Dispute Resolution

Article 9.15. Consultation and Negotiation (12)

In the event of a dispute concerning an investment, the claimant and the respondent shall initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding procedures with the participation of third parties.

(12) The consultation and negotiation procedure shall be deemed to be initiated by a request to the address set forth in Annex 9-E (Delivery of Documents to a Party Pursuant to Section B) detailing information equivalent to that set forth in Article 9.16(4)(a); (b); and (c).

Article 9.16. Submission of a Claim to Arbitration

1. If a Party considers that litigants cannot be resolved a dispute relating to an investment by consultation and negotiation:

(a) The applicant, on its own behalf, may submit a claim to arbitration under this section, alleging:

(i) That the respondent has breached an obligation under section A; and

(ii) That the claimant has incurred loss or damage by virtue of such violation or as a result of it; and

(b) The applicant, on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls may directly or indirectly, in accordance with this section, to submit a claim alleging Arbitration:

(i) That the respondent has breached an obligation under section A; and

(ii) That the enterprise has incurred loss or damage by virtue of such violation or as a result of the latter.

2. For greater certainty the claimant may in accordance with this section, submit to arbitration a claim that the respondent has breached an obligation under section A, through the actions of a designated monopoly or a state enterprise or other person when it exercises any power regulatory, administrative or other governmental authority that the Party has delegated

to it in connection with the goods or service, such as the power to expropriate, the power to grant import or export licences, approve commercial transactions or impose fees, royalties and other fees.

3. No claim may be submitted to arbitration under this section alleging a violation of any provision of this Agreement other than an obligation under section A.

4. At least one hundred and eighty (180) days before submitting any claim to arbitration under this section, the claimant to the respondent shall deliver a written notice of its intention to submit the claim to arbitration (notice of intent). the notice shall specify:

(a) The name and address of the claimant and, in the event that the claim is submitted on behalf of an enterprise), the name, address and place of incorporation of the enterprise;

(b) For each claim, the provisions of this Agreement alleged to have been breached and any other relevant provisions;

(c) The legal and factual basis for each claim; and

(d) The relief sought and the approximate amount of damages claimed.

5. Provided that six (6) months since the events giving rise to the claim. a claimant may submit a claim referred to in paragraph 1:

(a) In accordance with the ICSID Convention and all its applicable instruments, provided that both the party and the respondent are litigant parties; or

(b) In accordance with the ICSID Additional Facility Rules), if the Party not combatant or the respondent, but not both, is a party to the ICSID Convention; or

(c) In accordance with the UNCITRAL Arbitration Rules; or

(d) If the parties involved so agree, an ad hoc Arbitration Court of Arbitration under any other institution or under any other arbitration rules.

6. A claim shall be deemed submitted to arbitration under this section when the notice of or request for arbitration ("request for arbitration") of the applicant:

(a) Referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General;

(b) Referred to in article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General;

(c) Referred to in article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in article 18 of the UNCITRAL Arbitration Rules is received by the respondent; or

(d) Referred to under any other arbitral institution or arbitral rules selected under paragraph 5 (d) is received by the respondent.

7. The arbitration rules applicable under paragraph 5 and which are in effect on the date the claim or claims that have been submitted to arbitration under this section shall govern the arbitration except to the extent modified by this Agreement.

8. The requesting party shall deliver the request for arbitration referred to in paragraph 6:

(a) The name of the arbitrator appointed by the respondent; or

(b) The applicant's written consent for the Secretary-General to appoint that arbitrator.

Article 9.17. Consent of Each Party to Arbitration

1. Each party consents to the submission of a claim to arbitration under this section in accordance with this Agreement.

2. The consent under paragraph 1 and the submission of a claim to arbitration under this section shall comply with the requirements set out in:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the Parties to the dispute;

(b) Article II of the New York Convention for an agreement in writing; and

(c) Article I of the Inter-American Convention requires an agreement.

Article 9.18. Conditions and Limitations on Consent of the Parties

1. No claim may be submitted to arbitration under this section if more than thirty nine months (39) from the date on which the claimant knew or should have had knowledge of the alleged breach under article 9.16.1 and knowledge that the claimant (for claims brought under article 9.16.1 (a)) or the enterprise (for claims brought under article 9.16.1 (b)) has incurred loss or damage.

2. No claim may be submitted to arbitration under this section unless:

(a) The claimant consents in writing to submit to arbitration in accordance with the procedures set out in this Agreement; and

(b) The request for arbitration referred to in article 9.16.6 accompanied is:

(i) The written waiver of the applicant for claims submitted to arbitration under article 9.16.1 (a),

(ii) Written on waivers of the claimant and the enterprise for claims submitted to arbitration under article 9.16.1 (b),

Any right to initiate or continue before any tribunal or administrative court under the law of either party or any other dispute settlement procedures proceedings with respect to the facts or measures that are alleged to breach claimed.

3. Without prejudice to paragraph 2 (b), the claimant (for claims brought under article 9.16.1 (a)) and the claimant or the enterprise (for claims brought under article 9.16.1 (b)) may continue or initiate an action that seeks an application of the precautionary measures that apply, and that does not involve the payment of monetary damages before a judicial or administrative tribunal of the defendant, and the siempreque action is brought for the sole purpose of preserving its rights and interests of the claimant or the enterprise during the period of waiting of arbitration. (13)

4. No claim may be submitted to arbitration, if the claimant (for claims brought under article 9.16.1 (a)) and the claimant or the enterprise (for claims brought under article 9.16.1 (b)) has previously submitted the same alleged breach before a judicial or administrative tribunal of the defendant, or to any other binding dispute settlement procedure.

(13) In a precautionary measure, including measures seeking to preserve evidence and property pending the resolution of the claim submitted to arbitration, a court or administrative tribunal of the respondent Party to a dispute submitted to arbitration pursuant to Section B shall apply the law of that Party.

Article 9.19. Selection of Arbitrators

1. Unless the parties agree otherwise, the Tribunal shall comprise three arbitrators: one arbitrator appointed by each of the warring parties and the third, who shall be the presiding arbitrator shall be appointed by agreement of the parties involved.

2. The Secretary-General shall appoint the arbitrator in the arbitration proceedings under this section.

3. Where a tribunal shall not be integrated within seventy-five (75) days from the date that the claim is submitted to arbitration under this section, the Secretary-General, upon request of either party, shall, after consultation with the same, the arbitrator or arbitrators not yet appointed.

4. For the purposes of article 39 of the ICSID Convention and article 7 of part C of the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator on grounds that are not nationals of:

(a) The respondent agrees to the appointment of each individual member of a tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;

(b) The claimant referred to in article 9.16.1 (a) may submit a claim to arbitration under this section, or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only on condition that the claimant's consent in writing to the appointment of each member of the Tribunal; and

(c) The claimant referred to in article 9.16.1 (b) may submit a claim to arbitration under this section, or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only on condition that the claimant and the enterprise consent in writing to the appointment of each member of the Tribunal.

Article 9.20. Conduct of the Arbitration

1. The parties may agree on the legal place of any arbitration under the applicable arbitral rules under article 9.16.5 (b), (c) or (d). in the absence of agreement between the warring parties, the tribunal shall determine the place in accordance with the applicable arbitral rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

2. The Party not litigants may make oral or written submissions to the Tribunal regarding the interpretation of this Agreement.

3. The Tribunal shall have the authority to accept and consider amicus curiae submissions from a person or entity that is not a party (Challenger "the holder of the submission"). such submissions shall be made in English and identify its holder and any Party Government or another person or organization, apart from the holder of the submission, or provide that has provided any financial or other assistance in preparing the same.

4. Without prejudice to the power of the Tribunal to hear other objections as a preliminary issues, such as an objection that the dispute is not within the competence of the Tribunal, a Tribunal shall hear and decide any question as a preliminary objection by the respondent that as a matter of law, a claim is not submitted a claim for which an award in favour of could be issued to the applicant pursuant to article 9.26. (14)

(a) Such objection shall be submitted to the Tribunal as soon as possible after the Constitution of the Tribunal, and in no event later than the tribunal fixes the date for the respondent to submit its response to the demand (or in the case of an amendment to the request for arbitration referred to in article 9.16.6, fixes the date the Tribunal for the respondent to submit its response to the amendment).

(b) Upon receipt of an objection, the Tribunal shall suspend any proceedings on the merits, shall establish a schedule for the objection considering consistent with any schedule it has established for considering preliminary question, and any other issue a decision or award on the objection, stating the grounds.

(c) In deciding an objection under this paragraph, the Tribunal shall assume to certain factual arguments submitted by the claimant in support of any claim in the request for arbitration (or any amendment thereof) and in disputes brought under the UNCITRAL Arbitration Rules, the statement of claim referred to Article 18 of the UNCITRAL Arbitration rules. The Tribunal may also consider any relevant fact that is not subject to the dispute.

(d) The respondent does not waive any objection as to competence or any argument on the merits merely because it has or has not formulated an objection under this paragraph or make use of the expedited procedure set out in paragraph 5.

5. In the event that the respondent so requests within forty five (45) days after the Constitution of the Tribunal, the Tribunal shall decide on an expedited basis an objection under paragraph 4 or any objection that the dispute is not within the competence of the Tribunal. the Tribunal shall suspend any proceedings on the merits and issue by31 one hundred and fifty (150) days after the date of the request, a decision or award, stating the objection on the basis. however, if a Party requests a litigant the Tribunal hearing may take an additional 30 days to issue the decision or award. regardless of whether a hearing is requested, the Tribunal shall show a special reason, delay issuing its decision or award by an additional brief period of time, which may not exceed thirty (30) days.

6. When it decides a respondent objection under paragraph 4 or 5 shall, if deemed appropriate and justified, awarded to the winner litigants party reasonable costs and fees incurred in submitting or opposing the objection. when taking such a decision, the tribunal shall determine whether the claim of the claimant or the objection of the respondent was frivolous and shall accord to the warring parties a reasonable opportunity to present their comments.

7. The respondent does not preclude defence, as a counterclaim or countervailing duty or for any other reason that pursuant to an insurance or guarantee contract, the claimant has received or will receive indemnification or other compensation for all or part of the alleged damage.

8. A tribunal may order an interim measure of protection to preserve the rights of a combatant or with the aim of ensuring the full exercise of the competence of the Tribunal, including an order to preserve evidence in the possession or control of combatant or a party to protect the Tribunal jurisdiction. the Tribunal may not order attachment or prevent the application of a measure that is deemed to be a breach referred to in article 9.16.

9. (a) At the request of any of the Parties to the conflict, the Tribunal before the award on liability, transmit its proposed decision or award to the parties to the conflict and the Party not litigants. within sixty (60) days after such proposed decision or award only warring parties may submit written comments to the Tribunal concerning any aspect of its proposed decision

or award. the Tribunal shall consider any such comments and issue its award not later than forty-five (45) days following the expiry of the period of sixty (60) days to submit comments.

(b) Subparagraph (a) shall not apply in any arbitration for which an appeal has been made available pursuant to paragraph 10.

10. If the parties are put in place a separate multilateral treaty that establishes an appellate body for purposes of reviewing awards rendered by tribunals constituted pursuant to international trade or investment treaties to hear investment disputes, the Parties shall endeavour to reach an agreement that would have such appellate body review under Article 9.26 awards rendered in arbitrations commenced after that have been established the Appellate Body.

(14) For greater certainty, with respect to claims submitted under Article 9.16, a procedural objection raised as a preliminary question may include, where applicable, a non-judicial administrative remedy that is provided for in the law of the respondent, such as exhaustion of local remedies or other non-judicial administrative remedies. In cases of international arbitration, the filing of such objections may only imply the suspension of the proceeding.

Article 9.21. Transparency of Arbitration Proceedings

1. Subject to paragraphs 2 and 4, the defendant, after receiving the following documents, shall promptly notify the Party not combatants and make available to the public:

(a) The notice of intent referred to in article 9.16.4;

(b) The request for arbitration referred to in article 9.16.6;

(c) Written pleadings, demand and explanatory notes to the Tribunal submitted by a Party combatant and any written communication submitted in accordance with article 3 and Article 9.20.2 9.25; and

(d) The minutes or transcripts of hearings of the Tribunal, when available; and

(e) Judgments, orders or awards and decisions of the Tribunal.

2. The Tribunal shall conduct hearings open to the public and shall, in consultation with the parties - the appropriate logistical arrangements. however, any opposing side which intends to use in a hearing information designated as confidential business information or information that is privileged or otherwise protected from disclosure is located in accordance with the legislation of one Party, shall inform the court. the tribunal shall make appropriate arrangements to protect the information from disclosure.

3. Nothing in this section requires a respondent to provide confidential business information or information that is privileged or otherwise protected from disclosure is located in accordance with the legislation of one party or to furnish or allow access to information that it may withhold in accordance with article 21.2 Essential (Security) or article 20.5 (disclosure of information).

4. Confidential business information or information that is privileged or otherwise protected from disclosure is located in accordance with the laws of a Party shall, if such information is submitted to the Tribunal shall be protected from disclosure in accordance with the following procedures:

(a) Subject to subparagraph (d), neither warring parties nor the Tribunal shall disclose to the Challenger no party or the public to any confidential business information or information that is privileged or otherwise protected from disclosure is

In accordance with the laws of a Party where the opposing side that provided the information clearly designates it in accordance with subparagraph (b);

(b) Any litigant party claiming that certain information constitutes confidential business information or information that is privileged or otherwise protected from disclosure is located in accordance with the laws of a party, designate clearly to be submitted to the Tribunal;

(c) A combatant Party shall, at the same time that it submits a document containing information claimed as confidential business information or information that is privileged or otherwise protected from disclosure is located in accordance with the laws of a party to submit a redacted version of the document that does not contain the information. only the redacted version shall be provided to the Party not combatants and shall be made public in accordance with paragraph 1; and

(d) The Tribunal shall decide any objection regarding the designation of Information claimed as confidential business

information or information that is privileged or otherwise protected from disclosure is located in accordance with the laws of a party. if the Tribunal determines that such information was not properly designated the opposing side that submitted the information may:

(i) Withdraw all or part of its submission containing such information; or

(ii) Agree to resubmit with complete and redacted documents corrected designations in accordance with the Tribunal determination and subparagraph (c).

In any case, the other party combatant shall, where necessary, resubmit to complete and redacted documents which omitted information withdrawn in accordance with subparagraph (d) (i) by the Party that submitted the first information litigants or redesignar information consistent with the designation under subparagraph (d) (ii) of the Party that submitted the first information litigants.

5. Nothing in this section requires a respondent to authorize or deny public access to information, in accordance with its legislation, should be disclosed.

Article 9.22. Applicable Law

1. Subject to paragraph 2, when a claim is submitted under article 9.16.1 (a) (i), or article 9.16.1 (b) (i) The Tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

2. A decision of the Commission declaring its interpretation of a provision of this Agreement under article 15.1.2 (Free Trade Commission) shall be binding on a tribunal established under this section, and any decision or award issued by a tribunal must be consistent with that decision of the Commission.

Article 9.23. Interpretation of Exhibits

1. If the respondent raise as a defence that the measure is alleged to be a breach within the scope of a Non-Conforming Measure contained in Annex I or Annex II, at the request of the defendant, the Tribunal shall request the interpretation of the Commission on the issue. within sixty (60) days of the delivery of the request, the Commission shall submit in writing to any decision declaring the Tribunal in its interpretation under article 15.1.2 (Free Trade Commission).

2. A decision issued by the Commission under paragraph 1 shall be binding on the Tribunal and any decision or award issued by the Tribunal must be consistent with that decision. if the Commission fails to issue such a decision within sixty (60) days, the Tribunal shall decide on the matter.

Article 9.24. Expert Reports

Without prejudice to the appointment of other kinds of experts where this is authorized by the applicable arbitration rules, the Tribunal, at the request of a party or on its own initiative litigants, unless the parties to the conflict do not accept, may appoint one or more experts to inform in writing on any factual issue concerning environmental affairs, health, safety or other scientific matters raised by a Party in a proceeding litigants, in accordance with the terms and conditions to be agreed upon between the warring parties.

Article 9.25. Accumulation of Proceedings

1. In cases in which they have been submitted to arbitration two or more claims separately in accordance with article 9.16.1, and the claims raised in a common question of fact or law and arise out of the same events or circumstances litigants, any Party may seek a consolidation order in accordance with the agreement of all parties involved, against which the order is sought cumulation, or the terms of paragraphs 2 through 10.

2. The opposing side seeking a consolidation order under this article shall deliver a written request to the Secretary-General and to all the warring parties against which the order is sought and cumulation specified therein as follows:

(a) The names and addresses of all the warring parties against which the order is sought cumulation;

(b) The nature of the order sought and cumulation;

(c) The rationale underlying the request.

3. Unless the Secretary-General within thirty (30) days after receiving a request under paragraph 2, determines that it is

manifestly unfounded, a Tribunal shall be established under this article.

4. Unless all the warring parties against which the order is sought cumulation agree otherwise, the Tribunal established under this article shall be composed of three arbitrators.

(a) One arbitrator appointed by agreement of the claimants;

(b) One arbitrator appointed by the respondent; and

(c) The presiding arbitrator appointed by the Secretary-General who shall not be a national of any of the Parties.

5. If within sixty (60) days of receipt by the Secretary-General of the request made in accordance with paragraph 2, the respondent or the claimants fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General, at the request of any party litigants against which the order is sought cumulation, shall appoint the arbitrator or arbitrators not yet appointed. if the respondent fails to appoint an arbitrator, the Secretary-General shall appoint a national of the respondent, and if the claimants fail to appoint an arbitrator, the Secretary-General shall appoint a national of the Party not litigants.

6. In the event that the Tribunal established under this article is satisfied that have been submitted to arbitration two or more claims under article 9.16.1 which arise in a common question of fact or law, and arising out of the same events or circumstances, the Tribunal may in the interest of fair and efficient resolution of the claims and after hearing the parties - by order:

(a) Assume jurisdiction, and hear and determine jointly, on all or part of the claims;

(b) Assume jurisdiction, and hear and determine one or more of the claims the determination of which it believes would assist in the resolution of the others; or

(c) To instruct a tribunal established under article 9.19 to assume jurisdiction, and hear and determine jointly, on all or part of the claims, provided that:

(i) The Tribunal, at the request of any claimant previously not opposing side before that Court recover, with its original Members except to appoint the arbitrator for the claimants pursuant to paragraphs 4 and 5 (a); and

(ii) That Tribunal shall decide whether any prior hearing repeat.

7. Where a tribunal has been established under this article, that a claimant has submitted a claim to arbitration under article 9.16.1, and whose name is not mentioned in a request made under paragraph 2 may make a written request to the Tribunal that it be included applicant encualquier order under paragraph 6 and in the request shall specify:

(a) The name and address of the claimant;

(b) The nature of the order sought and cumulation;

(c) The reasons for the request. the claimant shall deliver a copy of its request to the Secretary-General.

8. The Tribunal established under this article shall conduct its proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this section.

9. A tribunal established under article 9.19 shall not have jurisdiction to decide a claim. or a part thereof, which has assumed jurisdiction instructed or a tribunal established under this article.

10. At the request of a party litigants, a tribunal established under this article may, pending its decision under paragraph 6, provided that the proceedings of a tribunal established under article 9.19 be postponed, unless the latter Tribunal has suspended its procedures.

Article 9.26. Awards (15)

1. Where a tribunal for a final award unfavourable to the defendant, the Tribunal may award separately or in combination, only:

(a) Monetary damages and interest as appropriate;

(b) Restitution of property in which case the award shall provide that the respondent may pay monetary damages as appropriate, plus interest in lieu of restitution.

The Tribunal may also award costs and attorney fees in accordance with this section and the applicable arbitration rules.

2. Subject to paragraph 1, when a claim is submitted to arbitration under article 9.16.1 (b):

(a) The award for the restitution of property that shall provide restitution be made to the enterprise;

(b) The award granted monetary damages and interest, shall provide that the sum be paid to the enterprise; and

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

3. A tribunal may not order a party to pay punitive damages Challenger.

4. An award made by a tribunal shall be binding only for opposing parties and only in respect of the particular case.

5. Subject to paragraph 6 and the review procedure applicable for an interim award, the opposing side abide by and comply with an award without delay.

6. The opposing side shall not seek enforcement of a final award until:

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

(i) Within one hundred and twenty (120) days from the date the award was rendered litigant and no party has requested revision or annulment of the same; or

(ii) Have concluded the revision or annulment proceedings; and

(b) In the case of a final award made under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules or the rules selected pursuant to article 9.16.5 (d):

(i) Within ninety (90) days from the date the award was rendered and no party litigant has commenced a proceeding to set aside or revised, annul it; or

(ii) A court has dismissed or allowed an application for revision or annulment of the award, revocation and this decision cannot be appealed.

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

8. If the respondent fails to abide by or comply with a final award, on delivery of a request by the Party not combatant shall establish an arbitral tribunal pursuant to article 16.7 (establishment of an arbitral tribunal). the requesting party may invoke the procedures for:

(a) A determination that the failure or refusal of the terms of the final award is inconsistent with the obligations of this Agreement; and

(b) A decision to the effect that abide by the respondent or comply with the final award, in accordance with article 16.11 (preliminary report).

9. A Party may apply a litigant enforcement of an arbitration award under the ICSID Convention or the New York Convention or the Inter-American Convention regardless of whether or not commenced the procedures referred to in paragraph 8.

10. For the purposes of article 1 of the New York Convention and article I of the Inter-American Convention shall be considered a claim that is submitted to arbitration under this section, arises out of a commercial relationship or transaction.

(15) For greater certainty, the Court will not have jurisdiction to rule on the legality of the measure as a matter of domestic law.

Article 9.27. Service of Documents

Delivery of notice and other documents on a party shall be done in the place designated by it in Annex 9 (submission of documents on a Party under section B).

Section B. Definitions

Article 9.28. Definitions

For purposes of this chapter:

TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property Rights related to trade, which is part of the WTO agreement;

Written agreement means a written agreement, signed and put into effect, between the Party and a covered an investor or investment of the other party, in establishing an exchange of rights and obligations with monetary value. a unilateral act of an administrative or judicial authority, including a decree, order, a judgment, a permit, a licence or authorization issued by a Party in the exercise of its regulatory powers, shall be considered as a written agreement;

The Centre means the International Centre for Settlement of Investment Disputes (ICSID) established by the ICSID Convention;

New York Convention means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958;

Inter-American Convention means the Inter-American Convention on International Commercial Arbitration, concluded in Panama on 30 January 1975;

ICSID Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States done at Washington on 18 March 1965;

Respondent means the Party that is a party to an investment dispute;

Claimant means an investor of a Party that is a party to an investment dispute with the other party. for the purposes of submission of a claim to arbitration by a natural person in accordance with section B of this chapter, may submit to arbitration a natural person of nationality of a Party according to the constitution of a Party and a permanent resident of that Party. Permanent resident means a natural person who is a permanent resident in accordance with the laws of a party.

enterprise means an "enterprise" as defined in article 2.1 (definitions of general application), and a branch of an enterprise;

Enterprise of a party constituted means an enterprise or organized under the law of a Party and a branch located in the territory of a party and carrying out business activities there;

Investment means every asset owned or controlled by an investor of the same, directly or indirectly, that has the characteristics of an investment, including at least the commitment of capital or other resources, the expectation of gain or profit, and the assumption of risk. an investment may take forms that include:

(a) An enterprise;

(b) Actions, capital and other forms of equity participation in an enterprise;

(c) Bonds, debentures and other debt instruments of an enterprise loans, (16) but does not include a loan to or debt instrument or a state enterprise;

(d) Futures, options and other derivatives;

(e) Contractual rights, including turnkey or construction, management, production of participation in the granting of earnings and other similar contracts;

(f) Intellectual Property Rights;

(g) Rights conferred pursuant to domestic law, including concessions, licences and permits and authorizations and; (17)

(h) Other property rights tangible or intangible, movable or immovable property and related property rights, such as leases, mortgages, liens and pledges guarantees;

But investment does not mean:

(a) Performance in a judicial or administrative proceedings;

(b) A loan of one party to the other party; or

(c) The debt of the State and its public institutions.

Investors of non- means a Party with respect to a Party that seeks to perform an investor, which is making (18) or has made an investment in the territory of that Party that is not an investor of either party;

An investor of a Party means a Party or a state enterprise thereof, or a national of that Party or an enterprise that seeks to

perform (19) is making, or has made an investment in the territory of the other party; whereas, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the state of his or her dominant and effective nationality;

The free use means currency Currency "free" as determined in accordance with the Articles of Agreement of the International Monetary Fund;

Designated monopoly means an entity, including a consortium or government agency that in any relevant market in the territory of a Party is designated or is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an intellectual property right solely by virtue of such award;

A Party not combatant means that the Party is not a party to a dispute concerning an investment;

Litigants party means either the claimant or the respondent;

"parties means the claimant and the respondent;

The UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations International Law Commission on International Trade Law;

ICSID Additional Facility Rules means the Rules of the additional facility for the administration of proceedings by the secretariat of the International Centre for Settlement of Investment Disputes;

Secretary-General means the Secretary-General of ICSID; and

A tribunal means an arbitration tribunal established under Articles 9.16 or 9.25.

(16) Some forms of debt, such as bonds, debentures and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims arising from commercial contracts or claims for payment due immediately as a result of the sale of goods or services, are less likely to have these characteristics.

(17) Whether a particular right conferred under domestic law, such as that referred to in subparagraph (g), has the characteristics of an investment depends on factors such as the nature and extent of the holder's rights under the Party's law. Among the rights that do not have the characteristics of an investment are those that do not create rights protected by domestic law. For greater certainty, this is without prejudice to whether an asset associated with such a right has the characteristics of an investment.

(18) It will be understood that an investor has the purpose of making an investment when it has carried out the essential actions necessary to make such investment, such as channeling resources for the constitution of the capital of a company, obtaining permits or licenses, among others.

(19) It will be understood that an investor has the purpose of making an investment when it has carried out the essential actions necessary to make such investment, such as channeling resources for the constitution of the capital of a company, obtaining permits or licenses, among others.

Annex 9-A. Customary International Law

The Parties confirm their mutual understanding that "customary international law" referred to in article 9.4 is of a general practice and bottle operative States, followed by them in the context of a legal obligation. With respect to article 9.4, the minimum standard of treatment of aliens by customary international law refers to all customary international law principles that protect the economic rights and interests of aliens.

Annex 9-B. Payments and transfers

With respect to the obligations contained in article 9.9, each Party shall reserve the functions and powers of the central banks, to maintain or adopt measures in accordance with its applicable legislation, in the case of Chile, Act No. 18.840 constitutional organic, of the Central Bank of Chile, or other legal; and in the case of Colombia, Act No. 31, 1992 or other legal; to ensure the stability of the currency and the normal functioning of the internal and external payment costing US $500,000 as powers for this purpose, the regulation of the amount of money and credit in circulation, the execution of credit

transactions and international changes, as also make rules in the field of monetary, financial and credit of international changes.

As part of these measures, including the establishment of requirements which restrict or limit transfers (current payments and capital movements) to or from each party and operations which relate to them, e.g. establish that deposits or investments from loans, or intended to be subject to the obligation to maintain a reserve requirement or deposit. in applying measures under this annex in accordance with its domestic law, the Parties shall not discriminate between the other party and a non- party in respect of transactions of the same nature.

Annex 9-C. Expropriation

The Parties confirm their mutual understanding that:

1. An action or a series of actions by a party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or with the essential attributes or powers of the domain of an investment.

2. Article 9.10.1 addresses two situations. the first is where an expropriation, direct investment is expropriated or nationalized otherwise directly through formal transfer of title or the right of ownership.

3. The second situation is addressed by article 9.10.1 indirect expropriation, where an action or a series of actions by a Party has an effect equivalent to expropriation without direct formal transfer of ownership.

(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 factual investigation, on a case-by-case basis to consider, 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 alone does not establish that an indirect expropriation has occurred;

(ii) The extent to which the Government Action interferes with clear and reasonable expectations of investment; and

(iii) The character of the Government action.

(b) Except in exceptional circumstances, do not constitute indirect expropriations non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate objectives public welfare. (20)

(20) For greater certainty, examples of legitimate public welfare objectives are public health, safety and the environment.

Annex9-D. Decree Law 600 - Chile

1. Decree Law 600 (1974), Foreign Investment Statute, is a voluntary and special investment regime for Chile.

2. As an alternative to the ordinary regime for the entry of capital into Chile, in order to invest in Chile, potential investors may apply to the Foreign Investment Committee to be subject to the regime established by Decree Law 600.

3. The obligations and commitments contained in this Chapter do not apply to Decree Law 600, Foreign Investment Statute, to Law 18.657 on Foreign Capital Investment Funds, to the continuation or prompt renewal of such laws and amendments thereto, or to any special and/or voluntary investment regime that may be adopted in the future by Chile.

4. For greater certainty, the Chilean Foreign Investment Committee has the right to reject investment applications through Decree Law 600 and Law 18,657. In addition, the Chilean Foreign Investment Committee has the right to regulate the terms and conditions to which foreign investment made pursuant to Decree Law 600 and Law 18,657 will be subject.

Annex 9-E. Delivery of documents on a Party under section B

Chile

The place of delivery of notices and other documents relating to differences in accordance with section B, in Chile is:

Department of Legal Affairs

Ministry of Foreign Affairs of the Republic of Chile Teatinos 180 floor 16 Santiago, Chile

Colombia

The place of delivery of notices and other documents relating to differences in accordance with section B, in Colombia is:

Department of Foreign Investment Services and Ministry of Commerce, Industry and Tourism street 28 # 13 - 15 D. Bogotá D.C.

Colombia

Annex 9-F. An appellate body or similar mechanism

Within three (3) years of the Entry into Force of this Agreement, the Parties shall consider the possibility of establishing an appellate body or similar mechanism to review awards rendered pursuant to article 9.26 in arbitrations commenced after the establishment of an appellate body or similar mechanism.

Annex 9.3. Most favoured nation treatment

The parties agree that the scope of Article 9.3 only includes matters relating to the establishment, expansion and acquisition, administration, management, operation and sale or other disposition relating to investment and therefore shall not apply in respect of procedural matters, including dispute settlement mechanisms as contained in section B of this chapter.

Chapter 10. Cross-Border Trade In Services

Article 10.1. Scope of Application

1. This chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other party. such measures include measures affecting:

(a) The production, distribution, sale and delivery of a service;

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

(c) Access to and use of distribution and transportation systems, or telecommunications networks and services in connection with the supply of a service;

(d) The presence in its territory of a service supplier of the other party; and

(e) The provision of a bond or other form of financial security as a condition for the provision of a service.

2. For the purposes of this chapter, measures adopted or maintained by a Party means measures adopted or maintained by unparte means measures adopted or maintained by::

(a) Governments and national authorities or local level; and

(b) Non-governmental bodies in the exercise of powers delegated by Governments or national or local authorities.

3. Articles 10.5, 10.7 and 10.8 shall apply to measures by a party affecting the supply of a service in its territory by an investor of the other party as defined in article 9.28 (definitions) or a covered investment. (1)

4. This chapter does not apply to:

(a) Financial services as defined in article 10.12;

(b) Air services including domestic and international air transportation, scheduled and non-scheduled and related services in support of air services except:

(i) Maintenance services and repair of aircraft during the period in which an aircraft is withdrawn from service;

(ii) Air and specialty services;

(iii) The computer reservation system services; (2)

(c) Public procurement; or

(d) Subsidies or grants provided by a party, including loans (3), guarantees and insurance government-supported. (4)

5. This chapter does not impose any obligation on a Party with respect to a national of the other party who wish to enter the labour market or who is permanently employed in its territory, or confer any right on that with respect to that national access or employment.

6. This chapter does not apply to services supplied in the exercise of governmental authority within the territory of a party. a 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.

(1) The Parties understand that failure to comply with the provisions of this Chapter, including this paragraph, shall not be subject to the Investor-State Dispute Settlement mechanism under Section B of Chapter 9 (Investment).

(2) As defined in the Annex on Air Transport Services of the GATS

(3) For greater certainty, subparagraph (d) includes those subsidies or donations granted by a state enterprise of one of the Parties.

(4) Annex 10.1.4(d) sets forth an understanding of the Parties with respect to subparagraph (d).

Article 10.2. National Treatment

Each Party shall accord to service suppliers (5) of the other party treatment no less favourable than that accorded in like circumstances to service providers.

(5) The Parties understand that "service suppliers" has the same meaning as "services and service suppliers" in paragraph 1 of Article XVII of the GATS.

Article 10.3. Most Favoured Nation Treatment

Each Party shall accord to service suppliers (6) of the other party treatment no less favourable than that accorded to service providers in like circumstances of a non-party country.

(6) The Parties understand that "service suppliers" has the same meaning as "services and service suppliers" in paragraph 1 of Article II of the GATS.

Article 10.4. Local Presence

No party may require a service provider of the other party to establish or maintain a representative office or other company or resident in its territory as a condition for the cross-border supply of a service.

Article 10.5. Market Access

No Party may adopt or maintain measures that:

(a) Impose limitations on:

(i) The number of service suppliers, (7) whether in the form of numerical quotas, monopolies and exclusive service suppliers or the requirement of an economic needs test;

(ii) The total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) The total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of numerical quotas or the requirement of an economic needs test, (8) or

(IV) 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 the supply of a specific service and directly related to it, in the form of numerical quotas or the requirement of an economic needs test; or

(b) Restrict or prescribe specific types of legal entity or joint venture through which a service supplier may supply a service.

(7) The Parties understand that "service suppliers" has the same meaning as "services and service suppliers" in Article XVI of the GATS.

(8) This paragraph does not cover measures of a Party that limit inputs for the supply of services.

Article 10.6. Non-conforming Measures

1. Articles 10.2 and 10.3 and 10.4, 10.5 do not apply to:

(a) Any Non-Conforming Measure existing Non-Conforming Measure that is maintained by:

(i) The national level of government authority or of a Party as set out in its schedule to annex I; or

(ii) A local government of a party;

(b) The continuation or prompt renewal of any Non-Conforming Measure referred to in subparagraph (a); or

(c) The modification of any Non-Conforming Measure referred to in subparagraph (a), provided that the amendment does not decrease the level of conformity of the measure as it existed immediately before the amendment with Articles 10.2, 10.3 and 10.4 and 10.5.

2. Articles 10.2 and 10.3 and 10.4, 10.5 do not apply to any measure that adopts or maintains a Party with respect to the sectors or sub-sectors or activities as set out in annex II to its schedule.

Article 10.7. Transparency In Regulatory Development and Enforcement (9)

Further to Chapter 14 (transparency):

(a) Each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding its regulations relating to the subject matter of this chapter;

(b) When taking final regulations relating to the subject matter of this chapter Each Party shall respond in writing to the extent possible, including on request, substantive comments received from interested persons with respect to the proposed Regulations; and

(c) To the extent possible, each Party shall provide a reasonable time between final publication of regulations and the date of entry into force.

(9) For greater certainty, "regulations" includes regulations for the establishment or application of authorization or licensing criteria.

Article 10.8. National Regulations

1. Where a party requires authorization for the supply of a service, the competent authorities of that Party in a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, shall inform the applicant of the decision concerning the application. at the request of the applicant the competent authorities of the party without undue delay shall provide information concerning the status of the application. this

Obligations shall not apply to authorization requirements that are within the scope of article 10.6.2.

2. With a view to ensuring that measures relating to licensing requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall seek to ensure, as appropriate for each specific sector, such that any measures it adopts or maintains that:

(a) Is based on objective and transparent criteria, such as the competence and 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.

3. If the results of the negotiations related to Article VI: 4 of the GATS (or the results of any similar negotiations undertaken in other multilateral fora in which the parties participate) enter into force, this article shall be amended, as appropriate, after consultations between the parties to such results into this Agreement. the Parties shall coordinate their positions in such negotiations.

Article 10.9. Mutual Recognition

1. For the purposes of the fulfilment in whole or in part of its standards or criteria for the licensing or service suppliers of certification or licensing and subject to the requirements of paragraph 4 of this article, a Party may recognize the education or experience obtained, requirements met or licenses or certifications granted in the other party. such recognition which may be achieved through harmonisation or otherwise, may be based on an agreement or arrangement between the parties or may be accorded autonomously.

2. When a party, recognize autonomously or by agreement or arrangement, the education or experience obtained requirements met or licenses or certifications granted in the territory of a country that is not a party, nothing in Article 10.3 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 territory of the other party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1 of this article, existing or future, shall afford adequate opportunity to the other party, if that other party is concerned, to negotiate its accession to such an agreement or arrangement to negotiate or a comparable agreement or arrangement. where a Party grants recognition autonomously, will the other party afford adequate opportunity to demonstrate that the education or experience obtained licenses or certifications or requirements met in that other party territory should be recognized.

4. No party shall accord recognition in a manner which would constitute a means of discrimination between the parties in the application of its standards or criteria for the licensing or certification or licensing of service suppliers, or a disguised restriction on trade in services.

5. 10.9 Annex applies to measures adopted or maintained by a Party relating to the licensing or certification of professional service providers of the other party, in accordance with the provisions of this annex.

Article 10.10. Implementation

The Parties shall consult annually, or otherwise agreed, to review the implementation of this chapter and consider other matters of mutual interest affecting cross-border trade in services. among other matters, the Parties shall consult with a view to determining the feasibility of removing any requirement to maintain citizenship or permanent residence for the licensing or certification of service providers of each party.

Article 10.11. Denial of Benefits

Subject to article 16.4 (consultations), a Party may deny the benefits of this chapter to:

(a) Service suppliers of the other party where the service is being supplied by an enterprise owned or controlled by persons of a non- party and the enterprise has no substantial business activities in the territory of the other party; or

(b) Service suppliers of the other party where the service is supplied by an enterprise owned or controlled by persons of denying the party and the enterprise has no substantial business activities in the territory of the other party.

Article 10.12. Definitions

For purposes of this chapter:

Cross-border trade in services or cross-border supply of services supply the means of a service:

(a) The territory of a party into the territory of the other party;

(b) In the territory of a party by a person of that party to a consumer of the other party; or

(c) By a national of a Party in the territory of the other party;

But does not include the supply of a service in the territory of a party by an investor of the other party as defined in article 9.28 (definitions) or a covered investment;

"enterprise" means an enterprise as defined in article 2.1 (definitions of general application), and a branch of an enterprise;

Enterprise of a party constituted means an enterprise or organized under the law of a Party and a branch located in the territory of a party and carrying out business activities there;

Service supplier of a Party means a person of a Party that seeks to supply a service or supplies;

Specialty air services means any service which is not of air transport, firefighting, such as aerial spraying, Air surveying, mapping overview, air, aerial photography, service, parachutists planeadores towing services for the transport of logs and construction and other related to agriculture, industry and inspection;

Financial service means any service of a financial nature. all financial services include all banking and insurance and insurance-related and other Financial Services (excluding insurance), as well as services incidental to or auxiliary a service of a financial nature. financial services include the following activities:

Insurance and insurance-related

(a) Direct insurance (including co-insurance):

(i) Life insurance

(ii) Non-life;

(b) Reinsurance and retrocession;

(c) Insurance intermediation, such as brokerage and agency;

(d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

(e) Acceptance of deposits and other repayable funds from the public;

(f) Lending of all types, including personal loans, mortgages, factoring and financing of commercial transactions;

(g) Financial leasing;

(h) All payment and money transfers, including credit cards, and similar, travellers cheques and bankers drafts;

(i) Guarantees and commitments;

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

(i) Money market instruments (including cheques, bills, certificates of deposit);

(ii) Foreign exchange;

(iii) Derivative products including futures and options;

(IV) Exchange rate and interest rate of monetary instruments, such as SWAps, forward rate agreements;

(v) Transferable securities;

(vi) Financial assets and other negotiable instruments, including bullion;

(k) 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;

(l) Money brokering.

(m) Asset management, such as cash or portfolio management, all forms of collective investment, pension fund management, custodial depository and trust services;

(n) Clearing and settlement services for financial assets, securities, including derivative products, and other negotiable

instruments;

(o) Provision and transfer of financial information and data processing, financial and related software by suppliers of other financial services; and

(p) Advisory and Other Financial Intermediation Services the activities listed in subparagraphs (e) through (o), including credit reference and investment and portfolio analysis, research and advice, advice on acquisitions and on corporate restructuring and strategy; and

Professional services means services that require higher education services related to a specific area of knowledge, training or experience equivalent (10) and which is granted or restricted by a party but does not include services provided by persons engaged in a profession or crew members of merchant ships and aircraft.

(10) When the legislation of each Party so stipulates.

Chapter 11. Temporary Entry of Business Persons

Article 11.1. General Principles

1. This chapter reflects the preferential trading relationship between the parties; facilitate the mutual goal of the temporary entry of business persons under the provisions of Annex 11.3, on a reciprocal basis and of establishing transparent criteria and procedures, safe, effective and understandable to temporary entry. it also reflects the need to ensure border security and to protect the domestic labour force and permanent employment in their respective territories.

2. This chapter does not apply to measures under the legislation of each party concerning the acquisition of nationality, citizenship, access to permanent residence or employment on a permanent basis.

Article 11.2. General Obligations

1. Each Party shall apply its measures relating to the provisions of this chapter in accordance with Article 11.1 and in particular the apply expeditiously so as to avoid unduly prejudice or delay trade in goods or services or the conduct of investment activities under this Agreement.

2. For greater certainty, nothing in this chapter shall be construed as preventing the parties that applicable immigration measures necessary to protect the integrity of and to ensure the orderly movement of persons across the same, provided that such measures are not applied in a manner as to impair or unduly delay trade in goods or services or the conduct of investment activities under this Agreement.

Article 11.3. Temporary Entry Authorization

1. Each Party shall grant temporary entry to business persons who are qualified for entry under applicable measures relating to public health and safety and national security measures, in accordance with this chapter, including the provisions contained in Annex 11.3.1.

2. Each Party shall limit the value of fees for processing applications for temporary entry of business persons in a manner consistent with Article 11.2, based on the principle of reciprocity.

3. For greater certainty, the authorization of temporary entry under this chapter does not replace the requirements for the exercise of a profession or activity according to the specific rules in force in the territory of the party authorizing the temporary entry.

Article 11.4. Information Delivery

1. Further to article 14.2 (publication), each Party shall:

(a) The other party to provide information materials to know measures relating to this chapter; and

(b) No later than one year after the date of Entry into Force of this Agreement; prepare and publish and make available in its own territory and the other party a consolidated document with materials explaining the requirements for temporary entry, including references to the laws and regulations, subject to the provisions of this chapter so that the business persons of the

other party may know.

2. Each Party shall collect and maintain and make available to the other party, upon request, in accordance with their respective domestic legislation, information concerning the granting of temporary entry of authorisations under this chapter to the other party of business persons who have been issued immigration documentation to include specific information regarding each occupation, profession or activity.

Article 11.5. Committee of Temporary Entry of Business Persons

1. The parties establish a committee on temporary entry of business persons, comprising representatives of each party, including migration officials and other competent authorities.

2. The Committee shall:

(a) Establish a schedule for its meetings shall take place at least once a year;

(b) Establish procedures to exchange information on measures that affect the temporary entry of business persons under this chapter;

(c) Consider the development of measures to facilitate the temporary entry of business persons in accordance with the provisions of annex 11.3 based on the principle of reciprocity.

(d) Consider the implementation and administration of this chapter; and

(e) Consider the development of common standards, definitions and recommendations for the implementation of this chapter, which may be included in the consolidated document mentioned in article 11.4.1 (B).

Article 11.6. Dispute Resolution

1. A Party may not initiate proceedings under article 16.6.3 (b) (intervention of the Commission) regarding a refusal of authorisation of temporary entry in accordance with this chapter or a particular case arising under article 11.2 unless:

(a) The case concerns a recurrent practice; and

(b) The person affected business have exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph 1 (b) shall be deemed to be exhausted if the competent authority has issued a final decision within six (6) months from the initiation of an administrative procedure and resolution has been delayed for reasons that are not attributable to the business person affected.

Article 11.7. Relationship with other Chapters

1. Except as provided in this chapter and chapter 1 (initial) Provisions, Chapter 2 (General definitions), Chapter 15 (Administration), Chapter 16 (Dispute Settlement) and chapter 22 (Final provisions), and article 14.1 (contact points), in article 14.2 (publication), article 14.3 (notification and provision of information) and article 14.4 (administrative proceedings), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

2. Nothing in this chapter shall be construed to impose obligations or commitments with respect to other chapters of this Agreement.

Article 11.8. Transparency In Regulatory Development and Enforcement

1. Further to chapter 13 (transparency), each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding its regulations relating to the temporary entry of business persons.

2. Each Party shall, within a reasonable period not exceeding thirty five (35 days) after considering the application of temporary entry is complete under its domestic laws and regulations, inform the applicant of the decision concerning the application. at the request of the applicant, the Party shall provide without undue delay information concerning the status of the application. for greater certainty, during the period of the business licence, the person may continue to develop their activities in accordance with the national legislation of each of the Parties.

Article 11.9. Definitions

For purposes of this chapter:

Temporary entry means business entry by a person of one party to the territory of the other party without the intent to establish permanent residence;

Labour means any certification procedure prior to the application for authorisation migration involving a licence or authorization governmental connected with the labour market;

Immigration measure means any law, regulation or procedure affecting the Entry and Sojourn of aliens;

National has the same term meaning the "National" but only in respect of nationality of natural persons who have a party according to its Constitution, but does not include a permanent resident of a party;

The business person means a national of a party who is engaged in trade in goods or services or investment activities in the other party;

Recurrent practice means a practice carried out by the immigration authorities in the form of a Party representative repetitive during a period immediately preceding and the implementation thereof;

Professional means a national of a party who engages in a specialised occupation requiring:

(a) The theoretical and practical application of a specialized body of knowledge; and

(b) A post secondary degree, requiring four (4) or more years of study (or the equivalent of such a degree) as a minimum for the period of the occupation.

A national technical means of a party who engages in a specialised occupation requiring:

(a) The theoretical and practical application of a specialized body of knowledge; and

(b) A post secondary degree or technical requiring two (2) or more years of study (or the equivalent of such a degree) as a minimum for the exercise of the occupation.

Chapter 12. Electronic Commerce

Article 12.1. General Provisions

1. The Parties recognise the economic growth and opportunities in electronic commerce and the importance of avoiding unnecessary barriers to its use and development.

2. Nothing in this chapter shall be construed as preventing a Party from imposing internal taxation directly or indirectly on digitized products provided that they are imposed in a manner consistent with this Agreement.

3. This chapter is subject to any other provisions, exceptions dissenting or other measures set out in annexes or chapters of this Agreement as may be relevant.

Article 12.2. Supply of Services

For greater certainty, the Parties affirm that measures affecting the supply of a service through the use of an electronic are within the scope of the obligations contained in the relevant provisions of chapter 10 (cross-border trade in services), (1) and subject to any exception or Non-Conforming Measure laid down in this Agreement, which are applicable to such obligations.

(1) This Article shall apply to the Chapter on financial services to be negotiated by the Parties, in accordance with Article 22.8.2 (Future Negotiations).

Article 12.3. Customs Duties on Digital Products

1. No party may apply customs tariffs to digital products of the other party.

2. For purposes of determining applicable customs tariffs, each Party shall determine the customs value of an imported carrier medium bearing a digital product based solely on the customs value of carrier medium, irrespective of the value of

the digital product stored on the carrier medium.

Article 12.4. Non-Discrimination for Digital Products

1. A Party shall not accord less favourable treatment to digital products than that accorded to other like digital products: on the basis that:

(a) The digital products receiving less favourable treatment is established, been published, transmitted, stored, hired, Commissioner, or that is made available on commercial terms in the territory of the other party; or

(b) The author, interpreter, Manager, producer or distributor of digital products is such a person of the other party. (2)

2. (a) A Party shall not accord less favourable treatment to a digital product established, produced, stored, transmitted, hired, Commissioner, or that is made available on commercial terms in the territory of the other party than it accords to digital established, like product produced, stored, transmitted, hired, Commissioner, or that is made available on commercial terms in the territory of a non- party.

(b) A Party shall not accord less favourable treatment to digital products whose copyright, interpreter, producer, distributor or manager of the person is a party other than it accords to like digital products whose copyright, interpreter, Manager, producer or distributor is a person of a non- Party. (3)

(2) For greater certainty, if one or more of the criteria in paragraph 1(a) or (b) are met, the obligation to accord treatment no less favorable to those digital products applies even if one or more of the activities listed in paragraph 1(a) occur outside the territory of the other Party, or one or more of the persons listed in paragraph 1(b) are persons of the other Party or of a non-Party.

(3) For greater certainty, this paragraph does not grant any right to a non-Party or to a person from a non-Party.

Article 12.5. Cooperation

Taking into account the global nature of electronic commerce, the Parties recognize the importance of:

(a) Working together to overcome obstacles encountered by small and medium enterprises in the use of electronic commerce;

(b) Sharing information and experiences on the laws, regulations and programs in the sphere of electronic commerce, including those related to data privacy, consumer confidence, cybersecurity, electronic signature, Intellectual Property Rights and forms of electronic government;

(c) Working to maintain cross-border flows of information as an essential element for a vibrant environment for electronic commerce;

(d) To encourage the development by the private sector of methods of self-regulation, including codes of conduct, guidelines and model contracts, enforcement mechanisms that foster electronic commerce; and

(e) Participate actively in international fora, both hemispheric and multilaterally with the aim of promoting the development of electronic commerce.

Article 12.6. Consumer Protection

The Parties recognize the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive practices when using commercial electronic commerce transactions.

Article 12.7. Authentication and Digital Certificates

No Party may adopt or maintain for electronic authentication legislation that prevent the parties from having the opportunity to establish before judicial or administrative authorities that their electronic transaction complies with any legal requirements with respect to authentication.

Article 12.8. Definitions

For purposes of this chapter:

Authentication means the process or of the Act establishing the identity of a party to an electronic communication or transaction or ensuring the integrity of an electronic communication;

Computer processing means employing electronic means;

Carrier medium means any physical object designed primarily for the use of storing a digital product known by any method now or later elaborated and from which a digital product can be collected, printed or communicated, directly or indirectly, and includes but is not limited to, a magnetic, optical or electronic means;

Digital products means computer programmes, text, video images, sound recordings and other products that are digitally encoded and transmitted electronically, irrespective of whether a party treats such products as a good or a service in accordance with its domestic law; (4) and

Electronic transmission or transmitted electronically means the transfer of digital products using any means or electromagnetic fotónico.

(4) For greater certainty, digital products do not include digitized representations of financial instruments, including money. The definition of digital products is without prejudice to ongoing discussions in the WTO as to whether trade in digital products transmitted electronically constitutes a good or a service.

Chapter 13. Public Procurement

Article 13.1. Scope of Application

1. This chapter applies to measures adopted or maintained by a Party relating to procurement by an entity listed in Annex: 13.1

(a) By any contractual arrangement, including the rental and purchase or hire, with or without an option to buy, built operate transfer contracts and public works concession contracts; and

(b) Subject to the conditions specified in annex 13.

2. This chapter does not apply to:

(a) Non-contractual agreements or any form of assistance provided by a party or a state enterprise including grants, loans, capital gains, fiscal incentives and subsidies and guarantees and cooperation agreements, public supply of goods and services to persons or to the Governments of regional or local level, and direct purchases for the purpose of providing foreign assistance;

(b) Purchases funded by grants, loans or other forms of international assistance, where the provision of such assistance is subject to conditions inconsistent with the provisions of this chapter;

(c) The hiring of government employees and employment related measures;

(d) The acquisition of Fiscal Agency or deposits, liquidation and Management Services regulated financial institutions and services for sale and distribution services for government debt; and

(e) financial services (1)

3. Each Party shall ensure that its contracting entities listed in annex 13.1 comply with this chapter in conducting covered procurements.

4. Where an entity awards a contract that is not covered by this chapter, nothing in this chapter shall be construed to cover any good or service forming part of that contract.

5. No entity may prepare design, structure or otherwise any procurement or divide, at any stage, in order to avoid the obligations of this chapter.

6. In calculating the value of a procurement for the purpose of ascertaining whether the procurement is covered by this chapter, an entity shall include the estimated maximum total value for the entire period of duration of public procurement;

Taking into account all options awards, fees, commissions, interest and other income stream or other forms of

remuneration provided for in such contracts.

7. Nothing in this chapter shall prevent a party from developing new procurement policies, procedures or contractual modalities, provided they are not inconsistent with the provisions of this chapter.

(1) For greater certainty, this Chapter does not apply to the procurement of banking, financial or specialized services related to public debt contracting and public debt and liability management activities.

Article 13.2. General Principles

National Treatment and Non-Discrimination

1. With respect to any measure covered by this chapter, each Party shall accord to the goods and services of the other party and to the suppliers of such goods and services, treatment no less favourable than the most favourable treatment accorded the party to its own goods, services and service suppliers.

2. With respect to any measure governing procurement covered by this chapter, no party may:

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

A determination of origin

3. For the purposes of paragraphs 1 and 2, the determination of the origin of goods shall be made on a no prefential basis.

Countervailing special conditions

4. Entities consider, shall not seek nor impose countervailing special conditions at any stage of a procurement.

Measures not specific to procurement

5. Paragraphs 1 and 2 do not apply to measures concerning customs duties or other charges imposed on of any kind or in connection with the method of importation; levying charges or such other duties and import regulations, including restrictions and formalities, or to measures affecting trade in services other than measures specifically governing procurement covered by this chapter.

Article 13.3. Publication of Public Procurement Measures

Each Party shall promptly publish:

(a) Its measures of general application specifically governing procurement covered by this chapter; and

(b) Any changes to such measures, in the same manner as the original publication.

Article 13.4. Publication of a Notice of Procurement Future

1. For each procurement covered by this chapter, an entity shall publish a notice in advance inviting interested suppliers to submit tenders for procurement ("that notice of procurement future") or, where appropriate, a request to participate in the procurement, except as provided in article 13.9.2. each such notice shall be accessible during the entire period established for tendering for the relevant procurement.

2. Each of a future procurement notice shall include at least a description of the procurement method; any conditions that suppliers must fulfil to participate in the procurement; the name of the entity issuing the notice; the address where suppliers may obtain all documents relating to the procurement and the time-limits for submission of tenders.

Article 13.5. Time Limits for the Submission of Tenders

1. All time limits established by the entities for a procurement process shall be adequate to allow suppliers to prepare and submit appropriate tenders according to the nature and complexity of the procurement.

2. Notwithstanding the preceding paragraph, entities shall not less than ten (10) days between the date on which the notice of future procurement is published and the final date for the submission of tenders.

Article 13.6. Information on Future Procurements

1. An entity shall provide interested suppliers with all the information necessary to enable them to prepare and submit tenders. the documentation shall include all criteria that the entity will consider in awarding the contract, including technical requirements, cost factors and their weights or, where appropriate, the relative values that the entity will assign to these criteria in evaluating tenders.

2. Where an entity does not publish all the tender documentation by electronic means, it shall ensure that the same is available to any supplier that requests.

3. Where an entity during the course of a procurement, modifies the criteria referred to in paragraph 1 shall transmit such modifications in writing:

(a) To all suppliers that are participating in the procurement at the time of the amendment of the criteria, if the identities of such suppliers are known, and in other cases, in the same manner as the original information was transmitted; and

(b) In adequate time to allow such suppliers to modify and resubmit their tenders, as appropriate.

Article 13.7. Technical Specifications

1. An entity shall not adopt or apply technical specifications or require any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to trade between the parties.

2. Any technical specifications prescribed by an entity shall, where appropriate:

(a) Be specified in terms of performance and functional requirements rather than design or descriptive characteristics; and

(b) Be based on international standards, where applicable, or otherwise on national technical regulations, recognised national building codes or standards.

3. A procuring entity shall prescribe technical specifications that require or refer to a trade mark or trade name, patents, designs or type, specific origin or producer or supplier unless there is no sufficiently precise or intelligible way of describing the otherwise procurement requirements and provided that in such cases, such as words or equivalent are included in the tender documentation.

4. An entity shall not seek or accept, in a manner that would have the effect of precluding that advice, competition 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 that procurement.

Article 13.8. Conditions for Participation

1. Where an entity requires suppliers to satisfy conditions for registration or qualification or any other condition for participation ("conditions for participation"), in order to participate in a procurement, the entity shall publish a notice inviting suppliers to apply for participation. the entity shall publish the notice sufficiently in advance to interested suppliers provide adequate time to prepare and submit applications and for the Entity to evaluate and make its determinations based on such applications.

2. An entity shall:

(a) Limit any conditions for participation in a procurement to those that are essential to ensure that the potential supplier has the capability, technical and legal trade, financial and technical requirements to fulfill the requirements of public procurement, which shall be assessed on the basis of its global business activities of the supplier.

(b) Qualification base their decisions solely on the conditions for participation that have been specified in advance in notices or tender documentation; and

(c) Recognize as qualified suppliers of all the parties to comply with the requirements of the conditions for participation in a procurement covered by this chapter.

3. Entities may establish permanent lists of qualified suppliers publicly available to participate in procurements. where an

entity requires suppliers to qualify for such a list in order to participate in a procurement and a supplier that has not yet qualified requests to be included in the list, the Parties shall ensure that the procedure for inclusion in the list is initiated without delay and allow a supplier participating in the procurement provided that the registration procedures can be completed within the deadline for submission of tenders.

4. No entity may impose as a condition for a supplier to participate in a procurement that it has previously been awarded one or more contracts by an entity of that Party or that the supplier has prior work experience in the territory of that Party.

5. An entity shall promptly communicate to any supplier that qualification has applied for its decision on whether that is qualified supplier. where an entity rejects an application for qualification or ceases to recognize as a qualified supplier that entity shall, upon request, provide promptly the supplier with a written explanation of the reasons for its decision.

6. Nothing in this article shall preclude an entity from excluding from a supplier A procurement on grounds such as bankruptcy or liquidation, insolvency, false declarations within a procurement or significant deficiencies in performance of an obligation under a prior contract.

Article 13.9. Contracting Modalities

1. Entities shall award contracts by means of open tendering procedures, in the course of which any interested supplier may submit a tender; or where appropriate, an application for participation in a procurement.

2. Provided that a procuring entity does not use this provision to avoid competition or to protect domestic suppliers or to discriminate against suppliers, entities of the other party may award contracts by means other than open tendering procedures, in any of the following circumstances:

(a) In the absence of tenders that conform to the essential requirements of the tender documentation provided prior invitation to tender, including any conditions for participation, on condition that the requirements of the initial procurement are not substantially modified in the contract;

(b) Where, for works of art or for reasons connected with the protection of patents, copyrights or other exclusive rights of intellectual property, or in the absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute;

(c) For additional deliveries by the original supplier that are intended to be used as spare parts, or extensions service continuity of existing equipment, software, services or existing facilities, where a change of supplier would compel the Entity to procure goods or services that do not meet the requirements of compatibility with the equipment, software, services or existing facilities;

(d) For purchases made on a market commodity (commodities);

(e) Where an entity procures a first prototype or a good or service that is developed at its request in the course of and for a particular contract for research, experiment, study or development original. when such contracts have been fulfilled, the subsequent procurements of such goods or services shall be awarded by means of open tendering procedures;

(f) Where in the case of public works shall require additional construction services to the original contract, to respond to unforeseen circumstances and that are necessary for the fulfilment of the objectives of the contract that originated. however, the total value of contracts awarded for additional construction services may not exceed fifty percent (50 per cent of the amount of the main contract; or

(g) Insofar as is where strictly necessary for reasons of extreme urgency caused by unforeseen events by the entity, the goods or services could not be obtained in time using open tendering procedures and the use of such procedures would result in serious injury to the entity or for the performance of its duties. for purposes of this paragraph, the lack of planning of an entity on the funds available within a specified period, shall not constitute an unforeseen event.

3. An entity shall maintain a record or prepare a written report to bring the justification for any specific contract awarded by means other than open tendering proceedings as determined pursuant to paragraph 2.

Article 13.10. Treatment of Tenders and Awarding of Contracts

Receipt and opening of tenders

1. A procuring entity shall receive and open all tenders under procedures that guarantee the fairness and equality between suppliers of the Parties in the procurement process and shall treat tenders in confidence until at least the opening of

tenders.

The award of contracts

2. An entity shall require that a tender, in order to be considered for an award shall be submitted in writing and shall at the time of the opening of tenders:

(a) Conform to the essential requirements of the tender documentation; and

(b) Be submitted by a supplier that has satisfied the conditions for participation that the entity has provided to all participating suppliers.

3. Unless an entity determines that a contract award would be contrary to the public interest to award the contract to the supplier that the entity has determined to be fully capable of undertaking the contract and whose tender is determined to be the most advantageous in terms of the requirements and evaluation criteria set out in the tender documentation.

4. No entity may cancel a procurement or terminate or modify awarded contracts in order to avoid the obligations of this chapter.

Article 13.11. Information on Awards

Information provided to suppliers

1. Subject to article 13.15, an entity shall promptly inform suppliers participating in a tendering procedure of its decision on the award of a contract. upon request, an entity shall provide a supplier whose tender award was not selected for the reasons for not selecting its tender and the relative advantages of the tender the entity selected.

Information on publication of awards

2. After awarding a contract covered by this chapter, an entity shall promptly publish at least the following information about the award:

(a) The name of the Entity;

(b) The description of the goods or services procured;

(c) The date of the award;

(d) The name of the winning supplier;

(e) The value of the contract award; and

(f) In cases in which are not used open tendering procedures, an indication of the circumstances justifying the use of procedures.

Record-keeping

3. An entity shall maintain records and reports of tendering procedures and contract awards covered by this chapter, including records and reports stipulated in article 13.9.3 for a period of at least three (3) years.

Article 13.12. Integrity In Public Procurement Practices

Each Party shall ensure the existence of administrative or criminal penalties to tackle corruption in public procurement; and that its entities

Establish policies and procedures to remove any potential conflict of interest on the part of those involved in the procurement or influence on it.

Article 13.13. National Review of Challenges Filed by Suppliers

1. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its entities to receive and review challenges provided by suppliers in connection with the measures of a Party that are implementing this chapter, in connection with a procurement covered by this chapter and to make appropriate recommendations and findings. where a disputing a supplier is initially reviewed by a body other than such an impartial

authority, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the entity that is the subject of the challenge.

2. Each Party shall provide that the authority designated or established in accordance with paragraph 1, have the power to take prompt interim measures pending the resolution of a challenge to preserve an opportunity for the supplier to participate in the procurement and to ensure that the party complies with its implementing measures this chapter, including the suspension of the award of a contract or the performance of a contract that has already been awarded. (2)

3. Each Party shall ensure that its review procedures are timely, transparent, effective and consistent with the principle of due process.

4. Each Party shall ensure that all documents relating to a disputing a procurement covered by this chapter are available to any authority established or designated in accordance with paragraph 1.

5. Without prejudice to other review procedures prepared or developed by each of the Parties, each Party shall ensure that the authorities established or designated in accordance with paragraph 1, available at least the following:

(a) An opportunity for the supplier to review relevant documents and to be heard by the Authority in a timely manner;

(b) Sufficient time for suppliers to prepare and submit a written challenges, which in no case shall be less than ten (10) days from the time when the basis of the complaint became known or should reasonably have become known to it;

(c) A requirement for the Entity respond in writing to the challenge to the supplier; and

(d) The transfer without delay and in writing of decisions relating to avoidance, with an explanation of the grounds for each decision.

6. Each Party shall ensure that the supplier of a challenge will not prejudice the supplier's ongoing or future participation in procurement.

(2) With respect to this article, in the case of Colombia, the Contentious Administrative Court and the Council of State are impartial authorities for the purposes of Paragraph 1. As these impartial authorities do not have the authority to order precautionary measures pursuant to Paragraph 2, the measures attributed to the Office of the Attorney General of the Nation are considered sufficient to satisfy the requirements of this paragraph. The Office of the Attorney General of the Nation is an independent entity that has the authority to suspend bidding procedures and the award of contracts in the course of any disciplinary proceedings against government agents responsible for public procurement.

Article 13.14. Modifications and Rectifications

1. Either party may modify its coverage under this Chapter provided that:

(a) And simultaneously provide written notice to the other party compensatory adjustments to maintain a level comparable to that coverage of existing prior acceptable, the modification, except as provided in paragraphs 2 and 3; and

(b) The other party does not object in writing within thirty (30) days of the notification.

2. Any Party may make rectifications of a purely formal nature to its coverage under this chapter, or minor amendments to its schedules in sections A to C of annex I.C, provided that it notifies the other party in writing and the other party does not object in writing within thirty (30) days of the notification. the party carrying out such rectification or minor amendments shall not be required to provide compensatory adjustments.

3. A Party need not provide compensatory adjustments in those circumstances where the parties agree that the proposed modification covers an entity over which the Party has effectively eliminated its control or influence. where the parties do not agree that such government control or influence has been effectively eliminated, the objecting party may request further information or consultations with a view to clarifying the nature of any government control or influence and reaching agreement on the Entity coverage under this chapter.

4. Where the parties have agreed to a proposed modification or rectification or minor amendment, including in the case where a Party has not objected within thirty (30) days in accordance with paragraphs 1 and 2, the Commission shall give effect to the Agreement through the immediate change in the relevant section of annex I.C.

Article 13.15. Non-Disclosable Information

1. The Parties, review their entities and authorities shall not disclose confidential information without formal authorization of the person provided that where such disclosure would prejudice the legitimate commercial interests of a particular person or might prejudice fair competition between suppliers. 2.

2. Nothing in this chapter shall be construed as requiring a party or its entities the disclosure of confidential information which would impede law enforcement or otherwise be contrary to the public interest.

Article 13.16. Exceptions

1. Provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the parties or involve a

A disguised restriction to trade between the parties nothing in this chapter shall be construed to prevent a Party from adopting or maintaining measures:

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

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

(c) Necessary to protect intellectual property; or

(d) Relating to goods or services of handicapped persons, of charitable institutions or of prison labour.

2. The parties understand that subparagraph (b) includes environmental measures necessary to protect human life or health, animal or plant.

Article 13.17. Public Information

Entities listed in annex 13.1 shall make every effort to publish a notice regarding their future procurement in an electronic publication that has a single point of entry for the whole of the Government and that is accessible through the Internet or a comparable computer telecommunications network.

Article 13.18. Contact Point

Each Party shall designate a contact point to address matters related to the implementation of this chapter, such as:

(a) Bilateral cooperation relating to the development and use of electronic communications in government procurement systems;

(b) The exchange of statistics and other information to assist the parties in monitoring the implementation and operation of this chapter;

(c) Examine possibilities for expanding the coverage of this chapter; and

(d) Efforts to increase understanding of their respective government procurement systems with a view to maximizing access to government procurement opportunities for vendors, especially for small and medium-sized enterprises.

Article 13.19. Future Negotiations

At the request of any party, the parties shall enter into negotiations with the aim of broadening the coverage of this chapter on a reciprocal basis, when the other party accord suppliers of a non- party by an international treaty enters into force after the Entry into Force of this Agreement, greater access to its procurement market that provided to suppliers of the other Party in accordance with this Agreement.

Article 13.20. Definitions

For purposes of this chapter:

Special conditions countervailing means the conditions imposed or considered by an entity prior to or during their procurement processes, that encourage local development or improve the accounts of the balance of payments of a party, by means of requirements of local content, technology, investment, counter-trade licensing or similar requirements;

Construction contract - - Transfer operation and public works concession contract mean any contractual arrangement the

primary objective of which is to provide for the construction or rehabilitation of physical infrastructure, plants, buildings, facilities and other works and under which, in the performance of a contract by a supplier, a contracting entity grants to the supplier for a given period of temporary or a right to ownership, control and operate demand payment for the use of such works for the duration of the contract;

Entity means an entity listed in annex 13.1;

In writing or written expression of any means information in other words, numbers or symbols, including electronic expressions, which can be read, reproduced and stored;

Technical specification means a tendering requirement that:

(a) Prescribes the characteristics of:

(i) The goods to be procured, such as quality, performance, safety or dimensions, or the processes and methods of production, or

(ii) Services that are procured or the processes and methods of supply, including any applicable administrative provisions; or

(b) Includes requirements of terminology, symbols, packaging, marking or labelling, applicable to a good or service;

Supplier means a person that provides or could provide goods or services to an entity; and

Publish means to disseminate information in an electronic or paper medium that is disseminated widely and readily available to the public.

Chapter 14. Transparency

Article 14.1. Points of Contact

1. Each Party shall designate a contact point to facilitate communications between the parties on any matter covered by this Agreement.

2. At the request of the other party, the contact point shall indicate the office or official responsible for the matter and provide the required support to facilitate communication with the requesting party.

Article 14.2. Advertising

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other party are aware of them.

2. To the extent possible, each Party shall:

(a) It shall publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and

(b) Provide interested persons and the other party a reasonable opportunity to comment on such proposed measures.

Article 14.3. Notification and Provision of Information

1. Each Party shall notify the other party to the extent possible, any existing or proposed measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other party interests under this Agreement.

2. A Party, at the request of the other Party shall promptly provide information and respond to questions pertaining to any existing or proposed measure, whether or not there has been notified to the other Party on Prior that measure.

3. Any notification or information provided under this article shall be without prejudice to whether the measure is consistent with this Agreement.

Article 14.4. Administrative Procedures

With a view to administering in a manner consistent and impartial manner and all reasonable measures of general

application affecting matters covered by this agreement, each Party shall ensure that in its Administrative Proceedings applying measures referred to in article 14.2 With respect to persons, in particular goods or services of the other party in specific cases that:

(a) Wherever possible, the persons of the other party that are directly affected by a proceeding are in accordance with the internal rules, reasonable notice of the initiation of the same, including a description of the nature, the statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;

(b) When the time, the nature of the proceeding and the public interest, permit such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action; and

(c) Its procedures are in accordance with domestic legislation of that Party.

Article 14.5. Review and Challenge

1. Each Party shall establish or maintain judicial tribunals or procedures or administrative nature for the purpose of the prompt review and, where warranted, the correction of final administrative actions regarding matters covered by this Agreement. such tribunals shall be impartial and shall not be linked with the office or authority entrusted with administrative and enforcement shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, before such tribunals or procedures the parties have the right to:

(a) A reasonable opportunity to defend or support their respective positions; and

(b) A resolution or decision based on the evidence and submissions, or in cases where required by its domestic law, on the record compiled by the administrative authority.

3. Each Party shall ensure subject to further appeal or review as provided in its domestic legislation that such decisions or rulings shall be implemented by and shall govern the practice of the office or authority with respect to the administrative action that is the subject of the decision.

Article 14.6. Definition

For the purposes of this chapter:

Administrative Ruling of general application means an administrative ruling or interpretation that applies to all persons and that fact generally fall within its scope and establishing a standard of conduct, but does not include:

(a) A determination or ruling made in an administrative proceeding that applies to persons, in particular goods or services of the other party in a specific case; or

(b) Resolution or a ruling that adjudicates with respect to a particular act or practice.

Chapter 15. Administration

Article 15.1. Free Trade Commission

1. The parties establish the Free Trade Commission (Commission), comprising representatives referred to in annex 15.1.1, or persons designated by them.

2. The Commission shall have the following functions:

(a) To ensure compliance with the provisions of this Agreement;

(b) To monitor the implementation of the Agreement and evaluate the results obtained in its application;

(c) Seek to resolve disputes that may arise regarding the interpretation or application of this Agreement;

(d) Supervise the work of all committees and working groups established under this Agreement and recommend appropriate actions;

(e) Determining the amount of remuneration and expenses that will be paid to the arbitrators; and

(f) Consider any other matter that may affect the operation of this Agreement.

3. The Commission may:

(a) Establish and delegate responsibilities to committees and working groups;

(b) Progress in the implementation of the objectives of this Agreement through the adoption of any change in accordance with its domestic law: (1)

(i) In the programme of release comecial through tariff relief under article 22.3 (effect);

(ii) The rules of origin, and

(iii) Sections of government procurement (annex 13).

(c) To seek the advice of non-governmental persons or groups;

(d) To approve and modify the model rules of procedure referred to in article 16.10 (rules of procedure for arbitral tribunals); and

(e) If the parties so agree, take any other action in the exercise of its functions.

4. The Commission shall establish its rules and procedures. all decisions of the Commission shall be taken by mutual agreement.

5. The Committee shall meet at least once a year in regular session. the regular meetings of the Commission shall be chaired successively by each party.

(1) Chile shall implement the decisions of the Commission referred to in Article 15.1.3, by means of implementing agreements, in accordance with its Political Constitution.

Article 15.2. Coordinators of the Free Trade Agreement

Each Party shall designate a coordinator who will work together in preparations for Commission meetings and shall appropriate follow-up to decisions of the Commission.

Chapter 16. Settlement of Disputes

Article 16.1. Objectives

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement and shall make every effort through cooperation and consultations or other means, to reach a mutually satisfactory resolution of any matter that might affect its operation.

2. The objective of this chapter is to provide an effective, efficient and transparent process (settlement of disputes between the parties concerning their rights and obligations under this Agreement.

Article 16.2. Scope of Application

1. Except as otherwise provided in this Agreement, the dispute settlement provisions of this chapter shall apply:

(a) For the avoidance or the settlement of disputes between the parties concerning the interpretation or application of this Agreement; or

(b) Where a Party considers that a measure of the other party is or would be inconsistent with the obligations of this Agreement or that the other party has breached otherwise in respect of the obligations under this agreement; or

(c) Where a Party considers that an actual or proposed measure of the other party cause nullification or impairment in the sense of 16.2.1. annex

2. In accordance with Article 16.3, this chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other agreements to which they are party.

3. Any matter concerning the interpretation, application or implementation of chapters, environmental and labour shall be resolved through the application of the procedures provided for in the relevant chapters.

Article 16.3. Choice of Forum

1. In the event of any dispute arising under this Agreement and under another Free Trade Agreement to which both parties are parties or the WTO Agreement, the complaining party may select the forum in which to settle the dispute.

2. Once the complaining party has requested the establishment of an arbitral tribunal under the agreement referred to in paragraph 1. the Forum selected shall be exclusive of the other.

Article 16.4. Inquiries

1. Any Party may request in writing to the other party for consultations regarding any existing or draft measure in that party that considers incompatible with this Agreement or any other matter it considers that might affect the operation of this Agreement.

2. Any request for consultations shall give the reasons for the request including identification of the measure in force or project or other subject matter and noting the legal basis of the complaint.

3. The Party to which it was addressed to the request for consultations shall respond in writing within a period of ten (10) days from the date of its receipt.

4. The parties shall enter into consultations within a period of no more than:

(a) Within fifteen (15) days after the date of receipt of the request for matters concerning perishable goods; or

(b) Within thirty (30) days after the date of receipt of the request for all other matters.

5. During the consultations, the parties to the dispute shall make every effort to reach a mutually satisfactory resolution of any matter subject to consultations in accordance with this article. to this end, the parties involved in the consultations shall provide sufficient information to enable a full examination of how the actual or proposed measure or any other matter might affect the operation and application of this Agreement. the consultations shall be confidential and without prejudice to the rights of any party.

6. With a view to seeking a mutually agreed solution of the matter, the consulting Party may make proposals to the party who consulted, give due consideration to the proposals made.

7. Consultations may be held in person or by any technological means available to the parties. if in person, consultations shall take place in the capital of the Party, unless they agree otherwise.

Article 16.5. Refusal to Consultations

If the party consulted fails to respond to the request for consultations within ten (10) days of the receipt of the request, the consulting party may refer to the Commission without waiting for within the periods referred to in Article 16.6.

Article 16.6. Intervention of the Commission

1. Consulting Any Party may request in writing that the Commission meet whenever an issue is not resolved in any of the following cases:

(a) In the cases specified in Article 16.5;

(a) Within thirty (30) days of the delivery of the request for consultations;

(b) Within fifteen (15) days of delivery of a request for consultations in matters regarding perishable goods; or

(d) Other period as may be agreed by the parties,

2. The party requesting the intervention of the Commission shall explain the reasons for the request including identification of the measure or other matter at issue and an indication of the legal basis of the dispute.

3. Unless it decides otherwise, the Commission shall convene within ten (10) days of the delivery of the request and shall undertake without delay to the settlement of the dispute.

4. In order to assist the parties to reach a mutually satisfactory resolution of the dispute, the Commission may:

(a) Convene technical advisers or create such working groups or expert as it deems necessary;

(b) Recourse to conciliation or mediation; or

(c) Make recommendations.

4. Unless it decides otherwise, the Commission shall carry forward two or more before proceedings according to this article regarding the same measure or matter. the Commission may consolidate two or more proceedings regarding other matters before under this article, when it deems appropriate to be considered jointly.

5. A Party may also request in writing a meeting of the Commission where consultations have been held pursuant to chapter 6 (sanitary and phytosanitary measures) and chapter 7 (Technical Barriers to Trade), which replaced the consultations provided for in article 16.4.

6. The Committee may meet in person or by any technological means that is available to the parties to enable them to comply with this stage of the procedure.

Article 16.7. Establishment of an Arbitral Tribunal

1. The complaining party may request by means of a written notification addressed to the other party, the establishment of an arbitral tribunal if the parties involved in the consultations failure to resolve the matter within:

(a) Fifteen (15) days of the meeting of the Commission under Article 16.6;

(b) Fifteen (15) days of the meeting of the Committee to discuss the most recent matter has been submitted, when they have acquired several procedures under article 16.6.4;

(c) Thirty (30) days after a Party has delivered a request for consultations under Article 16.6 in a matter concerning perishable goods, if the Commission has not convened pursuant to Article 16.6;

(d) Fifty-five (55) days after a Party has delivered a request for consultations under Article 16.4, if the Commission has not convened pursuant to article 16.6.3; or

(e) Any time period that the parties agree to consultants.

2. The complaining party shall deliver the request to the other party indicating the reasons for the request including identification of the measure or other matter at issue and an indication of the legal basis of the complaint.

3. Unless otherwise agreed by the parties to the dispute, the arbitral tribunal shall be established and perform its functions in accordance with the provisions of this chapter.

4. The date of establishment of the arbitral tribunal shall be the date on which the Chair is appointed.

5. An arbitral tribunal may not be established to review a proposed measure. article 16.8: composition of arbitral tribunals

Article 16.8. Composition of Arbitral Tribunals

1. The arbitral tribunal shall consist of three members.

2. In the written notification pursuant to article 16.7, the complaining party has requested the establishment of an arbitral tribunal shall appoint one member to the arbitral tribunal.

3. Within fifteen (15) days of the receipt of the notification referred to in paragraph 2, the respondent party shall appoint one member to the arbitral tribunal.

4. Within fifteen (15) days of the appointment of the second arbitrator, the parties to the dispute shall designate by common agreement the third arbitrator who shall be the Chair of the arbitral tribunal.

5. If all three (3) arbitrators have not been designated or appointed within thirty (30) days after the date of receipt of the notice of claim to the arbitral tribunal referred to in paragraph 2, the necessary appointments shall be made at the request of either party by the Secretary-General of ALADI within three (3) days after the expiry of the period of thirty (30) days.

6. The Chairman of the arbitral tribunal shall not be a national of any of the Parties or permanent residence in the territory of any of them, nor be employed by any of the parties or have had any involvement in the case in any capacity.

7. Each Party shall endeavour to select panellists litigant who have expertise or experience relevant to the subject matter of the dispute.

8. All arbitrators shall:

(a) Have expertise or experience in law and international trade or other matters covered by this Agreement or the resolution of disputes arising under international trade agreements;

(b) Strictly be chosen on the basis of its objectivity, impartiality, reliability and sound judgment;

(c) Be independent, not be linked with one of the Parties and not receive instructions from the same; and

(d) Comply with the Code of Conduct for arbitrators established in the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO Agreement.

9. No arbitrator may be in a dispute individuals who have participated in accordance with article 16.6.3

10. If any of the arbitrators appointed in accordance with this article abandoned or is unable to serve as a replacement arbitrator shall be appointed within fifteen (15) days in accordance with the selection procedure used to select the original arbitrator and the replacement shall have all the powers and duties of the original arbitrator. if it has not been possible desginarlo within that period, the appointment shall be made at the request of either party by the Secretary-General of ALADI within thirty (30) days.

Article 16.9. Functions of Arbitral Tribunals

1. The function of an arbitral tribunal is to make an objective assessment of the dispute referred to it, and formulate the necessary findings for settling the dispute submitted to them.

2. The conclusions and the report of the arbitral tribunal shall be binding on the parties to the dispute.

3. The arbitral tribunal shall take its decisions by consensus. if the arbitral tribunal is unable to reach consensus it may take its decisions by a majority of its members.

Article 16.10. Rules of Procedure for Arbitral Tribunals

1. Unless the parties to the dispute otherwise agree, the proceedings of the arbitral tribunal shall be governed by the Model Rules of Procedure.

2. Unless the parties to the dispute otherwise agree within twenty (20) days after the date of delivery of the request for the establishment of an arbitral tribunal the arbitral tribunal shall be:

"review in the light of the relevant provisions of the Agreement, the matter referred to in the request for the establishment of an arbitral tribunal pursuant to article 16.7 and issue the findings and determinations to resolve the dispute".

3. If a party in its request for the establishment of the arbitral tribunal has identified a measure that has caused nullification or impairment of benefits in accordance with annex 16.2.1, the terms of reference shall so indicate.

4. At the request of a party to the dispute or on its own initiative, the arbitral panel may seek scientific information and technical advice from experts as it deems appropriate. any information obtained in this way must be delivered to the parties to the dispute to its comments.

5. Unless the arbitral tribunal determines otherwise given the particular circumstances of the case, each Party to the dispute shall bear the costs of its appointed arbitrator. the costs of the Chairman of the arbitral tribunal and other expenses associated with the proceedings shall be borne in equal parts by the parties to the dispute.

6. If a party wishes the arbitral tribunal to make findings about the level of adverse trade effects caused to the other party a breach of the obligations of this Agreement; or a measure determined to have caused nullification or impairment in accordance with article 16.2.1, the terms of reference shall so indicate.

Article 16.11. Preliminary Report

1. The report of the arbitral tribunal shall be drafted without the presence of the Parties and shall be based on the relevant provisions of this Agreement and the submissions and arguments of the Parties.

2. Unless the parties to the dispute otherwise agree, the arbitral tribunal shall:

(a) Within a period of ninety (90) days of the nomination of the last arbitrator selected; or

(b) In cases of urgency including those relating to perishable goods within forty five (45) days of the nomination of the last arbitrator selected,

present a preliminary report to the dispute to the Parties.

3. The initial report shall contain:

(a) The findings of fact; including any resulting from a request pursuant to article 16.10.6

(b) The determination of the arbitral tribunal as to whether a Party in the dispute has breached its obligations under this Agreement or whether the measure of that Party is a cause of nullification or impairment in the sense of annex 16.2.1 determination or any other requested in the terms of reference; and

(c) The decision of the arbitral tribunal in the settlement of the dispute.

4. In exceptional cases, when the arbitral tribunal considers that it cannot issue its preliminary report within ninety (90) days or within forty five (45) days in cases of urgency, in writing to inform the Parties to the dispute of the reasons for the delay and shall at the same time an estimate of the period within which will issue its report. in no case should the period of delay shall not exceed a further period of thirty (30) days unless the parties to the dispute otherwise.

5. A Party to the dispute may submit written comments to the arbitral tribunal on the preliminary report within fifteen (15) days of the presentation of the report or within such other period of time as agreed by all in the dispute.

6. After considering any written comments on the initial report the arbitral tribunal may reconsider its report and make any further examination that it considers appropriate.

Article 16.12. Final Report

The arbitral tribunal shall present to the parties to the dispute a final report and, where appropriate, the individual views on issues on which has not been unanimous decision within thirty (30) days of the presentation of the initial report unless the parties to the dispute agree otherwise. the parties to the dispute shall make available to the public the final report within fifteen (15) days, subject to the protection of confidential information.

Article 16.13. Implementation of the Final Report

1. The final report of the arbitral tribunal shall be final and binding on the parties to the dispute and shall not be subject to appeal.

2. In its final report if the arbitral tribunal determines that a Party has not complied with its obligations under this Agreement or that measure is a party causing nullification or impairment in the sense of 16.2.1 Annex, the decision shall, whenever possible, to eliminate the non-conformity or the nullification or impairment.

3. Unless the parties to the dispute agree otherwise, they shall implement the decision of the arbitral tribunal contained in the final report within a reasonable period of time if it is not practicable to comply immediately.

4. If the arbitral tribunal finds that a measure of a Party is in conformity with its obligations under this Agreement, that Party shall notify the other party either of those stages, legislative, regulatory or administrative, that Party shall adopt to implement the decision of the arbitral tribunal.

5. The reasonable period of time shall be determined by agreement between the parties to the dispute, or in the absence of such agreement within forty five (45) days from the public disclosure of the final report to the dispute, either party may refer the matter to which the arbitral tribunal shall determine the reasonable period of time after consultation with the other party in the contraversia.

Article 16.14. Compliance Within the Prudential Deadline

1. In case of disagreement as to the existence or consistency of measures to comply with the ruling or to the consistency with this agreement of the measures taken within reasonable period of time, the dispute shall be settled under the dispute settlement procedure of this chapter, with intervention, whenever possible, of the arbitral tribunal has taken note of the

matter.

2. The arbitral tribunal shall circulate its report to the parties to the dispute within sixty (60) days from the date on which the matter was referred to it. if the arbitral tribunal considers that it cannot provide its report within this period, shall be communicated in writing to the parties to the dispute the reasons for the delay and the date on which it may be submitted. in no case should the period of delay shall not exceed a further period of thirty (30) days unless the parties to the dispute otherwise.

Article 16.15. Compensation and Suspension of Benefits

1. If the responding party does not in conformity with this agreement of the measure declared incompatible with the decision of the arbitral tribunal in accordance with article 16.12 within the reasonable period of time determined in accordance with article 16.13, that Party shall, if it is required, enter into negotiations with the complaining party with a view to finding a mutually acceptable compensation.

2. If the arbitral tribunal decides that the measure adopted by a Party is causing nullification or impairment in the sense of 16.2.1 Annex, and has eliminated the inconsistency within the reasonable period of time established in accordance with article 16.13, that Party shall, if it is required, enter into negotiations with the complaining party with a view to finding a mutually acceptable compensation.

3. If the parties do not agree on compensation within thirty (30) days after the expiry of the reasonable period of time, pursuant to article 16.13 The Party

A claimant may suspend the respondent party, the application of benefits of equivalent effect. the notice shall specify the level of benefits that the Party intends to suspend. benefits shall not be suspended while the complaining party is in negotiations in accordance with paragraphs 1 or 2.

4. If the parties have agreed to a mutually satisfactory compensation and a party considers that the other party has not complied with the terms of the Agreement may thereafter notify the other party in writing of its intention to suspend the application of benefits of equivalent effect with respect to the respondent party. the notice shall specify the level of benefits that the Party intends to suspend.

5. Compensation and suspension of benefits are temporary measures. neither compensation and suspension of benefits is preferred to the implementation of the decision to bring a measure into conformity with this Agreement. compensation and suspension of benefits shall only be applied until it has eliminated the measure found to be inconsistent with this Agreement; or the party that must implement the decision of the arbitral tribunal has made, or until they reach a mutually satisfactory solution.

6. In considering what benefits to suspend pursuant to paragraph 3:

(a) The complaining party shall first seek to suspend benefits in the same sector or sectors affected by the measure that the arbitral tribunal has found to be inconsistent with this Agreement or causing nullification or impairment in accordance with annex 16.2.1; and

(b) If the complaining party considers that it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors. the communication in which it announces such a decision shall indicate the reasons on which it is based.

7. Upon written request of the Party concerned, the original arbitral panel shall determine whether the level of benefits that the complaining party has suspended is excessive in accordance with paragraph 3. if the arbitral tribunal cannot be established with its original Members shall apply the procedure laid down in Article 16.8.

8. The arbitral tribunal shall issue its ruling within sixty (60) days of the request made in accordance with paragraph 6, or if the arbitral tribunal cannot be established with its original members, from the date on which the last arbitrator is appointed. the decision of the arbitral tribunal shall be final and binding. the decision shall be communicated to the parties to the dispute and making available to the public.

Article 16.16. Compliance Review

1. Without prejudice to the procedures set out in Article 16.15, if the responding party considers that it has eliminated the non-conformity or the nullification or impairment found by the arbitral tribunal may refer the matter to the arbitral tribunal by written notification to the other party. the arbitral tribunal shall issue its report on the matter within 90 days of such

notification.

2. If the arbitral tribunal decides that the responding party has eliminated the non-conformity or the nullification or impairment, it shall reinstate the complaining party without delay the benefits which has been suspended pursuant to Article 16.15.

Chapter 17. Labour

Article 17.1. Common Commitments

1. The parties reaffirm their obligations as members of the International Labor Organization (ILO) and their commitments under

The ILO Declaration on Fundamental Principles and Rights at Work and its follow-up (1998). each Party shall endeavour to ensure that such principles and rights set forth in article 17.5, are recognized and protected by its national legislation.

2. Recognizing the right of each party to establish its own domestic labor standards and to adopt or modify its labour laws, each Party shall endeavour to ensure that its laws provide for labor standards consistent with the internationally recognized labor rights set forth in article 17.5.

Article 17.2. Compliance with National Legislation

1. Without prejudice to the sovereign rights of each party to establish its own national policies and priorities and to establish, manage and regulate its own labor laws and regulations, the parties undertake to apply their own labor laws.

2. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections provided for in its domestic labour legislation.

Article 17.3. Labor Cooperation

1. The Parties recognise the importance of bilateral cooperation to strengthen actions on labour matters. to this end, the parties agree to develop activities in the areas of cooperation set out in the list below, which is not an exclusive:

(a) Fundamental labour rights and their effective application;

(b) Decent work;

(c) Labour relations;

(d) Working conditions;

(e) Inspection and monitoring of the work;

(f) Matters related to small and medium enterprises;

(g) Migrant workers;

(h) Human resources development and employment training;

(i) Social security;

(j) Retraining programmes and social protection;

(k) Promotion of innovation;

(l) Icaciones integration and economic openness, and

(m) Social dialogue.

Similarly, will encourage mutual support mechanisms, in the various bilateral and multilateral fora work sharing.

2. The parties undertake to define, through the designated contact points for that purpose, projects and schedules of specific cooperative activities.

3. The parties may invite to participate in trade unions and business organizations and non-governmental sectors and other

organizations, to identify areas and cooperation activities and incorporated in the development of such activities.

4. Cooperative activities shall consider the priorities and needs of each party and human and financial resources and its financing will be agreed by both parties.

Article 17.4. Institutional Provisions

1. Each Party shall designate a contact point within the Ministry of Labour and Social Protection, as appropriate, which shall serve as a contact point with the other party and to society and channelling all matters arising under this chapter.

2. The Parties shall meet regularly through senior government officials, if deemed necessary, in order to:

(a) In identifying potential areas of cooperation;

(b) To provide a forum for dialogue on matters of mutual interest;

(c) Reviewing the implementation and operation and results of the Agreement;

(d) Inform the Commission of the results of its work and deliberations, and

(e) Address any other matter that may arise.

3. If any dispute arises on the implementation of this chapter, a Party may request consultations with the other party, by delivering a written request to the contact point that the other party has designated under paragraph 1 of this article.

4. The Parties shall make every effort to reach a satisfactory arrangements through dialogue and cooperation, which may include consultancies.

5. If the parties fail to resolve the matter through the contact points, that may be treated in meetings of senior officials mentioned in paragraph 2 of this article.

Article 17.5. Definitions

For purposes of this chapter:

By national legislation is laws and regulations of each Party, or provisions that are directly related to the following internationally recognized rights:

(a) The right of association;

(b) The right to organize and bargain collectively;

(c) The prohibition on the use of any form of forced or compulsory labour;

(d) A minimum age for the employment of children and the prohibition and elimination of the Worst Forms of Child Labour;

(e) The Elimination of Discrimination in Respect of Employment and Occupation; and

(f) Acceptable conditions of work with respect to minimum wages, hours of work and occupational health and safety.

Chapter 18. Environment

Article 18.1. Objectives

The objectives of this chapter are to contribute to the efforts of the Parties to ensure that trade and environmental policies are mutually supportive and cooperate in the promotion of best forms of sustainable utilisation of natural resources and the protection of ecosystems, in accordance with the objective of sustainable development and to this Agreement.

Article 18.2. Principles and Commitments

1. The parties reaffirm the sovereign right of each of them over their natural resources and reaffirm their sovereign right to establish its own levels of environmental protection and environmental development priorities and to adopt or modify accordingly its environmental laws and policies.

2. Each Party shall ensure that its laws and policies to promote and establish high levels of environmental protection and conservation and sustainable use of natural resources; and shall strive to further improve levels of protection in these fields.

3. Each Party shall endeavour to ensure that its laws, regulations, policies and environmental management are consistent with their commitments under international environmental multilateral environmental agreements, as well as the international plans of action aimed at achieving sustainable development.

4. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the levels of protection provided for in its environmental laws. the Parties recognize that it is inappropriate to use their policies, laws, regulations and environmental management as a disguised barrier to trade.

5. The parties reaffirm the need for further promotion of education and culture; including the dissemination of knowledge of their policies, laws, regulations and environmental management.

6. The Parties recognise the importance of its environmental laws and enforcement mechanisms for fair, equitable and transparent.

Article 18.3. Cooperation

1. The Parties recognize that cooperation contributes to their respective efforts to ensure that trade and environmental policies are mutually supportive and promote the best ways to use of natural resources in accordance with the objective of sustainable development.

2. The parties also recognize the record long and fruitful cooperation between their Governments.

3. To consolidate this cooperation with the aim of improving their capacity to protect the environment and to promote sustainable development consistently with the deepening of their trade and investment relations, the Parties shall endeavour to strengthen cooperation in the various bilateral, regional and multilateral fora to share.

4. The parties agree to promote cooperative activities in areas of mutual interest such as:

(a) FDA and natural resources;

(b) Handling of biological resources;

(c) Desertification and recovery of plant cover;

(d) Green markets;

(e) Ecotourism and sustainable tourism;

(f) Biodiversity;

(g) Strengthening institutional and policy;

(h) Control and monitoring of environmental pollution;

(i) Policy for the management of water quality and technologies for treatment;

(j) The conservation of marine and coastal areas;

(k) Basins;

(l) Strengthening of mechanisms for the promotion of environmental education and public participation;

(m) Environmental liability;

(n) Strategic environmental assessments; and

(o) Other than the parties may agree.

5. Cooperation between the parties shall take place in the following ways:

(a) Exchange of relevant environmental information and documentation;

(b) Exchange of experts in areas of mutual interest;

(c) Joint organization of seminars, workshops and meetings;

(d) Joint research on topics of mutual interest; or

(e) Any other forms of cooperation as agreed by the parties.

6. To meet the cooperative activities defined as coordinators the parties to the National Commission on the environment by Chile and the Ministry of Environment, Housing and Territorial Development Vice-Ministry of environment by Colombia.

7. The coordinators shall have its functions:

(a) The joint work plan;

(b) The definition of projects and schedules of specific cooperative activities;

(c) Coordination and facilitation of cooperative activities undertaken; and

(d) The submission of periodic reports to national contact points established in article 18.4.

8. Without prejudice to the foregoing, the Parties shall develop cooperation activities in the field of environment through mechanisms and forms provided for in Chapter 19 (cooperation).

9. The said cooperation shall be subject to the legislation and to the financial and human resources available to the parties.

Article 18.4. Institutional Provisions

1. For the purposes of this chapter, the parties have appointed a national contact point to address inquiries and requests of the other party; promote the exchange of information and assessing possible actions regarding cooperation.

2. The designated national contact points are:

(a) For Chile, the Ministry of Foreign Affairs; and

(b) Colombia,

The Ministry of Environment, Housing and Territorial Development Department of Environment.

3. The Parties may modify its national contact point by written notification to the other party.

4. The national contact points shall inform the Commission of the development and implementation of this chapter whenever it convenes.

Article 18.5. Inquiries

1. The Parties shall make every effort to address any matter that may affect the operation of this chapter.

2. If any matter arises on the interpretation or application of this chapter, the Parties shall, in good faith, to resolve the matter amicably through dialogue, consultation and cooperation.

3. A Party may request consultations with the other party through the contact point concerning any matter that arises on the interpretation or application of this chapter. the National Contact Point shall identify the institution or official responsible for the matter as necessary and assist in facilitating communications with the requesting party.

Chapter 19. Cooperation

Article 19.1. Objectives

The parties agree to widen and deepen the Basic Cooperation Agreement, the following additional objectives thereof:

(a) Adapting the framework for cooperation as a means to expand and enhance the benefits of this Agreement;

(b) Strengthening and developing cooperation relations existing between the parties, including the focus towards innovation, research and development, especially when they accord value added to the relations established under this Agreement;

(c) Creating new opportunities for trade and investment and promoting competitiveness and innovation and including the participation of the public, private and academic sectors;

(d) To support the role of the private sector in promoting and building strategic alliances to enhance the mutual economic growth and development, especially in relation to small and medium-sized enterprises; and

(e) Strengthening the capacity of the Parties, to all activities aimed at building institutional capacity, human and physical, to benefit more widely of world trade, with particular emphasis on economic cooperation and in research, innovation, science and technology.

Article 19.2. Scope of Application

1. To contribute to the achievement of the objectives and principles of this Agreement, the parties reaffirm the importance of all forms of cooperation with special emphasis on cooperation:

(a) Economic;

(b) Innovation and research and development; and

(c) Energy.

2. The Parties shall contribute to the achievement of the objectives of this Agreement through the identification and development of innovative cooperation projects and programmes capable of providing added value to their relations.

3. Cooperation between the parties specified in this chapter supplement the cooperation and cooperative activities defined in other chapters of this Agreement and the Basic Cooperation Agreement.

Article 19.3. Economic Cooperation

1. The objective of economic cooperation shall be to facilitate trade and investment and foster relations between the parties of their economic operators, with special emphasis on small and medium-sized enterprises.

2. In order to comply with the objective described in paragraph 1, the Parties shall promote and facilitate, as appropriate, the following activities including but not limited to:

(a) Policy dialogue and regular exchanges of information and views on ways to promote and expand trade in goods and services between the parties;

(b) Development projects aimed at strengthening the capacity of the Parties;

(c) Keep each other informed of important economic and trade issues, as well as obstacles to enhance economic cooperation;

(d) Facilities and provide assistance to business visitors and trade missions with the knowledge and support of the relevant agencies;

(e) Supporting dialogue and exchanges of experience among the respective business communities of the Parties;

(f) Establishing and developing mechanisms for providing information and identifying opportunities for business cooperation, trade in goods and services, investment and government procurement;

(g) Stimulating and facilitating actions of public and private sector in areas of economic interest including exploring opportunities in third markets;

(h) Promote tourism, particularly through joint promotion of integrated circuits regional providing services to third countries and / or through mutual technical assistance; and

(i) To foster the development of enterprises with special emphasis on small and medium-sized enterprises.

Article 19.4. Cooperation on Innovation, Research and Development

1. The objectives of cooperation in the fields of innovation, research and development, with particular emphasis on science and technology, shall:

(a) Promote, where appropriate, government agencies, research institutions, universities, private companies and other research organizations in the respective countries direct arrangements to develop cooperation activities, joint programmes and projects within the framework of this Agreement; and

(b) Cooperative activities to focus towards sectors where mutual and complementary interests exist.

2. In order to achieve the objectives referred to in paragraph 1, the Parties shall promote and facilitate, as appropriate, the following activities including but not limited to:

(a) Promote, in consultation with universities and research centres, the development of strategic alliances to encourage joint postgraduate studies and research visits;

(b) The exchange of scientific, technical experts and researchers;

(c) The exchange of information and documentation;

(d) The promotion of partnerships between the public, private and academic sectors to support the development of innovative products and services; and

(e) Support the development of networks leading to joint projects and Technology-based Business incorporating the parties, as well as to third countries.

Article 19.5. Energy Cooperation

1. The objective of cooperation in the energy field will deepen integration, complementarity and energy development in the areas of electrical, geothermal, oil and its derivatives, and alternative fuels.

2. In order to achieve the objectives referred to in paragraph 1, the parties shall carry out the following joint activities, which shall be implemented through the competent authorities in energy, including, but not limited to:

(a) Exchange of experts;

(b) Training and education;

(c) Studies; and

(d) Development projects.

(e) Promotion and facilitation of corporate agreements that may arise for trade in energy and investments in the energy sector in the parties.

3. The parties establish the binational technical committee in energy, whose function is to design, coordinate, monitor and evaluate the implementation of the cooperative activities in the field of energy, whose decisions shall be notified to the Commission.

4. The Technical Committee binational in energy, consists of:

(a) In the case of Chile, the National Commission on energy and the General Directorate of International Economic Relations; and

(b) In the case of Colombia, the Ministry of Mines and Energy and the Ministry of Commerce, Industry and Tourism.

5. The funding for the expenses incurred by the cooperation covered by this article, from the competent authority in energy interested in receiving such cooperation, or in equal parts if issues of common interest. the parties may agree on other modalities in specific cases.

Article 19.6. Mechanisms for Cooperation

1. To carry out the cooperation provided for in this chapter, the parties agree to widen the competence of the mechanisms established in the Basic Cooperation Agreement with the objectives and activities provided for therein.

2. Without prejudice to paragraph 1, remain in force and may be agreed future interinstitutional agreements complementary to the basic cooperation agreement on specific matters, in coordination with the respective government agencies.

Article 19.7. Cooperation with Countries Not Party

The parties agree to give impetus, where appropriate, to projects of mutual interest, to countries that are not party to this Agreement.

Article 19.8. Resources

With a view to contributing to the achievement of the objectives set out in this Agreement, the parties undertake to provide, within the limits of their own capacities and through their own channels, adequate resources, both human and financial resources. such remedies may be supplied by international agencies or third countries.

Article 19.9. Institutional Aspects:

1. The parties agree to widen the competence granted to the joint committee with the following functions:

(a) To monitor the implementation of the cooperation framework agreed in this Agreement by the parties;

(b) To make recommendations on the cooperation activities under this chapter, in accordance with the strategic priorities of the Parties. To this end, it shall advise the respective specialists areas and items and may establish standing or ad hoc Sub-Committees;

(c) Inform the Commission of their agreements, as well as the results of its work and deliberations within the framework of this Agreement, and of specific cooperative activities undertaken pursuant to this Agreement;

(d) Review through regular reports of each party, the functioning of this chapter and the application and fulfillment of its objectives.

2. For the purposes of the implementation of this chapter, the Joint Committee shall include among its members representatives of the General Directorate of International Economic Relations of Chile and the Ministry of Commerce, Industry and Tourism of Colombia or of institutions in their times.

Article 10.10. Definitions

For purposes of this chapter:

Competent authorities in energy, means:

(a) In the case of Chile, the National Commission on energy; and

(b) In the case of Colombia, the Ministry of Mines and Energy.

Joint Committee means the joint committee referred to in article VI of the Basic Cooperation Agreement;

Basic Cooperation Agreement means the basic technical and scientific cooperation agreement between the Republic of Colombia and the Republic of Chile, signed on 16 July 1991;

Chapter 20. General Provisions

Article 20.1. Annexes and Appendices and the Footnotes

The annexes and appendices and the footnotes to this Agreement constitute an integral part of it.

Article 20.2. Relation to other International Agreements

The Parties confirm their rights and obligations existing between them in accordance with the WTO Agreement, the Montevideo Treaty 1980 and other international agreements to which both parties are party.

Article 20.3. Succession of Agreements

Any reference to another international agreement shall be made on the same terms for a successor agreement to which the parties are party.

Article 20.4. Scope of Obligations

The Parties shall take all necessary measures to implement the provisions of this Agreement in their respective territories.

Article 20.5. Dissemination of Information

Nothing in this Agreement shall be construed as requiring a party to disclose or allow access to information the disclosure of which would be:

(a) Contrary to the public interest in accordance with its legislation;

(b) Contrary to its laws, including but not limited to the protection of privacy or the accounts and financial affairs of individual customers of financial institutions;

(c) Would impede law enforcement; or

(d) That might prejudice the legitimate commercial interests of particular public or private enterprises in accordance with its domestic legislation.

Article 20.6. Confidentiality

Where a Party providing information to the other Party in accordance with the provisions of this Agreement and indicate that the information is confidential, the other Party shall maintain the confidentiality of such information, in accordance with its domestic legislation. this information shall be used only for the purposes specified above, and will not be disclosed without the specific permission of the party providing the information, unless such information is to be disclosed in the context of judicial proceedings.

Article 20.7. Anti-corruption

Declaration of Principles

1. The parties affirm their commitment to prevent and combat corruption, including bribery in international trade and investment.

2. The parties undertake to promote, facilitate and support international cooperation in the prevention of and fight against corruption.

Cooperation in international fora

3. The Parties recognize the importance of regional and multilateral initiatives to prevent and combat corruption, including bribery in international trade and investment. the parties shall work jointly to encourage and support appropriate initiatives in relevant international fora.

4. The parties reaffirm their existing rights and obligations under the Inter-American Convention against Corruption in 1996 and work in the implementation of measures to prevent and combat corruption consistent with

The United Nations Convention against Corruption of 2003.

Article 20.8. Activities Based on Capital or Assets of Illicit Origin

The parties undertake to combat activities based on capital assets of illicit origin or avoiding extend protection to foreign investments related to such activities.

Chapter 21. Exceptions

Article 21.1. General Exceptions

1. For the purposes of chapters 3 to 7 (trade in goods and trade facilitation, rules of origin, sanitary and phytosanitary measures and technical barriers to trade) and the Programme of release, according to article 22.3.3 (effect), article XX of GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof, mutatis mutandis. the parties understand that the measures referred to in article XX (b) of GATT 1994 include environmental

measures necessary to protect the life and health of humans or animals, plant and that article XX (g) of GATT 1994 applies to measures relating to the conservation of natural resources whether living or non-living exhaustible.

2. For the purposes of ten chapters (cross-border trade in services), article XIV of GATS (including its footnotes) is incorporated into this Agreement and form part of the same. (1) the parties understand that the measures referred to in article XIV (b) of GATS include environmental measures necessary to protect the life and health of humans, animals or plant.

(1) If Article XIV of the GATS is amended, this Article shall be amended, as appropriate, after consultation between the Parties.

Article 21.2. Essential Security

Nothing in this Agreement shall be construed as:

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

(b) Prevent a Party from adopting measures necessary for the protection of its essential security interests

(i) Relating to the traffic in arms, ammunition and tools, and to traffic in or other goods and materials relating to the supply of services as carried out directly or indirectly for the purpose of supplying or provisioning a military establishment;

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

(iii) Relating to fissionable and fusionable materials or the materials to those in which they are derived; or

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

Article 21.3. Public Order

For greater certainty, the parties understand that nothing in this Agreement shall be construed as preventing a party maintains or adopts measures With respect to natural persons of the other party designed to preserve public order, (2) provided that the measure referred to is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination.

(2) Notwithstanding the foregoing, the Parties understand that in any case the rights and obligations derived from the Agreement, in particular those rights of the investors of the other Party derived from the Investment Chapter, are applicable to such measures.

Article 21.4. Taxation

1. Except as provided in this article nothing in this Agreement shall apply to Taxation Measures.

2. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. in the event of any inconsistency between this Agreement and any such conventions, the Convention shall prevail to the extent of the inconsistency. in the case of a tax convention between the parties, the competent authorities under that Convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that Convention.

3. Notwithstanding paragraph 2:

(a) Article 3.1 (National Treatment) and such other provisions of this Agreement as are necessary to give effect to that article shall apply to taxation measures to the same extent as article III of the GATT 1994; and

(b) Article 3.2 (export taxes) shall apply to taxation measures.

4. Subject to paragraph 2:

(a) Article 10.2 (National Treatment) shall apply to measures taxation on income or capital gains on the capital tributable undertakings relating to the purchase or consumption of particular services except that nothing in this subparagraph shall prevent a party from conditioning the receipt of an advantage or which shall continue to receive the same relating to the purchase or consumption of particular services on the service requirements to provide in its territory; and

(b) Articles 9.2 (National Treatment) and article 9.3 (most-favoured-nation treatment), National Treatment) (Articles 10.2 and 10.3 (most-favoured-nation treatment) apply to all taxation measures other than those on income or capital gains on the capital tributable companies, property tax, inheritance, gifts and transfers to jump generations (generation-skipping transfers),

None of the articles referred to in subparagraphs (a) and (b) apply:

(c) Any most-favored-nation obligation with respect to the benefits accorded by a Party pursuant to a tax convention;

(d) No dissenting A provision of any existing taxation measure;

(e) The continuation or prompt renewal of a provision of any dissenting existing taxation measure;

(f) To an amendment to A provision of any existing taxation measure dissenting, both in the amendment does not decrease, at the time of his grade in accordance with any of those articles;

(g) To the adoption or enforcement of any taxation measure aimed at ensuring the imposition or collection of taxes in a fair and effective (as permitted by article XIV (d) of GATS); or

(h) A provision that the conditions to benefit or continues to obtain the same, with respect to the contributions to or income of pension plans and funds, provided that the Party maintain continuous jurisdiction over the pension plan or funds.

5. Subject to paragraph 2 and without prejudice to the rights and obligations of the Parties under paragraph 3. paragraphs 2, 3 and 4 of Article 9.6 (performance requirements) shall apply to taxation measures.

6. Article 9.10 (expropriation and compensation) and Article 9.16 (submission of a claim to arbitration) shall apply to taxation as a measure that sealega expropiatoria. however, no investor may invoke article 9.10 (expropriation and compensation) as the basis of a claim where it has been determined pursuant to this paragraph that the measure is not an expropriation. an investor that seeks to invoke Article 9.10 (expropriation and compensation) with respect to a taxation measure must first refer the matter to the Competent Authorities identified in annex 21.4, when giving notice of intent under Article 9.16 (submission of a claim to arbitration), so that such authorities determine whether the measure constitutes an expropriation. if the competent authorities do not agree to consider the issue or having agreed to consider it fail to agree on the ground that the measure is not an expropriation within a period of six (6) months after they have been subjected the matter, the investor may submit its claim to arbitration under article 9.16 (submission of a claim to arbitration).

Article 21.5. Difficulties In the Balance of Payments

1. If a party experiences serious difficulties in their balance of payments and external financial or threat thereof, or the risk of them live, may adopt or maintain restrictive measures with regard to trade in goods and services and with regard to payments and capital movements, including those related to the investment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Restrictive measures adopted or maintained under this article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial. they shall be in accordance with the conditions established in the WTO Agreements and consistent with the Articles of Agreement or articles of agreement of the International Monetary Fund, as appropriate.

Article 21.6. Definitions

For purposes of this chapter:

Tax convention means a convention for the avoidance of double taxation or other international agreement or arrangement and taxation;

Taxes and Taxation Measures do not include:

(a) Charges;

(b) Anti-dumping or countervailing duties; or

(c) Fee or other charge in connection with importation commensurate with the cost of services rendered.

Chapter 22. Final Provisions

Article 22.1. Amendments, Modifications and Additions

1. The parties may agree on any amendment or modification of or addition to this Agreement.

2. The amendments and additions and amendments, agreed previously approved in accordance with the applicable legal procedures of each Party shall constitute an integral part of this Agreement.

Article 22.2. Amendment of the WTO Agreement

If any provision of the WTO agreement that the parties have incorporated into this Agreement is amended, the Parties shall consult on whether to amend this Agreement.

Article 22.3. Validity

1. The entry Entry into Force of this Agreement is subject to the completion of necessary domestic legal procedures by each party.

2. This Agreement shall enter into force sixty (60) days after the date on which the parties exchange written notifications indicating that they have completed the procedures outlined above or within such other period as the parties agree.

3. The parties will be governed by this free trade agreement which constitutes an additional protocol to the existing 24 ACE, maintain the same only the following articles 1, annexes and protocols: (1)

(a) Articles 3 to 6 of chapter II (release programme) and article 10;

(b) Annexes 1 to 5;

(c) the protocols: First Additional Protocol; Second Additional Protocol; Third Additional Protocol; Fourth Additional Protocol, except for Article 3 (certification of origin form); Fifth Additional Protocol; Sixth Additional Protocol; and Seventh Additional Protocol; and

(e) Resolution 06/2006, which is included as Annex I to the Minutes of the IV Extraordinary Meeting of the Administrative Commission of ACE 24.

4. Chapter 4 (rules of origin), the importer may apply for the implementation of the EPAs 24, for a period of thirty (30) days after the Entry into Force of this Agreement. for this purpose, the certificates of origin issued under ACE 24, shall have been completed prior to the Entry into Force of this Agreement, be valid and enforceable until the time limit.

(1) For greater certainty, the current regulations of ACE 24 shall be subject to the rights and obligations derived from the provisions of this Agreement, which are applicable to it.

Article 22.4. Provisional Application

Without prejudice to article 22.3, Colombia may give provisional application to this Agreement before its Entry into Force. provisional application shall cease at the time that Colombia notify Chile intended not become a party to the Agreement, or intends to suspend the provisional application.

Article 22.5. Denunciation

1. Any Party may denounce this Agreement by means of a written notification addressed to the other party. the termination of this Agreement shall take effect on the one hundred and eighty (180) days after the date of such notification.

2. The rights and obligations of chapter 9 (investment) shall remain in force for a further period of ten (10) years from the date of the notification of denunciation of the Agreement to covered investments.

Article 22.6. Accession

1. In accordance with the Montevideo Treaty 1980, this Agreement shall be open for accession by negotiation prior to the other member countries of ALADI.

2. Accession shall be formalized once negotiated terms between the parties and the acceding country, through the conclusion of an additional protocol to this Agreement shall enter into force thirty (30) days after being deposited with the General Secretariat of ALADI.

Article 22.7. Convergence

The Parties shall promote alignment of this Agreement integration agreements with other Latin American countries, in accordance with the mechanisms established in the Montevideo Treaty 1980.

Article 22.8. Future Negotiations

Tourism

1. The parties agree to conclude an agreement between the respective competent organs of the tourism sector to develop joint technical cooperation and assistance.

Financial Services

2. The Parties shall meet within two (2) years after the Entry into Force of this Agreement, to negotiate a chapter on Financial Services on a mutually advantageous basis. to this end, the competent authorities to undertake the necessary coordination.

Telecommunications

3. The parties to undertake in a period not exceeding six (6) months after the Entry into Force shall commence contacts to negotiate a chapter of telecommunications services on a mutually advantageous basis, which shall be determined by the competent authorities.

In WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement in duplicate equally authentic.

Done at Santiago, Chile, at the twenty-seventh day of November 2006.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE

FOR THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA

Annex I . Explanatory Note

1. A Party's Schedule to this Annex indicates, in accordance with Articles 9.8 and 10.6 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Articles 9.2 or 10.2 (National Treatment);

(b) Articles 9.3 or 10.3 (Most Favoured Nation Treatment);

(c) Article 10.4 (Local Presence)

(d) Article 10.5 (Market Access);

(e) Article 9.6 (Performance Requirements);

(f) Article 9.7 (Senior Executives and Boards of Directors).

2. Each tab in the annex sets out the following elements:

(a) Sector refers to the sector in general for which the record has been made;

(b) Sub-sector refers to the specific sector for which the fiche has been made;

(c) Obligations concerned specifies the obligation(s), referred to in paragraph 1, which, by virtue of Articles 9.8.1(a) and 10.6.1(a) (Non-Conforming Measures), do not apply to the listed measure(s);

(d) Measures identifies the laws, regulations or other measures for which the record has been made. A measure cited in the Measures element:

(i) means the measure as modified, continued, or renewed, as of the date of entry into force of this Agreement, and

(ii) includes any action subordinate to, taken or maintained under the authority of, and consistent with, such action;

(e) Description provides a general description of the Measure and sets out the liberalisation commitments, if any, at the date of entry into force of this Agreement.

3. In interpreting a schedule entry all elements of the entry shall be considered. A fiche shall be interpreted in the light of the relevant provisions of the Chapter against which the fiche is taken. The Measures element shall prevail over all other elements unless any discrepancy between the Measures element and the other elements, considered as a whole, is so substantial and significant that it would be unreasonable to conclude that the Measures element should prevail; in this case, the other elements shall prevail to the extent of that discrepancy. Notwithstanding the above, where the Description element provides for liberalisation commitments, it shall prevail over the other elements.

4. In accordance with Articles 9.8.1(a) and 10.6.1(a) (Non-Conforming Measures), the Articles of this Agreement specified in the Affected Obligations element of a Schedule do not apply to the law, regulation, or other measure identified in the Measures element of that Schedule.

5. Where a Party maintains a measure that requires a service supplier to be a national, permanent resident, or resident in its territory as a condition for the supply of a service in its territory, an Annex tab made for that measure in relation to Articles 10.2 (National Treatment), 10.3 (Most-Favored-Nation Treatment), or 10.4 (Local Presence) shall operate as a schedule to Article 9.2 (National Treatment), 9.3 (Most-Favored-Nation Treatment), or 9.6 (Performance Requirements) with respect to such measure.

6. For the purposes of this Agreement, it shall be understood that formalities enabling the conduct of business, such as measures requiring: registration under domestic law, an address, legal representation, an operating licence or permit, need not be reserved in Annexes I and II with respect to Articles 9.2 and 10.2 (National Treatment) or 10.4 (Local Presence) of the Agreement, provided that the measure does not impose a requirement to establish an operational office or other ongoing business presence as a condition for the provision of the service in the country.

Annex I . Chile

Sector: All Sectors

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Measures: Decreto Ley 1939, Diario Oficial, November 10, 1977, Normas sobre adquisición, administración y disposición de bienes del Estado, Title I.

Decreto con Fuerza de Ley 4 del Ministerio de Relaciones Exteriores, Diario Oficial, November 10, 1967.

Description: Investment

Ownership or any other type of right over "State lands" may only be obtained by Chilean natural or juridical persons, unless the corresponding legal exceptions apply, such as Decree Law 1939. State lands for these purposes comprise State-owned lands up to a distance of ten (10) kilometres from the border and up to a distance of five (5) kilometres from the coast.

Real estate located in areas declared "border zone" by virtue of Decree with Force of Law 4, of 1967, of the Ministry of Foreign Affairs, may not be acquired by ownership or any other title by (1) natural persons with nationality of border countries, (2) legal persons with their principal place of business in a border country, (3) legal persons with forty (40) percent or more of their capital belonging to natural persons with nationality of border countries, or (4) legal persons whose effective control is exercised by such natural persons. Notwithstanding the above, this limitation may be waived by Supreme Decree of the President of the Republic based on reasons of national interest.

Sector: All Sectors

Subsector:

Obligations Concerned: National Treatment (Article 10.2)

Local Presence (Article 10.4)

Measures: Decreto con Fuerza de Ley 1 del Ministerio del Trabajo y Previsión Social, Diario Oficial, January 24, 1994, Labour Code, Preliminary Title, Book I, Chapter III.

Decreto con Fuerza de Ley 2 del Ministerio del Trabajo y Previsión Social, Diario Oficial, 29 October, 1967, Article 5 letter c).

Civil Code, Article 16, paragraph 3.

Description: Cross Border Trade in Services

At least eighty-five (85) per cent of the workers of the same employer must be Chilean natural persons. This rule applies to employers with more than twenty-five (25) workers with an employment contract. Technical expert personnel, who cannot be replaced by national personnel, shall not be subject to this provision, as determined by the Directorate General of Labour.

A worker shall mean any natural person who provides intellectual or material services, under dependence or subordination, by virtue of an employment contract.

Whoever plays the role of employer must set up a representative or agent in the country, with residence and domicile within its territory, with sufficient powers and faculties to respond for the obligations imposed by labour and social security legislation for said contract, as well as for the sanctions that may be applied.

Sector:Business services

Subsector: Research services

Obligations Concerned: National Treatment (Article 10.2)

Measures: Supreme Decree 711 of the Ministry of Defence, Official Gazette, October 15, 1975.

Description: Cross-border trade in services

Foreign natural and legal persons wishing to carry out research in the two hundred (200) mile maritime zone under national jurisdiction shall submit a request six months in advance to the Hydrographic Institute of the Chilean Navy, and shall comply with the requirements established by the respective regulation.

Sector:Business services

Subsector: Research services

Obligations Concerned: National Treatment (Article 10.2)

Measures: Decree with Force of Law 11 of the Ministry of Foreign Affairs, Official Gazette, December 5, 1968.

Decree 559 of the Ministry of Foreign Affairs, Official Journal, January 24, 1968.

Decreto con Fuerza de Ley 83 del Ministerio de Relaciones Exteriores, Diario Oficial, March 27, 1979.

Description: Cross-border trade in services

Natural persons representing foreign juridical persons or natural persons domiciled abroad who wish to carry out explorations for scientific, technical or mountaineering work in border areas shall request the corresponding authorisation through a Chilean Consul in the country of domicile of the natural person, who shall forward it immediately and directly to the Directorate of Frontiers and Boundaries of the State. The Directorate of Frontiers and Boundaries of the State may arrange for one or more representatives of the relevant Chilean activities to take part in the expedition, in order to participate in and become acquainted with the studies to be carried out.

The Operations Department of the Directorate of Frontiers and Boundaries of the State must decide and report whether it authorises or rejects geographic or scientific explorations planned to be carried out by foreign persons or organisations in Chile. The Directorate of Frontiers and Boundaries of the State must authorise and control any exploration for scientific, technical or mountaineering purposes that foreign legal entities or natural persons domiciled abroad wish to carry out in border areas.

Sector: Services provided to businesses

Subsector: Social science research services

Obligations Concerned: National Treatment (Article 10.2)

Measures: Law 17.288, Official Gazette, February 4, 1970, Title V.

Supreme Decree 484 of the Ministry of Education, Official Gazette, April 2, 1991.

Description: Cross-border trade in services

Foreign natural or legal persons wishing to carry out anthropological, archaeological or palaeontological excavations, surveys, soundings and/or collections, must request the corresponding permit from the National Monuments Council (Consejo de Monumentos Nacionales). It is a precondition for the permit to be granted that the person in charge of the research belongs to a reliable foreign scientific institution and that he/she works in collaboration with a Chilean state or university scientific institution.

Permits may be granted to (1) Chilean researchers with scientific archaeological, anthropological or paleontological training, as appropriate, duly accredited, who have a research project and proper institutional sponsorship; (2) and to foreign researchers, provided that they belong to a reliable scientific institution and that they work in collaboration with a Chilean state or university scientific institution. Curators and directors of museums recognised by the Consejo de Monumentos Nacionales, professional archaeologists, anthropologists or palaeontologists, as appropriate, and members of the Sociedad Chilena de Arqueología shall be authorised to carry out salvage operations. Salvage operations are the urgent recovery of archaeological, anthropological or palaeontological data or species threatened with imminent loss.

Sector: Printing, publishing and allied industries

Subsector:

Obligations Concerned: National Treatment (Articles 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.5)

Senior Executives and Boards of Directors (Article 9.6)

Measures: Law 19.733, Official Gazette, June 4, 2001, Law on Freedom of Opinion and Information and the Practice of Journalism, Titles I and III.

Description: Investment and Cross-Border Trade in Services

The owner of a means of social communication, such as newspapers, magazines, or texts published on a regular basis with editorial direction in Chile, or a national news agency, in the case of a natural person, must have a duly established domicile in Chile and, in the case of a legal person, must be incorporated with domicile in Chile or have an agency authorised to operate within the national territory. Only Chileans can be presidents, administrators or legal representatives of the juridical person. The legally responsible director and the person replacing him/her must be Chilean with domicile and residence in Chile.

Sector: Communications

Subsector: Basic long-distance telecommunications services

national or international and intermediate services; telecommunications services; telecommunications supplementary services; and limited telecommunications services

Obligations Concerned: National Treatment (Article 9.2)

Most Favoured Nation Treatment (Article 9.3)

Measures: Law 18.168, Diario Oficial, October 2, 1982, General Telecommunications Law, Titles I, II and III.

Description: Investment

A concession granted by Supreme Decree of the Ministry of Transport and Telecommunications is required for the installation, operation and exploitation of public and intermediate telecommunications services in Chilean territory. Only legal entities incorporated under Chilean law may obtain such concessions.

A pronouncement from the Undersecretariat for Telecommunications is required for the provision of complementary

telecommunications services consisting of additional services provided through the connection of equipment to public networks. Said pronouncement refers to compliance with the technical regulations established by the Undersecretariat of Telecommunications and the non-alteration of the essential technical characteristics of the networks, nor the use that they technologically allow, nor the modalities of the basic service provided with them.

A permit from the Undersecretariat of Telecommunications is required for the installation, operation and development of limited telecommunications services.

International traffic must be routed through the facilities of a company holding a concession granted by the Ministry of Transport and Telecommunications.

Sector: Communications

Subsector:

Obligations Concerned: National Treatment (Article 9.2 and 10.2)

Most Favoured Nation Treatment (Article 9.3 and 10.3) Local Presence (Article 10.4)

Performance Requirements (Article 9.6) Senior Executives and Boards (Article 9.7)

Measures: Law 18.838, Official Gazette, September 30, 1989, National Television Council, Titles I, II and III.

Law 18.168, Diario Oficial, October 2, 1982, General Telecommunications Law, Titles I, II and III.

Law 19.733, Official Gazette, June 4, 2001, Law on Freedom of Opinion and Information and the Practice of Journalism, Titles I and III.

Description: Investment and Cross-Border Trade in Services

The owner of a means of social communication, such as image and sound transmissions or a national news agency, in the case of a natural person, must have a duly established domicile in Chile, and, in the case of a legal person, must be incorporated with domicile in Chile or have an agency authorised to operate within the national territory. Only Chileans can be presidents, managers, administrators or representatives of the legal person. In the case of free-to-air radio broadcasting services, the majority of the members of the board of directors must be Chilean. The legally responsible director and the person replacing him/her must be Chilean with domicile and residence in Chile.

Applications for a free-to-air radio broadcasting concession submitted by a legal person in which more than ten (10) per cent of its share capital is held by foreigners shall be granted only if it is previously proven that Chilean nationals are granted similar rights and obligations in the applicant's country of origin as those that the applicant will enjoy in Chile.

The National Television Council may set a general requirement of up to forty (40) per cent Chilean production in programmes broadcast by free-to-air television transmission service channels.

Only legal persons under public or private law, incorporated in Chile and domiciled in the country, may hold or use, in any capacity, permits for limited radio broadcasting telecommunications services. The presidents, managers or legal representatives must be Chilean nationals.

Only legal persons under public or private law, incorporated in Chile and domiciled in the country, may hold or make use of limited cable or microwave television service licences, in any capacity whatsoever. The presidents, directors, managers, administrators and legal representatives of the legal person shall be Chilean.

Sector: Energy

Subsector:

Obligations Concerned: National Treatment (Article 9.2)

Performance Requirements (Article 9.6)

Measures: Political Constitution of the Republic of Chile, Chapter III.

Law 18.097, Diario Oficial, January 21, 1982, Constitutional Organic Law on Mining Concessions, Titles I, II and III.

Law 18.248, Diario Oficial, October 14, 1983, Mining Code, Titles I, II and III.

Law 16.319, Diario Oficial, October 23, 1965, creates the Chilean Nuclear Energy Commission, Titles I, II and III.

Description: Investment

The exploration, exploitation and exploitation of liquid or gaseous hydrocarbons, deposits of any kind existing in maritime waters under national jurisdiction and those located totally or partially in areas determined to be important for national security with mining effects, whose qualification shall be made exclusively by law, may be the object of administrative concessions or special operating contracts, with the requirements and under the conditions that the President of the Republic establishes, for each case, by Supreme Decree. For greater certainty, it is understood that the term "benefit" does not include the storage, transport or refining of the energetic material referred to in this paragraph.

The production of nuclear energy for peaceful purposes may only be carried out by the Chilean Nuclear Energy Commission or, with its authorisation, jointly with third parties. If the Commission determines that it is advisable to grant such authorisation, it shall determine its conditions.

Sector: Fisheries

Subsector: Aquaculture

Obligations Concerned: National Treatment (Article 9.2)

Measures: Law 18.892, Official Gazette, January 21, 1992, General Law on Fisheries and Aquaculture, Titles I and VI.

Description: Investment

A concession or authorisation for the use of beaches, beach land, water bodies and seabed is required to carry out aquaculture activities.

Only Chilean natural persons or legal persons constituted under Chilean law and foreigners with a permanent residence permit may hold an authorisation or concession to carry out aquaculture activities.

Sector: Fisheries

Subsector:

Obligations Concerned: National Treatment (Articles 9.2, and 10.2)

Most-Favoured-Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Senior Executives and Boards (Article 9.7)

Measures: Law 18.892, Diario Oficial, January 21, 1992, General Law on Fisheries and Aquaculture, Titles I, III, IV and IX.

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I and II.

Description: Investment and Cross-Border Trade in Services

To harvest and capture hydrobiological species in Chile's internal waters, territorial sea and Exclusive Economic Zone, a permit issued by the Undersecretariat of Fisheries is required.

Only Chilean natural persons or legal persons constituted under Chilean law and foreigners with permanent residence may hold a permit to harvest and catch hydrobiological species.

Only Chilean vessels may fish in internal waters, territorial sea or in Chile's Exclusive Economic Zone. Chilean vessels are those defined as such in the Navigation Law. Access to industrial extractive fishing activities shall be subject to prior registration of the vessel in Chile.

Only a Chilean natural or legal person may register a vessel in Chile. A juridical person must be incorporated with its main domicile and real and effective seat in Chile. The president, manager and the majority of the directors or administrators must be Chilean natural persons. In addition, more than fifty (50) per cent of its share capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person holding an interest in another juridical person owning a vessel must comply with all the above requirements.

A community may register a vessel if (1) the majority of the co-owners are Chilean with domicile and residence in Chile; (2) the administrators must be Chilean; and (3) the majority of the rights in the community must belong to Chilean natural or legal persons. For these purposes, a legal person that is a co-owner of a vessel must comply with all the aforementioned requirements.

An owner (natural or legal person) of a fishing vessel registered prior to 30 June 1991 shall not be subject to the above nationality requirement.

Fishing vessels so authorised by the maritime authorities, in accordance with powers conferred by law in case of reciprocity granted to Chilean vessels by other States, may be exempted from the above requirements, under conditions equivalent to those granted to Chilean vessels by that State.

Access to artisanal fishing shall be subject to registration in the Artisanal Fishing Register. Only Chilean natural persons, foreign natural persons with permanent residence in Chile or a legal person constituted by the aforementioned natural persons may register for small-scale fishing.

Sector: Mining

Subsector:

Obligations Concerned: National Treatment (Article 9.2)

Performance Requirements (Article 9.6)

Measures: Political Constitution of the Republic of Chile, Chapter III.

Law 18.097, Diario Oficial, January 21, 1982, Constitutional Organic Law on Mining Concessions, Titles I, II and III.

Law 18.248, Diario Oficial, October 14, 1983, Mining Code, Titles I and III.

Law 16.319, Diario Oficial, October 23, 1965, creates the Chilean Nuclear Energy Commission, Titles I, II and III.

Description: Investment

The exploration, exploitation and benefit of lithium, deposits of any kind existing in maritime waters under national jurisdiction and deposits of any kind located totally or partially in determined areas of importance for national security with mining effects, whose qualification shall be made exclusively by law, may be the object of administrative concessions or special operating contracts, with the requirements and under the conditions that the President of the Republic establishes, for each case, by supreme decree.

For greater certainty, Chile has, at the usual market price and terms, the right of first option to purchase mining products originating from operations developed in the country where thorium or uranium have a significant presence.

For greater certainty, Chile may require producers to separate the portion of mineral products from the mineral products:

(1) liquid or gaseous hydrocarbons;

(2) lithium;

(3) deposits of any species existing in maritime waters under national jurisdiction; and

(4) deposits of any kind located in whole or in part in areas determined to be of national security importance for mining purposes, the classification of which shall be made exclusively by law,

which are present in significant quantities in such products and which can be economically and technically separated for delivery or sale on behalf of the State. For these purposes, economic and technical separation implies that the costs incurred in the recovery of the four substances listed above, through an appropriate technical procedure, and in their marketing and delivery, should be less than their commercial value.

Natural atomic materials and extracted lithium, as well as concentrates, derivatives and compounds thereof, may not be the subject of any legal act, except when executed or entered into by the Chilean Nuclear Energy Commission, with the latter or with its prior authorisation. If the Commission determines that it is advisable to grant such authorisation, it shall determine its conditions.

Sector: Professional services

Subsector: Professional, technical and specialised services

Obligations Concerned: National Treatment (Article 10.2)

Local Presence (Article 10.4)

Measures: Ley 18.046, Diario Oficial, October 22, 1981, Ley de Sociedades Anónimas, Title V.

Decreto Supremo 587 del Ministerio de Hacienda, Diario Oficial, November 13, 1982, Reglamento de Sociedades Anónimas (Supreme Decree 587 of the Ministry of Finance, Official Gazette, November 13, 1982, Regulation of Corporations)

Decree Law 1.097, Official Journal, July 25, 1975, Titles I, II, III and IV.

Decree Law 3.538, Official Gazette, December 23, 1980, Titles I, II, III and IV.

Circular 2.714, October 6, 1992; Circular 1, January 17, 1989; Chapter 19 of the Updated Compilation of Rules of the Superintendency of Banks and Financial Institutions on external auditors.

Circulars 327, June 29, 1983, and 350, October 21, 1983, of the Superintendency of Securities and Insurance.

Description: Cross-border trade in services

Only legal persons legally constituted in Chile as partnerships or associations and whose main line of business is auditing services may be entered in the Register.

Sector: Professional services

Subsector: Legal services

Obligations Concerned: National Treatment (Article 10.2)

Most Favoured Nation Treatment (Article 10.3)

Measures: Organic Code of Courts, Title XV

Decree 110 of the Ministry of Justice, Official Gazette, March 20, 1979.

Law 18.120, Official Journal, May 18, 1982.

Description: Cross-border trade in services

Only Chilean natural persons may practise the profession of lawyer.

Only lawyers may provide services such as sponsorship in matters before the courts of the Republic, and this is translated into the obligation that the first submission of each party must be sponsored by a lawyer authorised to practise the profession; the drafting of deeds of incorporation, modification, rescission or liquidation of companies, liquidation of conjugal partnerships, partition of property, deeds of incorporation of legal personality, deeds of associations of canalists, cooperatives, transaction contracts and contracts of issue of bonds of joint-stock companies; and sponsorship of the application for granting legal personality for corporations and foundations.

Chile has a bilateral agreement with Ecuador, whereby Ecuadorians holding a law degree awarded by a university in Ecuador are admitted to practice law in Chile.

None of these measures apply to foreign legal consultants practising or advising on the law of any country in which that consultant is authorised to practise as a lawyer.

Sector: Professional services

Subsector: Professional, technical and specialist services Services auxiliary to the administration of justice

Obligations Concerned: National Treatment (Article 10.2)

Local Presence (Article 10.4)

Measures: Organic Code of Courts, Titles XI and XII.

Regulations of the Real Estate Registry, Titles I, II and III.

Law 18.118, Official Journal, May 22, 1982, Title I.

Decree 197 of the Ministry of Economy, Official Gazette, August 8, 1985.

Law 18.175, Official Gazette, October 28, 1982, Title III.

Description: Cross-border trade in services

Judicial auxiliaries must reside in the same place or town as the court where they are to perform their services.

Public defenders, notaries public and conservators must be Chilean and meet the same requirements as for judges.

Archivists and arbitrators at law must be lawyers, therefore, they must be Chilean natural persons. Colombian lawyers may participate in an arbitration when Colombian law is involved and the parties to the arbitration so request.

Only Chilean natural persons with the right to vote and foreigners with permanent residence and the right to vote may act as judicial receivers and as procurators of the number.

Only Chilean natural persons and foreigners with definitive residence in Chile or Chilean legal entities may be public auctioneers.

To be a bankruptcy trustee it is necessary to hold a technical or professional degree awarded by a university, a professional institute or a technical training centre recognised by Chile. Bankruptcy trustees must have at least three (3) years' experience in commercial, economic or legal areas and be duly authorised by the Minister of Justice and may only work in the place of their residence.

Sector: Specialised Services

Subsector: Customs Agents and Brokers

Obligations Concerned: National Treatment (Article 10.2)

Local Presence (Article 10.4)

Measures: Decreto con Fuerza de Ley 30 del Ministerio de Hacienda, Diario Oficial, April 13, 1983, Book IV.

Decree with Force of Law 2 of the Ministry of Finance, 1998.

Description: Cross Border Trade in Services

Only Chilean natural persons may provide the services of customs agents and customs brokers. These functions must be performed personally and diligently.

Sector: Investigative and security services

Subsector: Specialised services Armed security guards

Obligations Concerned: National Treatment (Article 10.2)

Measures: Decree 1.773 of the Ministry of the Interior, Official Journal, November 14, 1994.

Description: Cross-border trade in services

Only the Chileans can provide services as armed private guards.

Sector: Services services, fishing y hunting industrial, y recreational

Subsector:

Obligations Concerned: Local Presence (Article 10.4)

Measure: Law 17.798, Official Gazette, October 21, 1972, Title I.

Supreme Decree 77 of the Ministry of Defence, Diario Oficial, August 14, 1982.

Description: Cross-border trade in services

Persons in possession of arms, explosives or similar substances must apply for registration with the supervisory authority corresponding to their place of residence, for which purpose an application must be submitted to the General Directorate for National Mobilisation of the Ministry of Defence.

Any natural or legal person who is registered as an importer of fireworks may request authorisation for the import and entry into Chile of Group Nº3 from the General Directorate of National Mobilisation, and may even keep stocks of these elements for sale to persons authorised to carry out pyrotechnic shows.

The Supervisory Authority may only authorise a pyrotechnic display if there is a report for its installation, development and safety measures, signed and approved by a programmer registered in the national registers of the General Directorate of National Mobilisation or by a professional accredited by the General Directorate of National Mobilisation.

For the assembly and performance of the fireworks display, at least one fireworks handler registered with the Directorate-General must be present.

Sector: Transport

Subsector: Air transport

Obligations Concerned: National Treatment (Articles 9.2 and 10.2)

Most-Favoured-Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Senior Executives and Boards (Article 9.7)

Measures: Law 18.916, Diario Diario Oficial, February 8, 1990, Aeronautical Code, Titles, Preliminary, II and III

Decree Law 2.564, Official Journal, June 22, 1979, Commercial Aviation Regulations.

Supreme Decree 624 of the Ministry of Defence, Diario Oficial, January 5, 1995.

Law 16.752, Official Gazette, February 17, 1968, Title II.

Ministry of Defence Decree 34, Official Gazette, February 10, 1968.

Supreme Decree 102 of the Ministry of Transport and Telecommunications, Diario Oficial, June 17, 1981.

Supreme Decree 172 of the Ministry of Defence, Diario Oficial, March 5, 1974.

Supreme Decree 37 of the Ministry of Defence, Official Gazette, December 10, 1991.

Ministry of Defence Decree 234, Official Gazette, June 19, 1971.

Description: Investment and Cross-Border Trade in Services

Only a Chilean natural or legal person may register an aircraft in Chile. A juridical person must be incorporated in Chile with its main domicile and real and effective seat in Chile. In addition, the majority of its ownership must belong to Chilean natural or juridical persons, which in turn must comply with the above requirements.

The president, manager and the majority of the directors or administrators of the legal person must be Chilean.

Foreign-registered private aircraft engaged in non-commercial activities may not remain in Chile without authorisation from the Directorate General of Civil Aeronautics for more than thirty (30) days from the date of entry into the country. For greater certainty, this measure shall not apply to specialised air services as defined in Article 10.12 (Definitions), except in the case of glider towing services and parachuting services.

In order to work as a crew member of aircraft operated by a Chilean airline, foreign aeronautical personnel must first obtain a national licence with the respective qualifications that allow them to carry out their duties.

Foreign aeronautical personnel may exercise their activities in Chile only if the licence or rating granted in another country is recognised by the Chilean civil aeronautical authority as valid. In the absence of an international agreement regulating such recognition, it shall be carried out under conditions of reciprocity. In this case, it shall be demonstrated that the licences and ratings were issued or validated by the competent authority in the State of registration of the aircraft, that they are in force and that the requirements to extend or validate them are equal or superior to those established in Chile for similar cases.

Air transport services may be carried out by Chilean or foreign air carriers provided that, on the routes they operate, the other States grant similar conditions for Chilean air carriers, when they so request. The Civil Aeronautics Board, by a well-founded resolution, may terminate, suspend or limit cabotage services or other kinds of commercial air navigation services, which are carried out exclusively within the national territory by foreign companies or aircraft, if their country of origin does not effectively grant or recognise the right to equal treatment for Chilean companies or aircraft.

In order for foreign civil aircraft not engaged in commercial transport activities and those engaged in commercial air transport activities on a non-scheduled basis to have the right to enter Chilean territory, including its jurisdictional waters, to fly over it and to make stopovers therein for non-commercial purposes, they shall inform the Directorate General of Civil

Aeronautics at least twenty-four hours in advance. Aircraft engaged in non-scheduled commercial air transport may not take on or leave passengers, cargo or mail in Chilean territory without prior authorisation granted by the Civil Aeronautics Board.

Sector: Transport

Subsector: Land road transport

Obligations Concerned: National Treatment (Article 10.2)

Most Favoured Nation Treatment (Article 10.3) Local Presence (Article 10.4)

Measures: Supreme Decree 212 of the Ministry of Transport and Telecommunications, Official Gazette, November 21, 1992.

Decree 163 from Ministry of Transport and Telecommunications, Official Journal, January 4, 1985.

Decree Supremo 257 of Ministry of Foreign Affairs, Official Gazette, October 17, 1991.

Description: Cross-border trade in services

Providers of land transport services shall register in the National Register by means of an application to be submitted to the Regional Ministerial Secretary of Transport and Telecommunications. In the case of urban services, interested parties shall submit the application to the Regional Secretary with jurisdiction in the locality where the service will be provided and, in the case of rural and interurban services, in the region corresponding to the domicile of the interested party. The application for registration shall specify the information required by law and shall include, among other information, a photocopy of the national identity card, duly authenticated and, in the case of legal persons, the public instruments proving their incorporation, name and address of the legal representative as well as the documents accrediting him/her as such. Foreign natural or legal persons authorised to provide international transport services in the territory of Chile may not carry out local transport services or participate, in any way, in such activities within the national territory.

Only companies with real and effective domicile and created under the laws of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay and Paraguay can provide international land transport services between these countries.

Additionally, in order to obtain a permit to provide international land transport services, in the case of foreign legal persons, more than fifty (50) percent of their capital and effective control of these legal persons must belong to nationals of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay or Paraguay.

Sector: Transport

Subsector: Water transport

Obligations Concerned: National Treatment (Article 9.2 and 10.2)

Most Favoured Nation Treatment (Article 9.3 and 10.3) Local Presence (Article 10.4)

Senior Executives and Boards (Article 9.7)

Measures: Decreto Ley 3.059, Diario Oficial, December 22, 1979, Ley de Fomento a la Marina Mercante, Titles I and II.

Decreto Supremo 24, Diario Oficial, March 10, 1986, Reglamento del Decreto Ley 3.059, Titles I and II.

Decreto Ley 2.222, Diario Oficial, May 31, 1978, Navigation Law, Titles I, II, III, IV and V.

Supreme Decree 153, Official Gazette, March 11, 1966, Approves the General Regulations for the Registration of Seafarers, River and Lake Personnel.

Code of Commerce, Book III, Titles I, IV and V

Ley 19.420, Diario Oficial, October 23, 1995, Establece incentivos para el desarrollo económico de las provincias de Arica y Parinacota y modifica cuerpos legales que indica, Título Disposiciones varias.

Description: Investment and Cross-Border Trade in Services

Only a Chilean natural or legal person may register a vessel in Chile. A juridical person must be incorporated with its main domicile and real and effective seat in Chile. The president, manager and the majority of the directors or administrators must be Chilean natural persons. In addition, more than fifty (50) per cent of its share capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person holding an interest in another juridical person owning a vessel must comply with all the above requirements.

A community may register a vessel if (1) the majority of the co-owners are Chilean with domicile and residence in Chile; (2) the administrators are Chilean; and (3) the majority of the rights in the community belong to Chilean natural or legal persons. For these purposes, a legal person that is a co-owner of a vessel must meet all the above-mentioned requirements to be considered Chilean.

Special vessels owned by foreign natural or legal persons domiciled in Chile may, under certain conditions, be registered in Chile. For these purposes, a special vessel does not include a fishing vessel. The conditions required to register special vessels owned by foreign natural or juridical persons are the following: (1) domicile in Chile; (2) principal place of business in the country; or (3) permanently exercising a profession or industry in Chile. The maritime authority may, for reasons of national security, impose special rules restricting their operations.

The maritime authority may grant better treatment on the basis of the principle of reciprocity.

Foreign vessels must use pilotage, anchoring and port pilotage services when required by the maritime authorities. Only Chilean flag tugboats may be used for towing or other manoeuvres in Chilean ports.

To be a captain, it is necessary to be Chilean and hold the title of captain conferred by the corresponding authority. To be an officer of Chilean vessels, it is necessary to be a Chilean natural person and to be registered in the Register of Officers. To be a crew member of Chilean vessels, it is necessary to be Chilean, possess a registration or permit granted by the Maritime Authority and be registered in the respective Register. Professional qualifications and licences granted in a foreign country shall be valid for serving as an officer on national vessels when the Director so orders by a resolution stating the grounds.

The ship's master must be Chilean. The ship's master is the natural person who, in possession of the title of master granted by the Director, is qualified to command small vessels and certain special larger vessels.

Only Chileans or foreigners domiciled in Chile may work as fishing skippers, motor mechanics, motorists, motorists, seamen, fishermen, fishermen, employees or technical workers in maritime industries or commerce and as crew members of industrial and general service crews on factory or fishing vessels when requested by the shipowners because they are indispensable for the initial organisation of the work.

In order to fly the national flag, the ship's master, officers and crew must be Chilean. However, the Directorate General of Maritime Territory and Merchant Marine, by means of a well-founded resolution and on a transitory basis, may authorise the hiring of foreign personnel when indispensable, except for the captain, who shall always be Chilean.

To work as a multimodal operator in Chile, it is necessary to be a Chilean natural or legal person.

Cabotage is reserved to Chilean vessels. Cabotage shall be understood as the maritime, river or lake transport of passengers and cargo between different points of the national territory, and between these and naval vessels installed in the territorial sea or in the Exclusive Economic Zone.

Foreign merchant vessels may participate in cabotage in the case of cargo volumes exceeding nine hundred (900) tons, following a public tender carried out by the user and duly convened in advance. In the case of cargo volumes equal to or less than nine hundred (900) tons and where there are no vessels available under the Chilean flag, the Maritime Authority shall authorise the loading of such cargoes on foreign merchant vessels. The cabotage reservation for Chilean vessels shall not apply in the case of cargoes coming from or bound for ports in the Province of Arica.

In the event that Chile adopts, for reasons of reciprocity, a measure of cargo reservation in the international carriage of cargo between Chile and another non-Party, the cargo reserved for it shall be carried on vessels flying the Chilean flag or reputed as such.

Sector: Transport

Subsector: Water transport

Obligations concerned:

National Treatment (Articles 9.2 and 10.2) Local Presence (Article 10.4)

Senior Executives and Boards of Directors (Article 9.7)

Measurements: Commercial Code, Book III, Titles I, IV and V.

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II and IV.

Decree 90 of the Ministry of Labour and Social Security, Official Journal 21 January 2000.

Decree 49 of the Ministry of Labour and Social Security, Official Journal 16 July 1999.

Labour Code, Book I, Title II, Chapter III, paragraph 2.

Description: Investment and Cross-Border Trade in Services

Ship agents or representatives of ship operators, owners or masters, whether natural or legal persons, must be Chilean nationals.

Port stevedoring and wharfage work carried out by natural persons is reserved to Chileans who are duly accredited before the corresponding authority to carry out the port work indicated in the law and have an office established in Chile.

When the activities are carried out by legal entities, they must be legally constituted in the country and have their main domicile in Chile. The president, administrators, managers or directors must be Chilean. At least fifty (50) per cent of the share capital must belong to Chilean natural or legal persons. Such companies must appoint one or more proxies to act on their behalf, who must be Chilean.

Port workers must pass a basic port security course at a Technical Execution Body authorised by the National Training and Employment Service, in accordance with the rules set out in the respective regulation.

All those who land, tranship and, in general, make use of Chilean mainland or island ports, especially for fishing catches or fish catches processed on board, shall also be Chilean natural or legal persons.

Annex I . Colombia

Sector: All sectors

Subsector:

Obligations corcerned: Local Presence (Article 10.4)

Measurements: Commercial Code, 1971 Art. 469, 471 and 474.

Description: Cross-border trade in services

A legal person incorporated under the laws of another country and with its principal place of business abroad must establish at least a branch in Colombia in order to develop a concession obtained from the Colombian State.

Sector: All sectors

Subsector:

Obligations concerned:

National Treatment (Articles 10.2) Performance Requirements (Article 9.6)

Measures: Código Sustantivo del Trabajo, 1993 Art. 74 and 75.

Description: Cross Border Trade in Services and Investment

Every employer who has more than ten (10) workers in his service must employ Colombians in a proportion of not less than ninety (90) per cent of the ordinary workers and not less than eighty (80) per cent of the qualified or specialist personnel or management or trust personnel.

At the request of the employer, this proportion may be reduced in the case of strictly technical and indispensable personnel and only for the time necessary to train Colombian personnel and through the obligation of the petitioner to provide the full training required for this purpose.

Sector: All sectors

Subsector:

Obligations concerned: National Treatment (Article 9.2)

Measures: Decree 2080 of 2000, Art. 26 and 27.

Description: Investment

Foreign investors may make portfolio investments in securities in Colombia only through a foreign equity investment fund.

Sector: All Sectors

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Measures: Law 226 of 1995, Art. 3 and 11.

Description: Investment

If the State decides to sell all or part of its participation in an enterprise to a person other than another Colombian state enterprise or other Colombian governmental entity, it must first offer such participation on an exclusive basis and under the conditions set out in Article 11 of Law 226 of 1995, to:

(a) employees, pensioners and former employees (other than former employees terminated with just cause) of the company and of other companies owned or controlled by that company;

(b) associations of employees or former employees of the company;

(c) workers' unions;

(d) federations y confederations of trade unions trade unions;

(e) employee funds;

(f) severance and pension funds; and

(g) cooperative entities.

However, once such an interest has been transferred or sold, Colombia does not reserve the right to control subsequent transfers or other sales of such interest.

Sector: All sectors

Obligations concerned:

Local Presence (Article 9.4)

Measures: Law 915 of 2004, Art. 5

Description: Cross-border trade in services

Only natural or legal persons with their principal place of business in the Free Port of San Andres, Providencia and Santa Catalina may provide services in this region.

For clarity, this measure does not affect the supply of services as defined in Article 10.12 (Cross-border trade in services or Cross-border supply of services), subparagraphs (a) and (b).

Sector: Chartered accountants

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4)

Measures: Law 43 of 1990, Art. 3 Par. 1

Resolution No. 160 of 2004, Art. 2 para. 2 and Art. 6.

Description: Cross-border trade in services

Only persons registered with the Central Board of Accountants may practice as accountants. A foreigner must have been continuously domiciled in Colombia for at least three (3) years prior to the application for registration and demonstrate accounting experience in Colombian territory for at least one (1) year.

(1) year. This experience may be acquired at the same time as or after studying public accounting.

For greater certainty, the provisions of this record do not in any way prejudice the rights and obligations arising from the "Convention on the exchange of securities between Chile and Colombia", signed on 23 June 1921.

For natural persons, the term "domiciled" implies being resident and having the intention to stay.

Sector: Research and development services

Subsector:

Obligations

affected: National Treatment (Article 10.2) Measures: Decree 309 of 2000, Art. 7 Description: Cross-border trade in services

Any foreign natural or legal person planning to carry out scientific research on biological diversity in the territory of Colombia must involve one or more Colombian researchers in the research or in the analysis of its results.

For greater certainty, this measure does not require or prohibit foreign persons and Colombian researchers from agreeing on rights to the research or analysis.

Sector: Fisheries and related activities

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Most Favoured Nation Treatment (Article 10.3) Market Access (Article 10.5)

Measures: Decree 2256 of 1991, Art. 27, 28 and 67.

Agreement 005 of 2003, Sections II and VII

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals may engage in small-scale fishing.

The operation of foreign flag vessels involved in fishing and related activities in Colombian territorial waters can only be carried out through association with a Colombian company holding the permit. In this case, the value of the permit and the fishing licence is higher for foreign-flagged vessels than for Colombian-flagged vessels.

The restriction on foreign-flagged vessels and the need for partnership with Colombian companies to engage in fishing and related activities in Colombian territorial waters does not apply to a country that is party to a bilateral agreement with Colombia that includes fishing-related activities under the conditions and limitations set out in that agreement.

Sector: Services directly related to the exploration and exploitation of minerals and hydrocarbons.

Subsector:

Obligations concerned:

Local Presence (Article 10.4)

Measures: Law 685 of 2001, Art. 19 and 20.

Legislative Decree 1056 of 1953, Art. 10.

Commercial Code, 1971Art. 471 and 474

Description: Cross-border trade in services

In order to supply services directly related to the exploration and exploitation of minerals and hydrocarbons in Colombia, any legal person incorporated under the laws of another country and having its principal place of business abroad must establish a branch, subsidiary or affiliate in Colombia.

The above does not apply to the provision of services with a duration of less than one (1) year.

Sector: Private security and surveillance services

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2) Local Presence (Article 10.4) Market Access (Article 10.5)

Measures: Decree 356 of 1994, Art. 8, 12, 23 and 25.

Description: Investment and Cross-Border Trade in Services

Only companies legally constituted as limited liability companies or as private security and surveillance cooperatives constituted as specialised associative companies can provide private security and surveillance services in Colombia. The partners or members of these companies must be Colombian nationals.

Companies incorporated prior to 11 February 1994 with foreign shareholders or capital may not increase the shareholding of foreign shareholders. Cooperatives incorporated prior to this date may retain their legal status.

Sector: Journalism

Subsector:

Obligations concerned: Senior Executives and Boards of Directors (Article 9.7)

Measures: Law 29 of 1944 Art. 13

Description: Investment

The editor or general manager of any newspaper published in Colombia that deals with national politics must be a Colombian national.

Sector: Travel and Tourism Agents

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4)

Measures: Law 32 of 1990, Art. 5

Decree 502 of 1997, Art. 1 to 7

Description: Cross-border trade in services

Foreigners not domiciled in Colombia may not provide travel and tourism agent services within the territory of Colombia.

For greater certainty, this fiche does not apply to services supplied by tourist guides, nor does it affect cross-border trade in services as defined in Article 10.12 (Cross-border trade in services or Cross-border supply of services), subparagraphs (a) and (b).

Sector: Public notary and registry services

Subsector:

Obligations concerned:

National Treatment (Article 10.2)

Market Access (Article 10.5)

Measures: Decree law 960 of 1970, Art. 123, 124, 126, 127 and 132.

Decree Law 1250 of 1970, Art. 60.

Description: Cross-border trade in services

Only Colombian nationals may be Notaries and/or Registrars.

The establishment of new notaries is subject to an economic needs test that considers the population of the area of interest, service needs and communication facilities, among other factors.

Sector: Public Utilities

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Market Access (Article 10.5) Local Presence (Article 10.4)

Measure: Law 142 of 1994, Articles 1, 17, 18, 19 and 23 Commercial Code, Art. 471 and 472.

Description: Investment and Cross-Border Trade in Services

Public utilities companies must be legally constituted and domiciled in Colombia as joint stock companies, except in the case of decentralised entities that take the form of industrial and commercial companies of the State, whose corporate purpose is the provision of public utilities under the regime of "public utilities companies" or "E.S.P.".

For the purposes of this sheet, residential public utilities comprise the provision of water supply, sewerage, sanitation, electricity and fuel gas distribution, basic public switched telephone services (BPCT) and their complementary activities. For basic public switched telephone services, the complementary activities are public long-distance telephony and mobile telephony in the rural sector, but do not include commercial mobile services.

In public tenders conducted under the same conditions for all participants, to grant concessions or licences for the provision of public utilities for organised local communities, companies where these communities have a majority will be preferred over any other equal bid.

Sector: Electric Power

Subsector:

Obligations concerned:

Market Access (Article 10.5)

Measures: Law 143 of 1994, Art. 74

Description: Cross-border trade in services

Only companies legally incorporated in Colombia prior to 12 July 1994 may carry out the activity of commercialisation and transmission of electricity or carry out more than one of the following activities at the same time: generation, distribution and transmission of electricity. For greater certainty, a company legally incorporated in Colombia cannot carry out the activity of commercialisation and transmission of electricity.

Sector: Customs activities

Subsector:

Obligations concerned:

Local Presence (Article 10.4)

Measures: Decree 2685 of 1999 Art. 74 and 76.

Description: Cross-border trade in services

To carry out activities of customs brokerage, intermediation for postal and specialised courier services (1) (including express shipments), warehousing of goods, transport of goods under customs control, international freight forwarder, and act as Permanent Customs Users or Highly Exporters, a person must be domiciled in Colombia or have a representative domiciled and legally responsible for its activities in Colombia.

(1) "Specialised courier service" means the kind of postal service provided independently of the official national and international postal networks, requiring the application and adoption of special features, for the receipt, collection and personalised delivery of items of

correspondence and other postal items, transported by surface and/or air, within and from the territory of Colombia.

Sector: Postal and specialised courier services

Subsector:

Obligations concerned:

Local Presence (Article 10.4)

Measures: Decree 229 of 1995, Art. 14 and Art. 17 numeral 2.

Description: Cross-border trade in services

Only legal persons legally incorporated in Colombia may provide postal and specialised courier services (1) in Colombia.

(1) As defined in the footer of the previous tab.

Sector: Telecommunications Services

Subsector:

Obligations concerned:

National Treatment (Article 10.2)

Market Access (Article 10.5) Local Presence (Article 10.4)

Measures: Law 671 of 2001

Decree 1616 of 2003, Art. 13 and 16.

Decree 2542 of 1997, Art. 2

Decree 2926 of 2005, Art. 2

Description: Cross-border trade in services

Only companies legally incorporated in Colombia may receive concessions for the provision of telecommunications services in Colombia.

Until 31 July 2007, concessions for the routing of international long-distance traffic will be granted only to operators on the basis of their facilities and the number of concessions will be granted on the basis of an economic needs test.

For greater certainty, Colombia may grant licences for the provision of long-distance basic public switched telephone service on less favourable terms, with respect to payment and duration only, than those granted to Colombia Telecomunicaciones S.A. E.S.P. under Article 2 of Decree 2542 of 1997, Articles 13 and 16 of Decree 1616 of 2003 and Decree 2926 of 2005.

Sector: Cinematography

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Performance Requirements (Article 9.6)

Measures: Law 814 of 2003, Art. 5, 14, 15 and 18.

Description: Investment and Cross-Border Trade in Services

The exhibition or distribution of foreign films is subject to the Film Development Fee, which is set at eight point five (8.5) percent of the monthly net income derived from such exhibition or distribution.

The Exhibitor's Fee shall be reduced by six point twenty-five (6.25) percentage points to two point twenty-five (2.25) percent when the exhibition of films is presented in conjunction with a national short film.

Until the year 2013, a distributor who, in the immediately preceding year, distributes for theatres a percentage of national

films equal to or exceeding the government's established percentage of exhibition of national films for theatres or exhibition, will have his Quota for the following year reduced by three (3) percentage points to five point five (5.5) percent.

Sector: Radio broadcasting

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4) Market Access (Article 10.5)

Measures: Law 80 of 1993, Art. 35

Law 74 of 1966, Art. 7

Decree 1447 of 1995, Art. 7, 9 and 18.

Description: Cross-border trade in services

Concessions to provide sound broadcasting services may only be granted to Colombian nationals or to legal persons legally incorporated in Colombia. The number of concessions for the provision of radio broadcasting services is subject to an economic necessity test in accordance with the objective selection criteria provided for in the law.

Directors of news or journalistic programmes must be Colombian nationals.

Sector: Free-to-air television

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2) Local Presence (Article 10.4) Performance Requirements (Article 9.6) Market Access (Article 10.5)

Measures: Law 014 of 1991, Art. 37

Law 680 of 2001, Art. 1 and 4

Law 335 of 1996, Art. 13 and 24.

Law 182 of 1995, Art. 37 numeral 3, Art. 47 and Art. 48

Agreement 002 of 1995, Art. 10 Paragraph

Agreement 023 of 1997, Art. 8 Paragraph

Agreement 024 of 1997, Art. 6 and 9

Agreement 020 of 1997, Art. 3 and 4

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals or legal persons legally constituted in Colombia may obtain concessions to provide free-to-air television services.

The concessionaires of privately operated national channels must be organised as joint stock companies.

The number of concessions for the provision of national and local for-profit free-to-air television services is subject to an economic needs test in accordance with the objective selection criteria set out in the law.

Foreign capital in free-to-air television concession companies is limited to forty (40) per cent.

National Television

National free-to-air television service providers (operators and concessionaires of slots) shall broadcast on each channel nationally produced programming as follows:

1) a minimum of seventy (70) percent between 19:00 hours and 22:30 hours (triple A);

2) a minimum of fifty (50) percent between 22:30 hours and 24:00 hours;

3) a minimum of fifty (50) percent between the hours of 10:00 a.m. and 7:00 p.m;

4) a minimum of fifty (50) percent for Saturdays, Sundays and holidays during the hours described in subparagraphs 1, 2 and 3 until 31 January 2009, after which date the minimum for those days and hours shall be reduced to thirty (30) percent.

Regional and local television

The television regional only can be provided by State-owned entities.

Regional and local free-to-air television service providers shall broadcast on each channel a minimum of fifty

(50) per cent nationally produced programming.

Sector: Pay-TV

Subsector:

Obligations concerned:

Market Access (Article 10.5) Local Presence (Article 10.4) Performance Requirements (Article 9.6)

Measures: Law 680 of 2001. Art. 4 and 11

Law 182 of 1995, Art. 42

Agreement 014 of 1997 Art.14, 16 & 30

Law 335 of 1996, Art. 8

Agreement 032 of 1998, Art. 7 and 9

Description: Investment and Cross-Border Trade in Services

Only legal entities legally constituted in Colombia may provide subscription television service guaranteeing subscribers reception without additional costs of Colombian national, regional and municipal free-to-air television channels available in the authorised coverage area. The transmission of regional and municipal channels will be subject to the technical capacity of the pay television operator.

Satellite television service providers are only obliged to maintain within their basic programming the transmission of the State's public interest channels. Any domestic content quota imposed on free-to-air channels subject to a retransmission requirement is applied to the retransmitted channel respecting the original signal.

Subscription TV not including satellite

The subscription television service concessionaire that transmits commercials other than those of origin must comply with the percentages of nationally produced programming to which national free-to-air television service providers are obliged to comply as described in the previous tab. Colombia interprets Article 16 of Agreement 014 of 1997 as not requiring subscription television service providers to comply with minimum percentages of nationally produced programming when commercials are inserted into programming outside the territory of Colombia. Colombia will continue to apply this interpretation, subject to Article 10.6.1(c) (Nonconforming Measures).

There will be no restrictions on the number of pay-TV concessions at the zonal, municipal and district levels after the current concessions at these levels expire and in any case no later than 31 October 2011.

Pay-TV service providers must produce and broadcast in Colombia a minimum of one hour of such programming daily, between 18:00 and 24:00 hours.

Sector: Community television

Subsector:

Obligations concerned:

Local Presence (Article 10.4) Access to Markets (Article 10.5)

Measures: Law 182 of 1995, Art. 37 numeral 4.

Agreement 006 of 1999, Art. 3 and 4

Description: Cross-border trade in services

Community television services can only be provided by organised communities legally constituted in Colombia as foundations, cooperatives, associations or corporations governed by civil law.

For the sake of clarity, these services are provided with restrictions regarding the area of coverage, number and type of channels, number of partners and under the closed television modality.

Sector: Toxic waste processing, disposal and disposal services.

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Measures: Decree 2080 of 2000, Art. 6.

Description: Investment

Foreign investment is not allowed in activities related to the processing, disposal and disposal of toxic, hazardous or radioactive waste not produced in the country.

Sector: Transport

Subsector:

Obligations concerned:

Local Presence (Article 10.4)

Measures: Law 336 of 1996, Art. 9 and 10.

Decree 149 of 1999, Art. 5

Description: Cross-border trade in services

Providers of public transport services within the Colombian territory must be companies legally incorporated and domiciled in Colombia.

Only foreign companies with an agent or representative domiciled and legally responsible for their activities in Colombia may provide multimodal cargo transport services within and from the territory of Colombia.

Sector: Maritime and inland waterway transport

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4)

Measures: Decree 804 of 2001, Art. 2 and 4 Item 4.

1971 Commercial Code Art. 1455 Decree Law 2324 of 1984, Art. 99, 101 and 124.

Law 658 of 2001, Art. 11

Decree 1597 of 1998, Art. 23.

Description: Cross-border trade in services

Only companies legally constituted in Colombia, using Colombian flag vessels, can provide the public service of maritime and river transport between two points within Colombian territory (cabotage).

All foreign flag vessels arriving at a Colombian port must have a representative domiciled and legally responsible for their activities in Colombia.

The public maritime and fluvial pilotage service in Colombian territorial waters shall be provided only by Colombian nationals.

In Colombian-registered vessels and foreign-flagged vessels (except fishing vessels) operating in Colombian jurisdictional waters for a period of more than six continuous or discontinuous months from the date of issue of the respective permit, the captain, officers and at least eighty (80) per cent of the rest of the crew must be Colombian nationals.

Sector: Port Services

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4) Market Access (Article 10.5)

Measures: Law 1 of 1991, Art. 5.20 and Art. 6.

Decree 1423 of 1989, Art. 38.

Description: Cross-border trade in services

The holders of port concessions must be legally constituted in Colombia as a corporation, whose corporate purpose is to invest in the construction, maintenance and administration of ports.

Only Colombian flag vessels may provide port services in Colombian jurisdictional maritime spaces. However, in exceptional cases, the General Maritime Directorate may authorise the provision of such services with foreign flag vessels if there are no Colombian flag vessels capable of providing the service. The authorisation shall be given for a term of six (6) months, but may be extended up to a maximum total period of one (1) year.

Sector: Special aerial works

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2) Local Presence (Article 10.4)

Most Favoured Nation Treatment (Article 10.3)

Measurements: Commercial Code, Articles 1795, 1803, 1804 and 1864.

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals or legal persons legally constituted and domiciled in Colombia may perform special aerial work within Colombian territory.

Only Colombian nationals or legal persons legally constituted in Colombia may own and have actual and effective control of any aircraft registered to provide special aerial work in Colombia.

Any special air services company that has established an agency or branch in Colombia must employ Colombian workers in a proportion of no less than ninety per cent for its operations in Colombia. This percentage shall not apply to foreign workers from a country that offers reciprocity to Colombian workers. The aeronautical authority may allow, for duly justified reasons and for the indispensable time, to disregard the limit of workers indicated.

Annex II . Explanatory Note

1. A Party's Schedule to this Annex indicates, in accordance with Articles 9.8 and 10.6 (Non-Conforming Measures), the sectors, sub-sectors, or specific activities for which that Party may maintain existing measures or adopt new or more restrictive measures that are inconsistent with the obligations imposed by:

(a) Articles 9.2 or 10.2 (National Treatment);

(b) Articles 9.3 or 10.3 (Most Favoured Nation Treatment);

(c) Article 10.4 (Local Presence);

(d) Article 10.5 (Market Access);

(e) Article 9.6 (Performance Requirements);

(f) Article 9.7 (Senior Executives and Boards of Directors).

2. Each tab in the Annex sets out the following elements:

(a) Sector refers to the sector for which the record has been made;

(b) Sub-sector refers to the specific sector for which the fiche has been made;

(c) Obligations concerned specifies the obligation(s) referred to in paragraph 1 that, under Articles 9.8.2 and 9.8.3, are

10.6.2 (Non-conforming Measures), does not apply to the sectors, sub-sectors or activities listed in the fiche;

(d) Description describes the coverage of the sectors, sub-sectors, or activities covered by the fiche; and

(e) Measures in force identifies, for transparency purposes, the measures in force that apply to the sectors, sub-sectors or activities covered by the fiche.

3. In the interpretation of a reservation all its elements shall be considered. The Description element shall prevail over the other elements.

4. In accordance with Articles 9.8.2 and 10.6.2 (Non-conforming Measures), the Articles of this Agreement specified in the Obligations Concerned element of a Schedule do not apply to the sectors, sub-sectors and activities listed in the Description element of that Schedule.

5. For the purposes of this Agreement, it shall be understood that formalities enabling the conduct of business, such as measures requiring: registration under domestic law, an address, legal representation, an operating licence or permit, need not be reserved in Annexes I and II with respect to Articles 9.2 and 10.2 (National Treatment) or 10.4 (Local Presence) of the Agreement, provided that the measure does not impose a requirement to establish an operational office or other ongoing business presence as a condition for the provision of the service in the country.

Annex II . Chile

Sector: All Sectors

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Most Favoured Nation Treatment (Article 9.3)

Description: Investment

Chile reserves the right to adopt or maintain any measure relating to residency requirements for the ownership, by investors of the other Party or their investments, of coastal land.

A Chilean natural person, a person resident in Chile or a Chilean juridical person may acquire or control land used for agriculture. Chile otherwise reserves the right to adopt or maintain any measure relating to the ownership or control of such land. In the case of a juridical person, a majority of each class of shares may be required to be owned by Chilean natural persons or persons resident in Chile. A person is considered a resident if he resides in Chile one hundred and eighty-three (183) days a year or more.

Measures in force: Decree Law 1.939, Official Gazette, November 10, 1977,

Rules on the acquisition, administration and disposal of State property, Title I

Sector: All Sectors

Subsector:

Obligations Concerned: National Treatment (Article 9.2)

Senior Executives and Boards of Directors (Article 9.7)

Description: Investment

Chile, in selling or disposing of an equity interest or assets of an existing state enterprise or existing governmental entity, reserves the right to prohibit or impose limitations on the ownership of such interest or assets, and on the ability of the owners of such interest or assets to control any resulting enterprise, by investors of Colombia or a non-signatory country or their investments. In connection with any such sale or other disposition, Chile may adopt or maintain any measure relating to the nationality of senior management or members of the board of directors.

For the purposes of this reservation:

a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on participation in equity interests or assets or imposes nationality requirements described in this reservation, shall be deemed to be a measure in effect; and

b) “State enterprise" means an enterprise owned or controlled by Chile through ownership interest and includes an enterprise established after the date of entry into force of this Agreement solely for the purpose of selling or disposing of an equity interest in, or the assets of, an existing State enterprise or governmental entity.

Measures in force:

Sector: All Sectors

Subsector:

Obligations concerned Most Favoured Nation Treatment (Articles 9.3 and 10.3)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure providing for differential treatment of countries in accordance with any bilateral or multilateral international treaty in force or entered into prior to the date of entry into force of this Agreement.

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries in accordance with any international treaty in force or entered into after the date of entry into force of this Agreement with respect to:

a) aviation;

b) fishing; or

c) maritime affairs, including salvage.

Measures in force:

Sector: Minority issues

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Performance Requirements (Article 9.6) Senior Executives and Boards (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure granting rights or preferences to socially or economically disadvantaged minorities.

Measures in force:

Sector: Indigenous Peoples' Issues

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Performance Requirements (Article 9.6) Senior Executives and Boards (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that denies investors of Colombia and their investments or service suppliers of Colombia any rights or preferences granted to indigenous peoples.

Measures in force:

Sector: Communications

Subsector: Basic telecommunications networks and services

local; digital telecommunications services of one-way satellite transmissions whether direct-to-home television, direct broadcasting of television services and direct audio services; complementary telecommunications services; and limited telecommunications services

Obligations concerned:

National Treatment (Article 10.2)

Most Favoured Nation Treatment (Article 10.3) Local Presence (Article 10.4)

Description: Cross Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to cross-border trade in local basic telecommunications networks and services; digital telecommunications services of one-way satellite broadcasting, direct-to-home television, direct broadcasting of television and direct audio services; complementary telecommunications services; and limited telecommunications services.

Measures in force: Law 18.168, Diario Oficial, October 2, 1982, General Law of Telecommunications, Titles I, II, III, V and VI

Sector: Communications

Subsector: Basic telecommunications networks and services

local; digital telecommunications services of one-way satellite transmissions whether direct-to-home television, direct broadcasting of television services and direct audio services; supplementary telecommunications services and limited telecommunications services

Obligations concerned:

National Treatment (Article 9.2)

Most Favoured Nation Treatment (9.3) Performance Requirements (Article 9.6) Senior Executives and Boards of Directors (Article 9.7)

Description: Investment

Chile reserves the right to adopt or maintain any measure with respect to investors or investment by investors of the other signatory country in local basic telecommunications networks and services; digital telecommunications services of one-way satellite transmissions whether direct-to-home television, direct broadcasting of television and direct audio services; complementary telecommunications services and limited telecommunications services.

Measures in force: Law 18.168, Diario Oficial, October 2, 1982, General Law of Telecommunications, Titles I, II and III

Sector: Education

Subsector:

Obligations concerned

National Treatment (Article 10.2)

Most Favoured Nation Treatment (Article 10.3) Local Presence (Article 10.4)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure with respect to natural persons providing educational services, including teachers and auxiliary staff providing educational services at the basic, pre-basic, kindergarten, differential, secondary, higher, professional, technical, university and other persons providing education-related services, including the providers, in educational establishments of any kind, schools, colleges, high schools, academies, training centres, professional and technical institutes and/or universities.

This reservation does not apply to the provision of second language training, business training, industrial and commercial training and skills upgrading and education consultancy services, including technical support and consultancy, curriculum and programme development.

Measures in force:

Sector: Government Finance

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Description: Investment

Chile reserves the right to adopt or maintain any measure with respect to the acquisition, sale, or other disposition by nationals of Colombia of bonds, treasury securities, or other debt instruments issued by the Central Bank or the Government of Chile.

Measures in force:

Sector: Fisheries

Subsector: Activities related to fishing

Obligations concerned:

National Treatment (Article 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to control the fishing activities of foreigners, including landing, first landing of processed fish at sea and access to Chilean ports (port privilege).

Chile reserves the right to control the use of beaches, beach lands, portions of water and seabed for the granting of maritime concessions. For greater certainty, "maritime concessions" does not include aquaculture.

Measures in force: Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law Titles I, II, III, IV and V.

Decree with Force of Law 340, Official Gazette, April 6, 1960, on Maritime Concessions.

Decreto Supremo 660, Diario Oficial, November 28, 1988, Reglamento de Concesiones Marítimas.

Decreto Supremo Nº123, Ministerio de Economía, Subsecretaría de Pesca, Diario Oficial, August 23, 2004, sobre Uso de Puertos (Supreme Decree Nº123, Ministry of Economy, Undersecretariat of Fisheries, Official Gazette, August 23, 2004, on Port Use).

Sector: Cultural Industries

Subsector:

Obligations Concerned: Most Favoured Nation Treatment (Articles 9.3 and 10.3)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords different treatment to countries under any existing or future bilateral or multilateral international treaty with respect to cultural industries, such as audiovisual cooperation agreements. For greater certainty, governmental support programmes, through subsidies, for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

Cultural industries means any person who carries out any of the following activities:

(a) the publication, distribution or sale of printed or electronic books, magazines, periodicals or newspapers, but does not include the isolated activity of printing or typesetting of any of the foregoing;

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

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

(d) the production, distribution or sale of printed or machine-readable music; or

(e) radiocommunications where the transmissions are intended to be received directly by the general public, as well as all activities related to radio, television and cable broadcasting and satellite programming services and transmission networks.

Measures in force:

Sector: Social services

Subsector:

Obligations concerned:

National Treatment (Article 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Performance Requirements (Article 9.6) Senior Executives and Boards (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the execution of public law and the provision of social rehabilitation services as well as the following services, insofar as they are social services that are established or maintained in the public interest: income insurance or security, social security services, social welfare, public education, public training, health and child care.

Measures in force:

Sector: Environment-related services

Subsector:

Obligations concerned:

National Treatment (Article 10.2)

Most Favoured Nation Treatment (Article 10.3) Local Presence (Article 10.4)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure relating to the imposition of requirements that the production and distribution of drinking water, the collection and disposal of sewage, and sanitary services such as sewerage, waste disposal and sewage treatment may only be provided by Chilean juridical persons or persons created in accordance with requirements established by Chilean law.

This reservation does not apply to consultancy services contracted by such legal entities.

Measures in force:

Sector: Construction-related services

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure relating to the supply of construction services by foreign legal persons or entities, in the sense of imposing residency requirements, registration and/or any other form of local presence, or establishing the obligation to provide financial security for work as a condition for the supply of construction services.

Measures in force:

Sector: Land transport Road transport

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure in relation to land transport of goods or persons within the territory of the Republic of Chile (cabotage). Such activities are reserved to Chilean legal or natural persons who must use Chilean vehicles.

Measures in force:

Sector: International Road Transport Road Transport

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to Colombian natural or legal persons, in accordance with the provisions of the Agreement on International Land Transport (ATIT).

The provision of international land transport services from the territory of Chile is reserved to Chilean natural or juridical persons.

International transport companies established in Chile may not be more than forty-nine (49) per cent owned by foreigners.

Measures in force:

Sector: All Sectors

Obligations concerned:

Market Access (Article 10.5)

Description: Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure related to Article 10.5, except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

Legal services: For (a) and (c): None, except in the case of bankruptcy trustees who must be duly authorised by the Ministry of Justice, and may only work in the place where they reside. For (b): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Architectural services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Engineering services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Veterinary services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Services provided by midwives, nurses, physiotherapists and paramedical personnel: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Computer and related services: For (a),(b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Real estate services: Involving real estate owned or leased or on a fee or contract basis: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Rental or leasing services without operators, relating to ships, aircraft, any other transport equipment and other machinery and equipment: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Advertising, market research and public opinion polling services, management consultancy services related to those of management consultants, and technical testing and analysis: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Services related to agriculture, hunting and forestry: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Services related to mining, placement and supply of personnel, and research and security: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Maintenance and repair services of equipment (excluding ships, aircraft or other transport equipment), building cleaning services, photographic service, packing service and services provided on the occasion of assemblies and conventions: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Publishing and printing services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Domestic or international long-distance telecommunications services: For (a), (b), (c) and (d): Chile reserves the right to adopt or maintain any measure that is not inconsistent with its obligations under Article XVI of the GATS.

Intermediate telecommunications services, complementary telecommunications services, limited telecommunications services. For (a), (b) and (c): a concession granted by means of a Supreme Decree issued by the Ministry of Transport and Telecommunications is required for the installation, operation, and exploitation of public and intermediate telecommunications services in the territory of Chile. Only legal persons incorporated under Chilean law shall be eligible for such a concession.

An official pronouncement issued by the Undersecretariat for Telecommunications is required to carry out Complementary Telecommunications Services, which consist of additional services provided through the connection of equipment to public networks. Such a pronouncement refers to compliance with the technical standards established by the Undersecretariat of Telecommunications and the non-alteration of the essential technical characteristics of the networks and the use that they technologically allow, as well as the modalities of the basic service provided with them.

A permit issued by the Undersecretariat of Telecommunications is required for the installation, operation and development of limited telecommunications services.

International traffic must be routed through the facilities of a company holding a concession granted by the Ministry of Transport and Telecommunications.

For (d): No commitments, except as indicated in the restriction of the Labour Code.

Commission agent services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Wholesale trade services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Retail trade services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Franchise services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour

Code.

Repair services of personal and household goods: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Hotel and restaurant services (including contract catering), travel agencies and tour operators, tour guides: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Entertainment services (theatres, bands and orchestras, and circuses, services provided by authors, composers, sculptors, entertainers and other individual artists, amusement parks, and other similar amusement services, dance halls, discotheques and dance academies), news agencies, libraries, archives, museums and other cultural services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Sports services: For (a), (b) and (c): None, except that a specific type of legal entity is required for sports organisations carrying out professional activities. In addition, (1) no more than one team may participate with more than one team in the same category of a sport competition; (2) regulations may be established to prevent concentration of ownership of sport organisations; and (3) minimum capital requirements may be imposed. Para (d): No commitments, except as indicated in the restriction of the Labour Code.

Services for the operation of facilities for competitive sports and leisure sports: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Recreational park services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Road transport services: rental of commercial vehicles with driver, maintenance and repair of road transport equipment, road, bridge and tunnel services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Ancillary services in relation to all modes of transport: loading and unloading services, warehousing, freight forwarding services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Pipeline transport services (transport of fuels and other products): For (a), (b) and (c): None, except that the service must be supplied by a juridical person constituted under Chilean law and the supply of the service may be subject to a concession on national treatment terms. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Air transport sales and marketing services, computer reservation system services, specialised air services (1) : For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

(1) For greater certainty, this commitment shall be understood as set out in the GATS Annex on Air Transport Services.

Natural science research and development services: For (a) and (c): None, except that an operations permit is required and the State Borders and Boundaries Directorate may arrange for one or more representatives of relevant Chilean activities to join the expedition in order to participate in and learn about the studies and their scope. For (b): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Research and development services in the social sciences and humanities: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labour Code.

Interdisciplinary research and development services: For (a) and (b): None. For (c): None, except that an operating permit is required. For (d): No commitments, except as indicated in the restriction of the Labour Code.

For the purposes of these non-conforming measures:

1. (a) concerns the supply of a service from the territory of one Party into the territory of the other Party;

2. (b) refers to the supply of a service in the territory of a Party by a person of that Party to a person of the other Party;

3. (c) relates to the supply of a service in the territory of a Party by an investor of the other Party or a covered investment; and

4. (d) refers to the supply of a service by a national of a Party in the territory of the other Party.

Annex II . Colombia

Sector: Some sectors

Subsector:

Obligations concerned:

Market Access (Article 10.5)

Description: Cross-border trade in services

Colombia reserves the right to adopt or maintain any measure imposing limitations on:

• research and security services and research and development services;

• the establishment of exclusive service areas for services related to energy and fuel gas distribution so as to ensure the provision of universal service;

• distribution services - wholesale and retail commercial services in sectors in which the government establishes a monopoly, in accordance with Article 336 of the Political Constitution of Colombia, with revenues dedicated for public or social service. As of the date of signature of this agreement, Colombia has established monopolies only with respect to liquor and gambling;

• primary and secondary education services, and the requirement of a specific type of legal entity form for higher education services;

• environment-related services that are established or maintained in the public interest;

• health and social services and health-related professional services;

• library, archive and museum services;

• sports and other recreational services;

• the number of concessions and the total number of operations for passenger transport services by road, passenger and freight transport services by rail, passenger and freight transport services by

pipelines, ancillary services in relation to all means of transport and other transport services;

For greater certainty, no measure shall be inconsistent with Colombia's obligations under Article XVI of the GATS.

Measures in force:

Sector: All sectors

Subsector:

Obligations concerned:

National Treatment (Article 9.2)

Description: Investment

Colombia reserves the right to adopt or maintain measures related to the ownership of real estate by foreigners in the border regions, national coasts or island territory.

For the purposes of this sheet:

(a) Border region is an area two (2) kilometres wide, parallel to the boundary line;

(b) National Seashore is an area two (2) kilometres wide, parallel to the line of the highest tide; and

(c) Insular territory means the islands, islets, cays, keys, morros and banks that are part of the territory of Colombia.

Measures in force:

Sector: Social Services

Subsector:

Obligations concerned:

Market Access (Article 10.5) National Treatment (Articles 9.2 and 10.2)

Most-Favoured-Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Performance Requirements (Article 9.6) Senior Executives and Boards (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure with respect to the application and enforcement of laws and the provision of correctional services, and of the following services to the extent that they are social services that are established or maintained in the public interest: social rehabilitation, income insurance or security, social security services, social welfare, public education and training, health and child care.

For greater certainty, the comprehensive social security system in Colombia is currently comprised of the following mandatory systems: the General Pension System, the General System of Social Security in Health, the General System of Professional Risks and the Unemployment and Unemployment Assistance Scheme.

Measures in force:

Sector: Minority and ethnic affairs

Subsector:

Obligations concerned:

Market Access (Article 10.5) National Treatment (Articles 9.2 and 10.2)

Most Favoured Nation Treatment (Articles 9.3 and 10.3) Local Presence (Article 10.4)

Performance Requirements (Article 9.6) Senior Executives and Boards (Article 9.7)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities and their ethnic groups, including with respect to communal lands owned by ethnic groups in accordance with Article 63 of the Constitution. The ethnic groups in Colombia are: the indigenous and ROM (gypsy) peoples, the Afro-Colombian communities and the Raizal community of the Archipelago of San Andrés, Providencia and Santa Catalina.

Measures in force:

Sector: Industries and cultural activities

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Most-Favoured-Nation Treatment (Articles 9.3 and 10.3)

Description: Investment and Cross-Border Trade in Services

For the purposes of this factsheet, the term "cultural industries and activities" means:

(a) Publishing, distribution, or sale of books, magazines, periodicals, or electronic or printed newspapers, excluding the printing or typesetting of any of the foregoing;

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

(c) Production, distribution, sale or exhibition of musical recordings in audio or video format;

(d) Production and presentation of performing arts;

(e) Production or exhibition of visual arts;

(f) Production, distribution or sale of printed music, or machine-readable music;

(g) Design, production, distribution and sale of handicrafts;

(h) Broadcasting to the general public, as well as all radio, television and activities related to cable television, satellite television and broadcasting networks; or

(i) Creation and design of advertising content.

Colombia reserves the right to adopt or maintain any measure granting preferential treatment to persons from other countries through any treaty, between Colombia and such countries, containing specific commitments on cultural cooperation or co-production, with respect to cultural industries or activities.

For greater certainty, Articles 9.2, 9.3 or Chapter 10 (Cross-Border Trade in Services) do not apply to "government support" (1) for the promotion of cultural industries or activities.

Colombia may adopt any measure that accords to a person of another Party the treatment that is accorded to persons in the Colombian audiovisual, music or publishing sectors by that other Party.

Measures in force:

(1) For the purposes of this factsheet, "government support" means tax incentives, incentives in mandatory contributions, aid provided by a government, government-backed loans, guarantees, autonomous estates or insurance regardless of whether a private entity is wholly or partially responsible for their administration.

Sector: Jewellery design Performing arts Music

Visual arts Audiovisuals Publishing

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Performance Requirements (Article 9.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support (1) for the development and production of jewellery design, performing arts, music, visual arts, audiovisual and publishing, on the recipient achieving a given level or percentage of domestic creative content.

Measures in force:

(1) As defined in the footer of the previous sheet

Sector: Cottage industries

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Performance Requirements (Article 9.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure related to the design, distribution, retail or display of handicrafts identified as Colombian handicrafts.

Performance requirements shall in all cases be consistent with the Agreement on Trade-Related Investment Measures, which is part of the WTO Agreement.

Measures in force:

Sector: Audiovisual Advertising

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Performance Requirements (Article 9.6)

Description: Investment and Cross-Border Trade in Services

Cinematographic works

(a) Colombia reserves the right to adopt or maintain any measure whereby a specified percentage (not exceeding 15 percent) of the total number of cinematographic works shown annually in cinemas or exhibition halls in Colombia consists of Colombian cinematographic works. In establishing such percentages, Colombia shall take into account the conditions of national film production, the existing exhibition infrastructure in the country, and average attendance.

Cinematographic works on free-to-air television

(b) Colombia reserves the right to adopt or maintain any measure whereby a specified percentage (not exceeding ten (10) percent) of the total number of cinematographic works shown annually on free television channels consists of Colombian cinematographic works. In order to establish this percentage, Colombia shall take into account the availability of national cinematographic works for free-to-air television. Such works shall count as part of the domestic content requirements applying to the channel in paragraph 5 of Schedule I-COL-21 of Annex I.

Community television (1)

(1) As defined in Agreement 006 of 1999.

(c) Colombia reserves the right to adopt or maintain any measure whereby a specified portion of weekly community television programming (not to exceed fifty-six (56) hours per week) consists of national programming produced by the community television operator.

Commercial free-to-air multi-channel television

(d) Colombia reserves the right to impose the minimum programming requirements set out in Schedule I- COL-21 of Annex I on multi-channel commercial free-to-air television, except that these requirements may not be imposed on more than two channels or twenty-five (25) percent of the total number of channels (whichever is greater) made available by the same provider.

Advertising

(e) Colombia reserves the right to adopt or maintain any measure requiring that a specified percentage (not to exceed twenty 20 percent) of the total advertising orders contracted annually with media services companies established in Colombia, other than newspapers, journals, and subscription services headquartered outside Colombia, be produced and created in Colombia. Any such measures shall not apply to: (i) the advertising of film premieres in theatres or exhibition halls; and, (ii) any media where the programming or content originates outside Colombia or to the rebroadcasting or rebroadcasting of such programming within Colombia.

Measures in force:

Sector: Traditional expressions

Subsector:

Obligations concerned:

National Treatment (Articles 9.2 and 10.2)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants rights or preferences to local communities with respect to the support and development of expressions related to the intangible cultural heritage declared under Resolution

No. 0168 of 2005.

Measures in force:

Sector: Interactive audio and/or video services

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Performance Requirements (Article 9.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain measures to ensure that, once the Government of Colombia finds that Colombian audiovisual content is not readily available to Colombian consumers, access to Colombian audiovisual content programming through interactive audio and/or video services is not unreasonably denied to Colombian consumers.

At least ninety (90) days prior to the implementation of the measure, Colombia shall provide to the other Party information that forms the basis for the Government of Colombia's determination regarding the barriers that make Colombian audiovisual content not readily available to Colombian consumers, and a description of the measure to be implemented. Such measures must be consistent with Colombia's obligations under the General Agreement on Trade in Services (GATS).

Measures in force:

Sector: Professional Services

Subsector:

Obligations concerned:

National Treatment (Article 10.2) Local Presence (Article 10.4)

Market Access (Article 10.5)

Most Favoured Nation Treatment (Article 10.3)

Description: Cross-border trade in services

Colombia reserves the right to adopt or maintain any measure that permits a professional who is a national of the other Party to practice only to the extent that the Party in which that professional practices offers treatment consistent with the obligations referred to in this tab to Colombian nationals in the processes and requirements for authorisation, licensing or certification to practice such profession. Notwithstanding the foregoing, Colombia shall allow professionals who were practising in its territory prior to the entry into force of this Agreement, in accordance with Colombian regulations, to continue to practise in accordance with existing laws.

For the purposes of this measure, the Party in which professionals practice is the territory within which the professional obtained his or her professional licence to practice and has practised the majority of the time during the last twelve (12) months.

This measure does not apply to a country that has a bilateral agreement in force with Colombia on the recognition of professional qualifications.

For greater certainty, Colombia and Chile have a bilateral agreement in force on the recognition of professional qualifications, "Convención sobre canje de títulos celebrado entre Chile y Colombia", signed on 23 June 1921.

Measures in force:

Sector: Land and inland waterway transport

Subsector:

Obligations concerned:

Most Favoured Nation Treatment (Article 10.3)

Description: Cross-border trade in services

Colombia reserves the right to adopt or maintain any measure that accords different treatment to countries under any bilateral or multilateral international agreement entered into after the date of entry into force of this Agreement with respect to land and inland waterway transport services.

Measures in force:

Sector: All sectors

Subsector:

Obligations concerned:

Most Favoured Nation Treatment (Articles 9.3 and 10.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or entered into prior to the date of entry into force of this Agreement.

Colombia reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or entered into after the date of entry into force of this Agreement with respect to:

a) aviation;

b) fishing;

c) maritime affairs, including salvage.

Measures in force: