Australia-Indonesia Comprehensive Economic Partnership Agreement (CEPA)

The Government of Australia ("Australia") and the Government of the Republic of Indonesia ("Indonesia"), hereinafter referred to collectively as "the Parties":

REINFORCING the longstanding bonds of friendship and cooperation between them, the growing bilateral economic relationship and their shared regional interests and ties;

RECALLING the positive contribution made to the trade and investment relationship between the Parties by the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area ("AANZFTA"), signed at Hua Hin on 27 February 2009;

MINDFUL of the Asia-Pacific Economic Cooperation goals of free and open trade and investment;

RECOGNISING that open, transparent and competitive markets are key drivers of economic growth, poverty reduction, job creation, innovation, expansion of productive capacity and human development;

RESOLVING to create clear and mutually advantageous rules governing their trade and investment to promote a predictable, transparent and consistent commercial framework for business operations, minimise barriers, enhance economic efficiency and create a larger market with more opportunities for business;

DESIRING to generate broader and deeper economic integration between the Parties, strengthening inclusive economic growth and development, and advancing economic cooperation;

RESOLVING to strengthen their economic, trade, and investment relations to contribute to the objectives of sustainable development in its economic, social and environmental dimensions, and to promote trade and investment under this Agreement;

ACKNOWLEDGING the important role and contribution of business in expanding trade and investment between the Parties and the need to further promote and facilitate cooperation and utilisation of the greater business opportunities provided by this Agreement; and

BUILDING ON the respective rights and obligations and undertakings of the Parties under the Marrakesh Agreement Establishing the World Trade Organization (âWTO Agreementâ) and other existing international agreements and arrangements to which the Parties are party;

HAVE AGREED AS FOLLOWS:

Chapter 1. INITIAL PROVISIONS AND GENERAL DEFINITIONS

Article 1.1. Establishment of the Indonesia-Australia Comprehensive Economic Partnership as a Free Trade Area

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish the Indonesia-Australia Comprehensive Economic Partnership as a free trade area in accordance with the provisions of this Agreement.

Article 1.2. Objectives the Objectives of the Parties In Concluding this Agreement Are to:

(a) establish a framework for enhanced cooperation to promote the development of a predictable, transparent and consistent business environment that will lead to the improvement of economic efficiency and the growth of trade and investment;

(b) progressively liberalise and facilitate trade in goods between the Parties through, inter alia, progressive elimination of tariff and non-tariff barriers in substantially all trade in goods between the Parties;

(c) progressively liberalise trade in services between the Parties to achieve a high quality agreement that has substantial sectoral coverage and provides for the substantial elimination of restrictions and discriminatory measures affecting trade in services;

(d) create a liberal, facilitative and competitive investment environment, that will enhance investment opportunities between the Parties through promotion, protection, facilitation and liberalisation of foreign investment;

(e) create frameworks that promote the utilisation of electronic commerce in trade and investment between the Parties;

(f) cooperate in the promotion of competition, economic efficiency, consumer welfare and the mitigation of anti-competitive practices;

(g) promote economic cooperation for the effective and efficient implementation and utilisation of this Agreement; and

(h) facilitate trade between the Parties by promoting efficient and transparent procedures that expedite the movement, release and clearance of goods to reduce costs and ensure predictability for importers and exporters.

Article 1.3. Relation to other Agreements

1. Recognising the Parties' intention for this Agreement to coexist with their existing international agreements, including the WTO Agreement, each Party affirms its existing rights and obligations with respect to the other Party. (1)

2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and the other Party are party, the Parties shall, on request, consult with each other with a view to reaching a mutually satisfactory solution. (2) This paragraph is without prejudice to a Party's rights and obligations under Chapter 20 (Consultations and Dispute Settlement).

(1) For greater certainty, the Schedules to this Agreement are without prejudice to a Party's rights and obligations under the WTO Agreement and the ASEAN-Australia-New Zealand Free Trade Agreement.

(2) For the purposes of the application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of goods, services, investments or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.

Article 1.4. General Definitions (3)

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

AD Agreement means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

Agreement means the Indonesia-Australia Comprehensive Economic Partnership Agreement;

central level of government means:

(i) for Australia, the Commonwealth government; and

(i) for Indonesia, the central level of the Government of the Republic of Indonesia;

covered investment means, with respect to a Party, an investment in its territory of an investor of the other Party in existence as of the date of entry into force of this Agreement or established, acquired or expanded thereafter and which, where applicable, has been admitted according to its laws and regulations (4),

customs administration means:

(i) for Australia, the Department of Home Affairs or its successor; and

(ii) for Indonesia, the Directorate General of Customs and Excise, Ministry of Finance;

customs duty means any customs or import duty and a charge of any kind, including any tax or surcharge, imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article II of GATT 1994, in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(i) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the AD Agreement, as may be amended and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement, as may be amended; or

(iii) fee or any charge commensurate with the cost of services rendered;

Customs Valuation Agreement means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement; days means calendar days, including weekends and holidays; enterprise means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation;

existing means in effect on the date of entry into force of this Agreement;

GATS means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement;

GATT 1994 means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

good means any merchandise, product, article or material;

Harmonized System (HS) means the Harmonized Commodity Description and Coding System established by the International Convention on the Harmonized Description and Coding System signed at Brussels on 14 June 1983, as amended;

Joint Committee means the Joint Committee established in accordance with Article 18.1 (Establishment of the Joint Committee) of Chapter 18 (Institutional Provisions);

measure means any measure by a Party, whether in the form of a law, regulation, tule, procedure, decision, administrative action or any other form;

natural person of a Party means:

(i) for Australia, a natural person who is an Australian citizen as defined in the Australian Citizenship Act 2007, as amended from time to time, or any successor legislation or a permanent resident of Australia;

(ii) for Indonesia, a natural person who is Indonesian national as defined in the Indonesia Law No. 12/2006, as amended from time to time, or any successor legislation;

originating good means qualifying as originating under the rules of origin set out in Chapter 4 (Rules of Origin);

perishable goods means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;

person means a natural person or an enterprise; regional level of government means:

(i) for Australia, a state of Australia, the Australian Capital Territory, or the Northern Territory; and

(i) for Indonesia, a province of Indonesia, as defined under Indonesian law;

Safeguards Agreement means the Agreement on Safeguards in Annex 1A to the WTO Agreement;

SCM Agreement means the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement;

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

territory means:

(i) for Australia:

(A) the territory of Australia, excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and

(B) Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereignty, sovereign rights or jurisdiction, as the case may be, in accordance with international law, including the United Nations Convention on the Law of the Sea, done at Montego Bay, December 10, 1982;

(ii) for Indonesia, the land territories, internal waters, archipelagic waters, territorial sea, including seabed and subsoil thereof, and airspace over such territories and waters, as well as continental shelf and exclusive economic zone, over which Indonesia has sovereignty, sovereign rights or jurisdiction as defined in its laws and in accordance with international law, including the United Nations Convention on the Law of the Sea, done at Montego Bay, December 10, 1982;

WTO means the World Trade Organization; and

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

(3) For greater certainty, references to agreements in Annex 1A to the WTO Agreement include the general interpretative note to Annex 1A.

(4) For greater certainty, in the case of Indonesia, "admitted according to its laws and regulations" may include a requirement for specific approval in writing.

Chapter 2. TRADE IN GOODS

Article 2.1. Definitions

For the purposes of this Chapter, unless otherwise specified:

Agreement on Agriculture means the Agreement on Agriculture in Annex 1A to the WTO Agreement;

consular transactions means requirements that documents related to goods of a Party intended for export to the territory of the other Party must first be submitted to the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas. Such documents may include commercial invoices, certificates of origin, manifests, shippersâ export declarations, or any other customs documentation required on or in connection with importation;

export subsidy means a subsidy as defined by Article 3 of the SCM Agreement and includes export subsidies listed in Article 9 of the Agreement on Agriculture; and

import licensing means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body of the importing Party as a prior condition for importation into the territory of that Party.

Article 2.2. Reduction or Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, each Party shall reduce or eliminate its customs duties on originating goods of the other Party in accordance with its schedule of tariff commitments in Annex 2-A.

2. Except as otherwise provided in this Agreement, neither Party shall apply customs duties on an originating good of the other Party above the rate specified in its schedule of tariff commitments in Annex 2-A.

3. If the most-favoured-nation (hereinafter referred to as "MFN") rate of customs duty applied by a Party on a particular good is lower than the rate of customs duty provided for in its schedule of tariff commitments in Annex 2-A, that Party shall:

(a) apply the lower rate to the originating good of the other Party; and

(b) publish changes to the MEN rate on the internet.

Article 2.3. Tariff Rate Quotas

For products in respect of which a Party establishes a Tariff Rate Quota ("TRQ") in its Schedule to Annex 2-A, that Party shall grant tariff preference to imports of such products from the other Party as specified in the Appendix to the first Partyâs Schedule.

Article 2.4. National Treatment on Internal Taxation and Regulation

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

Article 2.5. Customs Valuation

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

Article 2.6. Acceleration or Improvement of Tariff Commitments

1. On the request of a Party, the other Party shall consult with the requesting Party to consider accelerating or improving its schedule of tariff commitments in Annex 2-A.

2. An agreement between the Parties to accelerate or improve the schedule of tariff commitments in Annex 2-A shall be incorporated into this Agreement in accordance with Article 2 (Amendments) of Chapter 21 (Final Provisions).

3. A Party may at any time unilaterally accelerate or improve its schedule of tariff commitments in Annex 2-A. A Party intending to do so shall inform the other Party before the new schedule of tariff commitments takes effect, or, in any event, as early as ptacticable. For greater certainty, a Party may raise a customs duty to the level established in its schedule of tariff commitments in Annex 2-A following a temporary unilateral acceleration or improvement.

Article 2.7. Elimination of Export Subsidies

Neither Party shall adopt or maintain any export subsidy on any good destined for the territory of the other Party.

Article 2.8. Administrative Fees and Formalities

1. Article VUI of the GATT 1994 is incorporated into and made part of this agreement, mutatis mutandis.

2. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

3. Each Party shall make publicly available including on the internet where feasible details of the fees and charges that it imposes in connection with importation and exportation.

Article 2.9. Duty-Free Entry of Commercial Samples of Negligible Value

Each Party shall grant duty-free entry to commercial samples of negligible value imported from the territory of the other Party, regardless of their origin, but may require that commercial samples of negligible value be imported solely for the solicitation of orders for goods or services provided from the territory of the other Party or a non-Party and not be imported for commercial sale.

Article 2.10. Classification of Goods and Transposition of Schedules of Tariff Commitments

1. The classification of goods in trade between the Parties shall be in conformity with the Harmonised System and its amendments.

2. The Parties shall mutually decide whether any revisions are necessary to implement Annex 2-A due to periodic amendments and transposition of the HS Code.

3. If the Parties decide that revisions are necessary in accordance with paragraph 2, the transposition of the schedules of tariff commitments shall be carried out in accordance with the methodologies and procedures adopted by the Committee on Trade in Goods. The procedures should, at a minimum, provide for:

(a) the timely circulation by a Party of a draft schedule of tariff commitments in the nomenclature of the revised HS Code accompanied by a two-way transposition setting out at national tariff line level:

(i) a concordance between the draft schedule of tariff commitments in the nomenclature of the revised HS Code and the schedule of tariff commitments in the nomenclature of the then current HS Code; and

(i) a concordance between the schedule of tariff commitments in the nomenclature of the then current HS Code and the draft schedule of tariff commitments in the nomenclature of the revised HS Code;

(b) the provision of comments by the other Party on the draft schedules circulated in accordance with sub-paragraph (a), and consultations between the Parties, as necessary, with a view to resolving any concerns raised. Consultations shall take place within 60 days of a Party requesting such consultations.

4. Following completion of the transposition process in paragraph 3, the Parties through the Committee on Trade in Goods shall endorse and publish such revisions in a timely manner.

5. Each Party shall ensure that the transposition of its schedule of tariff commitments under paragraph 3 does not afford less favourable treatment to an originating good of the other Party set out in its schedule of tariff commitments in Annex 2-A.

Article 2.11. Committee on Trade In Goods

1. The Parties hereby establish a Committee on Trade in Goods ("the Committee") comprising representatives of each Party.

2. The Committee shall meet as necessary to consider any matters arising under this Chapter. The Committee shall meet at least once a year unless agreed otherwise by the Parties.

3. The Committee shall establish a contact point for each Party at a senior level to facilitate communication between the Parties, including to encourage consultation, as early as practicable, on any matter relating to this Chapter or Chapter 3 (Non-Tariff Measures) that creates disruption or may affect trade in goods between the Parties.

4. The Committee's functions shall include, inter alia:

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

(b) promoting trade in goods between the Parties, including consultations on accelerating or improving tariff commitments under this Agreement and other issues as appropriate;

(c) addressing barriers to trade in goods between the Parties especially those related to the application of non-tariff measures, and, where appropriate, referring any matters to the Joint Committee for consideration;

(d) endorsing the transposition of the schedules of tariff commitments in Annex 2-A in accordance with Article 2.10, and consulting to resolve any conflicts;

(e) reviewing and endorsing reports from:

(i) the Sub-Committee on Sanitary and Phytosanitary Matters;

(ii) the Sub-Committee on Technical Barriers to Trade;

(iii) the Sub-Committee on Trade Facilitation; and

(iv) the Sub-Committee on Rules of Origin;

(f) identifying, reviewing and recommending activities to be submitted to the Committee on Economic Cooperation, including activities proposed by the Sub- Committees referred to in sub-paragraph (e) above; and

(g) discussing any other matter arising under this Chapter as agreed by the Parties.

5. The Committee shall consult, as appropriate, with other committees established under this Agreement when addressing issues of relevance to those committees.

6. The Committee shall prepare and submit a report on its work to the Joint Committee annually, or as otherwise agreed by the Parties. In preparing such reports, the Committee shall consult, as appropriate, with the Sub-Committee on Sanitary and Phytosanitary Matters, the Sub-Committee on Technical Barriers to Trade, the Sub- Committee on Trade Facilitation and the Sub-Committee on Rules of Origin.

7. The meetings of the Committee may occur in person, or by any other means as agreed by the Parties.

Article 2.12. Exchange of Data

1. The Parties recognise the value of trade data in accurately analysing the implementation of the Agreement. The Parties shall cooperate with a view to conducting periodic exchanges of data relating to trade in goods between the Parties. The Committee on Trade in Goods may determine procedures, as appropriate, for any exchanges of data under this paragraph.

2. A Party shall give positive consideration to a request from the other Party for technical assistance for the purposes of exchange of data under paragraph 1.

Article 2.13. Relation to Safeguard Measures Under the WTO Agreement

1. Nothing in this Agreement shall affect the rights and obligations of the Parties under Article XIX of GATT 1994, the Safeguards Agreement and Article 5 of the Agreement on Agriculture.

2. Except as provided in paragraph 3, nothing in this Agreement shall confer any rights or impose any obligations on the Parties with regard to actions taken in accordance with Article XIX of GATT 1994, the Safeguards Agreement or Article 5 of the Agreement on Agriculture.

3. On the request of the other Party, a Party that initiates a safeguard investigatory process shall provide to the other Party an electronic copy of the notification given to the WTO Committee on Safeguards under Article 12.1(a) of the Safeguards Agreement.

Article 2.14. Antidumping and Countervailing Duties

Each Party retains its rights and obligations under Article VI of the GATT 1994, the AD Agreement and the SCM Agreement, and nothing in this Agreement shall be construed to confer any additional rights or impose any additional obligations on a Party.

Article 2.15. Trade Remedies Dialogue

1. In order to enhance transparency and mutual understanding on trade remedies including on their respective trade remedies system and practices, the Parties agree to establish a High Level Dialogue.

2. The Parties shall meet at senior officialsâ level. The first meeting shall be within one year of entry into force of this Agreement and subsequent meetings shall be as agreed by the Parties thereafter.

Chapter 3. NON-TARIFF MEASURES

Article 3.1. General Application

1. Unless otherwise provided, neither Party shall adopt or maintain any non-tariff measure on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with its WTO rights and obligations or this Agreement.

2. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 1 in accordance with Articles 19.2 (Publication) and 19.3 (Provision of Information) of Chapter 19 (Transparency) and shall ensure that any such measures are not prepared, adopted or applied with the view to, or with the effect of, creating unnecessary obstacles in trade with the other Party. Any new measure or modification to an existing measure shall be duly notified to the other Party as soon as practicable, but in any event no later than the day the measure takes effect.

3, Each Party shall ensure that its laws, regulations, procedures and administrative rulings relating to non-tariff measures are promptly published, including on the internet where feasible, or otherwise made available in such a manner as to enable the other Party to become acquainted with them.

Article 3.2. Mechanism on Non-Tariff Measures

1. If a Party considers that a non-tariff measure of the other Party is an unnecessary obstacle to trade, that Party may nominate such a non-tariff measure for review by the Committee on Trade in Goods by notifying the other Party at least 30

days before the date of the next scheduled meeting of the Committee. A nomination of a non-tariff measure for review shall include reasons for its nomination and, if possible, suggested solutions.

2. Within 360 days of the date of entry into force of this Agreement, the Committee on Trade in Goods shall establish procedures for review of non-tariff measures nominated by either Party. Such review shall include consideration of the commercial significance of the trade impacted by the non-tariff measure, any progress achieved elsewhere, and whether less trade-restrictive alternatives exist. The Parties acknowledge that some non-tariff measures are imposed for legitimate reasons.

3. The Committee on Trade in Goods shall be supported in its review of non-tariff measures by the Sub-Committee on Sanitary and Phytosanitary Matters, Sub-Committee on Technical Barriers to Trade, Sub-Committee on Trade Facilitation and other relevant technical bodies, as appropriate, in accordance with this Agreement.

4. Once it has reviewed the non-tariff measures, the Committee on Trade in Goods shall provide advice to the Joint Committee on any non-tariff measures that should receive priority consideration by the Joint Committee and provide guidance, if possible, on solutions.

5. In accordance with Chapter 15 (Economic Cooperation), the Committee on Trade in Goods shall take into account opportunities relating to non-tariff measures, including capacity building and institutional strengthening programs in its recommendations on possible economic cooperation activities to the Committee on Economic Cooperation.

6. Under certain circumstances, each Party may establish a special contact point to liaise with relevant entities of the other Party in relation to specific non-tariff measures affecting trade between the Parties.

7. Chapter 20 (Consultations and Dispute Settlement) shall not apply to the mechanism under this Article. This Article shall not prejudice the rights of the Parties under Chapter 20 (Consultations and Dispute Settlement) regarding any other provision in this Agreement. This Article shall not affect the interpretation of any other provision in this Agreement.

Article 3.3. Quantitative Restrictions

Unless otherwise provided, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with its WTO rights and obligations or this Agreement. To this end, Article XI of GATT 1994 shall be incorporated into and made part of this Agreement mutatis mutandis.

Article 3.4. Import Licensing

1. Each Party shall ensure that all import licensing measures are implemented in a transparent and predictable manner, and applied in accordance with the Agreement on Import Licensing Procedures in Annex 1A to the WTO Agreement ("Import Licensing Agreement") (1).

2. After the date of entry into force of this Agreement, each Party shall promptly notify the other Party of existing import licensing procedures. Thereafter, each Party shall notify any new import licensing procedures and any modification to its existing import licensing procedures, to the extent possible 60 days before it takes effect, but in any case no later than the effective date of the licensing requirement. The information in any notification under this Article shall be in accordance with Articles 5.2 and 5.3 of the Import Licensing Agreement.

3. On request of the other Party, a Party shall respond to the request of that Party for information on import licensing requirements of general application within 60 days of receiving the request.

4. A Party shall be deemed to be in compliance with the obligations in paragraph 2 with respect to an import licensing procedure if:

(a) with respect to any new or modified import licensing procedure, it has notified that procedure to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement in accordance with Articles 5.1, 5.2 and 5.3 of that Agreement; or

(b) with respect to any existing import licensing procedure, in that Party's most recent annual submission, due before the date of entry into force of this Agreement, to the WTO Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described in Article 7.3 of the Import Licensing Agreement, it has provided, with respect to that procedure, the information requested in that questionnaire.

(1) In accordance with the WTO Agreements, for live female cattle (HS 0102.29.90), frozen beef (HS 0202.20.00) and sheep meat (HS 0204.41.00; 0204.42.00; 0204.43.00; 0204.50.00), Indonesia shall issue import permits, or equivalent instruments used for import authorisation, automatically and without seasonality.

Chapter 4. RULES OF ORIGIN

Section A. General Provisions

Article 4.1. Definitions

For the purposes of this Chapter:

adjusted value is:

(i) the FOB value of the good determined in accordance with the Customs Valuation Agreement, inclusive of the cost of transport and insurance to the port or site of final shipment abroad; or

(ii) if there is no FOB value of the good or it is unknown and cannot be ascertained, the value determined in accordance with the Customs Valuation Agreement, mutatis mutandis,

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

competent governmental authority means the authority that is responsible for the issuing of a certificate of origin or for the designation of certification entities or bodies. For Indonesia, this refers to the Ministry of Trade, and for Australia, this refers to the Department of Foreign Affairs and Trade;

exporter means a person located in an exporting Party who exports a good from the exporting Party in accordance with the applicable laws and regulations of the exporting Party;

FOB means the free-on-board value of the good, inclusive of the cost of transport to the port or site of final shipment abroad. The valuation shall be made in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement;

generally accepted accounting principles means the recognised consensus or substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

good means any merchandise, product, article or material;

identical and interchangeable materials means materials that are fungible as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which once they are incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination;

importer means a person who imports a good into the importing Party in accordance with the applicable laws and regulations of the importing Party;

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

(i) fuel and energy;

(ii) tools, dies and moulds;

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

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

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

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

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

Issuing Body means a certification entity or body designated by the competent governmental authority of the exporting Party to issue the certificates of origin;

material means any matter or substance used or consumed in the production of goods or physically incorporated into a good or subjected to a process in the production of another good;

non-originating good or non-originating material means a good or material that does not qualify as originating under this Chapter;

originating material means a material that qualifies as originating under this Chapter;

packaging materials and containers for retail sale means materials or containers in which a good is packaged or presented for its retail sale;

producer means a person who grows, mines, raises, harvests, fishes, traps, hunts, farms, captures, gathers, collects, breeds, extracts, manufactures, processes or assembles a good;

product specific rules are rules in Annex 4-C that specify that the materials used to produce a good have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a qualifying value content (QVC) criterion; and

production means methods of obtaining goods including growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing,

fishing, trapping, hunting, manufacturing, producing, processing or assembling a good.

Section B. Originating Goods

Article 4.2. Originating Goods

For the purposes of this Agreement, a good shall qualify as an originating good, where it: (a) is wholly produced or obtained in a Party as provided in Article 4.3;

(b) is not wholly produced or obtained in a Party provided that the good has satisfied the requirement of Article 4.4;

(c) is produced in a Party exclusively from originating materials; or (d) otherwise qualifies as an originating good under this Chapter,

and meets all other applicable requirements of this Chapter.

Article 4.3. Wholly Obtained or Produced Goods

For the purposes of Article 4.2, a good that is wholly obtained or produced in the territory of a Party means:

(a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked, or gathered there;

(b) live animals born and raised there;
(c) goods obtained from live animals there;

(d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing there;

(e) minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or beneath the seabed there;

(f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law, by any vessel registered or recorded with a Party and entitled to fly the flag of that Party;

(g) goods produced on board any factory ship registered or recorded with a Party and entitled to fly the flag of that Party from the goods referred to in subparagraph (f);

(h) goods taken by a Party, or a person of a Party, from the seabed or beneath the seabed beyond the Exclusive Economic Zone and adjacent Continental Shelf of that Party and beyond areas over which non-parties exercise jurisdiction under exploitation rights granted in accordance with international law;

(i) goods which are:

(i) waste and scrap derived from production or consumption there; provided that such goods are fit only for the recovery of raw materials; or

(ii) used goods collected there; provided that such goods are fit only for the recovery of raw materials; and

(j) goods obtained or produced there solely from products referred to in subparagraphs (a) to (i) or from their derivatives.

Article 4.4. Goods Not Wholly Produced or Obtained

1. For the purposes of Article 4.2(b) a good is an originating good of a Party if it satisfies the product specific rules set out in Annex 4-C.

2. Where a product specific rule provides a choice of rules from a QVC-based rule of origin, a Change of Tariff Classification ("CTC") based rule of origin, a specific manufacturing or processing operation each Party shall permit the exporter of the goods to decide which rule to use in determining whether the goods qualify as originating goods of the Party.

3. Where product specific rules specify a certain QVC, the QVC shall be calculated using one of the methods set out in Article 4.5.

4. Where product specific rules requiring that the materials used have undergone CTC or a specific manufacturing or processing operation, the rules shall apply only to non-originating materials.

5. Notwithstanding paragraph 1 of this Article, a good which is covered by Attachment A or B of the Ministerial Declaration on Trade in Information Technology Products adopted in the Ministerial Conference of the WTO on 13 December 1996 shall be deemed to be originating in a Party if it is assembled from materials covered under the same Attachments.

Article 4.5. Calculation of Qualifying Value Content

For the purposes of Article 4.4, the formula for calculating the qualifying value content (QVC) will be either:

Direct Formula (Build-up Method)

$$C = \frac{\text{IA-CEPA material cost + labour cost + overhead costs + profit + other costs}}{\text{Adjusted Value}} \times 100$$

or

Indirect Formula (Build-down Method)

$$QVC = \frac{\text{Adjusted Value} - \text{Value of Non-Originating Materials}}{\text{Adjusted Value}} \times 100$$

where:

QVC is the qualifying value content, expressed as a percentage;

IA-CEPA material cost is the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good;

labour costs are wages, remuneration and other employee benefits associated with the production of the goods;

overhead costs are the cost of the following, to the extent that the cost can be attributed to the production of the goods:

(i) inspection and testing of materials and goods;

(ii) insurance of plant, equipment and materials;

(iii) dies, moulds and tooling;

(iv) depreciation, maintenance and repair of plant and equipment;

(v) interest payments for plant and equipment;

(vi) research, development, design and engineering;

(vii) the production of the goods:

following items in relation to real property used for the

(A) insurance;

(B) rent and lease payments;

(C) mortgage interest;

(D) depreciation on buildings;

(E) maintenance and repair; and

(F) rates and taxes;

(vii) leasing plant and equipment;

(viii) energy, electricity, water and other utilities;

(ix) storage of the goods within the place in which the production of the goods occurs;

(x) royalties or licences for patented machines or processes used in the production of the goods or for the right to produce the goods;

(xi) disposal of non-recyclable waste; and

(xii) security within the place in which the production of the goods occurs.

profit is an amount equivalent to the profit added in the normal course of trade, or equal to the profit that is usually reflected in the sale of goods of the same class or kind as the self-produced material that is being valued.

other costs are costs incurred in placing the goods in a ship or other means of transport for exportation and includes transport costs, storage and warehousing costs, port handling fees, brokerage fees and service charges.

value of non-originating materials is the value of the non-originating materials that are acquired and used in the production of the goods, but does not include, as applicable:

(i) the value of a material that is self-produced;

(ii) the costs of freight, insurance, packing and all other costs incurred to transport the material to the location of the producer of the good;

(iii) duties, taxes and customs brokerage fees on the material, paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, which include credit against duty or tax paid or payable;

(iv) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by- product;

(v) the cost of processing incurred in the territory of one or both of the Parties in the production of the non-originating material; and

(vi) the cost of originating materials used in the production of the non- originating material in the territory of one or both of the Parties.

Article 4.6. Recording of Costs

For the purposes of this Chapter, all costs shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the Party in which the good is produced.

Article 4.7. Accumulation

For the purposes of Article 4.2, a good which complies with the origin requirements provided therein and which is used in another Party as a material in the production of another good shall be considered to originate in the Party where working or processing of the finished good has taken place.

Article 4.8. Minimal Operations and Processes

Where a claim for origin is based solely on a QVC, the operations or processes listed below, undertaken by themselves or in combination with each other, are considered to be minimal and shall not be taken into account in determining whether or not a good is originating:

(a) ensuring preservation of goods in good condition for the purposes of transport or storage;

(b) facilitating shipment or transportation;
(c) packaging or presenting goods for transportation or sale;

(d) simple processes, consisting of sifting, classifying, washing, and other similar operations;

(e) affixing of marks, labels or other like distinguishing signs on products or their packaging; and

(f) mere dilution with water or another substance that does not materially alter the characteristics of the goods.

Article 4.9. De Minimis

1. A good that does not satisfy a change in tariff classification requirement in accordance with Article 4.4 will nonetheless be an originating good if:

(a) for a good, other than that provided for in Chapters 50 to 63 of the HS Code, the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the adjusted value of the good; or

(b) for a good provided for in Chapters 50 to 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good, or the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the adjusted value of the good, and the good meets all other applicable criteria of this Chapter.

2. The value of such materials shall, however, be included in the value of non- originating materials for any applicable QVC requirement.

Article 4.10. Accessories, Spare Parts, Tools and Instructional or other Information Materials

The origin of the accessories, spare parts, tools and Instructional or Other Information Materials presented and classified with a good and delivered with the good at the time of importation:

(a) shall be disregarded if the good is subject to a change in tariff classification requirement; and

(b) shall be taken into account as originating or non-originating materials, as the case may be, in calculating the QVC of the good, if the good is subject to a QVC requirement, provided that:

(c) the accessories, spare parts, tools and Instructional or Other Information Materials are not invoiced separately from the good and are included in the price of the good, regardless of whether they appear specified or separately identified in the invoice itself; and

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

Article 4.11. Identical and Interchangeable Materials

1. The determination of whether identical and interchangeable materials are originating shall be made either by physical segregation of each of the materials, or by the use of generally accepted accounting principles of stock control or inventory management practice applicable in the exporting Party.

2. The inventory management method used under paragraph 1 for particular identical

and interchangeable materials shall continue to be used for that material throughout the fiscal year.

Article 4.12. Packaging Materials and Containers for Retail Sale

1. Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non- originating materials used in the production of the good undergo the applicable change in tariff classification or a specific manufacturing or processing operation, set out in Annex 4-C.

2. If a good is subject to a QVC requirement, the value of packaging materials and containers described in paragraph 1 shall be taken into account as originating or non- originating materials, as the case may be, in calculating the QVC of the good.

Article 4.13. Packing Materials and Containers for Transportation and Shipment

1. Packing materials and containers for transportation and shipment shall not be taken into account when determining whether a good is an originating good.

2. For the purposes of paragraph 1, "packing materials and containers for transportation and shipment" means the goods used to protect a good during its transportation and does not include the packaging materials and containers in which the good is packaged for retail sale.

Article 4.14. Indirect Materials

An indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

Section Section C: Territorial Requirements

Article 4.15. Consignment Criteria

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

(a) transported directly from that Party; or

(b) transported through one or more non-Parties for the purpose of transit or temporary storage in warehouses in such non-Parties, provided that:

jw it does not undergo operations other than unloading, reloading, unpacking and repacking, labelling, or any other operation to preserve it in good condition;

(ij) âthe good has not entered the commerce of a non-Party, and;

(iii) the transit entry can be explained by geographical, economic or logistical reasons.

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

3. Where an originating good of the exporting Party is imported through one or more non-Parties, the importing Party may require importers who claim the preferential tariff treatment for the good to submit appropriate evidence of compliance with paragraph 1, including:

(a) a copy of a through bill of lading or other contractual transport documents such as bills of lading, packing lists;

(b) a certificate or any other information given by the customs authorities of such non-Parties or other relevant entities, or;

(c) any other evidence related to the goods themselves.

Article 4.16. Exhibition Goods

1. Notwithstanding Article 4.15, an originating good of a Party imported into the other Party after an exhibition in the other Party or a non-Party, shall continue to qualify as an originating good on the condition that the good meets the requirements as set out in Section B (Originating Goods), and provided that it is shown to the satisfaction of the customs administration of the importing Party that:

(a) an exporter has dispatched the originating good from the territory of the exporting Party to the other Party or non-Party where the exhibition is held and has exhibited it there;

(b) the exporter has sold the originating good or transferred it to a consignee in the importing Party;

(c) the originating good has been consigned during the exhibition or immediately thereafter to the importing Party in the state in which it was sent for the exhibition;

(d) the exhibition is any trade, agriculture or crafts exhibition, fair or similar show or display which is not organised for private purposes in shops or business premises with the view to the sale of foreign goods; and

(e) the originating good has not entered the commerce of the other Party or non-Party, including where the originating good was exhibited under customs control.

2. For the purposes of implementing paragraph 1, the documentary evidence of origin shall be provided, if required, to the customs administration of the importing Party.

The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

Section Section D: Preferential Tariff Treatment

Article 4.17. Claim for Preferential Tariff Treatment

1. The importing Party may, in accordance with its laws and regulations, accept a claim for preferential tariff treatment at or after the time of importation of an originating good.

2. In order to claim preferential tariff treatment, the importer shall possess valid documentary evidence of origin. The importing Party may, in accordance with its laws and regulations, require presentation of the documentary evidence of origin at or after the time of importation.

3. An importing Party may require that an importer who presents documentary evidence of origin provides other documents or information to support the claim.

Article 4.18. Obligations Relating to Importation

1. Each Party shall provide that, if the importer has reason to believe that the documentary evidence of origin is based on incorrect information that could affect the accuracy or validity of the documentary evidence of origin, the importer shall correct the importation document in accordance with that Party's laws and regulations, and pay any customs duty and, if applicable, penalties owed.

2. No importing Party shall subject an importer to a penalty for making an invalid claim for preferential tariff treatment if the importer on becoming aware that such a claim is not valid and prior to discovery of the error by that Party, voluntarily corrects the claim in accordance with that Party's laws and regulations, and pays any applicable customs duty under the circumstances provided for in the Party's law.

Article 4.19. Denial of Preferential Tariff Treatment

1. The customs administration of the importing Party may deny a claim for preferential tariff treatment when:

(a) the good does not qualify as an originating good; or

(b) the importer, exporter or producer fails to comply with any of the relevant requirements of this Chapter.

2. If an importing Party denies a claim for preferential tariff treatment, on request it shall provide advice in writing to the importer that includes the reasons for the denial.

3. A Party shall not reject a claim for preferential tariff treatment for the sole reason that the invoice was issued in a non-Party.

4. A Party shall not reject a claim for preferential tariff treatment due only to minor errors or discrepancies in a documentary evidence of origin.!

5. For multiple goods declared under the same documentary evidence of origin, a

problem encountered with one of the goods listed shall not affect or delay the granting of

preferential tariff treatment and release of the remaining goods listed in the documentary

evidence of origin.

Article 4.20. Documentary Evidence of Origin

1. For the purposes of this Agreement, a documentary evidence of origin is any of:
(a) a certificate of origin made out in accordance with Annex 4-A;
(b) a declaration of origin made in accordance with Annex 4-B by an exporter registered or certified by the exporting Party in accordance with its laws and regulations.

2. Subparagraph (b) shall apply only after the exporting Party has notified the

importing Party, that it shall implement this subparagraph. Such notification may stipulate that subparagraph (a) shall cease to apply to the exporting Party.

! A minor error or discrepancy shall not invalidate a documentary evidence of origin if it is duly established that this document does in fact correspond to the imported goods.

Article 4.21. Exceptions from Documentary Evidence of Origin

Notwithstanding Article 4.20, neither Party shall require a documentary evidence of origin if:

(a) the customs value of the importation does not exceed 1000 Australian dollars for Australia, or 200 United States dollars for Indonesia, or any higher amount as the importing Party may establish; or,

(b) it is a good for which the importing Party has waived the requirement or does not require the importer to present a documentary evidence of origin;

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

Section Section E: Cooperation on Verification

Article 4.22. Origin Verification

1. The customs administration of the importing Party may verify the eligibility of a good for preferential tariff treatment in accordance with its laws, regulations and administrative practices by:

(a) instituting measures to establish the validity of the documentary evidence of origin;

(b) requesting further information relating to the origin of the good from the relevant importer of a good for which preferential tariff treatment was claimed; or

(c) issuing written requests to the provider of the documentary evidence of origin for further information relating to the origin of the good and notify such request, preferably by electronic means, to the exporting Party, for Australia the Department of Foreign Affairs and Trade and for Indonesia the Ministry of Trade.

2. A request for information in accordance with paragraph 1(c) shall not preclude the use of the verification visit provided for in Article 4.23.

3. The recipient of a request for information under paragraph 1 shall provide the information requested within a period of 60 days from the date the written request is made.

4. The customs administration of the importing Party shall provide written advice as to whether the goods are eligible for preferential tariff treatment to all the relevant parties within 60 days of receipt of information necessary to make a decision.

Article 4.23. Verification Visit

1. If the customs administration of the importing Party wishes to undertake a verification visit, it shall issue a written request to the provider of the documentary

evidence of origin at least 30 days in advance of the proposed verification visit.

2. The customs administration of the importing Party shall notify the exporting Party of the written request to undertake the verification visit.

3. The written request referred to in paragraphs 1 and 2 shall at a minimum include:
(a) the identity of the customs administration issuing the request;

(b) the name of the exporter or the producer of the exporting Party whose goods is subject to the verification visit;

(c) the date the written request is made; (d) the proposed date and place of the visit;

(e) the objective and scope of the proposed visit, including specific reference to the goods subject to the verification;

(f) a copy of the documentary evidence of origin; and

(g) the names and titles of the officials of the customs administration or other relevant authorities of the importing Party who will participate in the visit.

4. The provider of the documentary evidence of origin, if they are not the exporter or producer, shall notify the exporter or producer of the intended verification visit by the customs administration or other relevant authorities of the importing Party and request the exporter or producer to:

(a) permit the customs administration or other relevant authorities of the importing Party to visit their premises or factory; and

(b) provide information relating to the origin of the good. 5. The provider of the documentary evidence of origin, if they are not the exporter

or producer, shall advise the exporter or producer that, should they fail to respond by a specified date, preferential tariff treatment may be denied.

6. The provider of the documentary evidence of origin shall advise the customs administration of the importing Party within 30 days of the date of the written request from the customs administration of the importing Party whether the exporter or producer has agreed to the request for a verification visit.

7. The customs administration of the importing Party shall not visit the premises or factory of any exporter or producer in the territory of the exporting Party without written prior consent from the exporter or producer.

8. The customs administration of the importing Party shall complete any action to verify eligibility for preferential tariff treatment and make a decision within 150 days of the date of the request to the provider of the documentary evidence of origin under paragraph 1, provided that all information necessary to make a decision has been provided. The customs administration of the importing Party shall provide written advice as to whether goods are eligible for preferential tariff treatment to the relevant parties within 20 days of the decision being made.

Section Section F: Final Provisions

Article 4.24. Goods In Transport or Storage

In accordance with Article 4.17, the customs administration of the importing Party shall grant preferential tariff treatment for an originating good of the exporting Party which, on the date of entry into force of this Agreement:
(a) and subject to the laws and regulations of the importing Party, has not entered the commerce of the Party, including an originating good stored in a warehouse under Customs control; or
(b) is in the process of being transported from the exporting Party to the importing Party.

Article 4.25. Review and Appeal

The importing Party shall grant the rights of review and appeal in matters relating to the determination of origin under this Chapter in accordance with Article 5.8 (Review and Appeal) of Chapter 5 (Customs Procedures).

Article 4.26. Record Keeping

1. Each Party shall require that:

(a) an exporter shall maintain for not less than five years from the date of exportation, or for such longer period as the law of the exporting Party may provide, all records relating to the origin of a good for which preferential tariff treatment is claimed in the importing Party, including the documentary evidence of origin relevant to the good, or a copy thereof; and

(b) an importer claiming preferential tariff treatment shall maintain, for not less than five years after the date of importation of a good, all records relating to the importation of the good, including the documentary evidence of origin relevant to the good, or a copy thereof.

2. A person who certifies origin shall maintain for not less than three years from the date of issuance all records necessary to demonstrate that the good is originating.

3. Such records may be in electronic form.

Article 4.27. Confidentiality Each Party Shall Maintain the Confidentiality of the Information Collected In Accordance

with this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the person providing the information.

Article 4.28. Sub-Committee on Rules of Origin

1. For the purposes of the effective and uniform implementation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (ROO Sub-Committee).

2. The ROO Sub-Committee shall consist of government representatives of the Parties. It shall meet at the formal request of either of the Parties.

3. The functions of the ROO Sub-Committee shall include:
(a) monitoring the implementation and administration of this Chapter;
(b) discussion of any issue that may have arisen in the course of implementation, including any matters that may have been referred to the ROO Sub-Committee by the Goods Committee established in accordance with Article 2.11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) or the Joint Committee;

(c) discussion of any proposed modifications of the rules of origin under this Chapter and Annex 4-C;

(d) a consultation on issues relating to rules of origin and administrative cooperation; and

(e) prior to the entry into force of an amended version of the Harmonized System, consultation to prepare updates to this Chapter and Annex 4-C to this Agreement that are necessary to reflect changes to the Harmonized System.

4. The Sub-Committee may recommend economic cooperation activities to the Economic Cooperation Committee to ensure the effective implementation of this Agreement, and to enable the Parties to meet their international obligations.

Chapter 5. CUSTOMS PROCEDURES

Article 5.1. Definitions for the Purposes of this Chapter:

customs law means such laws and regulations administered and enforced by the customs administration of each Party concerning the importation, exportation, and transit/transshipment of goods;

customs procedures means the treatment applied by the customs administration of a Party to goods which are subject to that Party's customs law; and

temporary admission means customs procedures under which certain goods (including means of transport) can be brought into a Party's territory conditionally relieved, totally or partially, from payment of import duties and taxes and without application of import prohibitions or restrictions of an economic character; such goods (including means of transport) must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

Article 5.2. Objectives

The objectives of this Chapter are to:

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

(b) promote efficient, economical administration of customs procedures and the expeditious clearance of goods;

(c) to the extent possible, simplify and harmonise customs procedures;

(d) enhance cooperation between the customs administrations of the Parties; and

(e) facilitate trade between the Parties.

Article 5.3. Scope

This Chapter shall apply, in accordance with the respective laws and regulations of the Parties, to customs procedures applied to goods traded between the Parties.

Article 5.4. Customs Procedures and Trade Facilitation

1. Each Party shall ensure that its customs procedures and practices are administered to:

(a) facilitate trade in a predictable, impartial, uniform and transparent manner, including through the expeditious clearance of goods; and

(b) avoid arbitrary and unwarranted procedural obstacles.

2. Customs procedures of each Party shall conform, where possible and to the extent permitted by its respective laws and regulations, to international standards and recommended practices established by the World Customs Organization and under other relevant international agreements to which the Parties are party.

3. The customs administration of each Party shall review its customs procedures with a view to facilitating trade.

Article 5.5. Customs Cooperation

1. The customs administration of each Party shall endeavour to assist the customs administration of the other Party, in relation to the implementation and operation of this Chapter and other customs matters as the Parties may agree.

2. Each Party shall endeavour to provide the customs administration of the other Party with timely notice of any significant modification of its customs laws or customs procedures that is likely to substantially affect the operation of this Agreement.

3. The Parties shall encourage their customs administrations to consult with each other regarding significant customs issues that affect trade between the Parties.

4. The customs administrations of the Parties shall endeavour to establish or maintain channels of communication for customs cooperation, including by establishing contact points, in order to facilitate the rapid and secure exchange of information and improve coordination on importation issues.

Article 5.6. Publication and Enquiry Points

1. Each Party shall make publicly available, including online, its customs laws, regulations and general administrative procedures applied or enforced by its customs administration, not including law enforcement procedures and internal operational guidelines.

2. Each Party shall designate or maintain one or more enquiry points to address enquiries from interested persons concerning customs matters and shall make information on how to make such enquiries publicly available online. Such customs matters shall include but not be limited to:

(a) the application of duty drawback, deferral or other types of relief that teduce, refund or waive customs duties;

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

(c) rules for the classification or valuation of products for customs purposes; (d) penalty provisions for breaches of import, export or transit formalities; and (e) procedures for appeal or review.
3. To the extent practicable and in a manner consistent with its laws and regulations, each Party shall provide interested persons the opportunity to and a reasonable period of time in which to comment on the proposed introduction or amendment of customs laws and procedures .

Article 5.7. Advance Ruling

1. Each Party, through its customs administration or other relevant authorities, on the application of a person described in paragraph 2(a) or 2(b), shall provide in writing advance rulings in respect of:

(a) tariff classification;

(b) questions arising from the application of the principles of the Customs Valuation Agreement, and;

(c) origin of goods.

2. Where available, each Party shall adopt or maintain procedures for advance rulings, which shall:

(a) provide that an importer in its territory may apply for an advance ruling before the importation of the goods in question;

(b) provide that an exporter or producer in the territory of the other Party may apply for an advance ruling before the importation of the goods in question;

(c) require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to process an application for an advance ruling;

(d) provide that its customs administration may, at any time during the course of an evaluation of an application for an advance ruling, request that the applicant provide additional information within a specified period;

(e) provide that any advance ruling be based on the facts and circumstances presented by the applicant, and any other relevant information in the possession of the decision-maker;

(f) provide that an advance ruling be issued to the applicant expeditiously, within the period specified in the laws, regulations or administrative determinations of each Party; and

(g) provide in writing the reasons for the decision.

3. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with paragraph 2(d) is not provided within the specified period.

4. Subject to paragraphs 1 and 5, and where available, each Party shall apply an advance ruling to all importations of goods described in that ruling imported into its territory for three years from the date of that ruling, or such other period as specified in the laws, regulations or administrative determinations of that Party.

5. A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, if there is a change in its laws and regulations which is consistent with this Agreement, or there is a change in a material fact or circumstance on which the ruling is based.

6. If an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs administration may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advanced ruling was based.

7. Each of the provisions of paragraphs 1 and 2 shall only apply between the Parties, when a Party has the capacity to implement that provision, and when provided for under the laws and regulations of that Party.

Article 5.8. Review and Appeal

1. Each Party shall ensure that any person to whom it issues a decision on a customs matter has access, within its territory, to:

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

(b) judicial review of the decision.

2. Each Party shall ensure that the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

Article 5.9. Penalties

1. Each Party shall adopt or maintain measures that allow for the imposition of civil or administrative penalties and, where appropriate, criminal sanctions for violations of its customs law.

2. Each Party shall ensure that a penalty imposed by its customs administration for a breach of customs law is imposed only on the person legally responsible for the breach.

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

4. Each Party shall ensure that if a penalty is imposed by its customs administration for a breach of customs law, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the law used for determining the penalty.

(1) Facts and circumstances shall be established objectively in accordance with each Party's laws and regulations.

Article 5.10. Risk Management 1. Each Party Shall Adopt or Maintain a Risk Management System for Assessment and

1. Each Party shall adopt or maintain a risk management system for assessment and targeting that enables its customs administration to focus its inspection activities on high- risk goods and that simplifies the clearance and movement of low-risk goods.

2. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management system specified in paragraph 1.

Article 5.11. Release of Goods

1. In order to facilitate bilateral trade, each Party shall adopt or maintain simplified customsproceduresfortheefficientreleaseofgoods. Thisparagraphshallnotrequirea Party to release a good if its requirements for release have not been met.

2. In accordance with paragraph 1, each Party shall adopt or maintain procedures that:

(a) provide for the release of goods within a period no greater than that required to ensure compliance with its customs laws;

(b) provide for customs information to be submitted and processed in electronic format as appropriate, before the goods arrive in order to expedite the release of goods from customs control upon arrival;

(c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities; and

(d) allow the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

3. As a condition for such release, a Party may require:

(a) payment of customs duties, taxes, fees and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations; or

(b) a guarantee in the form of a surety, a deposit or other appropriate instrument provided for in its laws and regulations.

4. If a Party allows for the release of goods conditioned on a security, it shall adopt or maintain procedures that:

(a) ensure that the amount of the security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled; and

(b) ensure that the security shall be discharged as soon as possible after its customs administration is satisfied that the obligations ar ising from the importation of the goods have been fulfilled.

Article 5.12. Temporary Admission of Goods

1. Each Party shall allow temporary admission as provided for in its laws and regulations, and grant duty-free temporary admission for goods including, but not limited to, the following, regardless of their origin:

(a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, that is necessary for carrying out the business activity, trade or profession of a person who qualifies for temporary entry in accordance with the laws and regulations of the importing Party;

(b) goods intended for display or demonstration;

(c) commercial samples;

(d) goods admitted for sports purposes;

(e) goods admitted for repair or alteration from the territory of the other Party; (2)

and

(f) containers, pallets and packing material, that are in use or to be used in the international transportation of goods.

2. Each Party shall, on request of the person concerned and for reasons its customs administration considers valid, extend the time limit for temporary admission beyond the period initially fixed.

3. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than the port through which it was admitted.

4. Each Party shall, in accordance with its laws and regulations, provide that the importer or other person responsible for a good admitted under this Article shall not be liable for failure to export the good on presentation of satisfactory proof to the importing Party that the good was destroyed within the period fixed for temporary admission, including any lawful extension.

(2) For the purposes of this Article, “repair or alteration” does not include an operation or process that: (a) destroys a good’s essential characteristics or creates a new or commercially different good; or (b) transforms an unfinished good into a finished good.

Article 5.13. Information Technology

1. Each Party shall apply information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within relevant international organisations, including the World Customs Organization.

2. The customs administration of each Party shall endeavour to establish as soon as practicable an electronic means for communication of relevant information required by it and other relevant, trade-related agencies to facilitate the international movement of goods and means of transport.

3. The introduction and enhancement of information technology shall, to the greatest extent possible, be carried out in consultation with relevant parties, including businesses directly affected.

Article 5.14. Confidentiality

1. Nothing in this Chapter shall be construed to require any Party to furnish or allow access to confidential information in accordance with this Chapter, the disclosure of which it considers would:

(a) be contrary to the public interest as determined by its laws and regulations;

(b) be contrary to any of its laws and regulations including, but not limited to, laws and regulations protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;

(c) impede law enforcement; or

(d) prejudice legitimate commercial interests, which may include competitive position, of particular enterprises, public or private.

2. Where a Party provides information to the other Party in accordance with this Chapter and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information, use it only for the purposes specified by the Party providing the information, and not disclose it without the specific written permission of the Party providing the information.

Chapter 6. TRADE FACILITATION

Article 6.1. Definitions

For the purposes of this Chapter: Trade Facilitation Agreement means the Agreement on Trade Facilitation in Annex 1A to the WTO Agreement.

Article 6.2. Objectives

The objectives of this Chapter are to:

(a) expedite the movement, release and clearance of goods, including goods in transit; and

(b) provide for effective cooperation so as to support the Parties in acquiring capacity to implement trade facilitative measures, including those provided under the Trade Facilitation Agreement.

Article 6.3. Scope

This Chapter shall apply to trade in goods between the Parties and shall be implemented in accordance with the Parties' respective laws and regulations.

Article 6.4. Publication and Enquiry Points

1. Each Party shall promptly publish the following information in a non- discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

(a) procedures relating to the administration of tariff quotas;

(b) country of origin marking, if it is a prerequisite for importation;

(c) the eligibility requirements for goods re-entered after repair and alteration;

(d) procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and documents;

(e) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

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

(g) import, export or transit restrictions or prohibitions; and

(h) procedures for appeal or review.

2. Each Party shall, within its available resources, establish or maintain one or more enquiry points to expeditiously provide advice or information to answer reasonable enquiries of governments, traders, and other interested parties on matters covered by paragraph 1, and to provide the required forms and documents referred to in paragraph 1(d) preferably through electronic means.

Article 6.5. Perishable Goods

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

(a) under normal circumstances within the shortest possible time; and

(b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

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

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

4. In cases of significant delay in the release of perishable goods, and upon written request, the importing Party shall, to the extent practicable, provide a communication on the reasons for the delay.

Article 6.6. Acceptance of Copies

1. Each Party shall, where appropriate, accept paper or electronic copies of supporting documents required for import, export or transit formalities.

2. Where a government agency of a Party already holds the original of such a document, any other agency of that Party shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

3. A Party shall not require an original or copy of export declarations submitted to the customs administrations of the exporting Party as a requirement for importation. Nothing in this paragraph precludes a Party from requiring documents such as certificates, permits or licenses as a requirement for the importation of controlled or regulated goods.

Article 6.7. Support for Trade Facilitation

In order to expedite the movement, release and clearance of goods, and to provide for effective cooperation in acquiring capacity to implement on trade facilitative measures, the Parties agree that:

(a) all provisions of this Chapter shall apply between the Parties 90 days after the date of entry into force of this Agreement unless a Party notifies the other Party that it currently lacks the capacity to implement a provision of this Chapter. Such notification shall be made through diplomatic channels within 90 days of the date of entry into force of this Agreement. A provision notified in this way shall not apply between the Parties until such notification is revoked;

(b) the Committee on Trade in Goods established under Article 2.11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) shall consider any assistance required for the Parties to acquire the capacity to implement the notified provisions and keep under review the implementation capacity of the Parties at each meeting; and

(c) the Committee on Trade in Goods may decide to revoke a notification under subparagraph (a) with respect to a provision of this Chapter. Where a notification is revoked the relevant provision shall apply between the Parties, from a date agreed between the Parties.

Article 6.8. Trade Facilitation Sub-Committee

1. For the purposes of the effective implementation and operation of this Agreement relating to matters within the scope of this Chapter, the Parties hereby establish a Sub- Committee on Trade Facilitation (the Trade Facilitation Sub-Committee).

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

(a) reviewing and monitoring the implementation and operation of this Agreement relating to matters within the scope of this Chapter;

(b) identifying areas relating to matters within the scope of this Chapter to be improved to facilitate trade between the Parties;

(c) recommending economic cooperation activities relating to matters within the scope of this Chapter to the Committee on Trade in Goods;

(d) reporting the findings of the Trade Facilitation Sub-Committee to the Committee on Trade in Goods; and

(e) carrying out other functions as may be delegated by the Committee on Trade in Goods.

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

4. The Trade Facilitation Sub-Committee shall meet at such venues and times and by such means as may be agreed by the Parties.

Chapter 7. SANITARY AND PHYTOSANITARY MEASURES

Article 7.1. Definitions

For the purposes of this Chapter:

competent authorities mean those authorities within each Party recognised by the national government as responsible for developing and administering sanitary and phytosanitary measures within that Party;

international standards, guidelines and recommendations shall have the same meaning as set out in paragraph 3 of Annex A to the SPS Agreement; and

sanitary or phytosanitary measure shall have the same meaning as set out in paragraph | of Annex A to the SPS Agreement.

Article 7.2. Objectives

The objectives of this Chapter are to:

(a) protect human, animal or plant life or health in the territory of each Party while facilitating bilateral trade;

(b) provide greater transparency in and deepen understanding of the application of each Partyâs laws, regulations and procedures relating to sanitary and phytosanitary measures;

(c) strengthen communication, consultation and cooperation between the Parties and particularly between the Parties' competent authorities which are responsible for matters covered by this Chapter; and

(d) enhance practical implementation of the principles and disciplines contained within the SPS Agreement.

Article 7.3. Scope

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

Article 7.4. General Provisions

1. Each Party affirms its rights and obligations with respect to each other under the SPS Agreement.

2. The Parties commit to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measures with the intent to facilitate trade between them, while protecting human, animal or plant life or health in the territory of each Party. The Parties also recognise the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific evidence in accordance with the SPS Agreement.

Article 7.5. Equivalence

1. The Parties recognise that the principle of equivalence as provided for under Article 4 of the SPS Agreement, has mutual benefits for both exporting and importing countries.

2. The Parties shall follow the procedures for determining the equivalence of SPS measures and standards developed by the WTO SPS Committee and relevant international standard setting bodies in accordance with Annex A of the SPS Agreement, as amended from time to time.

3. Compliance by an exported product that has been accepted as equivalent to SPS measures and standards of the

importing Party shall not remove the need for that product to comply with any other relevant mandatory requirements of the importing Party.

Article 7.6. Adaptation to Regional Conditions

1. The Parties recognise that adaptation to regional conditions including regionalisation, zoning and compartmentalisation is an important means to facilitate trade. To that end, each Party shall take into account, as appropriate, relevant guidelines, standards and recommendations, developed by the WTO SPS Committee and other relevant international standard setting bodies, in accordance with Annex A of the SPS Agreement.

2. The Parties shall give positive consideration to cooperation on matters relating to the recognition of pest- or disease-free areas, and areas of low pest or disease prevalence in accordance with Article 6 of the SPS Agreement with the objective of acquiring confidence in the procedures followed by each Party for the recognition of pest- or disease-free areas, and areas of low pest or disease prevalence.

Article 7.7. Competent Authorities and Contact Points

1. Each Party shall provide the other Party with a description of its competent authorities and their division of responsibilities.

2. Each Party shall provide the other Party with a contact point to facilitate distribution of requests or notifications made in accordance with this Chapter.

3. Each Party shall ensure the information provided under paragraphs | and 2 is kept up to date.

Article 7.8. Transparency and Notification

1. The Parties recognise the value of transparency in the adoption and application of sanitary and phytosanitary measures, including through the sharing of information about their respective sanitary and phytosanitary measures.

2. Each Party shall notify changes to its sanitary and phytosanitary measures, including the development and adoption of a regulation, in accordance with Annex B of the SPS Agreement and relevant decisions of the WTO SPS Committee by using the WTO SPS notification submission system as a means of notifying the other Party at an early stage, allowing comments from the other Party in writing, discussing these comments on request of the other Party, and taking the comments and results of the discussion into account.

3. A Party shall normally allow at least 60 days for the other Party to provide written comments on the proposed measure after it makes the notification under paragraph 2. If feasible and appropriate, the notifying Party should allow more than 60 days. The notifying Party shall consider any reasonable request from the other Party to extend the comment period. On request of the other Party, the notifying Party shall respond to the written comments of the other Party in an appropriate manner.

4. The Parties recognise that paragraphs 2 and 3 are subject to the flexibilities for notification provided in Annex B of the SPS Agreement, including in cases where urgent problems of human, animal or plant life or health protection arise or threaten to arise for a Party.

Article 7.9. Cooperation 1. Each Party Shall Explore Opportunities for Further Cooperation, Collaboration and

1. Each Party shall explore opportunities for further cooperation, collaboration and information exchange with the other Party on sanitary and phytosanitary matters of mutual interest in accordance with the objectives of this Chapter.

2. In relation to paragraph 1, each Party shall endeavour to coordinate with regional or multilateral work programmes with the objective of avoiding unnecessary duplication and to maximise the benefits from the application of resources.

3. The Parties agree to further explore how they can strengthen cooperation on the provision of technical assistance especially in relation to trade facilitation.

Article 7.10. Technical Consultations

1. If a Party considers that there is a disruption to trade on sanitary and phytosanitary grounds, it may request technical

consultations with the other Party on an urgent basis with a view to facilitating trade.

2. On receiving a request under paragraph 1, the other Party shall promptly provide any requested information and respond to questions pertaining to the matter, and if requested, enter into consultations within 30 days of receiving such a request. The Parties shall make every effort to reach a mutually satisfactory resolution through consultations within 60 days of receiving a request for consultations, or a timeline agreed upon by the Parties.

Article 7.11. SPS Sub-Committee

1. The Parties hereby agree to establish a Sub-Committee on Sanitary and Phytosanitary Matters (SPS Sub-Committee), consisting of representatives from the relevant government agencies of each Party.

2. The SPS Sub-Committee shall meet within one year of the date of entry into force of this Agreement and annually thereafter, unless the Parties otherwise agree.

3. The SPS Sub-Committee may set up subsidiary working groups, as agreed between the Parties.

4. The SPS Sub-Committee shall agree its terms of reference and the terms of reference of subsidiary working groups established under paragraph 3 as soon as possible after the date of entry into force of this Agreement, but no later than the conclusion of the first meeting of the SPS Sub-Committee. The terms of reference may be amended at any time by written agreement of the Parties.

5. The SPS Sub-Committee shall review the progress made by the Parties in implementing their commitments under this Chapter.

6. The SPS Sub-Committee may consider proposals for technical cooperation activities on sanitary and phytosanitary matters and perform any other function set out in its terms of reference in accordance with paragraph 4, unless the Parties otherwise agree.

7. Subsidiary working groups may meet to make decisions bilaterally implementing the commitments under this Chapter relating to agriculture, food, fisheries, forestry, and sanitary and phytosanitary policy matters and measures. Each working group shall provide to the SPS Sub-Committee updates on the status of their work,

8. Decisions and records of meetings held under this Article shall be agreed by the Parties. Meetings may occur in person, by teleconference, by video conference, or through any other means as mutually determined by the Parties.

9. The SPS Sub-Committee shall report to the Committee on Trade in Goods or a subsidiary body established by it.

Article 7.12. Non-Application of Chapter 20 (Consultations and Dispute Settlement)

Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

Chapter 8. TECHNICAL BARRIERS TO TRADE

Article 8.1. Definitions

For the purposes of this Chapter, the definitions provided for under Annex 1 to the Agreement on Technical Barriers to Trade (TBT Agreement) in Annex 1A to the WTO Agreement shall apply.

Article 8.2. Objectives

The objectives of this Chapter are to facilitate trade in goods between the Parties by:

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

(b) promoting mutual understanding of each Partyâs standards, technical regulations, and conformity assessment procedures;

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

(d) strengthening cooperation between the Parties in the work of international bodies related to standardisation and

conformity assessments; and

(e) providing a framework to implement supporting mechanisms to realise these objectives.

Article 8.3. Scope

For the mutual benefit of the Parties, this Chapter applies to all standards, technical

regulations and conformity assessment procedures of the central level of government bodies that may affect trade in goods between the Parties, except:

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

(b) sanitary or phytosanitary measures as defined in Chapter 7 (Sanitary and Phytosanitary Measures).

2. Each Party shall take such reasonable measures as may be available to it to ensure compliance, in the implementation of this Chapter, by local government and non-governmental bodies within its territory which are responsible for the preparation, adoption and application of standards, technical regulations and conformity assessment procedures.

3. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply standards, technical regulations and conformity assessment procedures only to the extent necessary to fulfil a legitimate objective. Such legitimate objectives are, inter alia, national security requirements; the prevention of deceptive practices; protection of human health or safety; animal or plant life or health; or the environment.

Article 8.4. Affirmation of the TBT Agreement

Each Party affirms its rights and obligations with respect to each other under the TBT Agreement.

Article 8.5. Standards

1. With respect to the preparation, adoption and application of standards, each Party shall ensure that its standardising body or bodies accept and comply with Annex 3 to the TBT Agreement.

2. Each Party shall encourage the standardising body or bodies in its territory to cooperate with the standardising body or bodies of other Parties. Such cooperation shall include, but is not limited to:

(a) exchange of information on standards;

(b) exchange of information relating to standard setting procedures; and

(c) cooperation in the work of international standardising bodies in areas of mutual interest.

Article 8.6. Technical Regulations

1. Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

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

3. If a Party does not accept a technical regulation of another Party as equivalent to its own, it shall, on request of the other Party, explain the reasons for its decision.

Article 8.7. Conformity Assessment Procedures

1. Each Party shall give positive consideration to accepting the results of conformity assessment procedures of the other Party, even if those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

2. Each Party shall seek to enhance the acceptance of the results of conformity assessment procedures conducted in the territory of the other Party with a view to increasing efficiency, avoiding duplication and ensuring cost effectiveness of the conformity assessments. In this regard, each Party may choose, depending on the situation of that Party and the specific sectors involved, a broad range of approaches. These may include but are not limited to:

(a) recognition by a Party of the results of conformity assessments performed in the territory of the other Party;

(b) recognition of cooperative arrangements between accreditation bodies in the territory of each Party;

(c) mutual recognition of conformity assessment procedures conducted by bodies located in the territory of the other Party;

(d) use of existing regional and international multilateral recognition agreements and arrangements;

(e) designating conformity assessment bodies located in the territory of the other Party to perform conformity assessment; and

(f) suppliers' declaration of conformity, where present and future opportunities arise as appropriate.

3. Each Party shall exchange information with the other Party on its experience in the development and application of the approaches in paragraph 2(a) to (f) and other appropriate approaches with a view to facilitating the acceptance of the results of conformity assessment procedures.

4. A Party shall, on request of the other Party, explain its reasons for not accepting the results of any conformity assessment procedures performed in the territory of that other Party.

Article 8.8. Cooperation

1. The Parties shall intensify their joint efforts in the field of standards, technical regulations and conformity assessment procedures with a view to facilitating access to each otherâs markets.

2. Each Party shall, on request of the other Party, give positive consideration to proposals to supplement existing cooperation on standards, technical regulations and conformity assessment procedures. Such cooperation, which shall be on mutually determined terms and conditions, may include but is not limited to:

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

(b) cooperation between conformity assessment bodies, both governmental and non-governmental, in the territories of each Party such as:

(i) use of accreditation to qualify conformity assessment bodies; and

(ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;

(c) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures such as enhancing participation in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and

(d) enhancing cooperation in the development and improvement of technical regulations and conformity assessment procedures such as:

(i) cooperation in the development and promotion of good regulatory practice;

(ii) transparency, including ways to promote improved access to information on standards, technical regulations and conformity assessment procedures; and

(iii) management of risks relating to health, safety, the environment and deceptive practices.

3. On request of the other Party, a Party shall give positive consideration to a sector- specific proposal that the requesting Party makes for further cooperation under this Chapter.

Article 8.9. Consultations

1. Each Party shall give prompt and positive consideration to any request from the other Party for consultations on issues

relating to the implementation of this Chapter.

2. Where a matter covered under this Chapter cannot be clarified or resolved as a result of consultations, the Parties shall refer it to the Sub-Committee on Technical Barriers to Trade (TBT Sub-Committee) to identify a workable and practical solution to facilitate trade.

Article 8.10. Agreements or Implementing Arrangements

1. The Parties shall seek to identify trade-facilitating initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors.

2. Such trade-facilitating initiatives may include agreements or implementing atrangements on regulatory issues, such as alignment of standards, convergence or equivalence of technical regulations, conformity assessment procedures and compliance issues.

3. A Party which is party to an existing agreement or implementing arrangement shall give consideration to extending such an agreement or implementing arrangement to the other Party on request of that Party. Such consideration may be subject to appropriate confidence building processes to ensure equivalency of relevant standards, technical regulations or conformity assessment procedures.

4. If a Party declines a request of the other Party to consider extending the application of an existing agreement or implementing arrangement it shall, on request of that Party, explain the reasons for its decision.

Article 8.11. Transparency

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended standards, technical regulations and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall ensure that the information relating to standards, technical regulations and conformity assessment procedures is published. Such information should be made available in electronic form and, where possible, in printed form.

Article 8.12. Contact Points

1. The Parties shall designate a contact point or contact points who shall have responsibility for coordinating the implementation of this Chapter.

2. The Parties shall provide each other with the name of the designated contact point or contact points and the contact details of the relevant official in that organisation, including telephone, facsimile, email and any other relevant details.

3. The Parties shall notify each other promptly of any change of their contact points or any amendments to the details of the relevant officials.

4. The Parties shall ensure that its contact point or contact points facilitate the exchange of information between the Parties on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party.

Article 8.13. TBT Sub-Committee

1, The Parties hereby establish a Sub-Committee on TBT (TBT Sub-Committee), consisting of representatives of the Parties, to promote and monitor the implementation and administration of each Party's standards, technical regulations and conformity assessment procedures covered in this Chapter.

2. The TBT Sub-Committee shall meet as agreed by the Parties. Meetings may be conducted annually in person, or by any other means as agreed by the Parties.

3. The TBT Sub-Committee shall determine its terms of reference in accordance with this Chapter.

4. The TBT Sub-Committee shall determine its work programme in response to priorities as identified by the Parties.

Article 8.14. Non-Application of Chapter 20 (Consultations and Dispute Settlement)

Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

Chapter 9. TRADE IN SERVICES

Article 9.1. Definitions

For the purposes of this Chapter:

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

commercial presence means any type of business or professional establishment, including through:

(i) the constitution, acquisition or maintenance of an enterprise; or

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

computer reservation system services means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

controlled means having the power to name a majority of directors or otherwise legally direct an enterprise's actions;

enterprise of the other Party means an enterprise which is either:

(i) constituted or otherwise organised in accordance with the law of the other Party; or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(A) natural persons of the other Party; or

(B) enterprises of the other Party identified under subparagraph (A);

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

measures adopted or maintained by a Party means measures adopted or maintained by:

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

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

owned means holding more than 50 per cent of the equity interest in an enterprise;

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services or the applicable conditions;

service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

service supplier of a Party means a person of a Party that supplies a service; (1) (2)

specialty air services means any specialised commercial operation using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; and

trade in services or supply of a service means the supply of a service:

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

(ii) in the territory of a Party to a person of the other Party;

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

(iv) by a natural person of a Party in the territory of the other Party.

(1) Where the service is not supplied directly by an enterprise but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the enterprise) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers in accordance with this Chapter. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory of a Party where the service is supplied.

(2) For greater certainty, 'service supplier of a Party' includes a person of a Party that seeks to supply a service.

Article 9.2. Scope

1. This Chapter shall apply to measures adopted or maintained by a Party affecting trade in services by service suppliers of the other Party. Such measures include measures affecting:

(a) the production, distribution, marketing, sale or delivery of a service;

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

(c) the access to services offered to the public generally and the use of them in connection with the supply of a service;

(d) the presence, including commercial presence, in a Partyâs 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 supply of a service.

2. This Chapter shall not apply to:
(a) government procurement;
(b) services supplied in the exercise of governmental authority; and

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

3. This Chapter does not impose any obligation on a Party with respect to a natural person of the other Party who seeks access to its employment market or who is employed on a permanent basis in its territory, and does not confer any right on that natural person with respect to that access or employment.

4. This Chapter shall not apply to air services, including domestic and international

air transportation services, whether scheduled or non-scheduled, or to related services in support of air services, other than the following:

(a) aircraft repair and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance;

(b) selling and marketing of air transport services;
(c) computer reservation system services;

(d) specialty air services;

(e) airport operation services; and

(f) ground handling services.

5. In the event of any inconsistency between this Chapter and a bilateral, plurilateral or multilateral air services agreement to which the Parties are party, the air services agreement shall prevail in determining the rights and obligations of the Parties.

6. If the Annex on Air Transport Services of GATS is amended unless the Parties otherwise agree, the Parties shall jointly review any new definitions with a view to aligning the definitions in this Agreement with those definitions, as appropriate.

Article 9.3. National Treatment (3)

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

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part.

(3) For greater certainty, whether treatment is accorded in "like circumstances" under Article 9.3 or Article 9.4 depends on the totality of the circumstances, including the relevant economic or business sector or sectors concerned and whether the relevant treatment distinguishes between services or service suppliers on the basis of legitimate public welfare objectives or on the basis of nationality. Where treatment distinguishes between services or service suppliers on the basis of legitimate public welfare objectives, that treatment is not inconsistent with Article 9.3 or Article 9.4.

Article 9.4. Most-Favoured-Nation Treatment

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

Article 9.5. Market Access (4)

Neither Party shall adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:
(a) impose limitations on:

(i) the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements 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 service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; (5) 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, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or

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

(4) For greater certainty, the Parties consider limitations on the participation of foreign capital in terms of maximum percentage equity limits on foreign shareholding or the total value of individual or aggregate foreign investment to breach Article 9.3.

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

Article 9.6. Local Presence

Neither Party shall require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service. (6)

(6) For greater certainty, cross-border supply of a service means the supply of a service, except where it is by a service supplier of a Party through commercial presence in the territory of the other Party.

Article 9.7. Non-Conforming Measures

1. Articles 9.3, 9.4, 9.5 and 9.6 shall not apply to:

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex I (Trade in Services and Investment Schedules); or

(ii) a regional level of government, as set out by that Party in its Schedule to Annex I (Trade in Services and Investment Schedules); or

(iii) a local level of government;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 9.3, Article 9.4, Article 9.5 or Article 9.6.

2. Articles 9.3, 9.4, 9.5 and 9.6 shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out by that Party in its Schedule to Annex II (Trade in Services and Investment Schedules).

Article 9.8. Domestic Regulation (7)

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. Each Party shall ensure that its judicial, arbitral or administrative tribunals or procedures which provide for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services are open on a non- discriminatory basis to a service supplier of the other Party. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Paragraph 2 shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

4. While recognising the right to regulate and to introduce new regulations on the supply of services in order to meet its policy objectives, each Party shall endeavour to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures that it adopts or maintains are:

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

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

5. In determining whether a Party is in conformity with its obligations under paragraph 4(a), account shall be taken of international standards of relevant international organisations (8) applied by that Party.

6. If a Party requires authorisation for the supply of a service, not otherwise excluded through Article 9.7, it shall ensure that its competent authorities:

(a) where specific time periods exist for applications, allow an applicant a reasonable period for the submission of an application;

(b) upon submission from the applicant, initiate the processing of an application without undue delay;

(c) in the case of an application considered incomplete for processing under domestic laws and regulations, within a reasonable period of time, to the extent practicable:

(i) inform the applicant that the application is incomplete;

(ii) at the request of the applicant provide guidance on why the application is considered incomplete;

(iii) provide the applicant with the opportunity to provide the additional information that is required to complete the application; and

(iv) where none of the above is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time;

(d) to the extent practicable, establish an indicative timeframe for the processing of an application;

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

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

(g) if an application is rejected, to the extent practicable, inform the applicant in writing of the reasons for the rejection, either directly or on request, as appropriate. The applicant will have the possibility of resubmitting, at its discretion, a new application;

(h) if appropriate, accept copies of documents that are authenticated in accordance with the Party's laws and regulations in place of original documents; and

(i) to the extent practicable, ensure that authorisation, once granted, enters into effect without undue delay subject to the applicable terms and conditions.

7. Each Party shall ensure that any authorisation fee charged by any of its competent authorities is reasonable, transparent and does not, in itself, restrict the supply of the relevant service. (9)

8. Each Party shall, where it requires authorisation for supply of a service, promptly publish (10) or otherwise make publicly available the information necessary for a service supplier, or a person seeking to supply a service, to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorisation. Such information shall include, inter alia and where applicable:

(a) fees;

(b) contact information of relevant competent authorities;

(c) procedures for appeal or review of decisions concerning applications;

(d) procedures for monitoring or enforcing compliance with the terms and

conditions of licenses;

(e) opportunities for public involvement, such as through hearings or comments;

(f) indicative timeframes for processing of an application;

(g) the requirements and procedures; and

(h) technical standards.

9. If licensing or qualification requirements include the completion of an examination, each Party shall ensure that:

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

(b) a reasonable period of time is provided to enable applicants to request to take the examination.

10. Further to paragraph 9, each Party should explore, as appropriate, the possibility of:

(a) using electronic means for conducting such examinations;

(b) conducting such examinations orally; and

(c) providing opportunities for taking such examinations in the territory of the other Party.

11. Each Party shall ensure that physical presence in the territory of the other Party is not required for the submission of an application for a license or qualification.

12. Each Party shall endeavour to accept applications in electronic format under the equivalent conditions of authenticity as paper submissions in accordance with domestic law.

13. Where a Party permits a service supplier of the other Party to provide a professional service, that Party shall ensure that there are procedures in place domestically to assess the competency of professionals of the other Party.

14. Subject to its laws and regulations, a Party shall permit service suppliers of the other Party to use the enterprise names under which they trade in the territory of the other Party and otherwise ensure that the use of enterprise names is not unduly restricted.

15. If the results of the negotiations related to paragraph 4 of Article VI of GATS, or the results of any similar negotiations undertaken in other multilateral fora in which the Parties participate, enter into effect, the Parties shall jointly review these results with a view to bringing them into effect, as appropriate, under this Agreement.

(7) For greater certainty, this Article is without prejudice to a Party's rights and obligations under the WTO Agreement.

(8) "Relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of the Parties to this Agreement.

(9) For the purposes of this paragraph, authorisation fees do not include fees for the use of natural resources, payments for auctions, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

(10) For purposes of these disciplines, "publish" means to include in an official publication, such as an official journal, or on an official website.

Article 9.9. Recognition

1. For the purposes of the fulfilment, in whole or in part, of a Party's standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, it may recognise the education or experience obtained, requirements met, or licences or certifications granted, in the territory of the other Party or a non-Party. That recognition, which may be achieved through harmonisation or otherwise, may be based on an agreement or arrangement with the other Party or non- Party concerned, or may be accorded autonomously.

2. If a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted, in the territory of a non-Party, nothing in Article 9.4 shall be construed to require the Party to accord 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, whether existing or future, shall afford adequate opportunity to the other Party, on request, to negotiate its accession to that agreement or arrangement, or to negotiate a comparable agreement or arrangement. If a Party accords recognition autonomously, it shall afford adequate opportunity to the other Party to demonstrate that education, experience, licences or certifications obtained or requirements met in that other Partyâs territory should be recognised.

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

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

6. As set out in Annex 9-A, the Parties shall endeavour to facilitate trade in professional services, including through the establishment of a Professional Services Working Group.

Article 9.10. Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non- Party, and the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented ifthe benefits of this Chapter were accorded to the enterprise.

2. A Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise owned or controlled by persons of a non- Party or by persons of the denying Party that has no substantial business activities in the territory of the other Party.

Article 9.11. Transparency

1. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons (11) regarding its laws and regulations that relate to the subject matter of this Chapter.

2. If a Party does not provide advance notice and opportunity for comment in accordance with Article 19.2 (Publication) of Chapter 19 (Transparency) with respect to its laws and regulations that relate to the subject matter of this Chapter, it shall on request of the other Party, provide in writing the reasons for not doing so.

(11) For the purpose of this paragraph "interested persons" refers to a person whose direct interest in trade in services could be potentially affected by such laws and regulations.

Article 9.12. Payments and Transfers

1. Each Party shall permit all transfers and payments that relate to the supply of services to be made freely and without delay into and out of its territory.

2. Each Party shall permit transfers and payments that relate to the supply of services to be made in a freely usable currency at the market rate of exchange that prevails at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory and good faith application of its laws and regulations (12) that relate to:

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

(b) issuing, trading or dealing in securities, futures, options or derivatives;

(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(d) criminal or penal offences; or

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

(12) For greater certainty, this Article does not preclude the equitable, non-discriminatory and good faith application of a Party's laws and regulations relating to its social security, public retirement or compulsory savings programmes

Article 9.13. Review

1. The Parties shall review this Chapter and related Annexes and Schedules within three years of the date of entry into force of this Agreement with a view to substantially reducing or eliminating discrimination and enhancing market access between the Parties with regard to trade in services. The review shall include the identification of measures to increase trade in services under this Chapter and related Annexes and Schedules between the Parties. Unless the Parties otherwise agree, the initial review, including actions to incorporate the results into this Agreement, shall be completed within two years of initiating the review.

2. The Parties shall subsequently review this Chapter and related Annexes and Schedules every five years thereafter, with a view to substantially reducing or eliminating all remaining discrimination and enhancing market access between the Parties with regard to trade in services.

3. At each review the Parties shall also consider other trade in services issues of mutual interest.

Article 9.14. Committee on Trade In Services

1. The Parties hereby establish a Committee on Trade in Services (Trade in Services Committee) consisting of representatives of the Parties.

2. The Trade in Services Committee shall meet within two years from the date of entry into force of this Agreement and thereafter as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.
3. The Trade in Services Committee's functions shall be to:

(a) review the implementation of this Chapter;

(b) implement Article 9.13;

(c) consider any other matters related to this Chapter identified by either Party;

(d) consider matters related to Chapter 10 (Financial Services), Chapter 11 (Telecommunications), Chapter 12 (Movement of Natural Persons) and Chapter 13 (Electronic Commerce), and direct the activities of the Professional Services Working Group; and

(e) report to the Joint Committee as required.

Chapter 10. FINANCIAL SERVICES

Article 10.1. Definitions

1. For the purposes of this Chapter:

financial institution means any financial intermediary or other enterprise that is authorised to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located by entities such as a central bank or a financial services authority;

financial service means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

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

(A) life;

(B) non-life;

(ii) reinsurance and retrocession;

(iii) insurance intermediation, such as brokerage and agency; and

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

Banking and other financial services (excluding insurance)

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

(vi) lending of all types, including consumer credit, mortgage credit,

factoring and financing of commercial transactions;

(vii) financial leasing;

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

(ix) guarantees and commitments;

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

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

(B) foreign exchange;

(C) derivative products, including futures and options;

(D) exchange rate and interest rate instruments, including

products such as swaps, forward rate agreements;

(E) transferable securities; and

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

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

(xii) money broking;

(xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

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

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

(xvi) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (e) through (o), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

financial service supplier means a person that seeks to supply or supplies a financial service;

new financial services means a financial service that is not supplied by any financial services supplier in the territory of a Party but which is supplied and regulated in the territory of the other Party. This may include services related to existing and new products or the manner in which the product is delivered;

public entity means a government, a central bank or monetary authority or financial services authority of a Party, or any financial institution that is owned or controlled by a Party; and self-regulatory organisation means any non-governmental body, including any securities or futures exchange or market, clearing or payment settlement agency, other organisation or association that: (i) is recognised as having self-regulatory powers; or

(ii) exercises regulatory or supervisory authority; over financial service suppliers by legislation or delegation from central, regional or local governments or authorities.

2. For the purposes of subparagraph (f) of Article 14.1 (Definitions) of Chapter 14 (Investment), the term investment means, in respect of a financial service:

(a) 'investment' as defined in Article 14.1 (Definitions) of Chapter 14 (Investment), except that, with respect to 'loans' and 'debt instruments' referred to in that Article:

(i) a loan to or debt instrument issued by a financial institution is an investment only if it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

(ii) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument issued by a financial institution referred to in subparagraph (i), is not an investment;

(b) for greater certainty, a loan granted by or debt instrument owned by a financial service supplier of the other Party, other than a loan to or debt instrument issued by a financial institution, is an investment for the purposes of Chapter 14 (Investment), if such loan or debt instrument meets the criteria for investments set out in Article 14.1 (Definitions) of Chapter 14 (Investment).

3. For the purposes of Article 9.1 (Definitions) of Chapter 9 (Trade in Services), the term "services supplied in the exercise of governmental authority" means, in respect of a financial service:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except where a Party allows any of the activities or services referred to in subparagraphs (a) or (b) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier.

4. The definition of "services supplied in the exercise of governmental authority" in Article 9.1 (Definitions) of Chapter 9 (Trade in Services) shall not apply to the services covered by this Chapter.

Article 10.2. Scope

1. This Chapter provides for commitments additional to Chapter 9 (Trade in Services) and Chapter 14 (Investment) in relation to financial services.

2. This Chapter shall apply to measures adopted or maintained by a Party affecting the trade or supply of a financial service. Reference to trade in financial services or supply of a financial service in this Chapter shall mean 'trade in services or supply of a service' as defined in Article 9.1 (Definitions) of Chapter 9 (Trade in Services).

3. Notwithstanding paragraph 1,

(a) sub-paragraphs 6 through 15 of Article 9.8 (Domestic Regulation) of Chapter 9 (Trade in Services) and Article 14.6 (Prohibition of Performance Requirements) of Chapter 14 (Investment) shall not apply to the services covered by this Chapter; and

(b) Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment) shall only apply to the services covered by this Chapter for claims that a Party has breached Articles 14.7 (Minimum Standard of Treatment), 14.8 (Treatment in Case of Armed Conflict or Civil Strife), 14.9 (Transfers), 14.11 (Expropriation and Compensation), 14.15 (Special Formalities and Disclosure of Information) and 14.13 (Denial of Benefits) of Chapter 14 (Investment).

4. In the event of any inconsistency between this Chapter and Chapter 9 (Trade in Services), Chapter 11 (Telecommunications), Chapter 13 (Electronic Commerce), Chapter 14 (Investment) or Chapter 19 (Transparency), this Chapter shall prevail to the extent of the inconsistency.

Article 10.3. New Financial Services (1)

Each Party shall endeavour to permit a financial institution of the other Party established in its territory to supply a new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without adopting a law or regulation, or modifying an existing law or regulation. Notwithstanding Article 9.5 (Market Access) of Chapter 9 (Trade in Services), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. If a Party requires a financial institution to obtain authorisation to supply a new financial service, the Party shall decide within a reasonable period of time whether to issue the authorisation and may refuse the authorisation for prudential reasons under Article 10.5.

(1) The Parties understand that nothing in this Article prevents a financial institution of a Party from applying to the other Party to request that it authorise the supply of a financial service that is not supplied in the territory of the other Party. That application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to this Article.

Article 10.4. Treatment of Certain Information and Processing of Information

Neither Party shall take measures that prevent transfers of information or the processing of financial information, including transfers of data by electronic means, or that, subject to importation rules consistent with international agreements, prevent transfers of equipment, where such transfers of information, processing of financial information or transfers of equipment are necessary for the conduct of the ordinary business of a financial service supplier. Nothing in this Article restricts the right of a Party to protect personal data, personal privacy and the confidentiality of individual records and accounts or to require compliance with domestic regulation in relation to data management and storage and system maintenance so long as such right is not used to circumvent the provisions of this Chapter and Chapter 9 (Trade in Services) and Chapter 14 (Investment).

Article 10.5. Exceptions

1. Notwithstanding any other provisions of this Agreement except for Chapter 2 (Trade in Goods), Chapter 4 (Rules of Origin), Chapter 5 (Customs Procedures), Chapter 7 (Sanitary and Phytosanitary Measures) and Chapter 8 (Technical Barriers to Trade), a Party shall not be prevented from adopting or maintaining measures for prudential reasons, (2) (3) including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. If these measures do not conform with the provisions of this Agreement to which this exception applies, they shall not be used as a means of avoiding the Party's commitments or obligations under those provisions.

2. Nothing in this Chapter, Chapter 9 (Trade in Services), Chapter 11 (Telecommunications), Chapter 13 (Electronic Commerce), or Chapter 14 (Investment), shall apply to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies.

3. Notwithstanding Article 14.9 (Transfers) of Chapter 14 (Investment) and Article 9.12 (Payments and Transfers) of Chapter 9 (Trade in Services), a Party may prevent or limit transfers by a financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from adopting or enforcing measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject always to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Parties or between Parties and non-Parties where like conditions prevail, or a disguised restriction on investment in financial institutions or trade in financial services as covered by this Chapter.

5. For greater certainty, nothing in this Chapter, Chapter 9 (Trade in Services), Chapter 11 (Telecommunications), Chapter 13 (Electronic Commerce) or Chapter 14 (Investment) shall prevent a Party from requiring the non-discriminatory licensing or registration of financial service suppliers supplying a service from the territory of a Party into the territory of the other Party and of financial instruments for prudential reasons in accordance with paragraph 1 of this Article.

(2) The Parties understand that the term 'prudential reasons' includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial service suppliers as well as the safety, and financial and operational integrity of payment and clearing systems.

(3) For greater certainty, if a measure challenged under Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment) is determined to have been adopted or maintained by a Party for prudential reasons in accordance with the procedures in Article 10.12, a tribunal shall find that the measure is not inconsistent with the Party's obligations under this Agreement and, accordingly, shall not award any damages with respect to that measure.

Article 10.6. Recognition

1. A Party may recognise prudential measures of any international standard setting body, the other Party, or non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the international standard setting body, other Party, or a non-Party concerned or may be accorded autonomously.

2. A Party that is a party to such an agreement or arrangement referred to in paragraph 1, whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such an agreement or arrangement, or to negotiate one comparable with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.

3. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances as referred to in paragraph 2 exist.

Article 10.7. Transparency and Administration of Certain Measures

1. The Parties recognise that transparent measures governing the activities of financial service suppliers are important in facilitating their ability to gain access to and operate in each other's markets.

2. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

3. To the extent practicable, each Party should allow a reasonable period of time between publication of a final regulation of general application and the date when it enters into effect.

4. Each Party shall ensure that the rules of general application adopted or maintained by a self-regulatory organisation of

the Party are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.

5. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.

6. Each Party's regulatory authorities shall make publicly available the requirements, including any documentation required, for completing an application relating to the supply of financial services.

7. On request of an applicant in writing, a Party's regulatory authority shall inform the applicant of the status of its application in writing. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

8. A Party's regulatory authority shall make an administrative decision on a complete application of a financial service supplier of the other Party relating to the supply of a financial service, within 180 days and shall notify the applicant of the decision. An application shall not be considered complete until all relevant hearings have been held and all necessary information has been received. If it is not practicable for a decision to be made within 180 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time thereafter.

9. On request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for denial of the application.

Article 10.8. Self-Regulatory Organisations

Where a Party requires a financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation in order to provide a financial service in or into its territory, the Party shall endeavour to ensure that the self- regulatory organisation accords national treatment and most-favoured-nation treatment to financial service suppliers of the other Party in accordance with Article 9.3 (National Treatment) and Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Trade in Services) and Article 14.4 (National Treatment) and Article 14.5 (Most-Favoured-Nation Treatment) of Chapter 14 (Investment). (4) Each Party shall accord to financial services suppliers of the other Party treatment no less favourable than it accords, in like circumstances, to financial services suppliers of a non-Party with respect to the treatment afforded by self-regulatory organisations.

(4) For greater certainty, a Party may require a financial service supplier to be present in its territory as a requirement for membership of, participation in, or access to a self-regulatory organisation of a Party.

Article 10.9. Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant financial institutions of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to the Party’s lender of last resort facilities. 5

(5) For greater certainty, a Party need not grant access under this Article to a financial institution of the other Party established in its territory if such access is not granted to its own financial institution in like circumstances.

Article 10.10. Consultations

1. A Party may request, in writing, consultations with the other Party regarding any matter arising under this Agreement that affects financial services, including matters arising at the regional level of government of the other Party. The other Party shall give sympathetic consideration to the request to hold consultations. The Parties shall report the results of their consultations to the Committee on Trade in Services.

2. Consultations under this Article shall include officials of the authorities specified in Annex 10-A.

3. For greater certainty, nothing in this Article shall be construed to require a Party to derogate from its law regarding sharing of information between financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties, or to require a regulatory authority to take any action that would interfere with specific regulatory,

supervisory, administrative or enforcement matters.

Article 10.11. Dispute Settlement

1. Chapter 20 (Consultations and Dispute Settlement) shall apply as modified by this Article to the settlement of disputes concerning measures affecting financial services arising under this Chapter, Chapter 9 (Trade in Services) and Chapter 14 (Investment).

2. If a Party claims that a dispute arises within the meaning of paragraph 1, Article 20.8 (Establishment and Reconvening of Panels) of Chapter 20 (Consultations and Dispute Settlement) shall apply, except that:

(a) if the disputing Parties agree, each panellist shall meet the qualifications in paragraph 3; and

(b) in any other case:

(i) each disputing Party shall select panellists that meet the qualifications set out in either paragraph 3 or Article 20.8 (Establishment and Reconvening of Panels) of Chapter 20 (Consultations and Dispute Settlement); and

(ii) if the responding Party indicates an intention to invoke or invokes Article 10.5 prior to a Party's request for the establishment of a panel, the chair of the panel shall meet the qualifications set out in paragraph 3, unless the disputing Parties otherwise agree.

3. In addition to the requirements set out in Article 20.8 (Establishment and Reconvening of Panels) of Chapter 20 (Consultations and Dispute Settlement), panellists shall have expertise or experience in financial services law or practice, which may include the regulation of financial services.

4. A Party may request the establishment of a panel in accordance with Chapter 20 (Consultations and Dispute Settlement) to consider whether and to what extent Article 10.5 is a valid defence to a claim. The panel shall present its interim and final reports in accordance with Article 20.10 (Panel Procedures) of Chapter 20 (Consultations and Dispute Settlement). The final report of the panel shall be binding on any tribunal established in accordance with Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment) to consider the same measure, and any decision or award issued by such a tribunal must be consistent with the final report of the panel.

5. If a Party seeks to suspend benefits in the financial services sector, a panel that reconvenes to make a determination on the proposed suspension of benefits, in accordance with Article 20.14 (Compensation and Suspension of Concessions or other Obligations) of Chapter 20 (Consultations and Dispute Settlement), shall seek the views of financial services experts, as necessary.

Article 10.12. Investment Disputes In Financial Services

1. If an investor of a Party submits a claim to arbitration under Section B (Investor- State Dispute Settlement) of Chapter 14 (Investment) challenging a measure relating to regulation or supervision of financial services, markets or instruments, the expertise or experience of any particular candidate with respect to financial services law or practice shall be taken into account in the appointment of arbitrators to the tribunal.

2. If an investor of a Party submits a claim to arbitration under Section B (Investor- State Dispute Settlement) of Chapter 14 (Investment), and the disputing Party invokes Article 10.5 as a defence, the following provisions of this Article shall apply:

(a) the disputing Party shall, no later than the date the tribunal fixes for the disputing Party to submit its counter-memorial, or in the case of an amendment to the notice of arbitration, the date the tribunal fixes for the disputing Party to submit its response to the amendment, submit in writing to the authorities responsible for financial services of the Party of the disputing investor, as set out in Annex 10-A, a request for a joint determination by the authorities of the Parties on the issue of whether and to what extent Article 10.5 is a valid defence to the claim. The disputing Party shall promptly provide the tribunal, if constituted, a copy of the request. The arbitration may proceed with respect to the claim only as provided in paragraphs 3 and 4. Any applicable timeframes under Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment) shall be suspended for the duration of the 180 day period established under paragraph 2(d) and the duration of any Chapter 20 (Consultations and Dispute Settlement) proceedings conducted under paragraph 2(d);

(b) the authorities of the Parties shall attempt in good faith to make a determination as described in subparagraph (a). Any such determination shall be transmitted promptly to the disputing parties, the Investment Committee and, if constituted, to the tribunal. The determination shall be binding on the tribunal and any decision or award issued by the tribunal must be consistent with that determination;

(c) if panel has made findings, rulings or recommendations under Article 20.9 (Functions of Panels) of Chapter 20 (Consultations and Dispute Settlement) with respect to the same measure which is the subject of a disputing investor's claim under Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment), the Parties shall transmit the final report to the disputing parties and the tribunal. The panel report shall be binding on the tribunal, and any decision or award issued by the tribunal must be consistent with the panel report; and

(d) if the authorities referred to in subparagraphs (a) and (b) have not made a determination within 180 days of the date of receipt of the disputing Party's written request for a determination under subparagraph (a), either Party may request the establishment of a panel under Chapter 20 (Consultations and Dispute Settlement) to consider whether and to what extent Article 10.5 is a valid defence to the claim. The panel established under Article 20.8 (Establishment and Reconvening of Panels) of Chapter 20 (Consultations and Dispute Settlement) shall be constituted in accordance with Article 10.11. Further to Article 20.10 (Panel Procedures) of Chapter 20 (Consultations and Dispute Settlement), the panel shall transmit its final report to the disputing parties and to the tribunal.

3. If a panel is established under paragraph 2(d), a tribunal established under Article 14.25 (Submission of a Claim) of Chapter 14 (Investment) may only proceed with respecttotheclaimonceithasreceivedthefinalreportofthepanel. Thefinalreportof panel referred to in paragraph 2(d) shall be binding on the tribunal, and any decision or award issued by the tribunal must be consistent with the final report.

4. If no request for the establishment of a panel in accordance with paragraph 2(d) has been made within 10 days of the expiration of the 120 day period referred to in paragraph 2(d), the tribunal established under Article 14.25 (Submission of a Claim) of Chapter 14 (Investment) may proceed with respect to the claim.

(a) The tribunal shall draw no inference regarding the application of Article 10.5 from the fact that the authorities have not made a determination as described in paragraphs 2(a), (b) and (d).

(b) The Party of the disputing investor may make oral and written submissions to the tribunal regarding the issue of whether and to what extent Article 10.5 is a valid defence to the claim. Unless it makes such a submission, the Party of the disputing investor shall be presumed, for the purposes of the arbitration, to take a position on Article 10.5 that is not inconsistent with that of the disputing Party.

5. For the purposes of this Article, the definitions of the following terms set out in Article 14.1 (Definitions) of Chapter 14 (Investment) are incorporated, mutatis mutandis: 'disputing investor', 'disputing parties', 'disputing party' and 'disputing Party'

Chapter 11. TELECOMMUNICATIONS

Article 11.1. Definitions

For the purposes of this Chapter:

cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services; (1)

end-user means a final consumer of or subscriber to a public telecommunications service, including an enterprise other than a supplier of public telecommunications services;

enterprise means an enterprise as defined in Article 1.4 (General Definitions) of Chapter 1 (Initial Provisions and Definitions), and a branch of an enterprise;

essential facilities means facilities of a public telecommunications network or service that:

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

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

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

international mobile roaming service means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications services that enables end-users to use their home mobile handset or other device for voice, data or messaging services while outside the territory in which the end-user's home public telecommunications network is located;

leased circuits means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a particular user;

licence means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for such person to offer a public telecommunications service or to operate a public telecommunications network, including permits or registrations;

major supplier means a supplier which has the ability to materially affect the terms of participation, having regard to price and supply, in the relevant market for the supply of public telecommunications networks or services, or parts thereof, as a result of:

(i) control over essential facilities; or

(ii) use of its position in the market;

network element means a facility or equipment used in supplying a public telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

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

physical co-location means access to space in order to install, maintain or repair equipment at premises owned or controlled and used by a supplier to supply public telecommunications networks or services;

public telecommunications network means telecommunications infrastructure used to provide public telecommunications services between defined network termination points;

public telecommunications service means any telecommunications service offered to the public generally. These services may include telephone and data transmission typically involving transmission of customer-supplied information between two or more defined points without any end-to-end change in the form or content of the customer's information;

reference interconnection offer means an interconnection offer extended by a major supplier and filed with, approved by or determined by a telecommunications regulatory body that sufficiently details the terms, rates and conditions for interconnection so that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;

resale means the supply, by a supplier of public telecommunications services (the first supplier), of public telecommunications services purchased from another supplier of public telecommunications services (the second supplier) and which the second supplier also provides at retail to end-users, without significant alteration to these services;

standard interconnection offer means an interconnection offer extended by a major supplier, which is neither filed with, or approved by a telecommunications regulatory body, but is published and sufficiently details the terms, rates and conditions for interconnection so that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;

telecommunications means the transmission and reception of signals by any electromagnetic means, including by photonic means;

telecommunications regulatory body means a body or bodies responsible for the regulation of telecommunications. For greater certainty, Ministers or the Cabinet of a Party shall not constitute such a body or bodies; and

user means an end-user or a supplier of public telecommunications networks or services.

(1) 1 For Indonesia, a reasonable profit shall not apply for interconnection rates.

Article 11.2. Scope

1. This Chapter shall apply to:

(a) any measure relating to access to and use of public telecommunications networks or services;

(b) any measure relating to obligations regarding suppliers of public telecommunications networks or services; and

(c) any other measure relating to telecommunications networks or services.

2. This Chapter shall not apply to any measure relating to broadcast or cable distribution of radio or television programming, except that:

(a) Article 11.4.1 shall apply with respect to access to and use of public telecommunications networks or services by a service supplier of broadcast or cable distribution of radio or television programming; and

(b) Article 11.22 shall apply to any measure relating to broadcast or cable distribution of radio or television programming, to the extent that the measure also affects public telecommunications networks or services.

3. Nothing in this Chapter shall be construed to:

(a) require a Party, or require a Party to compel any enterprise, to establish, construct, acquire, lease, operate or provide a telecommunications network or service not offered to the public generally; (2)

(b) require a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network; or

(c) prevent a Party from prohibiting a person who operates a private network from using its private network to supply a public telecommunications network or service to third persons.

(2) For greater certainty, nothing in this Chapter shall be construed to require a Party to authorise an enterprise of the other Party to establish, construct, acquire, lease, operate or supply public telecommunications networks or services.

Article 11.3. Approaches to Regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications networks or services and to enhance consumer welfare, and that economic regulation may not be needed if there is effective competition or if a service is new to a market. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Chapter.

2. In this respect, the Parties recognise that a Party may:

(a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market;

(b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by telecommunications suppliers that do not own network facilities; or

(c) use any other appropriate means that benefit the long-term interest of end-users.

? For greater certainty, nothing in this Chapter shall be construed to require a Party to authorise an enterprise of the other Party to establish, construct, acquire, lease, operate or supply public telecommunications networks or services.

Article 11.4. Access to and Use of Public Telecommunications Networks and Services

1. Each Party shall ensure that any enterprise of the other Party is accorded access to and use of any public telecommunications network or service, including leased circuits, offered in its territory or across its borders, on reasonable and non- discriminatory terms and conditions.

2. Each Party shall ensure that any enterprise of the other Party is permitted to:

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

(b) provide services to individual or multiple end-users over leased or owned circuits;

(c) connect leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another enterprise;

(d) perform switching, signalling, processing and conversion functions; and

(e) use operating protocols of their choice other than as necessary to interface with public telecommunications networks and services.

3. Each Party shall ensure that an enterprise of either Party may use public telecommunications services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party or any non-party which is a party to the WTO Agreement.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of messages and to protect the privacy of personal data of end-users of public telecommunications networks or services, provided that those measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services, other than as necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services generally available to the public; or

(b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

(a) a requirement to use a specified technical interface, including an interface protocol, for connection with those networks or services;

(b) arequirement, if necessary, for the interoperability of those networks and services;

(c) type approval of terminal or other equipment that interfaces with the network and technical requirements relating to the attachment of that equipment to those networks; and

(d) a licensing, permit, registration or notification procedure which, if adopted or maintained, is transparent and provides for the processing of applications filed thereunder in accordance with the laws or regulations of a Party.

7. The Parties recognise this Article does not prohibit either Party from requiring an enterprise to obtain a licence to supply any public telecommunications service within its territory.

Article 11.5. Obligations Relating to Suppliers of Public Telecommunications Networks or Services

Interconnection

1. Each Party shall provide its telecommunications regulatory body with the authority to require that suppliers of public telecommunications networks or services in its territory provide, directly or indirectly within the same territory, interconnection with suppliers of public telecommunications services of the other Party in a timely manner, on terms and conditions (including technical standards and specifications), and at cost- oriented rates, that are reasonable (having regard to economic feasibility), non- discriminatory and transparent.

2. In carrying out paragraph 1, each Party shall ensure that suppliers of public telecommunications networks or services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained as a result of interconnection arrangements and that those suppliers only use that information for the purpose of providing these services.

Access to Numbers

3. Each Party shall ensure that suppliers of public telecommunications services of the other Party established in its territory are afforded access to telephone numbers on a non-discriminatory basis.

Article 11.6. International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile

roaming services that can help promote the growth of trade between the Parties and enhance consumer welfare.

2. A Party may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates, such as ensuring that information regarding retail rates is easily accessible to consumers.

3. Each Party shall ensure that suppliers of public telecommunications services in its territory or its telecommunications regulatory body make publicly available retail rates for international mobile roaming services, for voice, data and text messages.

4. The Parties recognise that a Party, if it has the authority to do so, may choose to adopt or maintain measures affecting rates for wholesale international roaming services with a view to ensuring such rates are reasonable. If a Party considers it appropriate, it may cooperate on and implement mechanisms with the other Party to facilitate the implementation of such measures, including by entering into arrangements with the other Party.

5. If a Party (the first Party) chooses to regulate rates or conditions for wholesale international mobile roaming services, it shall ensure that a supplier of public telecommunications services of the other Party (the second Party) has access to the regulated rates or conditions for wholesale international mobile roaming services for its customers roaming in the territory of the first Party in circumstances where: (3)

(a) the second Party has entered into an arrangement with the first Party to reciprocally regulate rates or conditions for wholesale international mobile roaming services for suppliers of the Parties; (4) or

(b) in the absence of an arrangement of the type referred to in paragraph (a), the supplier of public telecommunications services of the second Party, of its own accord:

(i) makes available to suppliers of public telecommunications services of the first Party wholesale international mobile roaming services at rates or conditions that are reasonably comparable to the regulated rates or conditions,(5) and

(ii) meets any additional requirements that the first Party imposes with respect to the availability of the regulated rates or conditions.(6)

A Party may require suppliers of the other Party to fully utilise commercial negotiations to reach agreement on the terms for accessing such rates or conditions.

6. A Party that ensures access to regulated rates or conditions for wholesale international mobile roaming services in accordance with paragraph 5 shall be deemed to be in compliance with its obligations under Article 9.4 (Most-Favoured Nation Treatment) of Chapter 9 (Trade in Services), Article 11.4, and Article 11.7 with respect to international mobile roaming services.

7. For greater certainty, nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

(3) For greater certainty, no Party may, solely on the basis of any obligations owed to it by the regulating Party under a most-favoured-nation provision, or under a telecommunications-specific non-discrimination provision, in any existing international trade agreement, seek or obtain for its suppliers the access to regulated rates or conditions for wholesale international mobile roaming services that is provided under this Article.

(4) For greater certainty, access under paragraph 5(a) to the rates or conditions regulated by the first Party shall be available to a supplier of the second Party only if such regulated rates or conditions are reasonably comparable to those reciprocally regulated under the arrangement referred to in subparagraph (a). The telecommunications regulatory body of the first Party shall, in the case of a disagreement, determine whether the rates or conditions are reasonably comparable.

(5) “Reasonably comparable rates or conditions” means rates or conditions agreed to be such by the relevant suppliers or, in the case of disagreement, determined to be such by the telecommunications regulatory body of the first Party.

(6) For greater certainty, such additional requirements may include, for example that the rates provided to the supplier of the second Party reflect the reasonable cost of supplying international mobile roaming services by a supplier of the first Party to a supplier of the second Party, as determined through the methodology of the first Party.

Article 11.7. Treatment by Major Suppliers of Public Telecommunications Networks or Services

Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications networks or services of the other Party treatment no less favourable than that major supplier accords in like circumstances to its subsidiaries, its affiliates or non-affiliated service suppliers regarding: (7)

(a) the availability, provisioning, rates or quality of like public telecommunications networks or services; and

(b) the availability of technical interfaces necessary for interconnection.

(7) This article shall apply to Indonesia no later than 31 December 2020.

Article 11.8. Competitive Safeguards

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

2. The anti-competitive practices referred to in paragraph 1 include, but are not limited to:

(a) engaging in anti-competitive cross-subsidisation;

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

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

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

3. For greater certainty, nothing in this Article shall prevent a Party from maintaining measures for the purpose of preventing anti-competitive practices by suppliers of public telecommunications networks or services who are not major suppliers.

3. For greater certainty, nothing in this Article shall prevent a Party from maintaining measures for the purpose of preventing anti-competitive practices by suppliers of public telecommunications networks or services who are not major suppliers.

Article 11.9. Resale

Article 11.9. Resale

1. No Party shall introduce or maintain laws or regulations that prohibit the resale of any public telecommunications service. (8)

1. No Party shall introduce or maintain laws or regulations that prohibit the resale of any public telecommunications service. (8)

2. Each Party shall endeavour to promote resale of public telecommunication services subject to its laws and regulations.

2. Each Party shall endeavour to promote resale of public telecommunication services subject to its laws and regulations.

3. Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by suppliers of public telecommunications services, based on the need to promote competition or to benefit the long-term interests of end-users.

3. Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by suppliers of public telecommunications services, based on the need to promote competition or to benefit the long-term interests of end-users.

4. Where a Party requires resale in accordance with paragraph 3, each Party shall ensure that any supplier of public

telecommunications services in its territory:

4. Where a Party requires resale in accordance with paragraph 3, each Party shall ensure that any supplier of public telecommunications services in its territory:

(a) offers for resale at, reasonable rates that are transparent and non- discriminatory, to suppliers of public telecommunications services of the other Party, public telecommunications services that the supplier provides at retail to end-users; and

(a) offers for resale at, reasonable rates that are transparent and non- discriminatory, to suppliers of public telecommunications services of the other Party, public telecommunications services that the supplier provides at retail to end-users; and

(b) does not impose unreasonable or discriminatory conditions or limitations on the resale of those services.

(b) does not impose unreasonable or discriminatory conditions or limitations on the resale of those services.

(8) For greater certainty, paragraph 1 does not limit the right for the Parties to otherwise regulate resale.

(8) For greater certainty, paragraph 1 does not limit the right for the Parties to otherwise regulate resale.

Article 11.10. Unbundling of Network Elements

Article 11.10. Unbundling of Network Elements

1. Subject to paragraph 2, each Party shall ensure that suppliers of public telecommunications networks or services in its territory offer to other suppliers of public telecommunications networks or services access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory and transparent, for the supply of public telecommunications services.

1. Subject to paragraph 2, each Party shall ensure that suppliers of public telecommunications networks or services in its territory offer to other suppliers of public telecommunications networks or services access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory and transparent, for the supply of public telecommunications services.

2. Each Party may determine, in accordance with its laws and regulations, the network elements in its territory to which it requires access under paragraph 1. When a Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such network elements can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

2. Each Party may determine, in accordance with its laws and regulations, the network elements in its territory to which it requires access under paragraph 1. When a Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such network elements can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

Article 11.11. Interconnection with Major Suppliers General Terms and Conditions

Article 11.11. Interconnection with Major Suppliers General Terms and Conditions

General Terms and Conditions

General Terms and Conditions

1. Each Party shall ensure that any major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks or services of the other Party:

1. Each Party shall ensure that any major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks or services of the other Party:

(a) at any technically feasible point in the major supplier’s network;

(a) at any technically feasible point in the major supplier's network;

(b) under non-discriminatory terms, conditions (including technical standards and specifications) and rates;

(b) under non-discriminatory terms, conditions (including technical standards and specifications) and rates;

(c) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

(c) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

(d) in a timely manner, on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers are not required to pay for network components or facilities that they do not require for the service to be provided; and

(d) in a timely manner, on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers are not required to pay for network components or facilities that they do not require for the service to be provided; and

(e) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

(e) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

Options for Interconnecting with Major Suppliers

Options for Interconnecting with Major Suppliers

2. Each Party shall ensure that any major supplier in its territory provides suppliers of public telecommunications services of the other Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through at least one of the following options:

2. Each Party shall ensure that any major supplier in its territory provides suppliers of public telecommunications services of the other Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through at least one of the following options:

(a) a reference interconnection offer or another standard interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services;

(a) a reference interconnection offer or another standard interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services;

(b) the terms and conditions of an interconnection agreement that is in effect; or

(b) the terms and conditions of an interconnection agreement that is in effect; or

(c) the terms and conditions set by a Party's telecommunications regulatory body or other competent body.

(c) the terms and conditions set by a Party's telecommunications regulatory body or other competent body.

3. In addition to the options provided in paragraph 2, each Party shall ensure that suppliers of public telecommunications services of the other Party have the opportunity to interconnect their facilities and equipment with those of the major supplier through the negotiation of a new interconnection agreement.

3. In addition to the options provided in paragraph 2, each Party shall ensure that suppliers of public telecommunications services of the other Party have the opportunity to interconnect their facilities and equipment with those of the major supplier through the negotiation of a new interconnection agreement.

Public Availability of Interconnection Offers

Public Availability of Interconnection Offers

4. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

4. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

5. Each Party shall provide means for suppliers of the other Party to obtain the rates, terms and conditions necessary for interconnection offered by a major supplier. Those means include, at a minimum, ensuring:

5. Each Party shall provide means for suppliers of the other Party to obtain the rates, terms and conditions necessary for interconnection offered by a major supplier. Those means include, at a minimum, ensuring:

(a) the public availability of rates, terms and conditions for interconnection with a major supplier set by the telecommunications regulatory body or other competent body; or

(a) the public availability of rates, terms and conditions for interconnection with a major supplier set by the telecommunications regulatory body or other competent body; or

(b) the public availability of a reference interconnection offer.

(b) the public availability of a reference interconnection offer.

Services for which those rates, terms and conditions are made publicly available do not have to include all interconnection-related services offered by a major supplier, as determined by a Party under its laws and regulations.

Services for which those rates, terms and conditions are made publicly available do not have to include all interconnection-related services offered by a major supplier, as determined by a Party under its laws and regulations.

Article 11.12. Provisioning and Pricing of Leased Circuits Services by Major Suppliers

Article 11.12. Provisioning and Pricing of Leased Circuits Services by Major Suppliers

Each Party shall, unless it is not technically feasible, ensure that major suppliers in its territory make leased circuits services (that are public telecommunications services) available to suppliers of public telecommunications networks or services of the other Party in a timely manner and on terms and conditions (including technical standards and specifications), and at rates, that are reasonable (having regard to economic feasibility), non-discriminatory and transparent.(9)

Each Party shall, unless it is not technically feasible, ensure that major suppliers in its territory make leased circuits services (that are public telecommunications services) available to suppliers of public telecommunications networks or services of the other Party in a timely manner and on terms and conditions (including technical standards and specifications), and at rates, that are reasonable (having regard to economic feasibility), non-discriminatory and transparent.(9)

(9) This article shall apply to Indonesia no later than 31 December 2020.

(9) This article shall apply to Indonesia no later than 31 December 2020.

Article 11.13. Co-Location by Major Suppliers

Article 11.13. Co-Location by Major Suppliers

1. Subject to paragraphs 2 and 3, each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications networks or services of the other Party in the Partyâs territory physical co-location of equipment necessary for interconnection or access to unbundled network elements, on a timely basis, and on terms and conditions (including technical standards and specifications), and at cost- oriented rates, that are reasonable (having regard to economic feasibility), non- discriminatory and transparent.

1. Subject to paragraphs 2 and 3, each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications networks or services of the other Party in the Partyâs territory physical co-location of equipment necessary for interconnection or access to unbundled network elements, on a timely basis, and on terms and conditions (including technical standards and specifications), and at cost- oriented rates, that are reasonable (having regard to economic feasibility), non- discriminatory and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that a major supplier in its territory cooperates with suppliers of public telecommunications networks or services of the other Party to find and implement a practical and commercially viable alternative solution.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that a major supplier in its territory cooperates with suppliers of public telecommunications networks or services of the other Party to find and implement a practical and commercially viable alternative solution.

3. Each Party may determine, in accordance with its laws and regulations, the locations at which it requires major suppliers in its territory to provide the physical co- location or the practical and commercially viable alternative solutions referred to in paragraphs 1 and 2. When a Party makes this determination, it shall take into account factors such as the state of competition in the market where co-location is required, whether those premises can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

3. Each Party may determine, in accordance with its laws and regulations, the locations at which it requires major suppliers in its territory to provide the physical co- location or the practical and commercially viable alternative solutions referred to in paragraphs 1 and 2. When a Party makes this determination, it shall take into account factors such as the state of competition in the market where co-location is required, whether those premises can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

4. If a Party does not require that a major supplier offer co-location at certain premises, it nonetheless shall allow service suppliers to request that those premises be offered for co-location in accordance with paragraph 1.

4. If a Party does not require that a major supplier offer co-location at certain premises, it nonetheless shall allow service suppliers to request that those premises be offered for co-location in accordance with paragraph 1.

Article 11.14. Access to Facilities Owned or Controlled by Major Suppliers

Article 11.14. Access to Facilities Owned or Controlled by Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides access to poles, ducts, conduits, and towers, or any other structures as determined by the Party, and the sites on which these are located, owned or controlled by the major supplier, to suppliers of public telecommunications networks or services of the other Party in that Party's territory on a timely basis, on terms and conditions and at rates, that are reasonable, non-discriminatory and transparent, subject to technical feasibility.

1. Each Party shall ensure that a major supplier in its territory provides access to poles, ducts, conduits, and towers, or any other structures as determined by the Party, and the sites on which these are located, owned or controlled by the major supplier, to suppliers of public telecommunications networks or services of the other Party in that Party's territory on a timely basis, on terms and conditions and at rates, that are reasonable, non-discriminatory and transparent, subject to technical feasibility.

2. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, and towers, or any other structures and the sites on which these are located to which it requires major suppliers in its territory to provide access in accordance with paragraph 1. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

2. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, and towers, or any other structures and the sites on which these are located to which it requires major suppliers in its territory to provide access in accordance with paragraph 1. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

Article 11.15. International Submarine Cable Systems

Article 11.15. International Submarine Cable Systems

1. Each Party shall provide its telecommunications regulatory body with the authority to require that, where suppliers of telecommunications networks or services operate submarine cable systems to provide public telecommunications networks or services in a Party's territory, those suppliers provide reasonable and non- discriminatory access to those systems to suppliers of public telecommunications networks or services of the other Party, in accordance with its laws and regulations.

1. Each Party shall provide its telecommunications regulatory body with the authority to require that, where suppliers of telecommunications networks or services operate submarine cable systems to provide public telecommunications networks or services in a Party's territory, those suppliers provide reasonable and non- discriminatory access to those systems to suppliers of public telecommunications networks or services of the other Party, in accordance with its laws and regulations.

2. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party can apply to land a submarine cable in its territory and that such applications are administered in a reasonable, objective and impartial manner in accordance with its laws and regulations.

2. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party can apply to land a submarine cable in its territory and that such applications are administered in a reasonable, objective and impartial manner in accordance with its laws and regulations.

3. The Parties recognise the importance of international submarine cable systems, and the expeditious and efficient installation, maintenance and repair of these systems, to national, regional and global telecommunications connectivity.

3. The Parties recognise the importance of international submarine cable systems, and the expeditious and efficient installation, maintenance and repair of these systems, to national, regional and global telecommunications connectivity.

4. Each Party shall ensure that, where it requires a permit for a vessel registered in the territory of the other Party or a non-party to undertake installation, maintenance or repairs of submarine cable systems that are operated, owned or controlled by suppliers of public telecommunications networks or services of the other Party:

4. Each Party shall ensure that, where it requires a permit for a vessel registered in the territory of the other Party or a non-party to undertake installation, maintenance or repairs of submarine cable systems that are operated, owned or controlled by suppliers of public telecommunications networks or services of the other Party:

(a) the circumstances where any such vessel permit is required, the procedure for applying for any such permit and for renewal of a permit, including any relevant application documents, and the criteria for assessing an application are publicly available;

(a) the circumstances where any such vessel permit is required, the procedure for applying for any such permit and for renewal of a permit, including any relevant application documents, and the criteria for assessing an application are publicly available;

(b) the procedures for applying for any such permit and, if granted, the permit and the procedures for renewal of a permit are administered in a reasonable, objective and impartial manner;

(b) the procedures for applying for any such permit and, if granted, the permit and the procedures for renewal of a permit are administered in a reasonable, objective and impartial manner;

(c) within a reasonable period of time after the submission of an application for any such permit and for renewal of a permit that is considered complete under its laws and regulations, it informs the applicant of the decision concerning the application; and

(c) within a reasonable period of time after the submission of an application for any such permit and for renewal of a permit that is considered complete under its laws and regulations, it informs the applicant of the decision concerning the application; and

(d) any fee charged by any of its relevant bodies to obtain, maintain or renew any such permit is reasonable, transparent and is limited in amount to the approximate cost of services rendered by that Party in respect of any such fee.

(d) any fee charged by any of its relevant bodies to obtain, maintain or renew any such permit is reasonable, transparent and is limited in amount to the approximate cost of services rendered by that Party in respect of any such fee.

5. If a Party (the first Party) considers that a measure of the other Party creates a material impediment to the ability of suppliers of public telecommunications networks or services of the first Party to expeditiously and efficiently install, maintain or repair submarine cable systems, it may request consultations with regard to that measure. The Parties shall enter into consultations with a view to exchanging information on the operation of the measure and to considering whether further steps are necessary and appropriate.

5. If a Party (the first Party) considers that a measure of the other Party creates a material impediment to the ability of suppliers of public telecommunications networks or services of the first Party to expeditiously and efficiently install, maintain or repair submarine cable systems, it may request consultations with regard to that measure. The Parties shall

enter into consultations with a view to exchanging information on the operation of the measure and to considering whether further steps are necessary and appropriate.

Article 11.16. Independent Regulatory Bodies and Government Ownership

Article 11.16. Independent Regulatory Bodies and Government Ownership

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications networks or services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest (10) or maintain an operating or management role in any supplier of public telecommunications networks or services.

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications networks or services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest (10) or maintain an operating or management role in any supplier of public telecommunications networks or services.

2. Each Party shall ensure that the regulatory decisions and procedures of its telecommunications regulatory body are impartial with respect to all market participants.

2. Each Party shall ensure that the regulatory decisions and procedures of its telecommunications regulatory body are impartial with respect to all market participants.

3. Neither Party shall accord more favourable treatment to a supplier of telecommunications services in its territory than that accorded to a like service supplier of the other Party on the basis that the supplier receiving more favourable treatment is owned by the national government of the Party.

3. Neither Party shall accord more favourable treatment to a supplier of telecommunications services in its territory than that accorded to a like service supplier of the other Party on the basis that the supplier receiving more favourable treatment is owned by the national government of the Party.

4. Each Party shall ensure that any supplier of public telecommunications networks or services of the other Party that is aggrieved, or whose interests are adversely affected by a determination or decision of a telecommunications regulatory body of the first Party, may obtain review of the determination or decision by an administrative, arbitral or judicial tribunal or authority or according to administrative, arbitral or judicial procedures. If such procedures are not independent of the telecommunications regulatory body, the first Party shall ensure that the procedures in fact provide for an objective and impartial review.

4. Each Party shall ensure that any supplier of public telecommunications networks or services of the other Party that is aggrieved, or whose interests are adversely affected by a determination or decision of a telecommunications regulatory body of the first Party, may obtain review of the determination or decision by an administrative, arbitral or judicial tribunal or authority or according to administrative, arbitral or judicial procedures. If such procedures are not independent of the telecommunications regulatory body, the first Party shall ensure that the procedures in fact provide for an objective and impartial review.

(10) This paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of public telecommunications networks or services.

(10) This paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of public telecommunications networks or services.

Article 11.17. Universal Service

Article 11.17. Universal Service

Each Party has the right to define the kind of universal service obligation it wishes to maintain. Such obligations, including any cross subsidisation policy provided for under the laws and regulations of each Party, shall not be regarded as anti-

competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Party.

Each Party has the right to define the kind of universal service obligation it wishes to maintain. Such obligations, including any cross subsidisation policy provided for under the laws and regulations of each Party, shall not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner, and are not more burdensome than necessary for the kind of universal service defined by the Party.

Article 11.18. Licensing Process

Article 11.18. Licensing Process

1. Each Party shall ensure that, where a licence is required, all measures relating to the licensing of suppliers of public telecommunications transport networks or services in its territory are published or, if publication is not practicable, otherwise made publicly available, including:

1. Each Party shall ensure that, where a licence is required, all measures relating to the licensing of suppliers of public telecommunications transport networks or services in its territory are published or, if publication is not practicable, otherwise made publicly available, including:

(a) circumstances in which a licence is required;

(a) circumstances in which a licence is required;

(b) licence application procedures;

(b) licence application procedures;

(c) criteria used to assess licence applications;

(c) criteria used to assess licence applications;

(d) standard terms and conditions applicable to licences;

(d) standard terms and conditions applicable to licences;

(e) the period of time normally required to reach a decision concerning a licence application;

(e) the period of time normally required to reach a decision concerning a licence application;

(f) the cost or fees of applying for or obtaining a licence; and
(g) the period of validity of a licence.

(f) the cost or fees of applying for or obtaining a licence; and
(g) the period of validity of a licence.

2. Each Party shall ensure that, on request, an applicant or a licensee receives the reasons for the:

2. Each Party shall ensure that, on request, an applicant or a licensee receives the reasons for the:

(a) denial of a licence;
(b) imposition of supplier-specific conditions on a licence;
(c) tevocation of a licence; or
(d) tefusal to renew a licence.

(a) denial of a licence;
(b) imposition of supplier-specific conditions on a licence;
(c) tevocation of a licence; or
(d) tefusal to renew a licence.

Article 11.19. Allocation and Use of Scarce Resources

Article 11.19. Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including

frequencies and numbers, in an objective, timely, transparent and non-discriminatory manner.

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies and numbers, in an objective, timely, transparent and non-discriminatory manner.

2. Each Party shall make publicly available the current state of frequency bands allocated to specific uses but retains the right not to provide detailed identification of frequencies that are allocated or assigned for specific government uses.

2. Each Party shall make publicly available the current state of frequency bands allocated to specific uses but retains the right not to provide detailed identification of frequencies that are allocated or assigned for specific government uses.

3. For greater certainty, a Party's measures allocating and assigning spectrum and managing frequency are not per se inconsistent with Article 9.5 (Market Access) of Chapter 9 (Trade in Services). Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications services, provided that the Party does so in a manner that is consistent with other provisions of this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

3. For greater certainty, a Party's measures allocating and assigning spectrum and managing frequency are not per se inconsistent with Article 9.5 (Market Access) of Chapter 9 (Trade in Services). Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications services, provided that the Party does so in a manner that is consistent with other provisions of this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services. To this end, each Party shall have the authority to use mechanisms such as auctions, if appropriate, to assign spectrum for commercial use.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services. To this end, each Party shall have the authority to use mechanisms such as auctions, if appropriate, to assign spectrum for commercial use.

Article 11.20. Enforcement

Article 11.20. Enforcement

Each Party shall provide its telecommunications regulatory body with the authority to enforce the Party's measures relating to the obligations provided for under Article 11.4, Article 11.5, Article 11.7, Article 11.8, Article 11.9, Article 11.10, Article 11.11, Article 11.12, Article 11.13, Article 11.14 and Article 11.15. That authority shall include the ability to impose, or seek from administrative or judicial bodies, effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), or the modification, suspension or revocation of licences.

Each Party shall provide its telecommunications regulatory body with the authority to enforce the Party's measures relating to the obligations provided for under Article 11.4, Article 11.5, Article 11.7, Article 11.8, Article 11.9, Article 11.10, Article 11.11, Article 11.12, Article 11.13, Article 11.14 and Article 11.15. That authority shall include the ability to impose, or seek from administrative or judicial bodies, effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), or the modification, suspension or revocation of licences.

Article 11.21. Resolution of Telecommunications Disputes

Article 11.21. Resolution of Telecommunications Disputes

1, Further to Article 19.4 (Administrative Proceedings) and Article 19.5 (Review and Appeal) of Chapter 19 (Transparency), each Party shall ensure that:

1, Further to Article 19.4 (Administrative Proceedings) and Article 19.5 (Review and Appeal) of Chapter 19 (Transparency), each Party shall ensure that:

Recourse

Recourse

(a) enterprises, including suppliers of public telecommunications networks or services, have recourse to a telecommunications regulatory body or other relevant body of the Party (11) to resolve disputes with other enterprises, including suppliers of public telecommunications networks or services, regarding the Party's measures relating to matters set out in Article 11.4, Article 11.5, Article 11.6, Article 11.7, Article 11.8, Article 11.9, Article 11.10, Article 11.11, Article 11.12, Article 11.13, Article 11.14 and Article 11.15;

(a) enterprises, including suppliers of public telecommunications networks or services, have recourse to a telecommunications regulatory body or other relevant body of the Party (11) to resolve disputes with other enterprises, including suppliers of public telecommunications networks or services, regarding the Party's measures relating to matters set out in Article 11.4, Article 11.5, Article 11.6, Article 11.7, Article 11.8, Article 11.9, Article 11.10, Article 11.11, Article 11.12, Article 11.13, Article 11.14 and Article 11.15;

(b) if a telecommunications regulatory body declines to initiate any action on a request to resolve a dispute, it shall, on request, provide a written explanation for its decision within a reasonable period of time; and

(b) if a telecommunications regulatory body declines to initiate any action on a request to resolve a dispute, it shall, on request, provide a written explanation for its decision within a reasonable period of time; and

(c) suppliers of public telecommunications services of the other Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable period of time after the supplier requests interconnection, by its telecommunications regulatory body or other relevant body to resolve disputes regarding the terms, conditions and rates for interconnection with that major supplier.

(c) suppliers of public telecommunications services of the other Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable period of time after the supplier requests interconnection, by its telecommunications regulatory body or other relevant body to resolve disputes regarding the terms, conditions and rates for interconnection with that major supplier.

Judicial Review

Judicial Review

2. No Party shall permit the making of an application for judicial review by enterprises, including suppliers of public telecommunications networks or services, to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the judicial body issues an order that the determination or decision not be enforced while the proceeding is pending.

2. No Party shall permit the making of an application for judicial review by enterprises, including suppliers of public telecommunications networks or services, to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the judicial body issues an order that the determination or decision not be enforced while the proceeding is pending.

(11) For greater certainty, another relevant body of a Party may include a judicial body

(11) For greater certainty, another relevant body of a Party may include a judicial body

Article 11.22. Transparency

Article 11.22. Transparency

1. Further to Article 19.2 (Publication) of Chapter 19 (Transparency), each Party shall ensure that when its telecommunications regulatory body seeks input (12) for a proposal for a regulation, that body shall:

1. Further to Article 19.2 (Publication) of Chapter 19 (Transparency), each Party shall ensure that when its telecommunications regulatory body seeks input (12) for a proposal for a regulation, that body shall:

(a) make the proposal public or otherwise available to any interested persons;

(a) make the proposal public or otherwise available to any interested persons;

(b) include an explanation of the purpose of and reasons for the proposal;

(b) include an explanation of the purpose of and reasons for the proposal;

(c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment;

(c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment;

(d) to the extent practicable, make publicly available all relevant comments filed with it; and

(d) to the extent practicable, make publicly available all relevant comments filed with it; and

(e) to the extent practicable, respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation. (13)

(e) to the extent practicable, respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation. (13)

2. Further to Article 19.2 (Publication) of Chapter 19 (Transparency), each Party shall ensure that its measures relating to public telecommunications services are made publicly available, including:

2. Further to Article 19.2 (Publication) of Chapter 19 (Transparency), each Party shall ensure that its measures relating to public telecommunications services are made publicly available, including:

(a) tariffs or tariff formulas and other terms and conditions of service, if these are regulated;

(a) tariffs or tariff formulas and other terms and conditions of service, if these are regulated;

(b) technical standards, including specifications of technical interfaces;

(b) technical standards, including specifications of technical interfaces;

(c) conditions for attaching terminal or other equipment to the public telecommunications network, if applicable;

(c) conditions for attaching terminal or other equipment to the public telecommunications network, if applicable;

(d) licensing, permit, registration or notification requirements, if any;

(d) licensing, permit, registration or notification requirements, if any;

(e) general procedures relating to resolution of telecommunications disputes provided for in Article 11.21; and

(e) general procedures relating to resolution of telecommunications disputes provided for in Article 11.21; and

(f) measures of bodies responsible for preparing, amending, and adopting standards-related measures affecting access and use that are, to the extent required, endorsed under the laws or regulations of a Party.

(f) measures of bodies responsible for preparing, amending, and adopting standards-related measures affecting access and use that are, to the extent required, endorsed under the laws or regulations of a Party.

3. To the extent possible, each Party shall allow a reasonable period of time between publication of a measure of general application relating to this Chapter, proposed or final in accordance with its legal system, and its effective date.

3. To the extent possible, each Party shall allow a reasonable period of time between publication of a measure of general application relating to this Chapter, proposed or final in accordance with its legal system, and its effective date.

4. Each Party shall publish the names and addresses of the competent authorities responsible for measures related to the operation of this Chapter.

4. Each Party shall publish the names and addresses of the competent authorities responsible for measures related to the operation of this Chapter.

5. On request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measures materially affecting the operation of this Chapter.

5. On request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any actual or proposed measures materially affecting the operation of this Chapter.

6. Each Party shall ensure that, where information is required to be published in accordance with this Chapter, such information is published on the internet.

6. Each Party shall ensure that, where information is required to be published in accordance with this Chapter, such information is published on the internet.

(12) For greater certainty, seeking input does not include internal governmental deliberations.

(12) For greater certainty, seeking input does not include internal governmental deliberations.

(13) For greater certainty, a Party may consolidate its responses to the comments received from interested persons.

(13) For greater certainty, a Party may consolidate its responses to the comments received from interested persons.

Article 11.23. Flexibility In the Choice of Technology

Article 11.23. Flexibility In the Choice of Technology

1. Neither Party shall prevent suppliers of public telecommunications services from choosing the technologies they wish to use to supply their services, subject to requirements necessary to satisfy legitimate public policy interests, provided that any measure restricting that choice is not prepared, adopted or applied in a manner that creates unnecessary obstacles to trade. For greater certainty, a Party adopting those measures shall do so in accordance with Article 11.22.

1. Neither Party shall prevent suppliers of public telecommunications services from choosing the technologies they wish to use to supply their services, subject to requirements necessary to satisfy legitimate public policy interests, provided that any measure restricting that choice is not prepared, adopted or applied in a manner that creates unnecessary obstacles to trade. For greater certainty, a Party adopting those measures shall do so in accordance with Article 11.22.

2. When a Party finances the development of advanced networks, including broadband networks, it may make its financing conditional on the use of technologies that meet its specific public policy interests.

2. When a Party finances the development of advanced networks, including broadband networks, it may make its financing conditional on the use of technologies that meet its specific public policy interests.

Article 11.24. Relation to other Chapters

Article 11.24. Relation to other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, this Chapter shall prevail to the extent of the inconsistency.

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, this Chapter shall prevail to the extent of the inconsistency.

Article 11.25. Relation to International Organisations

Article 11.25. Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services and undertake to promote those standards through the work of relevant international organisations.

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services and undertake to promote those standards through the work of relevant

international organisations.

Chapter 12. MOVEMENT OF NATURAL PERSONS

Chapter 12. MOVEMENT OF NATURAL PERSONS

Article 12.1. Definitions

Article 12.1. Definitions

For the purposes of this Chapter:

For the purposes of this Chapter:

immigration formality means a visa, permit, pass or other document or electronic authority granting a natural person of one Party the right to temporarily enter, reside or work or establish commercial presence in the territory of the granting Party;

immigration formality means a visa, permit, pass or other document or electronic authority granting a natural person of one Party the right to temporarily enter, reside or work or establish commercial presence in the territory of the granting Party;

immigration measure means any measure affecting the entry and stay of foreign nationals; and

immigration measure means any measure affecting the entry and stay of foreign nationals; and

temporary entry means entry into the territory of a Party by a natural person of the other Party who does not intend to establish permanent residence.

temporary entry means entry into the territory of a Party by a natural person of the other Party who does not intend to establish permanent residence.

Article 12.2. Scope

Article 12.2. Scope

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 12-A, to measures affecting the temporary entry of natural persons of a Party into the territory of the other Party.

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 12-A, to measures affecting the temporary entry of natural persons of a Party into the territory of the other Party.

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

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

3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in such a manner as to nullify or impair the benefits accruing to either Party under this Chapter.

3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in such a manner as to nullify or impair the benefits accruing to either Party under this Chapter.

4. The sole fact that a Party requires natural persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to either Party under this Chapter.

4. The sole fact that a Party requires natural persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to either Party under this Chapter.

Article 12.3. Application Procedures

Article 12.3. Application Procedures

1. After receipt of a completed application for an immigration formality, each Party shall promptly make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.

1. After receipt of a completed application for an immigration formality, each Party shall promptly make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.

2. Each Party shall, on request and within a reasonable period after a complete application by a natural person of the other Party covered by this Chapter requesting temporary entry is lodged, notify the applicant, either directly or through their authorised representative, of:

2. Each Party shall, on request and within a reasonable period after a complete application by a natural person of the other Party covered by this Chapter requesting temporary entry is lodged, notify the applicant, either directly or through their authorised representative, of:

(a) receipt of the application;
(b) the status of the application; and
(c) if a decision has been made, the decision concerning the application, including, if approved, the period of stay and other conditions.

(a) receipt of the application;
(b) the status of the application; and
(c) if a decision has been made, the decision concerning the application, including, if approved, the period of stay and other conditions.

3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable and in accordance with its laws and regulations.

3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable and in accordance with its laws and regulations.

4. Each Party shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of immigration formalities.

4. Each Party shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of immigration formalities.

Article 12.4. Grant of Temporary Entry

Article 12.4. Grant of Temporary Entry

1. Each Party shall set out in Annex 12-A the commitments it makes with regard to temporary entry of natural persons, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of natural person specified by that Party.

1. Each Party shall set out in Annex 12-A the commitments it makes with regard to temporary entry of natural persons, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of natural person specified by that Party.

2. A Party shall grant temporary entry or extension of temporary stay to natural persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those natural persons:

2. A Party shall grant temporary entry or extension of temporary stay to natural persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those natural persons:

(a) follow the granting Party's prescribed application procedures for the relevant immigration formality; and

(a) follow the granting Party's prescribed application procedures for the relevant immigration formality; and

(b) meet all relevant eligibility requirements for temporary entry or extension of temporary stay.

(b) meet all relevant eligibility requirements for temporary entry or extension of temporary stay.

3. The sole fact that a Party grants temporary entry to a natural person of the other Party pursuant to this Chapter shall not be construed to exempt that natural person from

3. The sole fact that a Party grants temporary entry to a natural person of the other Party pursuant to this Chapter shall not be construed to exempt that natural person from

meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.

meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.

Article 12.5. Business Travel

Article 12.5. Business Travel

The Parties affirm their APEC commitments to each other to enhance the mobility of natural persons and their support for efforts to enhance the APEC Business Travel Card programme.

The Parties affirm their APEC commitments to each other to enhance the mobility of natural persons and their support for efforts to enhance the APEC Business Travel Card programme.

Article 12.6. Provision of Information

Article 12.6. Provision of Information

Further to Article 19.2 (Publication) and Article 19.3 (Provision of Information) of Chapter 19 (Transparency), each Party shall:

Further to Article 19.2 (Publication) and Article 19.3 (Provision of Information) of Chapter 19 (Transparency), each Party shall:

(a) promptly publish online if possible or otherwise make publicly available, in a consolidated manner, information on:

(a) promptly publish online if possible or otherwise make publicly available, in a consolidated manner, information on:

(i) current requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable interested persons of the other Party to become acquainted with those requirements; and

(i) current requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable interested persons of the other Party to become acquainted with those requirements; and

(ii) the typical timeframe within which a complete application for an immigration formality is processed; and

(ii) the typical timeframe within which a complete application for an immigration formality is processed; and

(b) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter.

(b) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter.

Article 12.7. Relation to other Chapters

Article 12.7. Relation to other Chapters

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 18 (Institutional Provisions), Chapter 20 (Consultations and Dispute Settlement), Chapter 21 (Final Provisions), Article 19.2 (Publication) and Article 19.3 (Provision of Information) no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures. (1)

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 18 (Institutional Provisions), Chapter 20 (Consultations and Dispute Settlement), Chapter 21 (Final Provisions), Article 19.2 (Publication) and Article 19.3 (Provision of Information) no provision of this Agreement shall impose any obligation on a Party regarding its immigration

measures. (1)

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

(1) For greater certainty, Chapter 17 (General Provisons and Exceptions) applies to this Chapter.

Article 12.8. Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Consultations and Dispute Settlement) regarding a refusal to grant temporary entry unless:

(a) the matter involves a pattern of practice; and
(b) the natural persons affected have exhausted all available domestic remedies regarding the particular matter.

Article 12.9. Future Work Program on Contractual Service Suppliers

Unless the Parties otherwise agree, the Parties may decide to commence negotiations within three years of entry into force of this Agreement with a view to making mutually advantageous commitments on contractual service suppliers. The Parties shall make their best endeavours to complete the negotiations within two years of initiating them.

Chapter 13. ELECTRONIC COMMERCE

Article 13.1. Definitions for the Purposes of this Chapter:

computing facilities means computer servers and storage devices for processing or storing information for commercial use;

covered person means:

(i) a service supplier of the other Party within the meaning of Chapter 9 (Trade in Services);

(ii) an investor of a Party as defined in Chapter 14 (Investment), excluding an investor in a financial institution; or

(iii) a covered investment as defined in Chapter 1 (Initial Provisions and General Definitions),

but does not include a “financial institution” or a “financial service supplier” as defined in Chapter 10 (Financial Services), or a credit reporting body;

electronic authentication means the process of testing an electronic statement or claim in order to establish a level of confidence in the statement’s or claim’s reliability;

electronic transmission or transmitted electronically means a transmission made using any electromagnetic means, including by photonic means; (1)

electronic version of a document means a document in an electronic format prescribed by a Party, including a document sent by facsimile transmission;

personal information means any information, including data or opinions, about an identified or identifiable natural person;

trade administration documents means forms issued or controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods; and

unsolicited commercial electronic message means an electronic message which is sent for commercial or marketing purposes to an electronic address, without the consent of the recipient or despite the explicit rejection of the recipient, through an Internet access service supplier or, to the extent provided for under the laws and regulations of each Party, other telecommunications service.

(1) This definition is without prejudice to whether electronic transmissions should be characterised as goods or services.

Article 13.2. Scope and General Provisions

1. The Parties recognise the economic growth and opportunities provided by electronic commerce and the importance of frameworks that promote consumer confidence in electronic commerce and of facilitating its use and development.

2. This Chapter shall apply to measures adopted or maintained by a Party that affect trade by electronic means.

3. This Chapter shall not apply to government procurement.

4. Article 13.11, Article 13.12, and Article 13.13 shall not apply to information held or processed by or on behalf ofa Party, or measures related to such information, including measures related to its collection.

5. For greater certainty, this Chapter may apply to a measure that is also subject to Chapter 9 (Trade in Services), Chapter 14 (Investment) or Chapter 10 (Financial Services).

6. To the extent that such a measure is adopted or maintained in accordance with Article 9.7 (Non-Conforming Measures) of Chapter 9 (Trade in Services) or Article 14.14 (Non-Conforming Measures) of Chapter 14 (Investment) or an exception in Chapter 9 (Trade in Services), Chapter 10 (Financial Services) or Chapterl4 (Investment), it shall not give rise to a violation of Article 13.11, Article 13.12 or Article 13.13.

Article 13.3. Cooperation

1. Recognising the global nature of electronic commerce, each Party shall endeavour to:

(a) work together to assist micro, small and medium-sized enterprises (2) to overcome obstacles to its use;

(b) exchange information and share experiences on regulations, policies, enforcement and compliance regarding electronic commerce, for example:

(i) personal information protection;

(ii) online consumer protection, including means for consumer redress and building consumer confidence;

(iii) unsolicited commercial electronic messages;
(iv) security in electronic communications;

(v) authentication; and

(vi) e-government service delivery;

(c) exchange information and share views on consumer access to products and services offered online;

(d) participate actively in regional and multilateral fora to promote the development of electronic commerce, including in relation to the development and application of international standards for electronic commerce; and
(e) encourage development by the private sector of methods of self-regulation that foster electronic commerce, including codes of conduct, model contracts, guidelines and enforcement mechanisms.

2. In relation to cyber security, each Party recognises the importance of:
(a) building and maintaining the capabilities of their national entities responsible for computer security incident response, including through exchange of best practices; and
(b) using existing collaboration mechanisms to cooperate to identify and mitigate malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties.

(2) As defined by each Party.

Article 13.4. Paperless Trading

1. Each Party shall endeavour to make electronic versions of its trade administration documents publicly available.

2. Each Party shall accept electronic versions of its trade administration documents as the legal equivalent of paper documents except where:

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

(b) doing so would reduce the effectiveness of the trade administration process.

3. The Parties shall cooperate bilaterally and in international fora to enhance the acceptance of electronic versions of trade administration documents.

Article 13.5. Electronic Authentication and Electronic Signatures

1. Except in circumstances otherwise provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. Each Party shall adopt or maintain measures based on international norms for electronic authentication that:

(a) permit participants in electronic transactions to determine the appropriate authentication technologies and implementation models for their electronic transactions;

(b) do not limit the recognition of authentication technologies and implementation models; and

(c) permit participants in electronic transactions to have the opportunity to prove that their electronic transactions comply with the Party's laws and regulations.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication meets certain performance standards or is certified by an authority accredited in accordance with its law.

4. The Parties shall encourage the use of interoperable electronic authentication.

Article 13.6. Online Consumer Protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent and deceptive commercial activities, when they engage in electronic commerce.

2. For the purposes of this Article, fraudulent and deceptive commercial activities refers to those fraudulent and deceptive commercial practices that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, for example:

(a) a practice of making misrepresentations of material fact, including implied factual misrepresentations, that cause significant detriment to the economic interests of misled consumers;

(b) a practice of failing to deliver products or provide services to consumers after the consumers are charged; or

(c) a practice of charging or debiting consumers' financial, telephone or other accounts without authorisation.

3. Each Party shall adopt or maintain consumer protection laws to proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.

4. The Parties recognise the importance of cooperation between their respective national consumer protection agencies or other relevant bodies on activities related to cross-border electronic commerce in order to enhance consumer welfare and affirm that the cooperation under Article 16.5 of Chapter 16 (Competition) includes cooperation with respect to online commercial activities.

Article 13.7. Protection of Personal Information

1. The Parties recognise the economic and social benefits of protecting the personal information of users of electronic commerce and the contribution that this makes to enhancing consumer confidence in electronic commerce.

2. To this end, each Party shall adopt or maintain a legal framework that provides for the protection of the personal information of the users of electronic commerce. In the development of its legal framework for the protection of personal information, each Party should take into account principles and guidelines of relevant international bodies.

3. Each Party shall endeavour to adopt non-discriminatory practices in protecting users of electronic commerce from personal information protection violations occurring within its jurisdiction.

4. Recognising that the Parties may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. These mechanisms may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual atrangement, or

broader international frameworks. To this end, the Parties shall endeavour to exchange information on any such mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them.

Article 13.8. Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

(a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages;

(b) require the consent, as specified according to the laws and regulations of each Party, of recipients to receive commercial electronic messages; or

(c) otherwise provide for the minimisation of unsolicited commercial electronic messages.

2. Each Party shall provide recourse against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained in accordance with paragraph 1.

3. The Parties shall endeavour to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

Article 13.9. Domestic Regulatory Frameworks

1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996 or the United Nations Convention on the Use of Electronic Communications in International Contracts, done at New York, November 23, 2005.

2. Each Party shall endeavour to:
(a) avoid any unnecessary regulatory burden on electronic transactions; and
(b) facilitate input by interested persons in the development of its legal framework for electronic transactions.

Article 13.10. Transparency

1. Each Party recognises that transparent regulations and policies are important for trade facilitation, creating a conducive environment for electronic commerce and promoting cross-border electronic commerce.

2. Each Party shall publish information on the rights of, and protections it provides for, users of electronic commerce, including information on:

(a) how individuals can pursue remedies; and
(b) how businesses can comply with legal requirements.

3. Each Party shall encourage enterprises to publish, including on the internet, their policies and procedures related to protection of personal information.

4. Each Party shall publish the names and addresses of the competent authorities responsible for measures related to electronic commerce.

5. Each Party shall ensure that, where information is required to be published in accordance with provisions of this Chapter, such information will be published on the internet.

Article 13.11. Cross-Border Transfer of Information by Electronic Means

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. Each Party shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining:

(a) measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure is not

applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised testriction on trade; or

(b) any measure that it considers necessary for protection of its essential security interests.

Article 13.12. Location of Computing Facilities

1. The Parties recognise that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. Neither Party shall require a covered person to use or locate computing facilities in that Partyâs territory as a condition for conducting business in that territory, except where such a measure exists at the date of entry into force of this Agreement. A Party may promptly renew a measure in existence at the date of entry into force of this Agreement or amend such a measure to make it less trade restrictive, at any time. Where a Party amends such a measure to make it less trade restrictive, it shall not subsequently amend that measure to make it more trade restrictive than it was immediately before that amendment.

3. Nothing in this Article shall prevent a Party from adopting or maintaining:

(a) measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised testriction on trade; or

(b) any measure that it considers necessary for the protection of its essential security interests.

Article 13.13. Source Code

1. Neither Party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory.

2. For the purposes of this Article, software subject to paragraph 1 is limited to mass- market software or products containing such software and does not include software used for critical infrastructure, or software that is specifically made for use by a Party.

3. Nothing in this Article shall preclude:

(a) the inclusion or implementation of terms and conditions related to the provision of source code in commercially negotiated contracts; or

(b) a Party from requiring the modification of source code of software necessary for that software to comply with laws or regulations which are not inconsistent with this Agreement.

4. This Article shall not be construed to affect requirements that relate to patent applications or granted patents, including any orders made by a judicial authority in relation to patent disputes, subject to safeguards against unauthorised disclosure under the law or practice of a Party.

5. Nothing in this Article shall prevent a Party from adopting or maintaining any measures that it considers necessary for the protection of its essential security interests.

Chapter 14. Investment

Section A.

Article 14.1. Definitions

For the purposes of this Chapter:

enterprise means an enterprise as defined in Article 1.4 (General Definitions) of Chapter 1 (Initial Provisions and General Definitions), and a branch of such an enterprise;

enterprise of a Party means an enterprise constituted or organised in accordance with the laws of a Party, and carrying out business activities there;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under its Articles of Agreement;

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

investment (1)(2) means every asset that an investor owns or controls, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit or the assumption of risk. Forms that an investment may take include:

(i) an enterprise;

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

(iii) bonds, debentures and other debt instruments and loans;(3) (4)

(iv) intellectual property rights;

(v) claims to money or to any contractual performance related to a business and having financial value; (5)

(vi) turkey, construction, management, production concession, revenue-sharing and other similar contracts;

(vii) licences, authorisations, permits and similar rights conferred in accordance with the Party's laws; (6) and

(viii) other tangible or intangible, moveable or immovable property, and related property rights, such as leases, mortgages, liens and pledges.

investor of a Party means a Party, or a natural person of a Party or an enterprise of a Party, that seeks to make, (7) is making, or has made an investment in the territory of the other Party; and

investor of a non-Party means, with respect to a Party, an investor that seeks to make, is making, or has made an investment in the territory of that Party, that is not an investor of the other Party; and

TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement.

(1) The term "investment" does not include an order or judgment entered in a judicial or administrative action or an arbitral award made in an arbitral proceeding.

(2) For the purpose of the definition of investment in this Article, returns that are invested shall be treated as investments and any alteration of the form in which assets are invested or reinvested shall not affect their character as investments;

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

(4) A loan issued by one Party to the other Party is not an investment.

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

(6) Whether a particular type of licence, authorisation, permit or similar instrument (including a concession to the extent that it has the nature of such an instrument) has the characteristics of an investment depends on such factors as the nature and extent of the rights that the holder has under the Party's law. Among such instruments that do not have the characteristics of an investment are those that do not create any rights protected under the Party's law. For greater certainty, the foregoing is without prejudice to whether any asset associated with such instruments has the characteristics of an investment.

(7) For greater certainty, the Parties understand that an investor that "seeks to make" an investment refers to an investor of the other Party that has taken active steps to make an investment. Where a notification or approval process is required for making an investment, an investor that "seeks to make" an investment refers to an investor of the other Party that has initiated such notification or approval process.

Article 14.2. Scope

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

(a) investors of the other Party;

(b) covered investments; and

(c) for Article 14.6, all investments in the territory of that Party.

2. A Party's obligations under this Chapter shall apply to measures adopted or maintained by:

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

(b) any person, including a state-owned enterprise or any other body, when it exercises any governmental authority delegated to it by central, regional or local governments or authorities of that Party. (8)

3. This Chapter shall not apply to:

(a) government procurement; or

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

4. For greater certainty, this Chapter shall not bind a Party in relation to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement.

(8) For greater certainty, governmental authority is delegated under a Party's law, including through a legislative grant or a government order, directive or other action transferring or authorising the exercise of governmental authority.

Article 14.3. Relation to other Chapters

1. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 9 (Trade in Services) or Chapter 10 (Financial Services).

2. Notwithstanding paragraph 1, the following provisions shall apply to any measure affecting the supply of a service by a service supplier of a Party through commercial presence in the territory of the other Party within the meaning of Chapter 9 (Trade in Services) and Chapter 10 (Financial Services) to the extent that the measure falls within the scope of this Chapter:

(a) Articles 14.4 through 14.16;

(b) Section B (Investor-State Dispute Settlement); and

(c) Annex 14-A, Annex 14-B, Annex 14-C and Annex 14-D.

3. Further to paragraph 2, for the purposes of the application of Article 14.14 to measures affecting the supply of a service by a service supplier of a Party through commercial presence in the territory of the other Party, an entry in a Party's Schedule to Annex I (Trade in Services and Investment Schedules) or Annex II (Trade in Services and Investment Schedules) in respect of Article 9.3 (National Treatment) and Article 9.4 (Most-Favoured-Nation Treatment) of Chapter 9 (Trade in Services), shall also be considered an entry in that Party's Schedule in respect of the corresponding obligation in this Chapter.

4. In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency, except that, where paragraphs 1 through 3 apply, this Chapter shall prevail over Chapter 9 (Trade in Services).

5. A requirement of a Party that a service supplier of the other Party post a bond or other form of financial security as a condition for the cross-border supply of a service does not of itself make this Chapter applicable to measures adopted or maintained by the Party relating to such cross-border supply of the service. This Chapter shall apply to measures adopted or

maintained by the Party relating to the posted bond or financial security, to the extent that the bond or financial security is a covered investment.

Article 14.4. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than it accords, in like circumstances, (9) to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

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

3. For greater certainty, the treatment to be accorded by a Party under paragraphs 1 and 2 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded in like circumstances, by that regional level of government to investors, and to investments of investors, of the Party of which it forms a part.

(9) For greater certainty, whether treatment is accorded in "like circumstances" under Article 14.4 or Article 14,5 depends on the totality of the circumstances, including the relevant economic or business sector or sectors concerned and whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives or on the basis of nationality. Where treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives, that treatment is not inconsistent with Article 14.4 or Article 14.5.

Article 14.5. Most-Favoured Nation Treatment

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

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

3, For greater certainty, the treatment referred to in this Article shall not encompass international dispute resolution procedures or mechanisms, such as those included in Section B (Investor-State Dispute Settlement).

Article 14.6. Prohibition of Performance Requirements (10)(11) (12)

1, Neither Party shall, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-Party in its territory, impose or enforce any requirement:

(a) to export a given level or percentage of goods or services;

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

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

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

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

(f) to transfer a particular technology, a production process or other proprietary knowledge to a person in its territory; or

(g) to supply exclusively from the territory of the Party the goods that such investment produces or the services that it supplies to a specific region or to the world market.

2. Neither Party shall condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a

Party or of a non-Party in its territory, on compliance with any requirement:

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

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

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

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

3. For greater certainty, nothing in paragraph 1 shall be construed to prevent a Party, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of an non-Party in its territory, from imposing or enforcing a requirement or enforcing a commitment or undertaking to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development in its territory, provided that it is consistent with paragraph 1(f).

4. Paragraph 1(f) shall not apply:

(a) if a Party authorises use of an intellectual property right in accordance with the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

(b) if the requirement is imposed or the commitment or undertaking enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after judicial or administrative process to be anticompetitive under that Party's competition laws and regulations.(13)

5. Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment of an investor of a Party or of a non-Party in its territory, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities or carry out research and development in its territory.

6. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, paragraphs 1(b), 1(c), 1(f), 2(a) and 2(b) shall not be construed to prevent a Party from adopting or maintaining measures, including environmental measures:

(a) necessary to secure compliance with laws and regulations that are not inconsistent with this Agreement;

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

(c) related to the conservation of living and non-living exhaustible natural resources.

7. Paragraphs 1(a), 1(b), 1(c), 2(a) and 2(b) shall not apply to qualification requirements for goods and services with respect to export promotion and foreign aid programs.

8. Paragraphs 2(a) and 2(b) shall not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

(10) This Article shall not preclude enforcement of any requirement between private parties, if a Party did not impose the requirement, For the purposes of this Article, private parties include designated monopolies or state enterprises, if such entities are not exercising delegated governmental authority.

(11) For greater certainty, paragraphs 1 and 2 shall not apply to any requirement other than those set out in those paragraphs.

(12) This Article shall not be subject to Section B (nvestor-State Dispute Settlement).

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

Article 14.7. Minimum Standard of Treatment

1. Each Party shall accord to covered investments fair and equitable treatment and full protection and security.

2. For greater certainty:

(a) “fair and equitable treatment” requires each Party to not deny justice in any legal or administrative proceedings;

(b) “full protection and security” requires each Party to take such measures as may be reasonably necessary to ensure the protection and security of the covered investment; and

(c) the concepts of “fair and equitable treatment” and “full protection and security” do not require treatment in addition to or beyond that which is required under the customary international law minimum standard of treatment, (14) and do not create additional substantive rights.

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

4. For greater certainty, the mere fact that a Party takes or fails to take an action that may be inconsistent with an investor’s expectations does not constitute a breach of this Article, even if there is loss or damage to the covered investment as a result.

(14) "Customary international law" results from a general and consistent practice of states that they follow from a sense of legal obligation. The customary international law referred to in this Article refers to relevant customary international law principles that protect the investments of aliens.

Article 14.8. Treatment In Case of Armed Conflict or Civil Strife

1. Each Party shall accord to investors of the other Party, and to covered investments, with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife, treatment no less favourable than that it accords, in like circumstances, to:

(a) its own investors and their investments; and

(b) investors of a non-Party and their investments. 2. Notwithstanding paragraph 1, if an investor of a Party, in the situations referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:

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

(b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation, the latter Party shall provide the investor with restitution, compensation or both, as appropriate, for such loss. (15)

(15) For greater certainty, when providing (i) restitution, (ii) compensation or (iii) both restitution and compensation, the value shall not exceed the loss suffered.

Article 14.9. Transfers

1. Each Party shall allow all transfers relating to a covered investment to be

made freely and without delay into and out of its territory. Such transfers include:

2. (a) contributions to capital, including the initial contribution;

(b) profits, capital gains, dividends, royalties, technical assistance and technical and management fees, interest and other current income accruing

from any covered investment;

(c) proceeds from the total or partial sale or liquidation of any covered investment;

(d) payments made under a contract, including a loan agreement;

(e) payments made in accordance with Article 14.8 and Article 14.11;

(f) payments arising out of the settlement of a dispute by any means including adjudication, arbitration or the agreement of the parties to the dispute; and

(g) earnings and other remuneration of personnel engaged from abroad in connection with that investment.

2. Each Party shall allow such transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

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

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

(b) issuing, trading, or dealing in securities, futures, options or derivatives;

(c) criminal or penal offences and the recovery of the proceeds of crime;

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

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings;

(f) taxation;

(g) social security, public retirement, or compulsory savings schemes; and

(h) severance entitlements of employees.

Article 14.10. Senior Management and Boards of Directors

1. Neither Party shall require that an enterprise of that Party that is a covered investment appoint to a senior management position a natural person of any particular nationality.

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

Article 14.11. Expropriation and Compensation (16)

1. A Party shall not expropriate or nationalise a covered investment either directly or through measures equivalent to expropriation or nationalisation (expropriation), except:

(a) for a public purpose;

(b) in a non-discriminatory manner;

(c) on payment of prompt, adequate and effective compensation; and

(d) in accordance with due process of law.

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

(a) be paid without delay;(17)

(b) be equivalent to the fair market value of the expropriated investment at the time when or immediately before the expropriation was publicly announced, or when the expropriation occurred, whichever is applicable;

(c) not reflect any change in value because the intended expropriation had become known earlier; and

(d) be effectively realisable and freely transferable between the territories of the Parties.

3. The compensation referred to in paragraph 1(c) shall include appropriate interest. The compensation, including any

accrued interest, shall be payable either in the currency of the expropriating Party or, if requested by the investor, in a freely usable currency.

4. If an investor requests payment in a freely useable currency, the compensation referred to in paragraph 1(c), including any accrued interest, shall be converted into the currency of payment at the market rate of exchange prevailing on the date of payment.

5. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights in accordance with the TRIPS Agreement or to the revocation, limitation or creation of intellectual property rights, to the extent that the issuance, revocation, limitation or creation is consistent with the TRIPS Agreement. (18)

(16) This Article shall be interpreted in accordance with Annex 14-B.

(17) The Parties understand that there may be legal and administrative processes that need to be observed before payment can be made.

(18) For greater certainty, the Parties recognise that, for the purposes of this Article, the term "revocation" of intellectual property rights includes the cancellation or nullification of those rights and the term "limitation" of intellectual property rights includes exceptions to those rights.

Article 14.12. Subrogation

1. If a Party or designated agency of a Party makes a payment to an investor of that Party under a guarantee, a contract of insurance or other form of indemnity it has granted on non-commercial risk in respect of a covered investment, the other Party in whose territory the covered investment was made shall recognise the subrogation or transfer of any rights the investor would have possessed under this Chapter with respect to the covered investment but for the subrogation, and the investor shall be precluded from pursuing these rights to the extent of the subrogation.

2. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor. (19)

(19) This, however, does not necessarily imply recognition of the latter Party of the merits of any case or the amount of any claims arising therefrom.

Article 14.13. Denial of Benefits (20)

A Party may deny the benefits of this Chapter:

(a) to an investor of the other Party that is an enterprise of the other Party and to investments of that investor if:

(i) persons of a non-Party or the denying Party own or control the enterprise; and

(ii) the enterprise has no substantial business activities in the territory of the other Party;

(b) to an investor of the other Party that is an enterprise of the other Party and to investments of that investor ift

(i) persons of a non-Party own or control the enterprise; and

(ii) the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments; or

(c) to an investor of the other Party if a person of a non-Party owns or controls the enterprise and the denying Party does not maintain diplomatic relations with that non-Party.

(20) For greater certainty, the benefits of this Chapter may be denied at any time before or after an investment is made, including after an investor has submitted a claim to arbitration under Article 14,25.

Article 14.14. Non–Conforming Measures

(a) any existing non-conforming measure that is maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to Annex I (Trade in Services and Investment Schedules); or

(ii) a regional level of government, as set out by that Party in its Schedule to Annex I (Trade in Services and Investment Schedules); or

(iii) a local level of government;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed at the date of entry into force of the Party's Schedule to Annex I (Trade in Services and Investment Schedules), with Article 14.4, Article 14.5, Article 14.6 or Article 14.10.

2. Article 14.4, Article 14.5, Article 14.6 and Article 14.10, shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule to Annex II (Trade in Services and Investment Schedules).

3. Article 14.4 and Article 14.5 shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, and any measure that is covered by an exception to, or derogation from, the obligations under Article 3 or Article 4 of the TRIPS Agreement.

Article 14.15. Special Formalities and Disclosure of Information

1. Nothing in Article 14.4 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a residency requirement for registration or a requirement that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not substantially impair the protections afforded by a Party to investors of the other Party and covered investments in accordance with this Chapter.

2. Notwithstanding Article 14.4, a Party may require an investor of the other Party, or its covered investment, to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect any confidential information which has been provided from any disclosure that would prejudice legitimate commercial interests of the investor or its covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 14.16. Promotion of Regulatory Objectives

Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health, public morals, social welfare, consumer protection or the promotion and protection of cultural diversity or other regulatory objectives.

Article 14.17. Corporate Social Responsibility

Each Party reaffirms the importance of encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party.

Article 14.18. Committee on Investment

1. The Parties hereby establish a Committee on Investment (Investment Committee) consisting of representatives of the Parties.

2. The Investment Committee shall meet within two years from the date of entry into force of this Agreement and thereafter as agreed by the Parties. Meetings may be conducted in person, or by any other means as determined by the Parties.

3. The Investment Committee's functions shall be:

(a) to monitor and review the implementation of this Chapter;

(b) to consider any other matters related to this Chapter identified by the Parties;

(c) to report to the Joint Committee as required; and

(d) to consider and recommend to the Joint Committee any amendments to this Chapter.

Section Section B: Investor-State Dispute Settlement

Article 14.19. Definitions

For the purposes of this Section: Appointing Authority means:

(i) In the case of arbitration under Article 14.25, the Secretary General of ICSID;

(ii) In the case of arbitration under Article 14.25, the Secretary General of the Permanent Court of Arbitration; or

(iii) Any person as agreed between the disputing parties;

disputing investor means an investor of a Party that makes a claim against another Party;

disputing parties means a disputing investor and a disputing Party;

disputing Party means a Party against which a claim is made under this Section;

disputing party means a disputing investor or a disputing Party; ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Additional Facility Rules means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes;

ICSID Convention means the Convention of the Settlement of Investment Disputed between States and National of other States, done at Washington on 18 March 1965;

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; and

Non-disputing Party means the Party of the disputing investor;

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on the International Trade Law, approved by the United Nations General Assembly on 15 December 1976.

Article 14.20. Scope

1. This Section shall apply to disputes between a Party and an investor of another Party concerning an alleged breach of an obligation of the former under Section A which causes loss or damage to the covered investment of the investor ("investment dispute").

2. This Section shall not apply to investment disputes which have occurred prior to the date of entry into force of this Agreement.

3. A natural person possessing the nationality or citizenship of a Party may not pursue a claim against that Party under this Section.

Article 14.21. Exclusion of Claims

1. Without prejudice to the scope of any applicable exceptions, non-conforming measures, principles of international law or the disputing Party's ability to rely upon such exceptions, non-conforming measures or principles of international law during the proceedings, no claim may be brought under this Section:

(a) alleging a breach of, or otherwise invoking, Article 14.5 on the basis that another international agreement contains more favourable rights or obligations. For greater certainty, this shall not prevent a claim challenging measures of a Party, including measures taken in accordance with another international agreement, on the basis that those measures breach

Article 14.5 and have resulted in loss or damage to the disputing investor;

(b) in relation to a measure that is designed and implemented to protect or promote public health (21)

(c) in relation to an investment that has been established through illegal conduct including fraudulent misrepresentation, concealment or corruption. For greater certainty, this exclusion does not apply to investments established through minor or technical breaches of law; or

(d) if the claim is frivolous or manifestly without merit.

2. If the disputing Party considers that a claim brought under this Section is covered by paragraph 1, it may submit an objection on that basis as a preliminary question in accordance with Article 14.30, without prejudice to its ability to raise such an objection at another stage in the proceedings.

(21) For greater certainty: 1. for Australia, such measures include measures that comprise or relate to the: (i) Pharmaceutical Benefits Scheme; (ii) Medicare Benefits Scheme; (iii) Therapeutic Goods Administration; and (iv) Office of the Gene Technology Regulator. 2. for Indonesia, such measures include measures that comprise or relate to the Indonesia Health Service Scheme.

Article 14.22. Consultations

1. In the event of an investment dispute referred to in Article 14.20, the disputing parties shall as far as possible resolve the dispute through consultation, with a view towards reaching an amicable settlement. Such consultations shall be initiated by a written request for consultations delivered by the disputing investor to the disputing Party.

2. With the objective of resolving an investment dispute through consultations, a disputing investor shall provide the disputing Party, prior to the commencement of consultations, with information regarding the legal and factual basis for the investment dispute.

3. For greater certainty, the initiation of consultations shall not be construed as recognition of the jurisdiction of the tribunal.

Article 14.23. Conciliation

1. If the dispute cannot be resolved within 180 days from the date of receipt by the disputing Party of the written request for consultations, the disputing Party may initiate a conciliation process, which shall be mandatory for the disputing investor, with a view towards reaching an amicable settlement. Such a conciliation process shall be initiated by a written request delivered by the disputing Party to the disputing investor.

2. The conciliation process under this Article can only be initiated by a written request delivered by the disputing Party within 180 days from the date of receipt by the disputing Party of the written request for consultations.

3. Expenses incurred in relation to the conciliation process shall be borne equally by the disputing parties. Each disputing party shall bear its own legal expenses.

Article 14.24. Claim by an Investor of a Party

1. If an investment dispute has not been resolved by consultations in accordance with Article 14.22 or conciliation in accordance with Article 14.23, in accordance with the timeframes in Article 14.26.2(a) or Article 14.26.2(b) respectively;

(a) the disputing investor, on his or her own behalf, may submit to arbitration under this Section a claim:

(i) that the disputing Party has breached an obligation under Article 14.4, Article 14.5 and Articles 14.7 through 14.12 of Section A; and

(ii) that the disputing investor has incurred loss or damage by reason of, or arising out of, that breach; and

(b) the disputing investor, on behalf of an enterprise (22)of the disputing Party that the disputing investor owns or controls directly or indirectly, may submit to arbitration under this Section a claim:

(i) that the disputing Party has breached an obligation under Article 14.4, Article 14.5 and Article 14.7 through Article 14.12 of Section A; and

(ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.

(22) For greater certainty, an enterprise may not itself submit a claim against that Party in which it is established.

Article 14.25. Submission of a Claim

1. A disputing investor may submit a claim referred to in Article 14.24 to one of the following fora:

(a) if Indonesia is the disputing Party, to the courts or tribunals of that Party, provided that such court or tribunal has jurisdiction over such claim;

(b) under the ICSID Convention and the ICSID Rules of Procedure for Arbitration Proceedings;

(c) under the ICSID Additional Facility Rules;

(d) under the UNCITRAL Arbitration Rules; or

(e) if the disputing parties agree, to any other arbitration institution or under any other arbitration rules.

2. A claim shall be deemed submitted to arbitration under this Article when the disputing investor's notice or of request for arbitration made in accordance with this Section ("notice of arbitration") is received under the applicable arbitration rules.

3. The arbitration rules applicable under paragraphs 1(a) through (e), as in effect on the date the claim or claims were submitted to arbitration under this Article, shall govern the arbitration except to the extent modified by this Section.

4. In the event that an investment dispute has been submitted for resolution under one of the fora provided for in paragraph 1 of this Article, the same investment dispute shall not be submitted under any other fora provided for in paragraph 1 of this Article.

5. In relation to a specific investment dispute or class of disputes, the applicable arbitration rules may be waived, varied or modified by written agreement between the disputing parties. Such rules shall be binding on the relevant tribunal or tribunals established in accordance with this Section, and on individual arbitrators serving on such tribunals.

6. The disputing investor shall provide with the notice of arbitration:

(a) the name of the arbitrator that the disputing investor appoints; or

(b) the disputing investor's written consent for the Appointing Authority to appoint that arbitrator.

Article 14.26. Conditions and Limitations on Submission of a Claim

1. No claim shall be submitted to arbitration under this Section if more than three years and six months have elapsed from the date on which the disputing investor first acquired, or should have first acquired, knowledge of the breach alleged under Article 14.24 and knowledge that the disputing investor (for claims brought under Article 14.24(1)(a) or the enterprise (for claims brought under Article 14.24(1)(b)) has incurred loss or damage.

2. No claim shall be submitted to arbitration under this Section unless:

(a) if the disputing Party has not initiated a conciliation process in accordance with Article 14.23, at least 180 days have elapsed since the date of the receipt by the disputing Party of a request for consultations and the disputing investor has provided written notice to the disputing Party of its intent to submit the investment dispute to arbitration at least 90 days before the claim is submitted under Article 14.24; or

(b) if the disputing Party has initiated a conciliation process Article 14.23, at least 120 days has elapsed since the initiation of the conciliation and the disputing investor has provided written notice to the disputing Party of its intent to submit the investment dispute to arbitration at least 60 days before the claim is submitted under Article 14.24; and

(c) a notice of intent referred to in subparagraphs (a) and (b) briefly summarises the alleged breach of the disputing Party (including the articles or provisions alleged to have been breached) and the loss or damaged allegedly caused to the disputing investor or a covered investment.

3. No claim shall be submitted to arbitration under this Section unless:

(a) the disputing investor consents in writing to arbitration in accordance with the procedures set out in this Agreement; and

(b) the notice of arbitration is accompanied by:

(i) for claims under Article 14.24(1)(a), the disputing investor's written waiver; and

(ii) for claims under Article 14.24(1)(b), the disputing investor's and the enterprise's written waiver

of any right to initiate or continue before any court or administrative tribunal under the law of either Party, or any other dispute settlement procedures, any proceeding with respect to any measure alleged to constitute a breach referred to in Article 14.24.

4. Notwithstanding paragraph 3(b), neither Party shall prevent the disputing investor from initiating or continuing an action that seeks interim measures of protection for the sole purpose of preserving its rights and interests and does not involve the payment of damages or resolution of the substance of the matter in dispute, before the courts or administrative tribunals of the disputing Party.

5. No Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which has been submitted to conciliation or arbitration under this Article, unless such other Party has failed to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

6. A disputing Party shall not assert, as a defence counter-claim, right of set off or otherwise, that the disputing investor or the covered investment has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

Article 14.27. Selection of Arbitrators

1. Unless the disputing parties otherwise agree, the tribunal shall comprise three arbitrators:

(a) one arbitrator appointed by each of the disputing parties; and

(b) a third arbitrator, who shall be the presiding arbitrator, appointed by agreement of the disputing parties, shall be a national of a non-Party which has diplomatic relations with the disputing Party and non-disputing Party, and shall not have permanent residence in either the disputing Party or non- disputing Party.

2. Arbitrators shall have expertise or experience in public international law, international trade or international investment rules and be independent of, and not be affiliated with or take instructions from the disputing Party, the non-disputing Party or disputing investor.

3. The Appointing Authority shall serve as appointing authority for arbitration under this Article.

4. Ifa tribunal has not been constituted within 75 days from the date that a claim is submitted to arbitration under this Section, the Appointing Authority, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed.

5. The disputing parties may establish rules relating to expenses incurred by the tribunal, including the arbitrators' remuneration.

6. If any arbitrator appointed as provided for in this Article resigns or becomes unable to act, a successor shall be appointed in the same manner as prescribed for the appointment of the original arbitrator, and the successor shall have all the powers and duties of the original arbitrator.

7. Arbitrators appointed under this Section shall comply with Annex 14-A (Code of Conduct of Arbitrators).

Article 14.28. Security for Costs

1. For greater certainty, on request of the disputing Party, the tribunal may order the disputing investor to provide security for all or a part of the costs if there are reasonable grounds to believe that the claimant risks not being able to honour a possible decision on costs issued against it.

2. If the security for costs is not provided in full within 30 days after the tribunalâs order or within any other time period set by the tribunal, the tribunal shall so inform the disputing parties and thereafter the tribunal may order the suspension or termination of the proceedings.

Article 14.29. Consolidation

Where two or more claims have been submitted separately to arbitration under Article 14.24 and the claims have a question of law or fact in common and arise out of the same or similar events or circumstances, all concerned disputing parties may agree to consolidate those claims in any manner they deem appropriate.

Article 14.30. Conduct of the Arbitration

1. Where issues relating to jurisdiction or admissibility are raised as preliminary objections, a tribunal shall decide the matter before proceeding to the merits.

2. A disputing Party may, no later than 60 days after the constitution of the tribunal, file as a preliminary objection that a claim is excluded under Article 14.20. A disputing Party may also file an objection that a claim is otherwise outside of the jurisdiction or competence of the tribunal. The disputing Party shall specify as precisely as possible the basis for the objection. This is without prejudice to a disputing Party's ability to raise such an objection at another stage of the proceedings.

3. The tribunal shall address any such objection as a preliminary question apart from the merits of the claim. The disputing parties shall be given a reasonable opportunity to present their views and observations to the tribunal. If the tribunal decides that the claim is excluded under Article 14.20, or is otherwise not within the jurisdiction or competence of the tribunal, it shall render an award to that effect.

4. In the event that the disputing Party so requests within 60 days after the tribunal is constituted, the tribunal shall decide on an expedited basis any preliminary objection raised under this Article. The tribunal shall suspend any proceedings on the merits and issue a decision or award on the objection, stating the grounds therefore, no later than 150 days after the date of the request. However, if a disputing party requests a hearing, the tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, a tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

5. Unless the disputing parties otherwise agree, the tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

Article 14.31. Transparency of Arbitral Proceedings

1. Subject to paragraphs 2 and 3, the disputing Party shall make publicly available all awards and decisions produced by the tribunal.

2. Any of the disputing parties that intend to use information designated as confidential information in a hearing shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure.

3. Any information specifically designated as confidential that is submitted to the tribunal or the disputing parties shall be protected from disclosure to the public.

4. A disputing party may disclose to persons directly connected with the arbitral proceeding such confidential information as it considers necessary for the preparation of its case, but it shall require that such confidential information is protected.

5. The tribunal shall not require a Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting Cabinet confidences, personal privacy or the financial affairs and accounts of individual customers of financial institutions, or which it determines to be contrary to its essential security.

6. The non-disputing Party shall be entitled, at its cost, to receive from the disputing Party a copy of the notice of arbitration, no later than 30 days after the date that such document has been delivered to the disputing Party. The disputing Party shall notify the other Party of the receipt of the notice of arbitration within 30 days thereof.

Article 14.32. Third Party Funding

1. If there is third party funding, the disputing investor benefiting from it shall notify to the disputing Party and to the tribunal, or where the tribunal is not established, to the Appointing Authority of the tribunal, the name and address of the third party funder.

2. Such notification shall be made at the time of submission of a claim, or, where the financing agreement is concluded or the donation or grant is made after the submission of a claim, without delay as soon as such agreement is concluded or the donation or grant is made.

3. If a disputing investor fails to disclose third party funding under this Article, the tribunal may order the suspension or termination of the proceedings.

Article 14.33. Governing Law

1. Subject to paragraphs 2 and 3, when a claim is submitted under Article 14.24, the tribunal shall decide the issues in dispute in accordance with this Agreement, any other applicable agreements between the Parties, any relevant rules of international law applicable in the relations between the Parties and, if applicable, any relevant domestic law of the disputing Party.

2. The tribunal shall, on its own account or at the request of a disputing party, request a joint interpretation of any provision of this Agreement that is in issue in a dispute. The Parties shall submit in writing any joint decision declaring their interpretation to the tribunal within 60 days of the delivery of the request. Without prejudice to paragraph 3, if the Parties fail to issue such a decision within 60 days, any interpretation submitted by a Party shall be forwarded to the disputing parties and the tribunal, which shall decide the issue on its own account.

3. A joint decision of the Parties, declaring their interpretation of a provision of this Agreement shall be binding on a tribunal, and any decision or award issued by a tribunal and any decision or award issued by a tribunal must be consistent with that joint decision.

Article 14.34. Awards

1. If a tribunal makes a final award against either of the disputing parties, the tribunal may award, separately or in combination only:

(a) Monetary damages and any applicable interest; and

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

2. A tribunal may also award costs and attorney's fees in accordance with this Section and the applicable arbitration rules.

3. If the tribunal determines that a claim is brought in contravention of Article 14.21 the tribunal shall make an award requiring the disputing investor to pay all costs and attorneyâs fees incurred by the disputing Party to respond to the claim, unless the tribunal considers that there are exceptional circumstances that warrant the disputing parties to bear costs in other specified proportions.

4. A tribunal may not award punitive damages.

5. Subject to paragraph 1, if a claim is submitted to arbitration under Article 14.24.1(b) and an award is made in favour of the enterprise:

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

(b) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise.

6. An award made by a tribunal shall be final and binding upon the disputing parties. An award shall have no binding force except between the disputing parties and in respect of the particular case.

7. Subject to paragraph 8 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

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

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

(i) 120 days has elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award; or

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

(b) In the case of a final award under the ICSID Additional Facility Rules, the UNCITRAL Arbitration Rules, or the rules selected in accordance with Article 14.25:

(i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to

revise, set aside, or annul the award; or

(ii) a court has dismissed or allowed an application to revise, set aside, or annul the award and there is no further appeal.

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

Article 14.35. Service of Documents

1. Notices and other documents in disputes under this Section shall be served on Australia by delivery to:

Department of Foreign Affairs and Trade RG. Casey Building

John McEwen Crescent

Barton ACT 0221

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Australia

2. Notices and other documents in disputes under this Section shall be served on Indonesia by delivery to:

Directorate General of Legal Affairs and International Treaties Ministry of Foreign Affairs

Jalan Taman Pejambon 6

10110 DKI Jakarta

Indonesia

Chapter 15. ECONOMIC COOPERATION

Article 15.1. Objectives

1. Economic cooperation under this Chapter shall be built upon a common understanding between the Parties to support the implementation of this Agreement, with the objective of maximising its benefits, supporting pathways to trade and investment facilitation, and further improving market access and openness to contribute to the sustainable inclusive economic growth and prosperity of the Parties.

2. The Parties reaffirm the importance of economic cooperation activities between them and shall seek, if possible, to minimise duplication of ongoing efforts and utilisation of resources, particularly under other trade agreements and economic cooperation programs.

Article 15.2. Scope

Economic cooperation under this Chapter shall support the effectiveness and efficiency of the implementation and utilisation of this Agreement through activities that relate to trade and investment as specified in the Annual Work Program.

Article 15.3. Committee on Economic Cooperation

1. For the purpose of effective implementation of this Chapter, and to achieve better coordination of economic cooperation activities with efficient and effective allocation and use of resources, a Committee on Economic Cooperation (the Committee) is hereby established.

2. Australia and Indonesia shall jointly chair the Committee. The membership of the Committee shall include representatives from the Committee on Trade in Goods, Committee on Trade in Services and Committee on Investment.

3. Members of the Committee shall be familiar with the scope of economic cooperation activities conducted under this Agreement and promote coherence between these activities and the work undertaken through the broader bilateral economic partnership.

4. The Committee shall meet within one year of the date of entry into force of this Agreement and, unless the Parties otherwise agree, once every year after that.

5. The functions of the Committee shall include, but not be limited to, the following:

(a) developing medium-term objectives as a guideline for the development of an annual work program of economic cooperation activities ("Annual Work Program") for consideration and approval by the Joint Committee;

(b) developing an Annual Work Program for consideration and approval by the Joint Committee, including coordinating and prioritising proposals for economic cooperation activities from the Committee on Trade in Goods, the Committee on Trade in Services and the Committee on Investment as well as their subsidiary bodies;

(c) conducting a review of the Annual Work Program from the previous year and providing a report to the Joint Committee;

(d) overseeing and reviewing the implementation of the Annual Work Program to assess its overall effectiveness and contribution to the implementation of this Agreement;

(e) working with other Committees and subsidiary bodies to establish and maintain effective communication and coordination on economic cooperation activities; and

(f) resolving issues and concerns about the implementation of the Annual Work Program as agreed by the Parties.

Article 15.4. Formulation of Annual Work Program

1. Each activity in an Annual Work Program developed under this Chapter shall: (a) be guided by the medium-term objectives, as agreed in Article 15.3.5(a);

(b) be related to trade or investment and support the implementation of this Agreement;

(c) involve both Parties;

(d) address the mutual priorities of the Parties;

(e) avoid duplicating existing economic cooperation activities; and

(f) take into consideration the economic cooperation needs as proposed and identified by other Committees.

2. In developing the Annual Work Program, the Committee shall take into account the Annual Work Program review under Article 15.3.5(c).

3. The Joint Committee may modify the Annual Work Program, taking into account the Annual Work Program review under Article 15.3.5(c), any recommendations from the Committee and available resources. The Joint Committee may modify the Annual Work Program out of session if agreed by the Parties.

4. The first Annual Work Program will be developed in accordance with the medium-term objectives attached to the exchange of letters constituting an agreement on economic cooperation signed between Australia and Indonesia in connection with the signing of this Agreement.

Article 15.5. Contact Points

Each Party shall designate a contact point to facilitate communication between the Parties on all matters relating to the implementation of the Annual Work Program and shall update the other Party on any changes to the details of the contact points.

Article 15.6. Resources

1. Resources for economic cooperation under this Chapter shall be provided in a manner as agreed by the Parties and in accordance with the laws and regulations of the Parties.

2. The Parties, on the basis of mutual benefit, shall consider cooperation with, and contributions from, external parties to support the implementation of the Annual Work Program.

Article 15.7. Non-Application of Chapter 20 (Consultations and Dispute Settlement)

Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

Article 15.8. Relation to other Chapters

This Chapter shall apply to all economic cooperation activities under this Agreement.

Chapter 16. COMPETITION

Article 16.1. Definitions

For the purposes of this Chapter, competition laws means:

(i) for Australia, the Competition and Consumer Act 2010 (Cth), and any regulations relating to Parts IV and XI A; and provisions of other Parts in so far as they relate to Part IV, but not including Part X, including their amendments and replacements; and

(ii) for Indonesia, Undang-undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat (Law No. 5 Year 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition), and its related regulations, including their amendments and replacements.

Article 16.2. Objectives

The objectives of this Chapter are to promote fair competition in markets and enhance economic efficiency and consumer welfare, through the adoption and maintenance of laws to proscribe anti-competitive practices, to help secure the benefits of this Agreement and promote cooperation between the Parties on competition law enforcement.

Article 16.3. Basic Principles

Acknowledging each Party's rights and obligations under this Chapter, the Parties recognise the sovereign rights of each Party to develop, set, administer and enforce its own competition laws and regulations, and the differences in legal systems, capacity, and level of development in the area of competition policy and law.

Article 16.4. Application of Competition Laws and Regulations (1)

1. Each Party shall adopt or maintain competition laws and regulations that proscribe anti-competitive practices and shall enforce them accordingly.(2)

2. Each Party shall maintain authorities responsible for the enforcement of its competition laws and regulations.

3. Each Party shall ensure independence in decision-making by its authorities in relation to enforcement of competition laws and regulations.

4. Each Party shall apply and enforce its competition laws and regulations in a manner which does not discriminate on the basis of nationality.

5. Each Party shall apply its competition laws and regulations to all economic sectors and all entities engaged in commercial activities, (3) subject to exclusions and exemptions as provided for under its competition laws and regulations. Such exclusions and exemptions shall be transparent and undertaken on the grounds of public policy or public interests.

(1) For greater certainty, this article applies to all entities engaged in commercial activities regardless of their ownership.

(2) Anticompetitive practices may include: 1. horizontal arrangements; 2. vertical restraints; 3. abuse of dominant position or market power; and 4. mergers and acquisitions that would substantially lessen competition.

(3) For greater certainty, nothing in paragraph 5 shall be construed to preclude a Party from applying its competition laws to commercial activities outside its borders that have anticompetitive effects within its jurisdiction.

Article 16.5. Cooperation

The Parties agree to cooperate in a manner compatible with their respective laws, regulations, important interests, and available resources. Such cooperation may include:

(a) assistance in providing information related to competition law enforcement that involves one or both Parties, including to foster understanding or to facilitate effective competition law enforcement;

(b) discussion between the Parties on enforcement activities of interest to both Parties, or related anti-competitive activities;

(c) assistance in enforcement and litigation activities of interest to both Parties;

(d) facilitation of regular dialogue between competition authorities to foster effective implementation of respective competition laws and policies;

(e) consultation on any matter relating to competition law that substantially affects the interests of the other Party. Such consultation shall not affect the ability of each Party to independently administer or enforce its competition law; and

(f) relevant matters of mutual interest related to consumer protection.

Article 16.6. Notifications

Each Party shall, as promptly as reasonably possible, notify the competition authority of the other Party of competition enforcement activities that may affect the interests of the other Party.

Article 16.7. Transparency

1. The Parties recognise the value of making their competition law enforcement policies as transparent as possible. Each Party shall endeavour to maintain and update its information in competition law enforcement policies, including regulations, guidelines, and practices through their website.

2. On request of a Party, the other Party shall make available to the requesting Party public information on exclusions and exemptions provided by its competition laws and regulations, provided that the request specifies the particular good, service, or market of concern and includes information explaining how the exclusions or exemptions may hinder economic relations between the Parties.

Article 16.8. Procedural Fairness

1. In applying competition law, each Party shall implement administrative and judicial procedures in a transparent and fair manner.

2. Each Party shall ensure that before sanction or remedy is imposed on any person or entity for breaching its competition law, that person or entity is provided the reasons for the allegations and a fair opportunity to be heard and to present evidence.

3. Each Party shall ensure that any person or entity subject to the imposition of a sanction or a remedy under its competition law has access to an independent review or

appeal of that sanction or remedy.

4. Each Party shall endeavour to handle competition cases in a timely manner.

Article 16.9. Confidentiality of Information

1. This Chapter shall not require the sharing of information by a Party, which is contrary to the Party's laws, regulations or important interests.

2. Where a Party requests confidential information under this Chapter, the requesting Party shall notify the providing Party with:

(a) the purpose of the request;

(b) use of the requested information; and

(c) any laws or regulations of the requesting Party that may affect the confidentiality of information or require the use of the

information for purposes not agreed upon by the providing Party.

3. If information shared under this Chapter is shared on a confidential basis then, except to comply with laws and regulations, the Party receiving that information shall:

(a) maintain the confidentiality of the information received;

(b) use it only for the purpose disclosed at the time of the request, unless otherwise authorised by the Party providing the information;

(c) not disclose it to any other authority, entity or person that is not authorised by the Party providing the information; and

(d) comply with any other conditions required by the Party providing the information.

Article 16.10. Consumer Protection

1. Each Party recognises the importance of consumer protection laws and enforcement as well as cooperation between the Parties on matters related to consumer protection, in order to achieve the objectives set out in Article 16.2.

2. Each Party shall adopt or maintain laws and regulations to proscribe the use in trade of misleading practices, or false or misleading descriptions.

3. Each Party also recognises the importance of improving awareness of, and access to, consumer redress mechanisms.

Article 16.11. Review

Unless the Parties otherwise agree, the Parties shall review this Chapter as part of the General Review under Article 21.5 (General Review of the Agreement) of Chapter 21 (Final Provisions), with a view to improving the provisions in relation to all entities regardless of their ownership. The Parties shall consult each other on the need to modify this Chapter as necessary through the Joint Committee established under Chapter 18 Cnstitutional Provisions).

Article 16.12. Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Consultations and Dispute Settlement) for any matter arising under this Chapter.

Chapter 17. GENERAL PROVISIONS AND EXCEPTIONS

Article 17.1. Confidentiality of Information

1. Nothing in this Agreement shall require a Party to furnish or allow access to information that would be contrary to its law or impede law enforcement, or otherwise be contrary to the public interest or that would prejudice the legitimate commercial interests of any particular enterprises, public or private.

2. Unless otherwise provided in this Agreement, where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except where the disclosure of information is for the purposes of complying with the legal requirements of a Party.

Article 17.2. General Exceptions

1, For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Non-Tariff Measures), Chapter 4 (Rules of Origin), Chapter 5 (Customs Procedures), Chapter 6 (Trade Facilitation), Chapter 7 (Sanitary and Phytosanitary Measures) and Chapter 8 (Technical Barriers to Trade), Article XX of GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources and that Article XX(f) of GATT 1994 applies to measures imposed for the protection of national treasures of artistic, historic or archaeological value.

2. For the purposes of Chapter 9 (Trade in Services), Chapter 10 (Financial Services), Chapter 11 (Telecommunications),

Chapter 12 (Movement of Natural Persons) and Chapter 13 (Electronic Commerce), Article XIV of GATS, including its footnotes, is incorporated into and made part of this Agreement, mutatis mutandis. The Parties understand that the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal or plant life or health.

3. For the purposes of Chapter 14 (Investment), subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between investments or between investors where like conditions prevail, or a disguised restriction on international trade or investment, nothing in Chapter 14 (Investment) shall be construed to prevent a Party from adopting or enforcing measures:

(a) necessary to protect public morals or to maintain public order; (1)
(b) necessary to protect human, animal or plant life or health; (2)
(c) necessary to ensure compliance with laws and regulations that are not inconsistent with this Agreement, including those relating to;

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

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

(iii) safety;

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

(e) relating to the conservation of living or non-living exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption. (3)

4. For the purposes of Chapter 9 (Trade in Services) and Chapter 14 (Investment), subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties, or between investors or between investments, where like conditions prevail, or a disguised restriction on trade in services or investment, nothing in these Chapters shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect national treasures or specific sites of historical or archaeological value, or measures necessary to support creative arts of national value. (4)

5. A Party shall hold consultations with a view to reaching agreement on any necessary adjustment required to maintain the overall balance of commitments undertaken by the Parties under Chapter 9 (Trade in Services) and Chapter 14 (Investment) if requested by a Party affected by the measures referred to in paragraph 4.

6. Nothing in this Agreement shall be construed to prevent a Party from implementing the suspension of obligations, including maintaining or increasing a customs duty, that is authorised by the Dispute Settlement Body of the WTO or resulting from a decision by a dispute settlement panel under a free trade agreement to which the Parties are party.

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

(2) For greater certainty, the measures referred to subparagraph (b) include environmental measures to protect human, animal or plant life or health.

(3) For greater certainty, the measures referred to in subparagraph (e) include environmental measures relating to the conservation of living and non-living exhaustible natural resources.

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

Article 17.3. Security Exceptions Nothing In this Agreement Shall Be Construed:

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

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

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

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

(iii) taken so as to protect critical public infrastructure (5) which may include communications, power and water infrastructures;

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

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

(5) For clarity, this includes critical public infrastructures whether publicly or privately owned.

Article 17.4. Taxation Measures

1. For the purposes of this Article: competent authorities means:

(i) with respect to Australia, the Secretary to the Treasury or an authorised representative of the Secretary; and

(ii) with respect to Indonesia, the Minister of Finance or his or her authorised representative.

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement to which the Parties are party; and

taxation measures do not include any import or customs duties.

2. Unless otherwise provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. This Agreement shall only grant rights or impose obligations with respect to taxation measures where:

(a) corresponding rights and obligations are also granted or imposed under the WTO Agreement;

(b) they are granted or imposed under Article 14.6 (Prohibition of Performance Requirements) of Chapter 14 (Investment);

(c) they are granted or imposed under Article 14.9 (Transfers) of Chapter 14 (Investment); or

(d) they are granted or imposed under Article 14.11 (Expropriation and Compensation) of Chapter 14 (Investment).

4. Where paragraph 3(c) or (d) applies, Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment) shall also apply in respect of taxation measures.

5. Where an investor claims that the disputing Party has breached Article 14.9 (Transfers) of Chapter 14 (investment) or Article 14.11 (Expropriation and Compensation) of Chapter 14 (Investment) by the adoption or enforcement of a taxation measure, the competent authorities of the disputing Party may request consultations with the competent authorities of the non-disputing Party at the time that the disputing Party receives the investor's notice of intent under Article 14.25 (Submission of a Claim) of Chapter 14 (Investment). The competent authorities of the Parties shall hold consultations with a view to determining whether Article 14.9 (Transfers) of Chapter 14 (investment) has been breached or whether the taxation measure in question has an effect equivalent to expropriation. Any tribunal established in accordance with Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment) to consider the measure, shall accept as binding the decision of the competent authorities under this paragraph.

6. If the competent authorities of the Parties fail to determine whether Article 14.9 (Transfers) of Chapter 14 (Investment) has been breached or whether the taxation measure has an effect equivalent to expropriation within 360 days of the date of receipt of the request for consultations by the non-disputing Party, the investor may submit its claim to arbitration under Article 14.25 (Submission of a Claim) of Chapter 14 (Investment).

7. The time period under Article 14.26 (Conditions and Limitations on Submission of a Claim) of Chapter 14 (Investment) shall be suspended during the 360 day period under paragraph 6. For greater certainty, this time period shall not be counted as part of the time limit in Article 14.26.1 (Conditions and Limitations on Submission of a Claim) of Chapter 14 (Investment).

8. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail. Any consultations between the Parties about whether an inconsistency relates to a taxation measure shall be done by the competent authorities.

9. If an issue arises as to whether any inconsistency exists between this Agreement and any applicable tax convention in the context of proceedings under Chapter 20 (Consultations and Dispute Settlement) or Section B (Investor-State Dispute Settlement) of Chapter 14 (Investment), the issue shall be referred to the competent authorities of the Parties. The competent authorities of the Parties shall have 180 days from the date of referral of the issue to make a determination as to the existence and extent of any inconsistency. If the competent authorities agree, such a period may be extended. No procedure concerning the measure giving rise to the issue may continue under Chapter 20 (Consultations and Dispute Settlement) or Chapter 14 (Investment) until the expiry of the 180 day period, or such other period as may have been agreed by the competent authorities. Any panel or tribunal established under this Agreement to consider a dispute which may contain any inconsistency between this Agreement and any applicable tax convention shall accept as binding a determination of the competent authorities of the Parties made under this paragraph.

10. Nothing in this Agreement shall oblige a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any tax convention by which the Party is bound.

Article 17.5. Measures to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

(a) in the case of trade in goods, in accordance with GATT 1994 and the Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, adopt restrictive import measures;

(b) in the case of trade in services, where a Party is in serious balance of payments and external financial difficulties or under threat thereof or if, in exceptional circumstances, payments and capital movements cause or threaten to cause serious difficulties for macroeconomic management, adopt or maintain restrictions on payments or capital movements related to trade in services;

(c) in the case of investments, where a Party is in serious balance of payments and external financial difficulties or under threat thereof or if, in exceptional circumstances, payments and capital movements cause or threaten to cause serious difficulties for macroeconomic management, adopt or maintain restrictions on payments or capital movements related to covered investments as defined in Article 2.4 of Chapter 2 (Initial Provisions and General Definitions).

2. Restrictions adopted or maintained under paragraphs 1(b) and 1(c) shall:

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

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

(c) not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) be temporary and phased out progressively as the situation specified in paragraph | improves;

(e) be applied on a national treatment basis;

(f) ensure that the other Party is treated as favourably as any non-Party;

(g) not constitute a dual or multiple exchange rate practice; and

(h) not restrict payments or transfers for current transactions, unless the imposition of such measures complies with the procedures stipulated in the Articles of Agreement of the International Monetary Fund.

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

4. A Party adopting or maintaining any restrictions under paragraph 1 shall:

(a) in the case of trade in services, if consultations in relation to the restrictions adopted by it are not taking place at the WTO, if requested, promptly commence consultations with the other Party;

(b) in the case of investment, respond to the other Party that requests consultations in relation to the restrictions adopted by it, if such consultations are not otherwise taking place outside this Agreement.

Chapter 18. INSTITUTIONAL PROVISIONS

Article 18.1. Establishment of the Joint Committee

1. The Parties hereby establish the Joint Committee (Joint Committee) consisting of representatives of each Party.

2. The Joint Committee shall meet at the level of Ministers, unless the Parties otherwise agree.

3. Further to paragraph 2, if the Joint Committee meets at the level of Ministers, it shall be preceded by a Senior Officials level meeting.

Article 18.2. Functions of the Joint Committee

1. The Joint Committee shall:

(a) consider any matter related to the implementation and operation of this Agreement;

(b) consider any proposals to amend this Agreement; (c) review this Agreement five years after the date of entry into force of this Agreement and then every five years thereafter, in accordance with Article 21.5 (General Review of the Agreement) of Chapter 21 (Final Provisions);

(d) supervise the work of all committees and any other subsidiary bodies established under this Agreement;

(e) consider ways to further enhance trade and investment between the Parties; and

(f) carry out any other functions as the Parties may agree.

2. The Joint Committee may:

(a) refer matters to, or consider matters referred to it by, committees and subsidiary bodies established under this Agreement;

(b) develop implementing arrangements for the implementation of this Agreement;

(c) seek to resolve differences that may arise regarding the interpretation or application of this Agreement;

(d) seek expert advice on any matter falling within the Joint Committee's responsibilities; and

(e) take any other action as the Parties may agree.

Article 18.3. Committees and Subsidiary Bodies

1. The following Committees are established under this Agreement:

(a) Committee on Trade in Goods, in accordance with Article 2.11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods);

(b) Committee on Trade in Services, in accordance with Article 9.14 (Committee on Trade in Services) of Chapter 9 (Trade in Services);

(c) Committee on Investment, in accordance with Article 14.18 (Committee on Investment) of Chapter 14 (Investment); and

(d) Committee on Economic Cooperation, in accordance with Article 15.3 (Committee on Economic Cooperation) of Chapter 15 (Economic Cooperation).

2. The following Sub-Committees are established under this Agreement:

(a) Sub-Committee on Trade Facilitation, in accordance with Article 6.8 (Trade Facilitation Sub-Committee) of Chapter 6 (Trade Facilitation);

(b) Sub-Committee on Sanitary and Phytosanitary Matters, in accordance with Article 7.11 (SPS Sub-Committee) of Chapter 7 (Sanitary and Phytosanitary Measures); and

(c) Sub-Committee on Technical Barriers to Trade, in accordance with Article 8.13 (TBT Sub-Committee) of Chapter 8 (Technical Barriers to Trade).

3. The Joint Committee may establish additional committees or subsidiary bodies, including ad hoc bodies, as it determines necessary to address issues arising under, and assist with the implementation of, this Agreement.

4. Unless otherwise provided, any committee or subsidiary body shall:

(a) be composed of representatives of the Parties;

(b) be chaired jointly by the Parties;

(c) by agreement, take decisions on any matter within its functions; and
(d) meet annually or as determined by the Parties. Meetings may be conducted in person or by any other means as determined by the Parties.

Article 18.4. Rules of Procedure

1. The Joint Committee shall take decisions on any matter by agreement.

2. The Joint Committee shall establish its rules of procedure at its first meeting.

Article 18.5. Meetings of the Joint Committee

1. The Joint Committee shall meet within one year of the date of entry into force of this Agreement and then every year after that, or as otherwise agreed by the Parties. Sessions of the Joint Committee shall be chaired jointly by the Parties, or as otherwise agreed by the Parties.

2. Meetings of the Joint Committee may be conducted in person or by any other means as agreed by the Parties.

3. The Parties may invite, by agreement, representatives of other relevant entities, including from the private sector, with necessary expertise relevant to the issues to be discussed, to attend meetings of the Joint Committee.

Article 18.6. Contact Points

Each Party shall designate an overall contact point to facilitate communications between the Parties on any matter relating to this Agreement, including its implementation, and notify its contact point to the other Party in writing within 30 days of the date of entry into force of this Agreement.

Chapter 19. TRANSPARENCY

Article 19.1. Definitions for the Purposes of this Chapter:

administrative rulings of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct, but does not include:

(i) a determination or ruling made in an administrative or quasi- judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or

(ii) a ruling that adjudicates with respect to a particular act or practice.

Article 19.2. Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative tulings of general application respecting any matter covered by this Agreement are promptly published, including on the internet where feasible, or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent practicable each Party shall:

(a) publish, including on the internet where feasible, in advance any such laws, regulations, and where appropriate, procedures and administrative rulings of general application that it proposes to adopt; and

(b) provide interested persons and the other Party with a reasonable opportunity to comment on any such proposed laws, regulations, procedures and administrative rulings of general application with a view to considering the comments received.

3. Without prejudice to paragraphs 1 and 2, when introducing or changing its laws and regulations that significantly affect the implementation and operation of this Agreement, each Party shall endeavour to take appropriate measures to enable interested persons to become acquainted with such introduction or change, which may include providing a reasonable period between the date when those laws and regulations, proposed or final in accordance with its legal system, are made publicly available and the date when they enter into force.

Article 19.3. Provision of Information

1. Each Party shall, to the extent practicable, provide notification to the other Party with respect to proposed or actual laws, regulations, procedures and administrative rulings of general application which it considers may materially affect the operation of this Agreement. For greater certainty, a Party may notify specific application of such measures where it considers appropriate.

2. Regardless of whether a measure has been notified under paragraph 1, a Party shall, on request of the other Party, respond promptly to specific questions from, and provide information to, the requesting Party, with respect to any actual or proposed laws, regulations, procedures and administrative rulings of general application which the requesting Party considers might materially affect the operation of this Agreement.

3. Any notification, request or information under this Article shall be provided to the other Party through the contact points established under Article 18.6 (Contact Points) of Chapter 18 (Institutional Provisions).

4. Any notification or information provided under this Article shall be without prejudice as to whether the measure in question is consistent with this Agreement.

Article 19.4. Administrative Proceedings

1. Each Party shall ensure that all laws, regulations, procedures and administrative rulings of general application to which this Agreement applies are administered in a consistent, impartial, objective and reasonable manner.

2. With a view to administering in a consistent, impartial, objective and reasonable manner its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings applying such measures to a particular person, good or service of the other Party in specific cases that:

(a) wherever possible, a person of the other Party that is directly affected by a proceeding is provided reasonable notice, in accordance with its domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issue in question;

(b) a person of the other Party that is directly affected by a proceeding is afforded a reasonable opportunity to present facts and arguments in support of that personâs position prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and

(c) it follows its procedures in accordance with its laws and regulations.

Article 19.5. Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, where required by its laws and regulations, the record compiled by the administrative authority.

Chapter 20. CONSULTATIONS

Section A. Introductory Provisions

Article 20.1. Definitions

For the purposes of this Chapter, the following definitions shall apply, unless the context otherwise provides:

Complaining Party means the Party that requests consultations under Article 20.5;

dispute arising under this Agreement means a complaint made by the Complaining Party concerning any measure affecting the operation, implementation or application of this Agreement whereby any benefit accruing to the Complaining Party directly or indirectly under this Agreement is being nullified or impaired, or the attainment of any objective of this Agreement is being impeded, as a result of the failure of the Responding Party to carry out its obligations (1) under this Agreement; (2) and

Responding Party means the Party to which the request for consultations is made under Article 20.5.

(1) A failure to carry out its obligations includes application by the Responding Party of any measure which is in conflict with its obligations under this Agreement.

(2) Non-violation complaints are not permitted under this Agreement.

Article 20.2. Scope

1. This Chapter shall apply to the avoidance or settlement of disputes arising under this Agreement. This Chapter shall not apply to the settlement of disputes arising under Chapter 7 (Sanitary and Phytosanitary Measures), Chapter 8 (Technical Barriers to Trade) or Chapter 15 (Economic Cooperation).

2. This Chapter shall apply subject to any special and additional provisions on dispute settlement contained in other Chapters of this Agreement.

Article 20.3. General Provisions

1. A panel established under this Chapter shall interpret this Agreement in accordance with the customary rules of treaty interpretation of public international law. With respect to any provision of the WTO Agreement that has been incorporated into this Agreement, the panel shall also consider relevant interpretations in reports of WTO panels and the Appellate Body adopted by the WTO Dispute Settlement Body.

2. All notifications, requests and replies made in accordance with this Chapter shall be in writing.

3. The Parties are encouraged at every stage of a dispute to make every effort to reach a mutually agreed solution to the dispute.

4. Any time periods provided for in this Chapter may be modified by agreement between the Parties.

Article 20.4. Choice of Forum

1. Except as provided in this Article, this Chapter is without prejudice to the rights of a Party to have recourse to dispute settlement procedures available under other agreements to which it is a party.

2. Where a dispute concerning any matter arises under this Agreement and under another international agreement to which the Parties are party, the Complaining Party may select the forum in which to address that matter and that forum shall be used to the exclusion of other possible fora in respect of that matter. However, this paragraph shall not apply if substantially separate and distinct rights or obligations are in dispute.

3. For the purposes of this Article, the Complaining Party shall be deemed to have selected a forum in which to settle the dispute when it has requested the establishment of a panel in accordance with Article 20.7 or requested the establishment of, or referred a matter to, a dispute settlement panel or arbitral tribunal under another international agreement.

4. Notwithstanding paragraph 2, a Party may initiate an adjudication proceeding in the other forum if the first forum selected fails for procedural or jurisdictional reasons to make findings on the merits of the claim.

5. This Article does not apply where the Parties agree in writing that this Article shall not apply to a particular dispute.

Section Section B: Consultation Provisions

Article 20.5. Consultations

1. Either Party may request consultations with respect to any dispute arising under this Agreement. The Responding Party shall accord due consideration to a request for consultations made by the Complaining Party and shall accord adequate opportunity for such consultations.

2. Any request for consultations shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

3. The Responding Party shall, unless the Parties otherwise agree, reply to the request within seven days of the date of its receipt and shall enter into consultations no later than:

(a) 10 days after the date of receipt of the request in cases of urgency, including those which concern perishable goods; or

(b) 30 days after the date of receipt of the request for all other matters.

4. The Parties shall make every effort to reach a mutually satisfactory solution through consultations. To this end, the Parties shall:

(a) provide sufficient information to enable a full examination of the matter including how the measures at issue might affect the implementation or application of this Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) endeavour to make available for the consultations personnel of its government agencies or other regulatory bodies who have responsibility for, or expertise in, the matter under consultation.

5. The consultations shall be confidential and without prejudice to the rights of the Parties to the dispute in any further or other proceedings.

Article 20.6. Good Offices, Conciliation, Mediation

1. The Parties may agree at any time to voluntarily undertake an alternative method of dispute resolution, such as good offices, conciliation or mediation. Procedures for such alternative methods of dispute resolution may begin at any time and may be terminated at any time by either Party.

2. If the Parties agree, the procedures referred to in paragraph 1 may continue while the matter is being examined by a panel established or reconvened under this Chapter.

3. Proceedings involving procedures referred to in paragraph 1, and positions taken

by the Parties during these proceedings, shall be confidential and without prejudice to the rights of either Party in any further or other proceedings.

Section Section C: Adjudication Provisions

Article 20.7. Request for Establishment of Panels

1. The Complaining Party may request the establishment of a panel to consider a dispute arising under this Agreement if:

(a) the Responding Party does not reply to a request for, or enter into, consultations in accordance with Article 20.5.3; or

(b) the consultations fail to resolve a dispute within:

jw 20 days of the date of receipt of the request for consultations in cases of urgency, including those which concern perishable goods;

(ii) 60 days of the date of receipt of the request for consultations for all other matters; or

(iii) such other period as the Parties may agree. 2. A request made in accordance with paragraph 1 shall identify the specific measure at issue and provide details of the factual and legal basis of the complaint (including the provisions of this Agreement to be addressed by the panel) sufficient to present the problem clearly.

3. The Responding Party shall immediately acknowledge receipt of the request made in accordance with paragraph 1, indicating the date on which the request was received.

4. If a request is made in accordance with paragraph 1, a panel shall be established in accordance with Article 20.8.

5. Notwithstanding paragraphs 1 and 2, a panel shall not be established to review a proposed measure.

Article 20.8. Establishment and Reconvening of Panels

1. A panel requested in accordance with Article 20.7 shall be established in accordance with this Article.

2. Unless the Parties otherwise agree, the panel shall consist of three panellists. All appointments and nominations of panellists under this Article shall conform fully with the requirements in paragraphs 9 and 10.

3. Within five days of the date of the receipt of a request under Article 20.7, the Parties shall enter into consultations with a view to reaching agreement on the procedures for composing the panel, taking into account the factual, technical and legal circumstances of the dispute. Any procedures for composing the panel which are agreed under this paragraph shall be used for the composition of the panel and shall also be used for the purposes of paragraphs 12 and 13.

4. If the Parties are unable to reach agreement on the procedures for composing the panel within 15 days of the date of the receipt of the request referred to in paragraph 3, either Party may, at any time thereafter, notify the other Party that it wishes to use the procedures set forth in paragraphs 5 through 7. Where such a notification is made, the panel shall be composed in accordance with paragraphs 5 through 7.

5. The Complaining Party shall appoint one panellist within 10 days of the date of the receipt of the notification referred to in paragraph 4. The Responding Party shall appoint one panellist within 20 days of the date of the receipt of the notification referred to in paragraph 4.

6. Following the appointment of the panellists in accordance with paragraph 5, the Parties shall agree on the appointment of the third panellist who shall serve as the chair of the panel. To assist in reaching this agreement, a Party may provide to the other Party a list of up to three nominees for appointment as the chair of the panel.

7. If any of the three panellists have not been appointed within 45 days of the date of the receipt of the notification referred to in paragraph 4, either Party may request the Director-General of the WTO to make the remaining appointments within a further period of 15 days. Any lists of nominees which were provided under paragraph 6 shall also be provided to the Director-General of the WTO and may be used in making the required appointments. (3) In the event that the Director-General of the WTO is a natural person of a Party, the Deputy Director-General or the officer next in seniority who is not a natural person of a Party shall be requested to make the required appointments.

8. The date of establishment of the panel shall be the date on which the last panellist is appointed.

9. All panellists shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement or the resolution of disputes arising under international trade agreements;

(b) be chosen strictly on the basis of objectivity, reliability and sound judgement;

(c) be independent of, and not be affiliated with or take instructions from, either Party;

(d) not have dealt with the matter before the panel in any capacity;

(e) disclose, to the Parties, information which may give rise to justifiable doubts as to their independence or impartiality; and

(f) comply with the code of conduct as set out in Annex 20-B (Code of Conduct).

10. Unless the Parties otherwise agree, a panellist shall not be a natural person of a Party. In addition, the chair of the panel shall not have his or her usual place of residence in the territory of a Party.

11. Panellists shall serve in their individual capacities and not as government representatives, nor as representatives of any organisation. The Parties shall not give them instructions nor seek to influence them as individuals with regard to matters before a panel.

12. If a panellist appointed under this Article resigns or becomes unable to act, a successor panellist shall be appointed in the same manner used to appoint the original panellist and shall have all the powers and duties of the original panellist. The work of the panel, including any applicable time periods, shall be suspended until the successor panellist has been appointed.

13. If a panel is reconvened under Article 20.13, Article 20.14 or Article 20.15 the reconvened panel shall, if possible, have the same panellists as the original panel. If this is not possible, the successor panellist(s) shall be appointed in the same manner as prescribed for the appointment of the original panellist(s), and shall have all the powers and duties of the original panellist(s).

(3) For greater certainty, where both Parties have provided a list of nominees under paragraph 6, both lists shall be provided to the Director-General of the WTO.

Article 20.9. Functions of Panels

1. A panel shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the facts of the case;

(b) the applicability of the provisions of this Agreement cited by the Parties; and

(c) whether the Responding Party has failed to carry out its obligations under this Agreement.

2. A panel shall have the following terms of reference unless the Parties otherwise agree within 20 days of the date of the establishment of a panel:

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for establishment of a panel made in accordance with Article 20.7, and to make such findings provided for in this Agreement."

3. A panel shall only make the findings, rulings and recommendations provided for in this Agreement.

4. The panel shall set out in its report:
(a) a descriptive section summarising the arguments of the Parties;

(b) its findings on the facts of the case and on the applicability of the provisions of this Agreement;

(c) its findings on whether the Responding Party has failed to carry out its obligations under this Agreement; and

(d) its reasons for its findings in subparagraphs (b) and (c).

5. In addition to paragraph 4, a panel shall include in its report any other findings jointly requested by the Parties. The panel may recommend ways in which the Responding Party could implement the panelâs findings if the Parties so agree.

6. Unless the Parties otherwise agree, a panel shall base its report solely on the relevant provisions of this Agreement, the submissions and arguments of the Parties and any information or advice put before it under Article 20.10.15.

7. The findings of the panel shall not add to or diminish the rights and obligations provided in this Agreement.

8. The panel shall consult the Parties regularly and provide adequate opportunities for the development of a mutually satisfactory solution to the dispute.

9. A panel reconvened under this Chapter shall also carry out functions with regard to compliance review under Article 20.13, review of level of suspension of concessions or other obligations under Article 20.14 and post-suspension review under Article 20.15. Paragraphs 1 through 3 shall not apply to a panel reconvened under Article 20.13 and Article 20.14.

10. A panel shall make its findings by consensus. If a panel is unable to reach consensus, it may make its findings by majority vote.

Article 20.10. Panel Procedures

1. A panel established in accordance with Article 20.8 shall adhere to this Chapter. The panel shall also apply the rules of procedure set out in Annex 20-A (Rules of Procedure) unless the Parties otherwise agree. On request of a Party, or on its own initiative, the panel may, after consulting the Parties, adopt additional rules of procedure which do not conflict with the provisions of this Chapter or with Annex 20-A (Rules of Procedure).

2. A panel reconvened under Article 20.13, Article 20.14 or Article 20.15 may establish its own procedures which do not conflict with this Chapter or Annex 20-A (Rules of Procedure), in consultation with the Parties, drawing as it deems appropriate from this Chapter or Annex 20-A (Rules of Procedure).

Timetable

3. After consulting the Parties, a panel shall, as soon as practicable and if possible within 15 days of the establishment of the panel, fix the timetable for the panel process. The panel process, from the date of establishment until the date of the final report shall, as a general rule, not exceed the period of 270 days.

4. Similarly, a Compliance Review Panel reconvened in accordance with Article 20.13 or Article 20.15 shall, as soon as practicable and if possible within 15 days of reconvening, fix the timetable for the compliance review process taking into account any time periods specified in Article 20.13 or Article 20.15.

Preliminary Rulings

5. Any request by a Party for a preliminary ruling from the panel, including on jurisdictional issues, shall be submitted as early as possible, and in any event no later than the required date of delivery of a Partyâs first written submission. Exceptions to this paragraph may be granted upon showing good cause.

Panel Proceedings

6. Panel proceedings shall provide sufficient flexibility so as to ensure high-quality reports, while not unduly delaying the panel process.

7. Panel deliberations shall be confidential. The Parties shall be present only when invited by the panel to appear before it. There shall be no ex parte communications with the panel concerning matters under consideration by it.

Submissions

8. Each Party shall have an opportunity to set out in writing the facts of its case, its arguments and counterarguments. The timetable fixed by the panel shall include precise deadlines for submissions by the Parties.

Hearings

9. The timetable fixed by the panel shall provide for at least one hearing for the Parties to present their cases to the panel. As a general rule, the timetable shall not provide more than two hearings unless the panel determines in consultation with the Parties that there are special circumstances to justify additional hearings. All presentations and statements made at hearings shall be made in the presence of the Parties.

10. The venue for hearings shall be decided by agreement between the Parties. If there is no agreement, the venue shall alternate between the capitals of the Parties with the first hearing to be held in the capital of the Responding Party.

11. Apanel shall hold its hearings in closed session unless the Parties otherwise agree. Confidentiality

12. A Party shall treat as confidential any information submitted to the panel by the other Party. Neither Party shall be precluded from disclosing its own information submitted to the Panel or from making statements of its own position available to the public, subject to protection of confidential information of the other Party. A Party shall, on request of the other Party, provide a non-confidential summary of its own information that may be disclosed to the public.

13. The panel shall treat as confidential all information submitted by the Parties. Additional Information and Technical Advice

14. The Parties shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate.

15. A panel may seek information and technical advice from any individual or body which it deems appropriate. However, before doing so, the panel shall seek the views of the Parties. If the Parties agree that the panel should not seek the additional information or technical advice, the panel shall not proceed. The panel shall provide the Parties with any information or technical advice it receives and an opportunity to provide comments.

Report

16. The panel shall provide to the Parties an interim report which complies with the requirements specified in Article 20.9.4.

17. The interim report shall be provided at least 28 days before the deadline for completion of the final report. The panel shall accord adequate opportunity to the Parties to review the entirety of its interim report prior to its finalisation and shall include a discussion of any comments made by the Parties in its final report.

18. The interim and final reports of the panel shall be drafted without the presence of the Parties. Opinions expressed in any report of the panel by its individual members shall be anonymous.

19. The panel shall present its final report to the Parties within 180 days of the date of its establishment. In cases of urgency, including those relating to perishable goods, the panel shall aim to present its report to the Parties within 90 days of the date of its establishment. If the panel considers that it cannot present its final report within 180 days or, in cases of urgency, within 90 days, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will present its report.

20. A Party may, seven days after the final report of the panel is presented to the Parties or at any time thereafter, make the report publicly available, subject to the protection of any information contained in the report which the Parties have designated as confidential in accordance with paragraph 12.

Article 20.11. Suspension and Termination of Proceedings

1. The Parties may agree that the panel suspend its work at any time for a period not exceeding 365 days after the date of such agreement. Within this period, the suspended panel proceeding shall be resumed on the request of either Party. Ifthe work of the panel has been continuously suspended for more than 365 days, the authority for establishment of the panel shall lapse unless the Parties otherwise agree.

2. The Parties may agree to terminate the proceedings of a panel in the event that a mutually satisfactory solution to the dispute has been found.

3. Before the panel presents its final report to the Parties, it may at any stage of the proceedings propose to the Parties that the dispute be settled amicably.

Section Section D: Implementation Provisions

Article 20.12. Implementation

1. If a panel finds that the Responding Party has failed to carry out its obligations under this Agreement, the Responding Party shall bring itself into conformity with its obligations under this Agreement.

2. Within 30 days of the date of the presentation of the panelâs final report to the Parties, the Responding Party shall notify the Complaining Party:

(a) of its intentions with respect to implementation, including an indication of possible actions it may take to comply with the obligation in paragraph 1;

(b) whether such implementation can take place immediately; and

(c) if it is impracticable for such implementation to take place immediately, the reasonable period of time the Responding Party considers it would need to implement the findings and, if it deems appropriate, any recommendations contained in the final report.

3. If the Responding Party makes a notification under paragraph 2(c) that it is impracticable to immediately comply with the obligation in paragraph 1, it shall have a reasonable period of time to do so.

4. If a reasonable period of time is required, it shall, if possible, be agreed between the Parties. If the Parties are unable to agree on the reasonable period of time within 45 days of the date of the presentation of the panel's final report to the

Parties, either Party may request that the chair of the panel determine the reasonable period of time. Unless the Parties otherwise agree, such requests shall be made no later than 120 days after the date of the presentation of the panel's final report to the Parties.

5. If a request is made in accordance with paragraph 4, the chair of the panel shall present the Parties with a report containing a determination of the reasonable period of time and the reasons for such determination within 45 days of the date of the request.

6. As a guideline, the reasonable period of time determined by the chair of the panel should not exceed 455 days from the date of the presentation of the panel's final report to the Parties. However, such reasonable period of time may be shorter or longer, depending upon the particular circumstances.

7. If the Responding Party considers that it has fully complied with the obligation in paragraph 1, it shall so notify the Complaining Party. The Responding Party shall include a description of any measures it has taken to comply and the text of the measure, if any.

Article 20.13. Compliance Review

1. If the Parties disagree on the existence or consistency with this Agreement of measures taken to comply with the obligation in Article 20.12.1, such dispute shall be decided through recourse to a panel reconvened for this purpose (Compliance Review Panel). (4) Unless otherwise specified in this Chapter, a Compliance Review Panel may be convened at the request of either Party.

2. Such request may only be made after the earlier of either:

(a) the expiry of the reasonable period of time; or

(b) a notification to the Complaining Party by the Responding Party that it has complied with the obligation in Article 20.12.1.

3. A Compliance Review Panel shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the factual aspects of any implementation action taken by the Responding Party; and

(b) whether the Responding Party has complied with the obligation in Article 20.12.1.

4. The Compliance Review Panel shall set out in its report:
(a) a descriptive section summarising the arguments of the Parties;
(b) its findings on the factual aspects of the case;

(c) its findings on whether the Responding Party has complied with the obligation in Article 20.12.1; and

(d) its reasons for its findings in subparagraphs (b) and (c).

5. The Compliance Review Panel shall, if possible, provide its interim report to the Parties within 75 days of the date it reconvenes and its final report 15 days thereafter. If the Compliance Review Panel considers that it cannot provide either report within the relevant timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will submit the report.

6. If a panel is requested to reconvene in accordance with paragraph 1, it shall reconvene within 15 days of the date of the request. The period from the date of the request for the panel to reconvene to the submission of the panel's final report shall not exceed 120 days, unless Article 20.8.12 applies or the Parties otherwise agree.

(4) Consultations under Article 20.5 are not required for these procedures.

Article 20.14. Compensation and Suspension of Concessions or other Obligations

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the Responding Party does not comply with the obligation in Article 20.12.1. However, neither compensation nor the suspension of concessions or other obligations is preferred to compliance with the obligation in Article 20.12.1. Compensation is voluntary and, if granted, shall be consistent with this Agreement.

2. If any of the following circumstances exist:

(a) the Responding Party has notified the Complaining Party that it does not intend to comply with the obligation in Article 20.12.1;

(b) the Responding Party fails to provide a notification in accordance with Article 20.12.2; or

(c) a failure to comply with the obligation in Article 20.12.1 has been established in accordance with Article 20.13,

the Responding Party shall, if so requested by the Complaining Party, enter into negotiations with a view to developing mutually acceptable compensation.

3. If the Parties have:

(a) been unable to agree on compensation within 30 days of the date of receipt of the request made under paragraph 2; or

(b) agreed on compensation but the Complaining Party considers that the Responding Party has failed to observe the terms of the agreement,

the Complaining Party may at any time thereafter notify the Responding Party that it intends to suspend the application to the Responding Party of concessions or other obligations equivalent to the level of nullification or impairment, and shall have the right to begin suspending concessions or other obligations 30 days after the date of receipt of such notification. Without prejudice to its right to begin suspending concessions or other obligations, if the Complaining Party makes a notification in the circumstances referred to in paragraph (b), it shall afford the Responding Party an opportunity to demonstrate that it has complied with the terms of the agreement.

4. The right to suspend concessions or other obligations arising under paragraph 3 shall not be exercised if:

(a) a review is being undertaken in accordance with paragraph 8; or
(b) a mutually agreed solution has been reached.

5. A notification made under paragraph 3 shall specify the level of concessions or other obligations that the Complaining Party proposes to suspend, and the relevant Chapter and sector(s) to which the concessions or other obligations are related.

6. In considering what concessions or other obligations to suspend, the Complaining Party shall apply the following principles:

(a) the Complaining Party should first seek to suspend concessions or other obligations in the same sector(s) as that affected by the measure; and

(b) the Complaining Party may suspend concessions or other obligations in other sectors if it considers that it is not practicable or effective to suspend concessions or other obligations in the same sector(s).

7. The level of the suspension of concessions or other obligations shall be equivalent to the level of nullification and impairment.

8. Within 30 days of the date of receipt of a notification made under paragraph 3, if the Responding Party objects to the level of suspension proposed or considers that the principles set forth in paragraph 6 have not been followed, the Responding Party may request the panel to reconvene to make findings on the matter. The panel shall provide its findings to the Parties within 30 days of the date it reconvenes. Ifa panel is requested to reconvene in accordance with this paragraph, it shall reconvene within 15 days of the date of the request, unless Article 20.8.12 applies.

Article 20.15. Post-Suspension Review

1. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the obligation in Article 20.12.1 has been complied with or a mutually satisfactory solution is reached.

2. If the right to suspend concessions or other obligations has been exercised under Article 20.14, and if the Responding Party considers that:

(a) the level of concessions or other obligations actually suspended by the Complaining Party exceeds the level authorised under Article 20.14.8; or

(b) it has complied with the obligation in Article 20.12.1,

it may request the Compliance Review Panel to reconvene to examine the matter. (5)

3. Paragraphs 3 through 5 of Article 20.13 shall apply if the Compliance Review Panel reconvenes in accordance with paragraph 2.

4. If the Compliance Review Panel reconvened in accordance with paragraph 2 finds that the Responding Party has complied with the obligation in Article 20.12.1, the Complaining Party shall stop the suspension of concessions or other obligations.

(5) If a Compliance Review Panel is reconvened to consider the Responding Party's compliance, it may also, on request, assess whether the level of any existing suspension of concessions is still appropriate and, if not, assess an appropriate level.

Section Section E: Final Provisions

Article 20.16. Expenses

1. Unless the Parties otherwise agree, each Party to a dispute shall bear the costs of its appointed panellist and its own expenses and legal costs.

2. Unless the Parties otherwise agree, the costs of the chair of the panel and other expenses associated with the conduct of the proceedings shall be borne in equal parts by the Parties to the dispute.

Article 20.17. Transmission of Documents

Any request, written submission or other document relating to any proceedings pursuant to this Chapter shall be delivered to the relevant Party through its designated contact point, in accordance with Article 18.6 (Contact Points) of Chapter 18 (Institutional Provisions), who shall provide confirmation of receipt of such documents in writing.

Article 20.18. Language

1. All proceedings pursuant to this Chapter shall be conducted in the English language.

2. Any document submitted for use in any proceedings pursuant to this Chapter shall be in the English language. If any original document is not in the English language, a Party submitting it for use in the proceedings shall provide an English language translation of that document.

Chapter 21. FINAL PROVISIONS

Article 21.1. Annexes, Appendices and Footnotes

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

Article 21.2. Amendments

1. this Agreement May Be Amended by Written Agreement between the Parties.

2. such Amendments Shall Enter Into Force In Accordance with the Same Procedure as provided for in Article 21.4 (Entry into Force), or as otherwise agreed by the Parties.

3. The Parties understand that, without prejudice to the necessary internal requirements of each Party, amendments relating only to Appendix 4-A (Procedures for Issuing Certificates of Origin) and Appendix 4-B (Procedures for Making Declarations of Origin) may be made by diplomatic notes exchanged between the Parties.

Article 21.3. Amendment of International Agreements

If any international agreement, or a provision therein, referred to in this Agreement or incorporated into this Agreement is amended, the Parties shall, on request, consult on whether it is necessary to amend this Agreement, unless this Agreement provides otherwise.

Article 21.4. Entry Into Force

This Agreement shall enter into force 60 days after the date on which the Parties exchange written notifications through diplomatic channels that they have completed their respective necessary internal requirements, or on such other date as the Parties may agree.

Article 21.5. General Review of the Agreement

1. In accordance with Article 18.2.1 (c) (Functions of the Joint Committee) of Chapter 18 (Institutional Provisions), the Joint Committee shall undertake a general review of this Agreement five years after the date of entry into force of this Agreement, and then every five years after that, with a view to updating and enhancing this Agreement to further its objectives, through negotiations, as appropriate. The review shall include, but not be limited to, consideration of deepening liberalisation, reducing or eliminating remaining discrimination and further expanding market access.

2. In conducting a review under this Article, the Joint Committee shall take into account:

(a) the work of all committees and subsidiary bodies established under this Agreement;

(b) relevant developments in international fora; and

(c) as appropriate, input from experts.

Article 21.6. Termination

Either Party may terminate this Agreement by giving 180 days advance notice in writing to the other Party.

Article 21.7. Authentic Texts

This Agreement is done in duplicate in the Indonesian and English languages. Both texts of this Agreement shall be equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at Jakarta, on this 4th day of March in the year 2019, in duplicate in the English and Indonesian languages.

FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA:

FOR THE GOVERNMENT OF AUSTRALIA:

ANNEX I. EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, in accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 9.3 (National Treatment) or Article 14.4 (National Treatment);

(b) Article 9.4 (Most-Favoured-Nation Treatment) or Article 14.5 (Most-Favoured-Nation Treatment);

(c) Article 9.5 (Market Access);

(d) Article 9.6 (Local Presence)

(e) Article 14.6 (Prohibition of Performance Requirements); or

(f) Article 14.10 (Senior Management and Boards of Directors);

2. Each Schedule entry sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) ***Sub-Sector***, where referenced, refers to the specific sub-sector for which the entry is made;

(c) **Industry Classification**, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, in accordance with Article 14.14 (Non-Conforming Measures) and Article 9.7 (Non-Conforming Measures), do not apply to the listed measure(s);

(e) **Level of Government** indicates the level of government maintaining the listed measures;

(f) **Source of Measure** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the "Source of Measure" element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of, and consistent with, the measure; and

(g) **Description** sets out the non-conforming measure for which the entry is made.

3. A measure that is reserved against Article 9.6 (Local Presence) need not be reserved against Article 9.3 (National Treatment).

4. Article 14.6 (Prohibition of Performance Requirements) and Article 14.10 (Senior Management and Board of Directors) are separate disciplines to Article 14.4 (National Treatment) and a measure that is only inconsistent with Article 14.6 (Prohibition of Performance Requirements) or Article 14.10 (Senior Management and Board of Directors) need not be reserved against Article 14.4 (National Treatment).

5. In accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **description** element of that entry.

ANNEX I. SCHEDULE OF AUSTRALIA

INTRODUCTORY NOTES

1. For greater certainty, the Description element of each of Australia's entries in its Schedule is to be interpreted in accordance with the relevant cited sources of the non-conforming measures.

2. Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 9 (Trade in Services), Chapter 10 (Financial Services), Chapter 14 (Investment), this Section and the Schedule below.

3. Australia reserves the right to adopt or maintain non-discriminatory limitations concerning admission to the market of new financial services where such measures are required to achieve prudential objectives. Australia may determine the institutional and juridical form through which a new financial service may be supplied and may require authorisation for the supply of the service. Where authorisation to supply a new financial service is required, the authorisation may only be refused for prudential reasons.

1. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA); Foreign Acquisitions and Takeovers Regulation 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth); Financial Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.

Description: Trade in Services and Investment (1)

A. The following investments (2) are subject to approval by the Australian Government and may also require notification (3) to the Australian Government:

(a) a proposed investment by a 'foreign person'* in an entity or Australian business valued above $A 266 million†;

(b) a proposed direct investment by a 'foreign government investor' (4) of any interest regardless of value;

(c) a proposed investment by a foreign person* of 5 per cent or more in the media sector, regardless of the value of the investment;

(d) a proposed acquisition by a foreign person* of an interest in developed commercial land (5) where the value of the interest is more than $A 266 million†, unless the land meets the conditions for the lower developed commercial land threshold of $A 58 million† (6).

Investments may be refused, subject to orders, or approved subject to conditions. Foreign persons* that do not comply with the foreign investment framework may be subject to civil and criminal penalties.

For greater certainty, where an investment could qualify for the application of one or more of the above screening thresholds, approval or notification requirements apply from the lowest applicable threshold.

Separate or additional requirements may apply to measures subject to other Annex I entries and to sectors, sub-sectors or activities subject to Annex II.

B. The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control (7) of an existing financial sector company, may be refused, or be subject to certain conditions (8).

* The term "foreign person" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

† This is the figure as at 1 January 2019. To be indexed annually on 1 January.

(1) For greater certainty, the terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

(2) "Investment" means activities covered by Part II of the Foreign Acquisitions and Takeovers Act 1975 (Cth) or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

(3) The Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth) and the Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth) sets the fees for foreign investment applications and notices. Fees are indexed annually on 1 July.

(4) The term "foreign government investor" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

(5) The term "developed commercial land" means commercial land that is not vacant within the meaning of the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

(6) The conditions for the lower threshold are those set out in Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

(7) "Unacceptable shareholding situation" and "practical control" as defined in the Financial Sector (Shareholdings) Act 1998 (Cth).

(8) Ministerial statements on foreign investment policy including the Treasurer's Press Release No. 28 of 9 April 1997.

2. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Regional

Source of Measure: All existing non-conforming measures at the regional level of government.

Description: Trade in Services and Investment

All existing non-conforming measures at the regional level of government.

3. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Corporations Act 2001 (Cth) Corporations Regulations 2001 (Cth)

Description: Trade in Services and Investment

At least one director of a private company must be ordinarily resident in Australia. At least two directors of a public company must be ordinarily resident in Australia. At least one secretary of a private company (if such a private company appoints one or more secretaries) must be ordinarily resident in Australia. At least one secretary of a public company must be ordinarily resident in Australia.

4. Sector: Professional Services

Obligations Concerned: National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4)

Level of Government: Central

Source of Measure: Patents Act 1990 (Cth) Patents Regulations 1991 (Cth)

Description: Trade in Services

In order to register to practise in Australia, patent attorneys must have been employed for at least two continuous years, or a total of two years within five continuous years, in Australia or New Zealand, or in both countries, in a position or positions that provided the applicant with required experience in Australia's and New Zealand's patent attorney regime.

5. Sector: Professional Services

Obligations Concerned: National Treatment (Article 9.3) Most-Favoured-Nation Treatment (Article 9.4)

Level of Government: Central

Source of Measure: Migration Act 1958 (Cth)

Description: Trade in Services

To practise as a migration agent in Australia a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.

6. Sector: Professional Services

Obligations Concerned: Local Presence (Article 9.6)

Level of Government: Central

Source of Measure: Corporations Act 2001 (Cth)

Description: Trade in Services

A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.

7. Sector: Professional Services

Obligations Concerned: Local Presence (Article 9.6)

Level of Government: Central Source of Measure: Customs Act 1901 (Cth)

Description: Trade in Services

To act as a customs broker in Australia, service suppliers must supply the service in and from Australia.

8. Sector: Fishing and services incidental to fishing

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4)

Level of Government: Central

Source of Measure: Fisheries Management Act 1991 (Cth) Foreign Fishing Licences Levy Act 1991 (Cth)

Description: Trade in Services and Investment

Foreign fishing vessels (9) seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transhipment of fish, in the Australian Fishing Zone must be authorised. Where foreign fishing vessels are authorised they may be subject to a levy (10).

(9) For the purposes of this entry, a "foreign fishing vessel" is one that does not meet the definition of an Australian boat under the Fisheries Management Act 1991 (Cth).

(10) The levy charged will be in accordance with the Foreign Fishing Licences Levy Act 1991 (Cth) or any amendments thereto.

9. Sector: Communication Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Telstra Corporation Act 1991 (Cth)

Description: Trade in Services and Investment

Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than 5 per cent of shares. The Chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.

10. Sector: Health Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Commonwealth Serum Laboratories Act 1961 (Cth)

Description: Trade in Services and Investment

The votes attached to significant foreign shareholdings (11) may not be counted in respect of the appointment, replacement or removal of more than one third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

(11) For the purposes of this entry, "significant foreign shareholding" means a holding of voting shares in CSL in which a foreign person has a

relevant interest, if the foreign person has relevant interests in at least 5 per cent of the voting shares in CSL.

11. Sector: Transport Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Local Presence (Article 9.6)

Level of Government: Central

Source of Measure: Competition and Consumer Act 2010 (Cth)

Description: Trade in Services and Investment

Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia. Only a person (12) affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission (ACCC) to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of "reasonable" include Australia's national interest and the interests of Australian shippers.

(12) For the purposes of this entry, section 10.48 and 10.58 of Part X of the Competition and Consumer Act 2010 (Cth) list the categories of persons to whom this entry will apply.

12. Sector: Transport Services

Obligations Concerned: National Treatment (Article 14.4) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Air Navigation Act 1920 (Cth) Ministerial Statements

Description: Investment

Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent. Furthermore, it is required that:

- at least two-thirds of the Board members must be Australian citizens;

- the Chairperson of the Board must be an Australian citizen;

- the airline's head office must be in Australia; and

- the airline's operational base must be in Australia.

13. Sector: Transport Services

Obligations Concerned: National Treatment (Article 14.4) Senior Management and Boards of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Qantas Sale Act 1992 (Cth)

Description: Investment

Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition:

- the head office of Qantas must always be located in Australia;

- the majority of Qantas' operational facilities must be located in Australia;

- at all times, at least two thirds of the directors of Qantas must be Australian citizens;

- at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and

- Qantas is prohibited from taking any action to become incorporated outside Australia.

14. Sector: Financial Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Market Access (Article 9.5)

Level of Government: Central

Source of Measure: Banking Act 1959 (Cth) Payment Systems (Regulation) Act 1998 (Cth)

Description: Trade in Services and Investment

To undertake banking business in Australia an entity must be a body corporate and authorised as an authorised deposit-taking institution (ADI). Foreign deposit-taking institutions (including foreign banks) may only operate a banking business in Australia through locally incorporated deposit-taking subsidiaries or authorised branches (foreign ADIs), or through both structures. A branch of a foreign bank that is authorised as a deposit taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than $A 250,000. A representative office of a foreign bank is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point.

15. Sector: Financial Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4)

Level of Government: Central

Source of Measure: Commonwealth Banks Act 1959 (Cth)

Description: Trade in Services and Investment

Liabilities of the Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.

ANNEX I. SCHEDULE OF INDONESIA

INTRODUCTORY NOTES

SECTION A

Section A of Indonesia's Schedule to this Annex sets out, in accordance with Article 9.7 (Non-conforming Measures), Indonesia's existing measures that are not subject to some or all of the obligations imposed by: (a) Article 9.3 (National Treatment); (b) Article 9.4 (Most-Favoured-Nation Treatment); (c) Article 9.5 (Market Access); or (d) Article 9.6 (Local Presence).

SECTION B

1. Articles 14.4 (National Treatment), 14.5 (Most-Favoured-Nation Treatment), 14.6 (Prohibition of Performance Requirements), and 14.10 (Senior Management and Boards of Directors) apply only to the following sectors: (a) manufacturing; (b) agriculture; (c) fisheries; (d) forestry; (e) mining and quarrying; (f) energy infrastructure, specifically power plants of more than 10 Megawatts and geothermal power plants of less than or equal to 10 Megawatts; and (g) transport infrastructure, specifically highway, bridge and tunnel concessions.

2. Section B of Indonesia's Schedule to this Annex sets out, in accordance with Article 14.14 (Non-conforming Measures), Indonesia's existing measures in the sectors listed in paragraph 1 that are not subject to some or all of the obligations imposed by: (a) Article 14.4 (National Treatment); (b) Article 14.5 (Most-Favoured-Nation Treatment); (c) Article 14.6 (Prohibition of Performance Requirements); or (d) Article 14.10 (Senior Management and Boards of Directors).

3. For greater certainty, in accordance with Article 14.3.3 (Relation to Other Chapters), for the purposes of the application of Article 14.14 (Non-Conforming Measures) to measures affecting the supply of a service by a service supplier of Australia through commercial presence in the territory of Indonesia, an entry listed against Article 9.3 (National Treatment) and Article 9.4 (Most-Favoured-Nation Treatment) in Section A, shall also be considered an entry in respect of Article 14.4 (National Treatment) and Article 14.5 (Most-Favoured-Nation Treatment) respectively in Section B.

4. The recognition of Australian permanent residents shall be limited to Australian permanent residents who have the nationality of a country that already has an investment agreement or a free trade agreement in force with Indonesia (with an investment chapter). Such recognition shall not apply to an Australian permanent resident who is also an Indonesian national. Furthermore, in accordance with Article XXVIII(k)(2) of GATS, Indonesia shall not be obliged to accord to such

permanent resident's treatment more favourable than would be accorded by Australia to such residents.

Section A.

1. Sector: Professional Services

Sub-sector: Legal Services (CPC 861) only for advisory services in foreign and international law For greater certainty, advisory services shall not include: - Legal representation in an Indonesian court of justice or participation in legal proceedings under any circumstances. - Notarial activities.

Obligations Concerned: National Treatment (Article 9.3) Market Access (Article 9.5)

Level of Government: Central

Source of Measure: Law No 18/2003 on Advocate.

Description: Trade in Services

Commercial presence of foreign law firms are prohibited. For greater certainty, cross-border supply and consumption abroad of advisory services on foreign law, including international law on business and arbitration, are permitted.

2. Sector: Communication Services

Sub-sector: Postal Services (CPC 7511) and Courier Services (CPC 7512) (Indonesia Standard Industrial Classification 2015, Code 53102-Commercial Postal) excluding Intercity delivery and Universal Post Services.

Obligations Concerned: National Treatment (Article 9.3) Market Access (Article 9.5)

Level of Government: Central

Source of Measure: Postal Law No. 38/2009.

Description: Trade in Services

Foreign service suppliers are not permitted to establish a commercial presence in Indonesia to supply postal or courier services, except through a joint venture with only one Indonesian postal service provider with foreign equity not exceeding 49 per cent. The Indonesian joint venture partner must be wholly Indonesian-owned. The joint venture may only operate within a provincial capital that has an international airport or seaport and is prohibited from providing postal and courier services between cities in Indonesia. For greater certainty, cross-border supply and consumption abroad of postal services and courier services are permitted.

3. Sector: Maritime Transport Services

Sub-sector: International Passenger Transport (CPC 7211) and International Freight Transport (CPC 7212) excluding Cabotage

Obligations Concerned: National Treatment (Article 9.3) Market Access (Article 9.5) Local Presence (Article 9.6)

Level of Government: Central

Source of Measure: Law No. 17/2008 on Maritime Law - Government Regulation No. 20/2010 on Sea Transport as amended by Government Regulation No. 22/2011 - Presidential Regulation No. 44/2016 on the list of business fields that are closed and business fields that are open with conditions in the field of capital investment.

Description: Trade in Services

Foreign service suppliers are not permitted to establish a commercial presence in Indonesia for international passenger or freight maritime transport, except through a joint venture with foreign equity not exceeding 49 per cent. The joint venture must operate at least one Indonesian-flagged vessel with a minimum 5,000 gross tonnage, and crewed by Indonesian nationals. (1) Foreign shipping enterprises can only provide international passenger transportation services to and from seaports and special ports that are open for foreign trade (2) and are required to appoint an Indonesian shipping enterprise or shipping agent enterprise as its General Agent. For greater certainty, consumption abroad of international passenger or freight maritime transport is permitted.

(1) For greater certainty, the law does not specify a minimum number of Indonesian crew members.

(2) Seaports and special ports that are open to international trade subject to prevailing laws and regulations at the time of supplying services. However at the date of signature of this Agreement such ports are Tanjung Priok (Jakarta), Tanjung Perak (Surabaya), Makassar, Semarang, Dumai, Panjang, Batam, Balikpapan, Banjarmasin, Bitung, Pontianak, Ambon and Sorong. An International cruise ship that does not carry passengers solely between points in Indonesia may use any port facilities in Indonesia, to the extent permitted under the Minister of Transport Regulation No. 121 of 2015.

Section B.

1. Sector: All Sectors

Sub-Sector: Acquisition or Lease of Land

Industry Classification

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central and Regional

Source of Measure: Article 33 of 1945 National Constitution - Law No.5 of 1960 Concerning Basic Regulations on Agrarian Principles - Government Regulation No. 40 of 1996 Concerning The Right of Cultivation of Land, The Right of Use of Structures, and The Right of Use of Land - Government Regulation No. 103 of 2015 concerning Residence or Housing Ownership for Foreigners Domiciled in Indonesia.

Description: Investment

The right of ownership of land (hak milik) is restricted to Indonesian nationals only. Note: Notwithstanding the above, foreign nationals and foreign companies incorporated and domiciled in Indonesia may acquire land and property on the basis of the following rights: a. Leasehold (hak guna usaha), granted to a foreign company for a maximum period of 35 years and may be extended for a further period of 25 years. b. Building rights (hak guna bangunan), granted to a foreign company for a maximum period of 30 years and may be extended for a further period of 20 years c. Right of use (hak pakai) granted to: (1) a foreign national for a maximum period of 30 years and may be extended for a further period of 20 years; (2) a foreign company for a maximum period of 25 years and may be extended for a further period of 20 years. d. Right of lease (hak sewa), granted to a foreign national or a foreign company for a definite period as may be agreed by the parties. Such acquisitions of land and property must be approved by the relevant authority, subject to such conditions and restrictions as may be imposed by that authority.

2. Sector: All Sectors

Sub-Sector: Registration Requirements for the Establishment of Foreign Investment

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 25 of 2007 Concerning Investment - Law No. 20 of 2008 Concerning Micro, Small and Medium Enterprises - Law No. 23 of 2014 Concerning Local Government - Ministry of Industry Regulation No. 64 of 2016 Concerning Amount of Worker and Investment for Industrial Business Classification - Investment Coordinating Board Regulation No. 13 of 2017 Concerning Guidelines and Procedures for Capital Investment Licensing and Facilities.

Description: Investment

Foreign investment (3) shall have a total investment value of more than IDR 10 billion (excluding land and buildings), unless required otherwise by the specific sector in accordance with Indonesia’s laws and regulations. In the case of large businesses in the industrial sector as defined in the relevant regulation, foreign investment shall have a total investment value of more than IDR 15 billion (including land and buildings).

(3) For the purpose of this reservation, the term “foreign investment” has the meaning set out in Law No. 25 of 2007.

3. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 25 of 2007 Concerning Investment - Law No. 40 of 2007 Concerning Limited Liability Company.

Description: Investment

Foreign investment shall be in the form of a limited liability company based on the law of Indonesia. A foreign investor (4) organised under the laws of another country seeking to make an investment in Indonesia must establish an Indonesian limited liability company ('Perseroan Terbatas') in accordance with Law No. 25 of 2007 Concerning Investment.

(4) For the purpose of this reservation, the term "foreign investor" has the meaning set out in Law No. 25 of 2007.

4. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Ministry of Trade issued Regulation No. 22 of 2016 on General Provisions on the Distribution of Goods - Ministry of Trade Regulation No. 11 of 2006 on Provisions and Procedures of Issuance of Agents or Distributor of Goods and/or Services Registration.

Description: Investment

Foreign investment shall appoint local distribution agents to sell its products to end-users in Indonesia. For greater certainty, "foreign investment" means a foreign investor or a legal entity established as 'Perseroan Terbatas' in accordance with the Source of Measures listed under entry 3.

5. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Law No. 13 of 2003 Concerning Manpower - Presidential Decree No. 72 of 2014 Concerning the Employment of Expatriates and the Implementation of Education and Training for Labour Companion - Ministry of Manpower and Transmigration Decree No. 40 of 2012 Concerning Certain Positions that are Restricted for Foreign Workers - Presidential Regulation No. 20 of 2018 Concerning the Employment of Expatriates (not yet in force).

Description: Investment

Foreign investments established under Indonesia's Corporate Law must have positions related to personnel affairs to be occupied by Indonesian nationals. Based on the understanding that each foreign investment company established under Indonesia's Corporate Law may have different structures and job descriptions, the determination of positions to be occupied by Indonesian nationals shall be decided on a case-by-case basis.

6. Sector: Fishery

Sub-Sector: Capture Fisheries

Industry Classification: ISIC 0500

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 31 of 2004 as amended by Law No. 45 of 2009 Concerning Fishery - Law No. 5 of 1983 Concerning Indonesia's Exclusive Economic Zone - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2008 as amended by No. PER.12/MEN/2009 regarding Capture Fishery Business. - Government Policy.

Description: Investment

Capture fisheries in Indonesia are prohibited for foreign investors.

7. Sector: Mining & Quarrying

Sub-Sector:

Industry Classification: ISIC 1429

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 4 of 2009 Concerning Mineral and Coal Mining - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment.

Description: Investment

Foreign investors are prohibited from establishing or operating businesses in Sea Sand Extraction.

8. Sector: All Sectors

Sub-Sector: Public Enterprise

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Government Regulation No. 13 of 1998 Concerning Public Enterprise - Administrative Guidelines.

Description: Investment

National Treatment and Senior Management and Board of Directors shall not apply in the event where activities restricted to designated enterprises (5) are liberalised to those other than the designated entities, or in the event where such designated enterprises no longer operate on a non-commercial basis.

(5) For illustrative purposes, this may include the State Forestry Public Enterprise denoted as Perum PERHUTANI and the National Money Printing Public Enterprise denoted as Perum PERURI.

9. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment.

Description: Investment

For companies/projects that are in existence prior to the date of entry into force of this Agreement, conditions imposed in their approvals for licenses/permits shall continue to apply. Any changes to these conditions shall be subject to approval.

10. Sector: Manufacturing

Sub-Sector:

Industry Classification: ISIC (see below)

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 25 of 2007 Concerning Investment - Law No. 39 of 2014 Concerning Plantations - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Presidential Decree No. 21 of 2001 Concerning Lubricant Supply and Services - Regulation of the Minister of Agriculture No. 98 of 2013 Concerning Guidance of Plantation Business License j.o Regulation of the Minister of Agriculture No. 29 of 2016 on the Amendment of Regulation No. 98 of 2013 - Government Policy.

Description: Investment

Foreign investors are prohibited from establishing the following lines of business in Indonesia:

a. Reserved for Micro, Small, and Medium Enterprises:

• Manufacturer of the following agricultural products with an equal or exceeding a certain capacity limit as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016:

- Dried clove buds; crude vegetable and animal oils; copra, fiber, coconut shell charcoal, dust, nata de coco; coconut oil; palm oil; cotton fiber; cotton seeds; peeling, cleaning, drying, and sorting of plantation products (cocoa beans and coffee beans); cashews for dried cashew nut and cashew nut shell liquid (CNSL); peppercorns for dried white peppercorns and dried black peppercorns; cane sugar, sugar cane top and sugar cane bagasse; black tea/green tea; dried tobacco leaves; rubber for sheets, concentrated latex; rude jatropha oil (ISIC 0111, 0140, 1513, 1514, 1531, 1542, 1549, 1600, 2429, 2519)

• Fish processing: boiling of fish (ISIC 1512)

• Manufacture of processed food from soybean in form of tempeh and tofu (ISIC 1513, 1514, 1549)

• Manufacture of foods from soybeans and beans other than soy sauce, tempeh, and tofu (ISIC 1513, 1549)

• Manufacture of perishable prepared cakes (ISIC 1513, 1514, 1549)

• Manufacture of crackers (krupuk), flakes (keripik), fried and flavoured biscuits (peyek) and the likes (ISIC 1513, 1514, 1549)

• Manufacture of palm sugar/Javanese sugar/red sugar (ISIC 1542)

• Milling (peeling and cleaning) or roots and tubers (ISIC 0140, 1531)

• Thread coloring from natural and artificial fiber to be patterned/dipped/tied thread, performed by hand-work tools (ISIC 1711)

• Fabrics printing industry (ISIC 1712, 1729)

• Hand painted Batik industry (ISIC 1712, 1729)

• Knitted cloth industry especially Lace (ISIC 1730)

• Moslem woman's praying cloth, scarf, head scarf, and other traditional industries (ISIC 1810)

•Embroidery industry (ISIC 1729)

• Handicrafts industry: Rattan and bamboo plait industry; Plait industry with plant other than rattan and bamboo; Carving handicraft from wood, except furniture industry; Kitchen household industry from wood, rattan and bamboo; Wood, rattan, cork products industry that is not classified elsewhere (ISIC 2029, 3699)

•Traditional musical instruments (ISIC 3692)

• Rubber curing industry (ISIC 2519)

• Clay made household necessities industry especially pottery (ISIC 2691)

• Hand-tools industry needed for farming to prepare land, process production, post-harvest and processing except hoe and shovel (ISIC 2893)

• Manual or semi mechanical processed hand tool industry for handwork and cutting (ISIC 2893)

• Maintenance and repair of motorcycles other than those integrating with sale of motorcycles (agents/distributor) (ISIC 5040) Repair of personal and household goods (ISIC 3610, 5260)

• Primary industry of forests products processing: Pine Sap (Oleo Pine Resin) and Bamboo (ISIC 0200)

• Saw Mill or Lumbering industry with production capacity of below or equal to 2.000 M3/year

• Primary industry of processing rattan (ISIC 2010)

b. 100% Domestic Equity Participation:

• Industry of main equipment for defense and security (ISIC 2520, 2893, 2927, 2929, 3530, 3610)

• Traditional medicines and natural extracts processing and industry (ISIC 2423).

11. Sector: Agriculture

Sub-Sector:

Industry Classification: ISIC (see below)

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: - Law No. 39 of 2014 Concerning Plantations - Law No. 18 of 2009 Concerning Livestock and Animal Health and Law No. 41 of 2014 Concerning the Amendment to Law No. 18 of 2009 - Law No. 41 of 1999 Concerning Forestry - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilization of Forest - Government Regulation No. 8 of 1999 Concerning Utilization of Plant and Wild Animal Species Government Regulation number 18 of 2010 Concerning Plant Cultivating Business - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Government Regulation No. 44 of 1995 Concerning Seeding of Plantations - Agriculture Minister Regulation No. 98 of 2013 Concerning Guidance of Plantation Business License Jo. Agriculture Minister Regulation No. 21 of 2017 Concerning the Second Amendment of Regulation No. 98 of 2013 - Agriculture Minister Decree No. 404 of 2002 Concerning Guidelines for License and Registration on Livestock Sector - Agriculture Minister Regulation No. 70 of 2014 Concerning Licensing Guidelines for Horticulture Cultivation - Agriculture Minister Regulation No 2 of 2009 Concerning Guidelines of Veterinary Medical Services - Agriculture Minister Regulation No. 39 of 2010 Concerning the Guidelines on Business Licensing for Staple Crops Cultivation - Government Policy.

Description: Investment

Foreign investors are prohibited from establishing the following lines of business in Indonesia:

a. Reserved for Micro, Small, and Medium Enterprises:

- For each individual crop cultivation in an area less than 25 hectares:

• Staple food crops (rice, corn, soybeans, groundnuts, green beans, cassava and sweet potatoes) and other food crops not classified elsewhere (ISIC 0111, 0112, 0113, 0200).

- For each individual plantation seeding business in an area less than 25 hectares:

• Jatropha curcas, other sweetener crops, sugar canes, tobacco, textile raw materials and cotton, other crops not elsewhere classified, cashews, coconut palms, oil palms, beverage crops (tea, coffee, and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops (other than horticulture), other spice crops, rubber and other trees for extraction of

sap (ISIC 0111, 0112, 0113, 0200).

- For each individual plantation business in an area less than 25 hectares:

• Other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal/pharmaceutical crops other than horticulture, other spice crops, rubber and other trees for extraction of sap, other plantation farming (ISIC 0111, 0112, 0113, 0200)

- Swine breeding and farming with quantity of less than or equal to 125 heads (ISIC 0122).

- Breeding and farming of native chicken “ayam buras” and its cross breeding and farming (ISIC 0122).

12. Sector: Forestry

Sub-Sector:

Industry Classification: ISIC (see below)

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 41 of 1999 Concerning Forestry - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest - Government Regulation No. 36 of 2010 Concerning Natural Tourism Concession in the National Park Utilisation Zone, Grand Forest Park, Nature Tourism Park - Government Regulation No. 8 of 1999 Concerning Utilisation of Plant and Wild Animal Species - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Government Policy.

Description: Investment

Foreign investors are prohibited from establishing the following line of businesses in Indonesia :

a. Reserved for Micro, Small, and Medium Enterprises:

• Exploitation of other forest plants (sugar palms, candlenuts, tamarind seeds, charcoal raw materials, cinnamon) (ISIC 0200)

• Exploitation of Swallow Nests in nature (ISIC 0122)

b. 100% Domestic Equity Participation:

• Exploitation of wood forest products from the natural forests (ISIC 0200)

• Growing and trading of breeds and seeds of forests trees/plants (export and import of breeds and seeds of forests trees/plants) (ISIC 5121)

• Exploitation of water resources in forest area (ISIC 0200)

• Capturing and trading of wild plants and wild animal from the natural wildlife habitat (ISIC 0150).

13. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)

Level of Government:Central

Source of Measure: Law No. 25 of 2007 Concerning Investment - Law No. 4 of 2009 Concerning Mineral and Coal Mining - Law No. 1 of 2014 Concerning the Amendment of Law No. 27 Concerning the Management of Coastal Areas and Small Islands - Government Regulation No.20 of 1994 Concerning Share Ownership in Companies Set Up Under Foreign Capital Investments. - Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 77 of 2014 Concerning Third Amendment Jo. Government Regulation No. 1 of 2017

Concerning Fourth Amendment. - Ministerial Regulation No. 9 of 2017 Concerning Procedures of Divestment of Shares and Mechanism on Divestment Stock Pricing.

Description: Investment

1. As may be required by the relevant regulatory authorities, a company in which foreign investors (6) own 100 per cent shares, subject to prior notification before the grant of the license, after a certain period since commencement of commercial production, the said foreign investors should sell a part of the company's share to domestic investors (7).

2. In the case of the Mineral and Coal Mining sub-sector (8) , a mining business license ('Izin Usaha Pertambangan') for foreign investment (9) shall be granted by the Minister of Energy and Mineral Resources of the Republic of Indonesia. Subject to prior notification before the grant of a mining business license ('Izin Usaha Pertambangan'), five years after the commencement of production, foreign shareholders (10) of a foreign investment should sell their shares gradually to Indonesian shareholders (11) according to the following priorities :

1) central government,

2) provincial government,

3) regencies/municipalities,

4) state owned enterprises ('Badan Usaha Milik Negara' and 'Badan Usaha Milik Daerah'); and

5) national private business entity (12).

The shares of the said Indonesian shareholders shall be at least as the following :

a. 20 per cent of total shares in the 6th year;

b. 30 per cent of total shares in the 7th year;

c. 37 per cent of total shares in the 8th year;

d. 44 per cent of total shares in the 9th year;

e. 51 per cent of total shares in the 10th year.

(6) For the purpose of this reservation, the term "foreign investor" has the meaning set out in Law No. 25 of 2007.

(7) For the purpose of this reservation, the term "domestic investor" has the meaning set out in Law No. 25 of 2007.

(8) For the purpose of this reservation, the scope of Mineral and Coal Mining sub-sector has the meaning set out in Law No. 4 of 2009 Concerning Mineral and Coal Mining and Government Regulation, Law No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 1 of 2017 Concerning fourth Amendment of Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Activities.

(9) For the purpose of this reservation, the term "foreign investment" has the meaning set out in Law No. 25 of 2007.

(10) For the purpose of this reservation, the term "foreign shareholders" has the meaning set out in Government Regulation No. 24 of 2012 Concerning Amendment of Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Activities.

(11) For the purpose of this reservation, the term "Indonesian shareholders" has the meaning set out in Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 24 of 2012 Concerning Amendment of Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Activities.

(12) For the purpose of this reservation, the term "national private business entity" has the meaning set out in Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities.

14. Sector: Mining & Quarrying

Sub-Sector:

Industry Classification: ISIC 1010, 1020, 1030, 1310, 1320

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure: Law No. 4 of 2009 Concerning Mineral and Coal Mining - Government Regulation No. 23 of 2010 Concerning the Implementation of Mineral and Coal Mining Activities Jo. Government Regulation No. 1 of 2017 Concerning Fourth Amendment of Government Regulation No. 23 of 2010 - Regulation of the Minister of Energy and Mineral Resources No. 11 of 2018 Concerning the Procedure for Granting Area License, and Reporting on Mineral and Coal Mining Activities.

Description: Investment

Mining Business Licenses are, hereinafter referred to as WIUP, which refers to an area given to the holder of a Mining Business License. Foreign investors or legal entities organised under the laws of another country that are seeking to make an investment in Indonesia are prohibited from participating in the auction of metallic mineral and coal WIUP with the size under 500 Hectares.

15. Sector: Manufacturing, Agriculture, Fishery, Forestry

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4) Most-Favoured Nation Treatment (Article 14.5) Prohibition of Performance Requirements (Article 14.6) Senior Management and Board of Directors (Article 14.10)

Level of Government: Central

Source of Measure: Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment.

Description: Investment

The following lines of business are prohibited for investment:

- Cultivation of marijuana (ISIC 0111)

- Catching of fish species listed in Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) (ISIC 0500)

- Lifting of valuable artefacts from shipwrecks (ISIC 6303)

- Utilisation (collection) of coral from nature for construction materials/lime/calcium, aquarium, and souvenirs/jewellery as well as living coral or dead coral (recently dead) coral from nature (ISIC 0500)

- Chloral alkali making industry under mercury process (ISIC 2411)

- Industry of pesticide active substances : Dichloro Diphenyl Trichloroethane (DDT), Aldrin, Endrin, Dieldrin, Chlordane, Heptachlor, Mirex, and Toxaphene (ISIC 2421)

- Industrial chemical industry and Ozone Depleting Substances (BPO) : Polychlorinated Biphenyl (PCB), Hexachlorobenzene and Carbon Tetrachloride (CTC), Mthyl Chloroform, Methyl Bromide, Trichloro Fluoro ANNEX I – SCHEDULE - INDONESIA – 28 of 32 Methane (CFC-11), Dichloro Trifluoro Ethane (CFC-12), Trichloro Trifluoro Ethane (CFC-113), Dichloro Tetra Fluoro Ethane (CFC-114), Chloro Pentafluoro Ethane (CFC-115), Chloro Trifluoro Methane (CFC-13), Tetrachloro Difluoro Ethane (CFC-112), Pentachloro Fluoro Ethane (CFC-111), Chloro Heptafluoro Propane (CFC-217), Dichloro Hexafluoro Propane (CFC-216), Trichloro Pentafluoro Propane (CFC-215), Tetrachloro Tetrafluoro Propane (CFC-214), Pentachloro Trifluoro Propane (CFC-213), Hexchloro Difluoro Propane (CFC-211), Bromo Chloro Difluoro Methane (Halon-1211), Bromo Trifluoro Methane (Halon 1301), Dibromo Tetrafluoro Ethane (Halon-2402), R-500, R-502 (ISIC 2411)

- Industry of chemicals listed in Schedule I of the Chemical Weapons Convention as incorporated in Appendix I to Law Number 9 Year 2008 Concerning Use of Chemicals as Chemical Weapons (ISIC 2411)

- Alcoholic hard liquor industry (ISIC 1551)

- Alcoholic beverages industry : Wine (ISIC 1552)

- Malt beverages industry (ISIC 1553).

16. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned: Prohibition of Performance Requirements (Article 14.6)

Level of Government: Central and Regional

Source of Measure: All existing non-conforming measures.

Description: Investment

All existing non-conforming measures.

17. Sector: Energy Infrastructure

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure:

Description: Investment

a. Foreign equity in a Power Plant >10 MW (KBLI 35101) is restricted to no more than 95 per cent of the capital share.

b. Foreign equity in a Geothermal Power Plant <= 10 MW (KBLI 35101) is restricted to no more than 51 per cent of the capital share.

18. Sector: Transport Infrastructure

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)

Level of Government: Central

Source of Measure:

Description: Investment

Foreign equity in highway, bridge and tunnel concessions is restricted to no more than 67 per cent of the capital share.

Annex II. EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, in accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), the specific sectors, sub-sectors or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

(a) Article 9.3 (National Treatment) or Article 14.4 (National Treatment);

(b) Article 9.4 (Most-Favoured-Nation Treatment) or Article 14.5 (Most-Favoured-Nation Treatment);

(c) Article 9.5 (Market Access);

(d) Article 9.6 (Local Presence);

(e) Article 14.6 (Prohibition of Performance Requirements);

(f) Article 14.10 (Senior Management and Boards of Directors);

2. Each Schedule entry sets out the following elements:

(a) Sector refers to the sector for which the entry is made;

(b) Sub-Sector, where referenced, refers to the specific sub-sector for which the entry is made;

(c) Industry Classification, where referenced, refers to the activity covered by the non-conforming measure, according to the provisional CPC codes as used in the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) Obligations Concerned specifies the obligations referred to in paragraph 1 that, in accordance with Article 14.14 (Non-Conforming Measures) and Article 9.7 (Non-Conforming Measures), do not apply to the sectors, sub-sectors or activities listed in the entry;

(e) Description sets out the scope or nature of the sectors, sub-sectors or activities covered by the entry to which the reservation applies; and

(f) Existing Measures, where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub- sectors or activities covered by the entry.

3. In accordance with Article 9.7 (Non-Conforming Measures) and Article 14.14 (Non-Conforming Measures), the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the sectors, sub-sectors and activities identified in the Description element of that entry.

ANNEX II. SCHEDULE OF AUSTRALIA

INTRODUCTORY NOTES

1. For greater certainty, where Australia has more than one entry in its Schedule to Annex II that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.

2. Commitments on measures with respect to or relating to trade in financial services are undertaken subject to the limitations and conditions set forth in Chapter 9 (Trade in Services), Chapter 10 (Financial Services), Chapter 14 (Investment), this Section and the Schedule below.

3. Australia reserves the right to adopt or maintain non-discriminatory limitations concerning admission to the market of new financial services where such measures are required to achieve prudential objectives. Australia may determine the institutional and juridical form through which a new financial service may be supplied and may require authorisation for the supply of the service. Where authorisation to supply a new financial service is required, the authorisation may only be refused for prudential reasons.

4. For the avoidance of doubt, in relation to education services, nothing in Chapter 9 (Trade in Services) or Chapter 14 (Investment) shall interfere with:

(a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content;

(b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programs, including the standards that must be met;

(c) government funding, subsidies or grants, such as land grants, preferential tax treatment and other public benefits, provided to education and training institutions; or

(d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.

1. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Prohibition of Performance Requirements (Article 14.6)

Description: Trade in Services and Investment (1)

Australia reserves the right to adopt or maintain any measure with respect to a proposed acquisition by a foreign person (2) of an interest in Australian land (3), other than developed commercial land or land that is used wholly and exclusively for a primary production business.

Existing Measures: Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA); Foreign Acquisitions and Takeovers Regulation 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth); Financial Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.

(1) The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

(2) The term "foreign person" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

(3) The terms "Australian land" and "interest in Australian land" have the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

2. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment (4)

Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person (5) of an interest in agricultural land (6) where the cumulative value of agricultural land owned by the foreign person alone or together with associates, including the proposed acquisition, is above $A 15 million. Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person of an interest in an agribusiness where the cumulative value of the interest held by the foreign person in that agribusines (7), alone or together with associates, including the proposed acquisition, is above $A 55 million.

Existing Measures: Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA); Foreign Acquisitions and Takeovers Regulation 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth); Financial Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.

(4) The terms in this entry should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

(5) The term "foreign person" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

(6) The term "agricultural land" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

(7) The term "agribusiness" has the meaning set out in the Foreign Acquisitions and Takeovers Act 1975 (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

3. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests.

Existing Measures: Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the Foreign Acquisitions and Takeovers Act 1975 (Cth) (FATA); Foreign Acquisitions and Takeovers Regulation 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth); Financial Sector (Shareholdings) Act 1998 (Cth); and Ministerial Statements.

Sector: All Sectors

Obligations Concerned: Market Access (Article 9.5)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 12 (Movement of Natural Persons), that is not inconsistent with Australia's obligations under Article XVI of GATS.

Existing Measures:

5. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure according preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector. Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation. For the purpose of this entry, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.

Existing Measures: Legislation and ministerial statements at all levels of government including Australia's Foreign Investment Framework, and the Native Title Act 1993 (Cth).

6. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to: (a) the devolution to the private sector of services provided in the exercise of governmental authority at the time that the Agreement comes into force; and (b) the privatisation of government owned entities or assets.

Existing Measures:

7. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure (8) with respect to the provision of law enforcement and correctional services, and the following services (9) to the extent that they are social services established or maintained for a public purpose:

- income security or insurance;

- social security or insurance;

- social welfare;

- public education;

- public training;

- health;(10)

- child care;

- public utilities;

- public transport; and

- public housing.

Existing Measures:

(8) For greater certainty, measures adopted or maintained with respect to the provision of services covered by this entry include measures for the protection of personal information relating to health and children.

(9) For the avoidance of doubt, this includes any measure with respect to: the collection of blood and its components, the distribution of blood and blood-related products, including plasma derived products, plasma fractionation services, and the procurement of blood and blood related products and services.

(10) For greater certainty, the subsidies programmes under Australia's Pharmaceutical Benefits Scheme and Medicare Benefits Scheme, or successor programmes, are not subject to Chapter 9 (Trade in Services), consistent with Article 9.2 (Scope), or Chapter 14 (Investment), consistent with Article 14.2 (Scope).

8. Sector: Communication Services; Recreational, Cultural and Sporting Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to: (a) the creative arts (11), cultural heritage (12) and other cultural industries, including audio-visual services, entertainment services and libraries, archives, museums and other cultural services; and (b) broadcasting and audio-visual services, including measures with respect to planning, licensing and spectrum management, and including: (i) services offered in Australia; and (ii) international services originating from Australia.

Existing Measures: Broadcasting Services Act 1992 (Cth) Radiocommunications Act 1992 (Cth) Broadcasting Services (Australian Content) Standard 2016 Children's Television Standards 2009 Television Program Standard 23 – Australian Content in Advertising Commercial Radio Codes of Practice and Guidelines Community Broadcasting Codes of Practice International Coproduction Program Australia Council Act 2013 (Cth) Screen Australia Act 2008 (Cth) Income Tax Assessment Act 1936 (Cth) Income Tax Assessment Act 1997 (Cth)

(11) 'Creative arts' include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete artform divisions.

(12) 'Cultural heritage' includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

9. Sector: Distribution Services

Obligations Concerned: Market Access (Article 9.5)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages, or firearms.

Existing Measures:

10. Sector: Education Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to primary education.

Existing Measures:

11. Sector: Gambling and Betting

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.

Existing Measures: Legislation and Ministerial Statements, including the Interactive Gambling Act 2001 (Cth).

12. Sector: Maritime Transport

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Market Access (Article 9.5) Local Presence (Article 9.6) Prohibition of Performance Requirements (Article 14.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services. (13) Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia.

Existing Measures: Customs Act 1901 (Cth) Fair Work Act 2009 (Cth) Seafarers' Rehabilitation and Compensation Act 1992 (Cth) Occupational Health and Safety (Maritime Industry) Act 1993 (Cth) Shipping Registration Act 1981 (Cth) Shipping Registration Regulations 1981 (Cth) Income Tax Assessment Act 1936 (Cth) Coastal Trading (Revitalising Australian Shipping) Act 2012 (Cth) Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012 (Cth) Shipping Reform (Tax Incentives) Act 2012 (Cth).

(13) For the purposes of this entry, "cabotage" is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. "Offshore transport" refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

13. Sector: Transport Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Senior Management and Boards of Directors (Article

14.10)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.

Existing Measures: Airports Act 1996 (Cth) Airports (Ownership-Interests in Shares) Regulations 1996 (Cth) Airports Regulations 1997 (Cth)

14. Sector: All Sectors

Obligations Concerned: Market Access (Article 9.5)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure at the regional level of government, except: (a) for the sectors and sub-sectors, and subject to the limitations and conditions, listed in Appendix A to this Schedule; and (b) as provided in paragraph 2 of this entry. With respect to financial services, Australia reserves the right to adopt or maintain any measure at the regional level of government that is not inconsistent with Australia's Revised Services Offer of 31 May 2005 in the World Trade Organisation Doha Development Agenda negotiations (WTO Document TN/S/O/AUS/Rev.1).

Existing Measures:

15. Sector: All Sectors

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.4)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service or service supplier under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement (14). Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service or service supplier under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement except with respect to the sectors and sub-sectors listed in Appendix B to this Annex. For sectors not listed in Appendix B, if, after the entry into force of this Agreement, Australia subsequently enters into any agreement with a non-Party in which it provides treatment to services or service suppliers of that non-Party more favourable than it accords to like services or service suppliers of Indonesia, Indonesia may request consultations to discuss the possibility of extending, such treatment. On request from Indonesia, Australia will give consideration to negotiate for the incorporation of treatment no less favourable than that provided under the agreement in question. Such incorporation shall take into account the overall balance of benefits. Notwithstanding the above, Australia reserves the right to adopt or maintain any measure that accords more favourable treatment: a) to any service or service supplier taken as part of a process of economic integration or trade liberalisation between the Parties to the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) done at Canberra on March 28, 1983 (15); b) to any service or service supplier of a Pacific Islands Forum member state under any international agreement in force or signed after the day of entry into force of this Agreement; or c) to any service or service supplier under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (i) aviation; (ii) fisheries; or (iii) maritime matters, including salvage.

Existing Measures:

(14) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

(15) For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that agreement.

16. Sector: All Sectors

Obligations Concerned: Most-Favoured-Nation Treatment (Article 14.5)

Description: Investment

Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or

covered investment under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement (16). Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment taken as part of a process of economic integration or trade liberalisation between the Parties to the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) done at Canberra on March 28, 1983 (17). Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment of a Pacific Islands Forum member state under any international agreement in force or signed after the date of entry into force of this Agreement. Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any investor or covered investment under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.

Existing Measures:

(16) For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

(17) For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to that agreement.

17. Sector: Financial Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure (18) with respect to the guarantee by government of government-owned entities whose operations include the provision of financial services, including guarantees related to the privatisation of such entities.

Existing Measures:

(18) This includes measures that would be excluded from the application of the term “service supplied in the exercise of governmental authority” as defined in Article 9.1 (Definitions) as modified by Article 10.1.3 (Definitions), except for the application of Australia’s policy on competitive neutrality which in general allows competition and avoids providing net competitive advantage to an entity by virtue of its public sector ownership.

18. Sector: Financial Services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6)

Description: Trade in Services and Investment

Australia reserves the right to adopt or maintain any measure regarding solicitation in its territory.

Existing Measures:

19. Sector: Financial Services

Sub-sector: Insurance and insurance-related services

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Except as provided in paragraphs 2 and 3 of this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraphs (a), (b) and (d) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) for insurance and insurance related services.

Australia shall permit a financial services supplier of Indonesia to supply, via cross-border supply as defined in

subparagraph (a) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) and under terms and conditions that accord national treatment, whether as a principal, through an intermediary or as an intermediary, the following services:

(a) insurance of risks relating to:

(i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising there from; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

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

(d) insurance intermediation, such as brokerage and agency as referred to in subparagraph (c) of the definition of “financial service” in Article 10.1 (Definitions) of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

Australia shall permit its residents to purchase in the territory of Indonesia the financial services indicated in subparagraphs 2(a) to (d) of this entry.

Existing Measures:

20. Sector: Financial Services

Sub-sector: Banking and other Financial Services (excluding Insurance and Insurance-related Services)

Obligations Concerned: National Treatment (Article 9.3 and Article 14.4) Most-Favoured-Nation Treatment (Article 9.4 and Article 14.5) Market Access (Article 9.5) Local Presence (Article 9.6) Senior Management and Boards of Directors (Article 14.10)

Description: Trade in Services and Investment

Except as provided in paragraphs 2, 3 and 4 of this entry, Australia reserves the right to adopt or maintain any measure with respect to trade in services as defined in subparagraphs (a), (b) and (d) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) for banking and other financial services.

Australia shall permit a financial service supplier of Indonesia to supply, via cross-border supply as defined in subparagraph (a) of the definition of “trade in services or supply of a service” in Article 9.1 (Definitions) and under terms and conditions that accord national treatment, the following services: provision and transfer of financial information and financial data processing as referred to in subparagraph (o) of the definition of “financial service” in Article 10.1 (Definitions) and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of “financial service” in Article 10.1 (Definitions).

Australia shall permit its residents to purchase in the territory of Indonesia the financial services indicated in subparagraphs (e) to (p) of the definition of “financial service” in Article 10.1 (Definitions). Australia shall allow a financial institution organised in the territory of Indonesia to provide the following services to a collective investment scheme located in Australia (19):

(a) investment advice; and

(b) portfolio management services, excluding:

(i) trustee services; and

(ii) custodial services and execution services that are not related to managing a collective investment scheme.

Note: For the purposes of this entry, the term “collective investment scheme” means a managed investment scheme as defined under section 9 of the Corporations Act 2001 (Cth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the Corporations Act 2001 (Cth), or an entity that:

(i) carries on a business of investment in securities, interests in land, or other investments; and

(ii) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or

invitation to the public (within the meaning of section 82 of the Corporations Act 2001 (Cth) made on terms that the funds subscribed would be invested.

Existing Measures:

(19) For greater certainty, Australia may require a collective investment scheme or a person of Australia involved in the operation of the scheme located in Australia to retain ultimate responsibility for the management of the collective investment scheme.

21. Sector: Financial Services

Obligations Concerned: Market Access (Article 9.5)

Description: Trade in Services

Australia reserves the right to adopt or maintain any measure imposing non-discriminatory limitations on juridical form for enterprises supplying financial services and constituted under the laws of Australia. For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia (20).

Existing Measures:

(20) This entry is not itself intended to affect, or otherwise limit, a choice by a financial service supplier of the other Party between branches or subsidiaries.

Appendix A. AUSTRALIA'S MARKET ACCESS COMMITMENTS SCHEDULE – REGIONAL (STATE AND TERRITORY) LEVEL

For the purposes of this Appendix, the 'Limitations on Market Access' column refers to the supply of a service:

1) from the territory of a Party into the territory of the other Party (Mode 1);

2) in the territory of a Party to a person of the other Party (Mode 2); and

3) by a service supplier of a Party, through commercial presence in the territory of the other Party (Mode 3).

Sector or Sub-sector	Limitations on Market Access
1. BUSINESS SERVICES	
A. Professional services	
(a) Legal services (21)	
(i) Legal advisory and representational services in domestic law (host-country law).	1) None 2) None 3) None
(ii) Legal advisory services in foreign law and international law and (in relation to foreign and international law only) legal arbitration and conciliation/mediation services.	1) None 2) None 3) Natural persons practising foreign law may only join a local law firm as a consultant and may not enter into partnership with or employ local lawyers in South Australia.
(b) Accounting, auditing and book-keeping services (CPC 862) (c) Taxation services (CPC 863) (d) Architectural services (CPC 8671) (e) Engineering services (CPC 8672) (f) Integrated engineering services (CPC 8673) (g) Urban planning and landscape architectural services	1) None 2) None 3) None

(CPC 8674) (h) Dental services (CPC 93123) (i) Veterinary services (CPC 932)	

(21) For the purposes of this commitment: “legal advisory services” – includes provision of advice to and consultation with clients in matters, including transactions, relationships and disputes, involving the application or interpretation of law; participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and preparation of documents governed in whole or in part by law, and the verification of documents of any kind for purposes of and in accordance with the requirements of law. Does not include advice, consultation and documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trade marks attorneys. “legal representational services” – includes preparation of documents intended to be submitted to courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of law; and appearance before courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law. (Note 1: The inclusion of representational services before administrative agencies and other duly constituted official tribunals within the context of legal services does not necessarily mean that a licensed lawyer must supply such services in all cases. The precise scope of services subject to licensing requirements is subject to the discretion of the relevant regulatory authority.) Does not include documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trade marks attorneys. “legal arbitration, conciliation and mediation services” – preparation of documents to be submitted to, preparation for and appearance before, an arbitrator, conciliator or mediator in any dispute involving the application and interpretation of law. Does not include arbitration, conciliation and mediation services in disputes for which the law has no bearing which fall under services incidental to management consulting. As a sub-category, international legal arbitration, conciliation or mediation services refer to the same services when the dispute involves parties from two or more countries. “domestic law (host country law)” – the law of Australia. “foreign law” – the law of the territories of WTO Members and other countries other than the law of Australia. “international law” – includes law established by international treaties and conventions, as well as customary law. For the purposes of these definitions: “arbitration” is taken to mean a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (the arbitrator) who makes a determination. “mediation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted. “conciliation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.

Sector or Sub-sector	Limitations on Market Access
B. Computer and related services (CPC 84) (22).	
(a) Consultancy services related to the installation of computer hardware (CPC 841) (b) Software implementation services (CPC 842) (c) Data processing services (CPC 843) (d) Database services (CPC 844) (e) Other: - Maintenance and repair services of office machinery and equipment including computers (CPC 845) - Other computer services (CPC 849)	1) None 2) None 3) None

(22) For greater certainty, Entry 8 of this Annex applies to measures relating to content for Computer and related services (CPC 84).

Sector or Sub-sector	Limitations on Market Access
C. Research and development services	

(a) R&D services on natural sciences (CPC 851) (b) R&D services on social sciences and humanities (CPC 852) (c) Interdisciplinary R&D services (CPC 853)	1) None 2) None 3) None
D. Real estate services	
(a) Involving own or leased property (CPC 821) (b) On a fee or contract basis (CPC 822)	1) None, except commercial presence required 2) None, except commercial presence required 3) None
E. Rental/leasing services without operators	
(a) Relating to ships (CPC 83103**) (23) (b) Relating to aircraft (CPC 83104) (c) Relating to other transport equipment (CPC 83101-2, 83105) (d) Relating to other machinery and equipment (CPC 83106-9)	1) None 2) None 3) None
F. Other business services	
(a) Advertising services (CPC 87110, 87120**, 87190) (24) (b) Market research and public opinion polling services (CPC 864) (c) Management consulting services (CPC 865) (d) Services related to management consulting (CPC 86601, 86609) (25) (e) Technical testing and analysis services (CPC 8676) (f) Services incidental to agriculture, hunting and forestry (CPC 8811**, 8812**, 8814**) (26) (g) Services incidental to fishing (CPC 882**) (27) (h) Services incidental to mining and site preparation work for mining (CPC 883, 5115) (i) Services incidental to manufacturing (CPC 884, 885, except 88442) (j) Services incidental to energy distribution (CPC 887**) (28)	1) None 2) None 3) None
(k) Placement and supply services of personnel (CPC 872)	1) Unbound 2) None 3) None
(l) Investigation and security (CPC 873) (m) Related scientific and technical consulting services (CPC 8675) (n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633, 8861-8866)	1) None 2) None 3) None
(o) Building-cleaning services (CPC 874).	1) Unbound* 2) None 3) None
(p) Photographic services (CPC 875) (s) Convention services (CPC 87909**) (29) (t) Other: - Telephone answering services(CPC 87903) - Duplicating services (CPC 87904) - Translation and interpretation services (CPC 87905) - Mailing list compilation and mailing services (CPC 87906) - Interior design (CPC 87907) (30)	1) None 2) None 3) None

(23) For greater certainty, this excludes maritime cabotage services and offshore transport services in accordance with Entry 12 of this Annex.

(24) Covers services by advertising agencies in creating and placing advertising in periodicals, newspapers, radio and television for clients; outdoor advertising; media representation i.e. sale of time and space for various media; distribution and delivery of advertising material or samples. For greater certainty, this does not include production or broadcast/screening of advertisements for radio, television or cinema in accordance with Entry 8 of this Annex.

(25) Excludes arbitration and conciliation services.

(26) Provision of advice and guidance relating to crop and livestock management on consultancy basis. Includes specialised consultancy services only, related to forestry activities, timber evaluation, forest management or planning. Does not include logging.

(27) Consists of specialised consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.

(28) Covers consultancy services related to the transmission and distribution on a fee or contract basis of electricity, gaseous fuels and steam and hot water to household, industrial, commercial and other users.

(29) Activities of establishments engaged in provision of planning, organising, managing and marketing services for conventions and similar events (including catering and beverage services).

(30) Specialised consultancy services related to the post-construction design and fitting out of interior living and working spaces. Includes purchase of necessary goods.

Sector or Sub-sector	Limitations on Market Access
2. COMMUNICATION SERVICES.	
C. Telecommunications services. Covers the following sub-sectors from the Services Sectoral Classification List (W/120) and related CPC codes (7521,7522,7523, 7529**)	
(a) Voice telephone services (b) Packet-switched data transmission services (c) Circuit-switched data transmission services (d) Telex services (e) Telegraph services (f) Facsimile services (g) Private leased circuit services (o) Other: - Digital Cellular services - Paging services - Personal Communications Services - Trunked Radio System Services - Mobile Data Services	1) None 2) None 3) None
(h) Electronic mail (CPC 7523**) (i) Voice mail (CPC 7523**) (j) On-line information and data base retrieval (CPC 7523**) (k) Electronic data interchange (EDI) (CPC 7523**) (l) Enhanced/value-added facsimile services, including store and retrieve (CPC 7523**) (m) Code and protocol conversion (CPC 7523**)	1) None 2) None 3) None
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	
A. General construction work for buildings (CPC 512) B. General construction work for civil engineering (CPC 513) C. Installation and assembly work (CPC 514, 516) D. Building completion and finishing work (CPC 517) E. Other: - Pre-erection work at construction sites	1) Unbound*

(CPC 511 excluding site preparation for mining – CPC 5115) - Special trade construction work (CPC 515) - Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator (CPC 518)	2) None 3) None
4. DISTRIBUTION SERVICES	
A. Commission agents' services (CPC 62113-62118) (31) B. Wholesale trade services (CPC 6223-6228) (32)	1) None 2) None 3) None
C. Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121) (33)	1) Unbound except for mail order 2) None 3) None
D. Franchising (CPC 8929)	1) None 2) None 3) None

(31) For greater certainty, this excludes tobacco and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this Annex.

(32) For greater certainty, this excludes wholesale trade services of unmanufactured tobacco, tobacco products and alcoholic beverages, and excludes firearms in accordance with Entry 9 of this Annex.

(33) Australia's commitments in relation to these services extend to cover the following services not listed in relevant CPC classifications: inventory management of goods, assembling, sorting and grading of goods, breaking bulk, re-distribution and delivery services for retailing. Does not cover dispensing of pharmaceuticals. For greater certainty, this excludes retailing services of alcoholic beverages, tobacco products and firearms in accordance with Entry 9 of this Annex.

Sector or Sub-sector	Limitations on Market Access
5. EDUCATIONAL SERVICES	
B. Secondary education services (CPC 922**) (34) C. Higher education services (CPC 923**) (35) E. Other education services (CPC 929**) (36)	1) None 2) None 3) None
6. ENVIRONMENTAL SERVICES (37)	
A. Wastewater management (CPC 9401) (38) B. Waste management (CPC 9402, 9403) (39) D. Other: - Protection of ambient air and climate(CPC 9404) (40) - Remediation and clean-up of soil and water (CPC 9406**) (41) - Noise and vibration abatement (CPC 9405) (42) - Protection of biodiversity and landscape (CPC 9406**) (43) - Other environmental and ancillary services (CPC 9409) (44)	1) None 2) None 3) None

(34) Covers general as well as technical and vocational education at the secondary level in private institutions.

(35) Covers provision of private tertiary education services including at university level.

(36) Covers tuition and testing in English and other languages. Tuition in cuisine and traditional therapies (including massage, acupuncture), music, dance and martial arts.

(37) Australia's commitments on environmental services exclude the provision of water for human use, including water collection, purification and distribution through mains.

(38) This covers removal, treatment and disposal of household, commercial and industrial sewage and other waste waters including tank emptying and cleaning, monitoring, removal and treatment of solid wastes.

(39) This covers hazardous and non-hazardous waste collection, treatment and disposal (including incineration, composting and landfill); linen sanitation and treatment and clinical waste disposal services supplied to hospitals; sweeping and snow removal, and other sanitation services.

(40) This covers services at power stations or industrial complexes to remove air pollutants; monitoring of mobile emissions and implementation of control systems or reduction programmes.

(41) Australia's commitments under 9406** combine to cover the entirety of CPC 9406 services. This covers cleaning-up systems in situ or mobile, emergency response, clean-up and longer term abatement of spills and natural disasters; and rehabilitation programmes (e.g. recovery of mining sites) including monitoring.

(42) This covers monitoring programmes, and installation of noise reduction systems and screens.

(43) Australia's commitments under items 9406** combine to cover the entirety of CPC 9406 services. This covers ecology and habitat protection and promotion of forests and promoting sustainable forestry.

(44) This covers other environment protection services, including services related to environmental impact assessment.

Sector or Sub-sector	Limitations on Market Access
7. HEALTH-RELATED AND SOCIAL SERVICES	
A. Hospital services Private hospital services (CPC 93110**) (45)	1) Unbound* 2) None 3) None, except that measures in the form of economic needs tests, limitations on the number of services operations and types of legal entity may apply.
B. Other human health services (CPC 93199**) (46)	1) Unbound 2) None 3) None
8. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotels and restaurants (CPC 641, 642, 643)	1) Unbound* 2) None 3) None
B. Travel agencies and tour operator services (CPC 7471)	1) None, except commercial presence required 2) None 3) None

C. Tourist guide services (CPC 7472)	1) None 2) None 3) None
9. RECREATIONAL, CULTURAL AND SPORTING SERVICES	
B. News agency services (CPC 962) D. Sporting and other recreational services - Sporting services (CPC 9641) - Other recreational services (CPC 96491) (47)	1) None 2) None 3) None

(45) Covers delivery of services under the direction of registered medical doctors to patients in hospital institutions that are not funded, owned or operated by or on behalf of the federal government or a State or Territory government in Australia.

(46) Covers podiatry and chiropody services. Includes podiatry services carried out in health clinics, and in residential health facilities other than hospitals, as well as in own consulting rooms, patients' homes or elsewhere.

(47) Covers recreation park and beach services.

Sector or Sub-sector	Limitations on Market Access
10. TRANSPORT SERVICES	
A. Maritime transport services	
International transport (freight and passengers) (CPC 7211 and 7212) (48)	1) Liner Shipping, Bulk, tramp and other international shipping, including international passenger transportation: None 2) None 3) a) Establishment of registered company for the purpose of operating a fleet under the national flag of Australia: None 3) b) Other forms of commercial presence for the supply of international maritime transport services (as defined in Note on Maritime Transport Services): None
Maritime auxiliary services	
- International rental of vessels with crew (as defined in Note on Maritime Transport Services) (49)	1) None 2) None 3) None
- Maritime cargo handling services (as described in Note on Maritime Transport Services)	1) Unbound* 2) None 3) None, except Unbound in South Australia. Licences/concessions are granted by port authorities. Public utility concession or licensing procedures may apply in the case of the occupation of the public domain for the conduct of these activities.
- Storage and warehousing services	1) Unbound* 2) None 3) None

(CPC 742)	
- Maritime freight forwarding services (as defined in Note on Maritime Transport Services)	1) None 2) None 3) None
- Customs clearance services (as described in Note to on Maritime Transport Services)	1) Unbound* 2) None 3) None
- Pre-shipment inspection (as defined in Note on Maritime Transport Services) - Maritime agency services (as described in Note on Maritime Transport Services)	1) None 2) None 3) None
C. Air transport services	
Aircraft repair and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance (CPC 8868**) (50)	1) Unbound* 2) None 3) None
Ground handling services (51)	1) Unbound* 2) None 3) None
Airport operation services (52)	1) Unbound* 2) None 3) None
Selling and marketing of air transport services (53)	1) None, except: (a) Commercial presence required for services covered by Travel agencies and tour operator services (CPC 7471). (b) Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121) are unbound except for mail order. 2) None 3) None
Computer reservation systems (CPC 7523**) (54)	1) None 2) None 3) None
E. Rail transport services	
(b) Freight	1) None 2) None 3) Below track: Most rail-track networks in Australia are

transportation (CPC 7112); (c) Pushing and towing services (CPC 7113); and (e) Supporting services for rail transport services (CPC743).	government-owned although much is leased to private operators. There are no restrictions on the right to establish new networks but access to public land may not be guaranteed. Above track (rail transport services (such as trains) that operate over the rail-track infrastructure): none except that access to rail infrastructure is allocated under pro-competitive principles for safety, efficiency and the long term interests of users.
F. Road transport services	
(a) Passenger transportation (CPC 71213, 71214, 7122)55	1) Unbound 2) None 3) None
(b) Freight transportation (CPC 7123) (c) Rental of commercial vehicles with operator (CPC7124)	1) None 2) None 3) None
G. Pipeline transport	
(a) Transportation of fuels (CPC 7131) (b) Transportation of other goods (CPC 7139)	1) None 2) None 3) None
H. Services auxiliary to all modes of transport	
(a) Cargo-handling services in relation to rail, road and air transport only (CPC 741**) (56) (b) Storage and warehouse services (CPC 742 excluding maritime) (57)	1) Unbound* 2) None 3) None
(c) Freight transport agency services (CPC 748 excluding maritime) (58) (d) Other supporting and auxiliary transport services (CPC 749 excluding maritime) (59)	1) None 2) None 3) None

(48) For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this Annex.

(49) For greater certainty, this excludes maritime cabotage and offshore transport services in accordance with Entry 12 of this Annex.

(50) This covers establishments mainly engaged in periodic maintenance and repair (routine and emergency) of airframes (including wings, doors, control surfaces) avionics, engines and engine components, hydraulics, pressurisation and electrical systems and landing gear. Includes painting, other fuselage surface treatments and repair of flight-deck (and other) transparencies. Further includes rotary and glider aircraft.

(51) Covers "ground handling services" as defined in Article 9.1 (Definitions).

(52) Covers "airport operation services" as defined in Article 9.1 (Definitions).

(53) This commitment confirms, without extending, the application to air transport services of the specific commitments made elsewhere in this Appendix in the following sections, subject to all limitations, exceptions and qualifications set out in those sections: Travel agencies and tour operator services (CPC 7471); Market research and public opinion polling services (CPC 864); Advertising services (CPC 87110, 87120**, 87190); Distribution: Commission agents' services (CPC 62113-62118); Wholesale trade services (CPC 6223-6228); Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121); and Franchising (CPC 8929). For the purposes of this commitment, "selling and marketing of air transport services" is defined as in Article 9.1 (Definitions), except that the aspects of "marketing" covered by this commitment are limited to market research, advertising and distribution.

(54) Activities of establishments engaged in providing and maintaining computer reservation to other enterprises engaged in the provision of travel agency services, including transport and accommodation booking, tour and travel wholesaling/retailing – to establishments engaged in providing reservation services (such as travel agencies etc.). CRS services related to air carriers include the provision of information on air carrier schedules, space availability and tariffs.

(55) Does not include regular urban bus services.

(56) Note also that maritime cargo handling services are dealt with under "Maritime Services."

(57) Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 742: distribution centre services and materials handling and equipment services such as container station and depot services (excluding maritime).

(58) Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 748: customs agency services and load scheduling services (excluding maritime).

(59) Australia's commitment in relation to these services extends to cover the following services in addition to those listed under CPC 749: container leasing and rental services (excluding maritime).

* Unbound due to lack of technical feasibility

** Indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance.

Unless otherwise stated all CPC references correspond to the United Nations Provisional Central Product Classification.

NOTE ON MARITIME TRANSPORT SERVICES

Definitions

1. Other Forms of Commercial Presence for the Supply of International Maritime Transport Services: for the purposes of this Appendix, means the ability for international maritime transport service suppliers of the other Party to undertake locally all

activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. This commitment shall not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.

These activities include:

- marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;

- the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated service; the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;

- the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the GATS Annex on Telecommunications);

- the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the commitments listed in Australia's Schedule of Commitments in Annex 12-A (Movement of Natural Persons)) with any locally established shipping agency; and

- acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

2. International Rental of Vessels with Crew: rental or leasing services of all types of sea-going vessels with crew (such as tankers, bulk dry cargo vessels, cargo and freight vessels) for the purpose of international trade.

3. Maritime Cargo Handling Services: activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring of terminal operator companies. The activities covered include the organisation and supervision of: the loading/discharging of cargo to/from a ship; the lashing/unlashing of cargo; and, the reception/delivery and safekeeping of cargoes in the wharf area before shipment or after discharge.

The organisation and supervision includes the arrangements for (1) engaging skilled labour (dockers), (2) using all the necessary equipment for on-board or shore use and the appropriate storage space, whether by ownership, rental or otherwise, (3) the checking of parcels and markings, the weighing and measuring of cargo (upon request of the owner), and (4) the administrative duties as well as the responsibility related to the services.

Container terminal operators can furthermore be appointed for stuffing/stripping containers and e.g. the survey and supply of electricity to containers.

4. Maritime Freight Forwarding Services: the organisation and monitoring of shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

5. Customs Clearance Services: activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through-transport of cargoes, whether this is the main activity of the service provider or a usual complement of its main activity.

6. Pre-shipment Inspection: all services performed on a fee or contract basis involved in the verification of the quality, quantity, price (including currency exchange rate and financial terms), or the customs classification of goods to be exported. Does not include customs or quarantine inspection.

7. Maritime Agency Services: activities consisting in representing, within a given geographic area, as an agent, the business interests of one or more shipping line or shipping companies, for the following purposes:

- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies; acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and

- acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

Appendix B. (60)

Sector

Architectural Services (CPC 8671)

Advisory and Consultative Engineering Services (CPC 86721)

Engineering design services for the construction of foundations and building structures (CPC 86722)

Engineering design services for mechanical and electrical installations for buildings (CPC 86723)

Engineering design services for the construction of civil engineering works (CPC 86724)

Engineering design services for industrial processes and production (CPC 86725)

Other engineering services during the construction and installation phase (CPC 86727)

Other engineering services (CPC 86729)

Integrated Engineering Services (CPC 8673)

Urban Planning Services (CPC 86741)

Technical Testing and analysis services (CPC 8676)

Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633 and 8861-8866)

Construction Work for Buildings (CPC 512) except for one- and two-dwelling buildings (CPC 51210)

Construction Work for Civil Engineering (CPC 513)

Assembly and Erection of Prefabricated Constructions (CPC 514)

Installation Work (CPC 516)

Building Completion and Finishing Work (CPC 517)

Pre-erection Work at Construction Site (CPC 511) except Site Investigation Work (CPC 51110) and Site Formation and Clearance Work (CPC 51113)

Special Trade Construction (CPC 515)

Renting Services Related Equipment for Construction or Demolition of Building or Civil Engineering Works with Operator (CPC 518)

Secondary Education Services : Technical and Vocational Secondary Education Services (electronic, automotive) (CPC 92230)

Higher Education Services:

- Post-secondary technical and vocational education services (CPC 9231)

- Other higher education services (CPC 9239)

Adult Education Services: Language Course and Training (CPC 924)

Other Education Services: Football and Chess only (CPC 929)

Hospital Services (CPC 9311)

(60) For greater certainty, Australia's commitments on education and hospital services are subject to Entry 7 of this Annex.

ANNEX II. SCHEDULE OF INDONESIA

INTRODUCTORY NOTES

SECTION A

Section A of Indonesia's Schedule to this Annex sets out, in accordance with Article 9.7 (Non-conforming Measures), the specific sectors, sub-sectors or activities for which Indonesia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by: (a) Article 9.3 (National Treatment); (b) Article 9.4 (Most-Favoured-Nation Treatment); (c) Article 9.5 (Market Access); or (d) Article 9.6 (Local Presence).

SECTION B

1. Articles 14.4 (National Treatment), 14.5 (Most-Favoured-Nation Treatment), 14.6 (Prohibition of Performance Requirements), and 14.10 (Senior Management and Boards of Directors) apply only to the following sectors: (a) manufacturing; (b) agriculture; (c) fisheries; (d) forestry; (e) mining and quarrying; (f) energy infrastructure, specifically power plants of more than 10 Megawatts and geothermal power plants of less than or equal to 10 Megawatts; and (g) transport infrastructure, specifically highway, bridge and tunnel concessions.

2. Section B of Indonesia's Schedule to this Annex sets out, in accordance with Article 14.14 (Non-conforming Measures), the specific sectors, sub-sectors or activities, within the sectors listed in paragraph 1, for which Indonesia may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by: (a) Article 14.4 (National Treatment); (b) Article 14.5 (Most-Favoured-Nation Treatment); (c) Article 14.6 (Prohibition of Performance Requirements); or (d) Article 14.10 (Senior Management and Boards of Directors).

3. For greater certainty, in accordance with Article 14.3.3 (Relation to Other Chapters), for the purposes of the application of Article 14.14 (Non-Conforming Measures) to measures affecting the supply of a service by a service supplier of Australia through commercial presence in the territory of Indonesia, an entry listed against Article 9.3 (National Treatment) and Article 9.4 (Most-Favoured-Nation Treatment) in Section A, shall also be considered an entry in respect of Article 14.4 (National Treatment) and Article 14.5 (Most-Favoured-Nation Treatment) respectively in Section B.

4. The recognition of Australian permanent residents shall be limited to Australian permanent residents who have the nationality of a country that already has an investment agreement or a free trade agreement (with an investment chapter) in force with Indonesia. Such recognition shall not apply to an Australian permanent resident who is also an Indonesian national. Furthermore, in accordance with Article XXVIII(k)(2) of GATS, Indonesia shall not be obliged to accord to such permanent residents treatment more favourable than would be accorded by Australia to such residents.

Section A.

1. Sector: All Sectors

Obligations Concerned: National Treatment (Article 9.3) Market Access (Article 9.5) Local Presence (Article 9.6)

Description: Trade in Services

Indonesia reserves the right to adopt or maintain any measure that does not conform with the obligations imposed by Articles 9.3 (National Treatment), Article 9.5 (Market Access) and 9.6 (Local Presence), except in the sectors and sub-sectors where it has made commitments in accordance with Article 9.7.1 (Non-Conforming Measures) in Annex I of this Schedule, or with respect to the sectors and sub-sectors listed in Appendix A to this Annex: a) including any undertakings relating to additional commitments set out in that Appendix; and b) subject to the terms, limitations, conditions and qualifications set out in that Appendix. To the extent that the terms, limitations, conditions and qualifications applied to a particular service supplier of Australia in the sectors or sub-sectors listed in Appendix A are more favourable on or after the date of entry into force of this Agreement than the terms, limitations, conditions and qualifications listed in Appendix A, the applied terms, limitations, conditions and qualifications shall not be changed or modified so as to become more restrictive to such a service supplier, provided that there is no amendment to its principal or operational licenses resulting from a request by the service supplier. For greater certainty, any amendments to the principal or operational license requested by a service supplier would be treated as a new entry to the market as at the date of the effect of the amendments.

2. Sector: All Sectors

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.4)

Level of Government: Central

Description: Trade in Services

Indonesia reserves the right to adopt or maintain any measure that accords more favourable treatment to any services or service suppliers under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. Indonesia reserves the right to adopt or maintain any measure that accords more favourable

treatment to any services or service suppliers under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement, except with respect to the sectors and sub-sectors listed in Appendix B to this Annex. For sectors not listed in Appendix B, if, after the date of entry into force of this Agreement, Indonesia subsequently enters into any agreement with a non-Party in which it accords treatment to services or service suppliers of that non-Party more favourable than it accords to like services or service suppliers of Australia, Australia may request consultations to discuss the possibility of extending such treatment. On request from Australia, Indonesia will give consideration to negotiate for the incorporation of treatment no less favourable than that provided under the agreement in question. Such incorporation shall take into account the overall balance of benefits. Notwithstanding the above, Indonesia reserves the right to adopt or maintain any measure that accords more favourable treatment:

(a) to ASEAN member states under any ASEAN agreement open to participation by any ASEAN member state, in force or signed after the date of entry into force of this Agreement;

(b) with respect of advantages accorded to adjacent countries to the extent covered by paragraph 3 of Article II of the GATS; and

(c) to any services or service suppliers under any international agreement in force or signed after the date of entry into force of this Agreement involving:

i) aviation;

ii) fisheries; or

iii) maritime matters, including salvage.

Appendix A.

1. Appendix A of Indonesia's Schedule to this Annex sets out:

a) The specific sectors, sub-sectors or activities for which Indonesia makes commitments subject to terms, limitations, conditions, and qualifications on:

(i) National Treatment (Article 9.3);

(ii) Market Access (Article 9.5); or

(iii) Local Presence (Article 9.6).

b) The specific sectors, sub-sectors or activities for which Indonesia undertakes additional commitments.

2. The 'Limitations on Market Access' and 'Limitations on National Treatment' columns refer to the supply of a service:

1) from the territory of a Party into the territory of the other Party (Mode 1);

2) in the territory of a Party to a person of the other Party (Mode 2);

3) by a service supplier of a Party, through commercial presence in the territory of the other Party (Mode 3); and

4) by a natural person of a Party in the territory of the other Party (Mode 4).

3. The inscription of sectoral commitments and its limitations, follows the Guidelines for Scheduling of Specific Commitments (WTO Document S/L/92, dated 28 March 2001).

4. Any terms, limitations, conditions and qualifications applicable to Article 9.6 (Local Presence) shall be inscribed in the column relating to National Treatment.

5. Double asterisk after a CPC number indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance.

6. In the absence of a specific reference to CPC numbers, the scope of sub-sectors/activities covered by an entry will be subject to relevant and applicable references, including:

a) in the case of Financial Services, reference would be made to the GATS Annex on Financial Services;

b) in the case of Air Transport, the scope of activities would be in accordance with Chapter 9 (Trade in Services), unless qualified by reference to the Indonesian Standard Industrial Classification (Klasifikasi Baku Lapangan Usaha Indonesia/KBLI)

2015; or

c) in the case of other sectors, reference would be made to Indonesia Standard Industrial Classification (Klasifikasi Baku Lapangan Usaha Indonesia/KBLI) 2015.

7. "Joint Operation ": A joint operation is an undertaking between one or more foreign and Indonesian enterprises of a temporary nature, to handle one or more projects/businesses without establishing a new statutory body in accordance with Indonesian laws.

8. "Joint venture": A joint venture enterprise is a legal entity organised under Indonesian law and having its domicile in Indonesia, in the form of cooperation between foreign capital and Indonesian (national) capital.

9. "Representative office": A representative office is an office headed by one or more foreign or Indonesian citizens appointed by a foreign enterprise or joint venture enterprise located outside of Indonesia as its representative, which aims to:

a) be in charge of the enterprise's business or its affiliated enterprises, or;

b) prepare the establishment and expansion of foreign capital investment enterprises, either located in Indonesia or in other countries.

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
HORIZONTAL COMMITMENTS			
All sectors included in this Appendix and the below sub-sectors as follows: - Legal services (CPC 861), only for advisory services on foreign and international law; - Postal Services (CPC 7511) and Courier Services (CPC 7512) (KBLI	3) Commercial Presence through the constitution, acquisition or maintenance of an enterprise shall be in the form of a limited liability company denoted as PT (‘Perseroan	3) Non-resident taxpayers will be subject to withholding tax of 20 per cent if they derive the following income from an Indonesian source: (a) interest; (b) royalties; (c) dividend; (d) fee from service performed in Indonesia. 3) The right of ownership of land (hak milik) is restricted to Indonesian nationals only. Notwithstanding the above, foreign nationals and foreign companies incorporated and domiciled in Indonesia may acquire land and property on the basis of the following rights: (a) Leasehold (hak guna usaha), granted to a foreign company for a maximum period of 35 years and may be extended for a further period of 25 years. (b) Building rights (hak guna bangunan), granted to a foreign company for a maximum period of 30 years and may be extended for a further period of 20 years. (c) Right of use (hak pakai) granted to: (1) a foreign national for a maximum period of 30 years and may be extended for a further period of 20 years; (2) a foreign company for a maximum period of 25 years and may be extended for a further period of 20 years. (d) Right of lease (hak sewa), accorded to a foreign national and a foreign company for a definite period as may be agreed by the parties. Such acquisitions of land and property must be approved by the relevant authority, subject to such conditions and restrictions as may be imposed by that authority. 3) Indonesia reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation,	

53102-Commercial Postal) excluding Intercity delivery and Universal Post Services; and - International Passenger Transport (CPC 7211) and International Freight Transport (CPC 7212) excluding Cabotage.	Terbatas'), unless otherwise specified. 4) Unbound, except for categories as indicated in Chapter 12 (Movement of Natural Persons).	commercialisation or divestment of Government assets, entities or agencies including: (a) limitations on ownership of assets; (b) transfer or disposal of equity interests or their assets; (c) the right of foreign investors or their investments to control their assets; and nationality of the senior management or members of the board of directors. For greater certainty: a) where Indonesia transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to be an initial transfer or disposal of the interest for purposes of this entry; and b) where Indonesia transfers or disposes of an interest in an existing state enterprise in multiple phases, subparagraph (a) shall apply separately to each such phase. 3) A joint venture supplying services through commercial presence in Indonesia must have a total investment value of greater than IDR 10 billion (excluding land and buildings), except in sectors and subsectors where Indonesia has made commitments under GATS or the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA). 1), 2), 3), 4) Indonesia reserves the right to adopt or maintain any measure for the protection of Indonesian essential security interests. 4) Unbound, except for categories as indicated in Chapter 12 (Movement of Natural Persons).	
SECTOR SPECIFIC COMMITMENTS			
BUSINESS SERVICES			
A. Professional Services (1)			
Architectural Services (CPC 8671)	1) None 2) None 3) None, except commercial presence only permitted in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture.	1) None 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian.	

Engineering Services (CPC 8672 except CPC 86721, 86726)	1) None 2) None 3) None, except commercial presence only permitted in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture.	1) None 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian.	
Advisory and Consultative Engineering Services (CPC 86721)	1) None 2) None 3) None, except joint operation by establishing a representative office.	1) None 2) None 3) None, except Indonesian local partner in the joint operation must be a member of the Indonesian Consultant Association.	
Integrated Engineering Services (CPC 8673)	1) None 2) None 3) None, except commercial presence only permitted in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture.	1) None 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian.	
Urban Planning Services (CPC 86741)	1) None 2) None 3) None, except commercial presence only permitted in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture.	1) None 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian.	

Landscape Architectural Services (CPC 86742)	1) None 2) None 3) None, except commercial presence shall be in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture.	1) None, except local presence requirements 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian.	
Clinic of specialised medical services (CPC 93122) Clinic of specialised dental services (93123)	1) Unbound 2) None 3) None, except joint venture requirement.	1) Unbound 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) May only employ foreign health professionals to the extent that there are not sufficiently qualified Indonesians; c) Must be established in a class A or B hospital-owned premises, as defined by Minister of Health Regulation No. 56 of 2014 on the classification and licencing of hospitals as at the date of signature of this Agreement; and d) The management shall be integrated with the hospital.	
Nursing services only for specialistic care (CPC 93191)	1) Unbound 2) None 3) None, except joint venture requirement.	1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; b) The health professionals shall be Indonesian; and c) Establishment limited to the capital of provinces in East Indonesia region except Manado and Makassar.	

(1) “Qualification big” refers to high risk, high technology or high capital, as stipulated in Law No. 2 of 2017 on construction services.

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
B. Computer and Related Services			
Consultancy Services Related to the Installation of computer hardware (CPC 841)	1) Unbound 2) None 3) None, except joint operation requirement through a representative office.	1) None 2) None 3) None, except the Indonesian local partner must be a member of the Indonesian Consultant Association.	
		1) None 2) None 3) None,	

Software Implementation Services (CPC-842)	1) None 2) None 3) None, except joint venture requirement.	except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association.	
Maintenance and repair Services of Office Machinery and Equipment Including Computers (CPC 845)	1) Unbound 2) None 3) Unbound.	1) Unbound 2) None 3) Unbound.	
C. Research and Development Services			
Interdisciplinary R&D (CPC 853, only for industrial activities)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) The Indonesian counterpart must have the involvement of researchers from Indonesian research institutions (higher education, government, business, private-non-profit) in Indonesia; c) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers; and d) Granting license for foreign services suppliers will be subject to assessment on the object, area and period of research in accordance with applicable laws and regulations at the time of application.	
Research and experimental development services on linguistic and languages (CPC 85204), only for foreign language only	1) Unbound 2) None 3) None except, joint operation requirement through a representative office.	1) Unbound 2) None 3) None, except: a) Required to establish partnership with higher education institution in Indonesia particularly PTN-BH ('Perguruan Tinggi Negeri Berbadan Hukum'); b) License requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers; and c) Granting license for foreign services suppliers will be subject to assessment on the object, area and period of research in accordance with applicable laws and regulations at the time of application.	

E. Rental and leasing services without operator			
Rental of vessel without crew (CPC 83103)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 60 per cent of the capital share in a joint venture shall be owned by foreigners.	
F. Other Business Services			
Management Consulting Services (CPC 865) only for: - General management consulting services (CPC 86501) Marketing management consulting services (CPC 86503) - Human resources management consulting services (CPC 86504).	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 30 per cent of the capital share in a joint venture shall be owned by foreigners.	
Project Management Services other than Construction (CPC 86601)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association.	
Technical Testing and analysis services (8676) other than: - Oil and gas support services: technical inspection services; - Testing and analysis of electrical installation, Power construction and installation: Low / medium voltage electrical installation; - Survey on destructive/ nondestructive testing; - Technical Inspection Services (CPC 86764); Horticultural research and quality test laboratories; - Testing and analysis of electrical installation: Electrical utility construction and high/extra-high voltage electrical installation (CPC 86763**); Performance of periodic testing of motor vehicles (CPC86763**).	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association.	
Technical Testing and Analysis Services (CPC 8676**): -	1) None 2) None 3) None,	1) None 2) None 3) None, except: a) No more than 30 per cent of the capital share in a joint venture shall be owned by	

Horticultural research and quality test laboratories	except joint venture requirement.	foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association.	
Technical Testing and Analysis Services (CPC 8676**) only for: - Testing and analysis of electrical installation: Electrical utility construction and high/extra-high voltage electrical installation (CPC 86763**) - Performance of periodic testing of motor vehicles (CPC86763**) - Technical Inspection Services (CPC 86764).	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association.	
Convention Services (Meetings, Incentives, Conventions and Exhibitions) CPC 87909**	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except: no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners.	
Services Incidental of Manufacturing (CPC 884 not including CPC 88411, 88412, 88421, 88422, 88423, 88430, 88442, 88460, 88491, 88492).	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except: a. No more than 33 per cent of the capital share in a joint venture shall be owned by foreign services suppliers; and b. The Indonesian local partner must be a member of the Indonesian Consultant Association.	
Services Incidental to Manufacturing (CPC 884**) - Liquefaction and Gasification only for Coal	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners.	
Services incidental to manufacture of metal products, machinery, and equipment (CPC 885)	1) None 2) None 3) None, except commercial presence shall be in the form of joint operation through a representative office in Indonesia.	1) None 2) None 3) None, except the Indonesian participant in the joint operation must be a member of the Indonesian Consultant Association.	
Services Incidental to energy distribution (CPC 887) exclusively covers only consultancy services related to	1) Unbound 2) None 3) None, except joint venture	1) Unbound 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by	

operation of power plant and network	requirement.	foreign services suppliers.	
Electrical Power Installation Consultation (KBLI 71102)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 55 per cent of the capital share in a joint venture shall be owned by foreigners.	
Electrical Power Construction and Installation on Electrical Provision Installations (KBLI 42213)	1) None 2) None 3) None, except joint venture requirement and, where applicable, compliance with Electricity Supply Business Plan (RUPTL).	1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners.	
Operation and Maintenance of Electrical Power Installation (KBLI 43211)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners.	
Power plant >10 MW (KBLI 35101)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except: a) No more than 95 per cent of the capital share in a joint venture shall be owned by foreign services suppliers; and b) Foreign services suppliers are required to sell the produced energy to PLN (state owned company).	
Geothermal Power Plant: <= 10MW (KBLI 35101)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners.	
Activities incidental to mining and other excavation (KBLI 09900), only for Geothermal Operating and Maintenance Services	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners.	
Drilling services for geothermal project (KBLI 06202)	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners.	

Services Incidental to Mining (CPC 883**): - Oil and Gas Construction Service: Platform	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 75 per cent of the capital share in a joint venture shall be owned by foreigners.	
Drilling services for offshore oil and gas project	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners.	
Site Preparation work for Mining (CPC 5115)	1) None 2) None 3) None, except: a) joint venture requirement; and b) subject to an economic needs test that gives priority to Indonesian enterprises, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement.	1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Priority must be given to hiring Indonesian sub-contractors and workers, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement.	
Contract mining, meaning mining and related services rendered on a fee or contract basis at metallic, non-metallic and coal mining sites	1) None 2) None 3) None, except: a) joint venture requirement; and b) subject to an economic needs test that gives priority to Indonesian enterprises, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement.	1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Priority must be given to hiring Indonesian sub-contractors and workers, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement.	
Geological, geophysical and	1) None 2)	1) None 2) None 3) None,	

other scientific prospecting services (CPC 86751**): Only for Oil and Gas, Geology and Geophysics Survey Services	None 3) None, except joint venture requirement.	except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners.	
Geological, geophysical and other scientific prospecting services (CPC 86751**): Only for geothermal survey services.	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners.	
Engineering related scientific and technical consulting services (CPC 8675), only for: - Subsurface surveying services (CPC 86752) - Surface surveying services (CPC 86753) - Map-making services (CPC 86754).	1) None 2) None 3) None, except joint venture requirement.	1) None, except: a) Geospatial Data and Information shall be processed in Indonesia's territory; and b) If the necessary human resources, or equipment/utilities are not available in Indonesia, processing of Geospatial Data and Information can be conducted overseas. 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreign services suppliers; b) Geospatial Data and Information shall be processed in Indonesia's territory; and c) If the necessary human resources, or equipment/utilities are not available in Indonesia, processing of Geospatial Data and Information can be conducted overseas.	
Maintenance and Repair of Equipment (not Including Maritime Vessels, Aircraft or other Transport Equipment) (CPC 8861+8866).	1) None 2) None 3) None, except joint venture requirement.	1) None 2) None 3) None except: a) No more than 33 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian participant must be a member of the Indonesian Consultant Association.	
Packaging Services (CPC 876)	1) Unbound 2) None 3) None, except joint venture requirement limited to eastern Indonesia.	1) Unbound 2) None 3) None, except no more than 70 per cent of the capital share in a joint venture shall be owned by foreigners.	
	1) None 2) None 3) None,	1) None 2) None 3) None,	

Market Research Services (CPC 86401)	except joint operation requirement through a representative office.	except the Indonesian participant in a joint operation must be a member of the Indonesian Consultant Association.	

COMMUNICATIONS SERVICES - Wired telecommunication services (KBLI 61100) - Wireless/satellite telecommunications services (KBLI 61200, 61300) - Wired/wireless/ satellite telecommunications services integrating with telecommunications services (KBLI 61921, 61922, 61923, 61929) - Content telecommunications services (ringtone, premium short message services, etc) (KBLI 61911) - Call centers and other added-value telephony services (KBLI 61919) - Internet service providers (KBLI 61921) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 26 of 72 - Data communications services (KBLI 61922) - Public internet telephony services (KBLI 61923) - Internet interconnection services (Network Access Point), other multimedia services (KBLI 61929) Local Services: − Public Switched Telephone Service (CPC 7521) − Teleconferencing Services (CPC 75292) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Long Distance − Public Switched Telephone Service (CPC 7521) − Teleconferencing Services (CPC 75292) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. International Services : − Public Switched Telephone Service (CPC 7521) − Teleconferencing Services (CPC 75292) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 27 of 72 Circuit Switched Public Data Network Services (CPC 7523**) − Local − International 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Circuit Switched Public Data Network Services (CPC 7523**): Long Distance 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Packet-switched public data network services (CPC 7523**) − X. 25 − Frame relay − Local − Local distance − International 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Private Leased Circuit Services (CPC 7522**+7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Telex services (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Telegraph services (CPC 7522) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None ANNEX II – SCHEDULE - INDONESIA – 28 of 72 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Facsimile (CPC 7521** + 7529**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Electronic data interchange (EDI) (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Enhance/Value-Added Facsimile Services, Including Store and Forward, Store and Retrieve (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. On-line Information and database Retrieval (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. On-line Information and or Data Processing (Including transaction processing) (CPC 843) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 29 of 72 Dedicated Network Services (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Domestic Services: − Mobile CellularTelephone Services (CPC 75213) − Internet Access Services Regional and National Paging Services (CPC 75291) − Public Payphone Services Voice Mail Service (CPC 7523) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Voice Mail Services (CPC 7523**) Electronic Mail Services (CPC 75232) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. − Computer Time Sharing Services (CPC-84330) − Video text Services (CPC 75229) − Electronic Mail Box (CPC 75232) − File Transfer Services (CPC 75299) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 30 of 72 − Home Telemeter Alarm (CPC-75299) − Entertainment Services (CPC-75299) − Management Information Services (CPC75299) Audiovisual Services Motion Picture and VideoTape production (CPC 9611) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. No more than 51 per cent of the capital share in a joint venture shall be owned by

foreign service suppliers; and b. License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Motion Picture and Video Tape Distribution Services (CPC 9611) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Motion Picture Projection Services (CPC 9612) 1) None 2) None 1) None 2) None ANNEX II – SCHEDULE - INDONESIA – 31 of 72 3) None, except joint venture requirement. 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Sound Recording (KBLI 59201) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. CONSTRUCTION AND RELATED ENGINEERING SERVICES2 Construction Work for Buildings (CPC 512) except for one- and two-dwelling buildings (CPC 51210) Contruction Work for Civil Engineering (CPC 513) 1) None 2) None 3) None, except commercial presence only permitted in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from 2 “Qualification big” refers to high risk, high technology or high capital, as stipulated in Law No. 2 of 2017 on construction services. ANNEX II – SCHEDULE - INDONESIA – 32 of 72 Assembly and Erection of Prefabricated Constructions (CPC 514) Installation Work (CPC 516) Building Completion and Finishing Work (CPC 517) Pre-erection Work at Construction Site (CPC 511) except Site Investigation Work (CPC 51110) and Site Formation and Clearance Work (CPC 51113) Special Trade Construction(CPC 515) Renting Services Related Equipment for Construction or Demolition of Building or Civil Engineering Works with Operator (CPC 518) that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian. DISTRIBUTION SERVICES Wholesale Trade Services of food, beverages, and tobacco with minimum 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: ANNEX II – SCHEDULE - INDONESIA – 33 of 72 space above 5,000 square meters (CPC 6222) Wholesale Trade Services of textile, clothing and footwear with minimum space above 5,000 square meter (CPC 6223) a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) Subject to qualification and licensing requirements and procedures including registration; c) Required to appoint Indonesian trade enterprises as agent, single agent, distributor or single distributor; d) Obligation to cooperate with at least 100 Indonesian Small and Medium Enterprises yearly as a supplier and retailer, along with training and development with due regard to the principles of mutual need, mutually reinforcing and mutually beneficial; and e) Only permitted to be located in the suburbs of the provincial capitals in the islands of Kalimantan, Sulawesi, Nusa Tenggara, Maluku and Papua. Direct Selling (Multi Level Marketing) 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) Subject to qualification and licensing requirements and procedures including registration; ANNEX II – SCHEDULE - INDONESIA – 34 of 72 c) Have the obligation to include Indonesian products in their list of products; and d) Must join the Indonesian Direct Selling Association. Franchising - Wholesale Trade Services of food, beverages, and tobacco with minimum space above 5,000 meter square 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) Subject to qualification and licensing requirements and procedures including registration; c) Required to appoint Indonesian trade enterprises as agent, single agent, distributor or single distributor; d) Obligation to cooperate with at least 100 Indonesian Small and Medium Enterprises yearly as a supplier and retailer, along with training and development with due regard to the principles of mutual need, mutually reinforcing and mutually beneficial; and e) Only permitted to be located in the suburbs of the provincial capitals in the islands of Kalimantan, Sulawesi, Nusa Tenggara, Maluku and Papua. ANNEX II – SCHEDULE - INDONESIA – 35 of 72 EDUCATIONAL SERVICES General Conditions Unless otherwise provided, commercial presence of the foreign service provider is permitted only through an education institution which is registered in Indonesia and must meet the following conditions: 1) Mutual recognition arrangement between relevant institutions on credits, programs, and certifications is required; 2) Foreign education institutions providing services must establish a partnership with a local partner. Foreign language instructors must be native and Indonesian speakers; 3) Foreign education institutions must be listed in the Ministry of Education and Culture’s List of Accredited Foreign Education and its local partner must be accredited; 4) Notwithstanding the horizontal section, commercial presence shall be established in the form of yayasan (foundation); 5) Foreign education institutions in cooperation with local partners may open education institutions in the cities of Jakarta, Surabaya, Bandung, Yogyakarta, and Medan; 6) Number of educators shall include at least thirty per cent Indonesian educators; and 7) Number of employees, other than educators and the head, shall be at least eighty per cent Indonesian employees. B. Secondary Education Services Technical and Vocational Secondary Education Services (electronic, automotive) (CPC 92230) 1) None 2) None 3) None, except as indicated in the General Conditions. 1) None 2) None 3) Unbound, except as indicated in the General Conditions. ANNEX II – SCHEDULE - INDONESIA – 36 of 72 C. Higher Education Services Work Training3 (Technical and Vocational Education Services) The General Conditions above do not apply to this sub-sector. 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. No more

than 67 per cent of the capital share in the joint venture shall be owned by foreigners; and b. The ratio of Australian to Indonesian trainers and administrative staff will be agreed between the parties to the joint venture. No geographic or subject matter limitations apply. Australian providers are able to provide Australian Qualifications Framework qualifications, Indonesian Qualification Framework qualifications levels 1-5 and non-award courses. Australian requirements for trainers shall be accepted. Other higher education services (CPC 9239)4: priorities for Science, Technology, Engineering, 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. In the form of non-profit Juridical Person; 3 Responsibility of Ministry of Manpower. 4 Any measure adopted after the date of entry into force of this Agreement in relation to Other higher education services (CPC 9239) shall be deemed an existing non-conforming measure subject to paragraph 1 of Article 9.7 (Trade in Services – Non-Conforming Measures), at which point the more liberalising commitment would prevail. ANNEX II – SCHEDULE - INDONESIA – 37 of 72 Math and Modern Business programs b. 100 per cent of the capital share can be owned by foreigners; c. Mutual recognition arrangement between relevant institutions on credits, programs, and certifications is required; d. Foreign language instructors must be English Speakers; e. Foreign education institutions must be accredited in Australia and listed in the Ministry of Research, Technology and Higher Education; f. Anywhere in Indonesia subject to economic needs test; g. License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers; and h. Four mandatory subjects (Religion, Pancasila, Citizenship Education/Kewarganergaraan and Bahasa Indonesia) shall be integrated into the curriculum and delivered by Indonesian educators. D. Adult Education Services Language Course and Training (CPC 924) 1) None 2) None 3) None, except as indicated in the General Conditions. 1) None 2) None 3) Unbound, except as indicated in the General Conditions. E. Other Education Services Other education services only for Football and Chess (CPC 929) 1) None 2) None 3) None, except as indicated in the General Conditions. 1) None 2) None 3) Unbound, except as indicated in the General Conditions. ANNEX II – SCHEDULE - INDONESIA – 38 of 72 ENVIRONMENTAL SERVICES A. Sewage Services (CPC 9401) Only for Wastewater management 1) None 2) None for training, technical consultation, sample testing 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. B. Refuse Disposal Services (CPC 9402) Solid Waste Disposal Services, only for : - Integrated hazardous waste treatment facility services for oil sludge and waste mercury treatment in a particular area. The services provider must be equipped with modern and sophisticated technology and environmental safety. The product will be used as a new material or energy power - In site hazardous waste treatment facility services for the treatment of waste of mining product and 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. ANNEX II – SCHEDULE - INDONESIA – 39 of 72 waste of fly ash and bottom ash of coal product Refuse disposal Services (CPC 94020), only for non-hazardous garbage, trash, waste and rubbish 1) Unbound* 2) None 3) None, except joint venture requirement. 1) Unbound* 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. C. Cleaning Services of Exhaust Gases (CPC 9404) for Air pollution Control D. Other Environmental Protection Services (CPC 9409) only for Laboratory Services for Environment (laboratory which has the ability and authority to test and examine the environmental quality parameter according to the current laws and regulations on environment) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. ANNEX II – SCHEDULE - INDONESIA – 40 of 72 Water Management5 only for drinkable water (CPC 36001) 1) Unbound* 2) None 3) None, except joint venture requirement. 1) Unbound* 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. FINANCIAL SERVICES 1), 2), 3) Indonesia's commitments including its relevant terms, limitations, conditions, and qualifications for the financial services sectors and sub-sectors in its Schedule of Specific Services Commitments under AANZFTA6 are incorporated into this Schedule. For greater certainty, the elimination of Market Access and National Treatment limitations for Modes 1, 2 and 3 of Financial Services under this Agreement by the year 2020 shall take place only if Indonesia also eliminates them under AANZFTA. HEALTH RELATED AND SOCIAL SERVICES Hospital Services (CPC 93110)7 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) Foreign hospital may only establish class A or class B hospital, as defined by Minister of Health Regulation No. 56 of 2014 on the classification and licencing of Foreign class B hospital may phase up from 100 to 250 beds within two years as provided in its business plan submitted at the time of application for establishment. 5 Water management incudes series of supplying services activities related to surface water purification from the water source, water distribution directly from the water terminal, water tank transportation, with the purpose to selling those to consumers. 6 For greater certainty, Indonesia's commitments on Financial Services in relation to local presence do not go beyond its commitments under AANZFTA. 7 For greater certainty, this commitment includes pathology services and paramedic services provided in hospitals. ANNEX II – SCHEDULE - INDONESIA – 41 of 72 hospitals as at the date of signature of this Agreement; and c) May only employ foreign health professionals to the extent that there are not sufficiently qualified

Indonesians. Other Human Health Services (CPC 9319) only for : Ambulance (CPC 93192) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) May only employ foreign health professionals to the extent that there are not sufficiently qualified Indonesians; c) Must be established in a class A or B hospital-owned premises, as defined by Minister of Health Regulation No. 56 of 2014 on the classification and licencing of hospitals as at the date of signature of this Agreement; and d) The management shall be integrated with the hospital. Welfare Services Delivered Through Residential Institutions to Old Persons and the Handicapped (CPC 93311) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and ANNEX II – SCHEDULE - INDONESIA – 42 of 72 Welfare services not delivered through residential institutions (CPC 93323) b) May only employ foreign health professionals to the extent that there are not sufficiently qualified Indonesians. TOURISM AND TRAVEL RELATED SERVICES Hotels8 (3, 4 and 5 star hotels) 1) None 2) None 3) None 1) None 2) None 3) None, except higher paid up capital is required of foreign service suppliers. This measure will be eliminated in the year 2020. Hotels (1 or 2 star hotel) (KBLI 55115, 55114) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. Motel (KBLI 55199) 1) None 2) None 3) None except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. Letting services of furnished accommodations (CPC 64193), excluding homestay 1) None 2) None 3) None except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. 8 Starred Hotel is a service business which provides accommodation and food and beverages facilities and other services typically provided by hotels, except casinos and other activities prohibited by law for reasons of public morals, religion, security and public order. ANNEX II – SCHEDULE - INDONESIA – 43 of 72 Meal Serving Services with Full Restaurant Services (CPC 64210) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. Beverage Serving Services without Entertainment (CPC 64310) Beverage Serving Services With Entertainment (CPC 64320) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. B. Travel Agencies and Tour Operators Tour Operator (CPC 74710**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. C. Tourist Guide Services Tourist Guide Services (CPC 74720) 1) None 2) None 3) Unbound. 1) None 2) None 3) Unbound. D. Other Tourist Resorts including9 hotel (3, 4 and 5 stars), not including marina facilities and hotel management) 1) None 2) None 3) None 1) None 2) None 3) None, except higher paid up capital is required of foreign service suppliers. This measure will be eliminated in the year 2020. 9 Tourist Resort is an area built to accommodate the facilities needed for tourists such as hotels, marinas, golf courses, cultural open stages and other facilities, except casinos and other activities prohibited by law; for reasons of public morals, religion, security and public order. ANNEX II – SCHEDULE - INDONESIA – 44 of 72 Tourism Consultancy Services (KBLI 70201) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. RECREATIONAL, CULTURAL AND SPORTING SERVICES (OTHER THAN AUDIO VISUAL SERVICES) A. Entertainment Services (including theatre, live bands and circus services) Theatre and opera house (CPC 96193) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. D. Sporting and Other Recreational Services Golf Courses and other facilities Only within the tourist resorts (CPC 96413) 1) None 2) None 3) None. 1) None 2) None 3) None, except higher paid up capital is required of foreign service suppliers. This measure will be eliminated in the year 2020. E. Other Marina facilities 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 45 of 72 TRANSPORTATION SERVICES A. Maritime Transport Services Passenger and freight transportation excluding cabotage and auxiliary services Maintenance and repair of Vessels (CPC 8868**) 1) Unbound 2) None 3) None, except joint venture only for vessel classification above 50000 DWT. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Pushing and Towing Services for Maritime Transport (CPC 7214) (Excluding Cabotage) 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Vessel Salvage and Refloating Services (CPC 7454) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that ANNEX II – SCHEDULE - INDONESIA – 46 of 72 applicable to Indonesian service suppliers. Supporting services for maritime transport, only for port operation services (CPC 7451**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Internal Waterways Transport Maintenance and repair of vessels (internal waterways) (CPC 8868**) 1) Unbound 2) None 3) None, except joint venture only in the eastern part of

Indonesia. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Maritime Auxiliary Services ANNEX II – SCHEDULE - INDONESIA – 47 of 72 Maritime Cargo Handling Services 1) Unbound10 except for no limitation on transshipment (board to board or via the quay) or on the use of on-board cargo handling 2) None 3) None, except a) joint venture requirement; b) only allowed to operate in main ports. 1) Unbound11 except for no limitation on transshipment (board to board or via the quay) or on the use of on-board cargo handling 2) None 3) None, except: a) no more than 51 per cent of capital share shall be owned by foreigners with 49 per cent through Foreign Direct Investment and the remaining percentage through other mechanisms subject to domestic regulation; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Access to and use of port facilities in the ports which are opened for international shipping are permitted. Air Transport Services a. Aircraft repair and maintenance services 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. b. Computer reservation system (CRS) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None Airlines are permitted to operate their own Computer 10 A commitment on this mode of delivery is not feasible. 11 A commitment on this mode of delivery is not feasible. ANNEX II – SCHEDULE - INDONESIA – 48 of 72 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. reservation system. c. Selling and marketing 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Airlines are permitted to operate their own selling and marketing. Airport operation services, and airport activity services (KBLI 52230) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Rail Transport Services Operation of railways 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. Road Transport Services Maintenance and repair of road transport equipment (CPC 8867, excluding motorcycle) 1) Unbound 2) None 3) None, except joint venture requirement with foreign partner shall have manufacturing activities in Indonesia, including its local group companies, relating to the maintenance and repair of Automobiles. 1) Unbound 2) None 3) None, except: a) No more than 35 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. ANNEX II – SCHEDULE - INDONESIA – 49 of 72 Supporting services for road transport, only for: Highway, bridge and tunnel operation services (CPC 7442) Parking services (CPC 7443) 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. SUPPORTING AND AUXILIARY TRANSPORT SERVICES Maritime Freight Forwarding Services 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Storage and warehousing services Outside Port Area and 1st Area only for: - Storage services of frozen or refrigerated goods (CPC 7421) -Other storage or warehousing services (CPC 7429) 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 30 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 50 of 72 APPENDIX B Sector Architectural Services (CPC 8671) Advisory and Consultative Engineering Services (CPC 86721) Engineering design services for the construction of foundations and building structures (CPC 86722) Engineering design services for mechanical and electrical installations for buildings (CPC 86723) Engineering design services for the construction of civil engineering works (CPC 86724) Engineering design services for industrial processes and production (CPC 86725) Other engineering services during the construction and installation phase (CPC 86727) Other engineering services (CPC 86729) Integrated Engineering Services (CPC 8673) Urban Planning Services (CPC 86741) Technical Testing and analysis services (8676) other than Oil and gas support services: technical inspection services; Testing and analysis of electrical installation, Power construction and installation: Low / medium voltage electrical installation; Survey on destructive/ non-destructive testing Testing and analysis of electrical installation: Electrical utility construction and high/extra-high voltage electrical installation (CPC 86763**) Performance of periodic testing of motor vehicles (CPC86763**) Technical Inspection Services (CPC 86764) Maintenance and repair of equipment (not including Maritime Vessels, Aircraft or other Transport Equipment) (CPC 8861+8866)] Construction Work for Buildings (CPC 512) except for one- and two-dwelling buildings (CPC 51210) Construction Work for Civil Engineering (CPC 513) Assembly and Erection of Prefabricated Constructions (CPC 514) Installation Work (CPC 516) Building Completion and Finishing Work (CPC 517) Pre-erection Work at Construction Site (CPC 511) except Site Investigation Work (CPC 51110) and Site Formation and Clearance Work (CPC 51113) Special Trade Construction (CPC 515) Renting Services Related Equipment for Construction or Demolition of Building or Civil Engineering Works with Operator (CPC 518) Secondary Education Services : Technical and Vocational Secondary Education Services (electronic, automotive) (CPC 92230) Higher Education Services: Work Training: TVET Other higher education services (CPC 9239) Adult Education Services: Language Course and Training (CPC 924) Other Education Services: Football and Chess only (CPC 929) Hospital Services (CPC 9311) ANNEX II – SCHEDULE - INDONESIA – 51 of 72

Section B.

1. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : Manufacturing - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors : a. Limitation on Foreign Equity Participation: Cars maintenance and repair (ISIC 5020) Patent medicine industry (ISIC 2423) b. Partnership requirement: Manufacturer of copra (10421) Sweetening and saline fruits and vegetable industry (ISIC 1513) Manufacturer of soy sauce (10771) Milk powder and condensed milk processing and industry (ISIC 1520) Stamped Batik Industry (ISIC 1712) Rattan processing industry (ISIC 2010) Preserving industry of rattan, bamboo, and the likes (ISIC 2010) Manufacturer of wooden goods (moulding and construction material components industry) (16221) Essential Oil Industry (ISIC 2429) Tobacco drying and preliminary processing industry (ISIC 1600) Bricks and clay/ceramic industry (ISIC 2691, 2692, 2693) Goods made from clay/ceramic industry (ISIC 2691, ISIC 2693) Lime industry (ISIC 2694) ANNEX II – SCHEDULE - INDONESIA – 52 of 72 Goods made from cement industry (ISIC 2695) Good made from lime industry (ISIC 2695) Other goods made from cement and lime industry (ISIC 2695) Nails, nuts and bolts industry, component and spare parts to start up motor industry, pumps and compressor industry, component and two and three wheels vehicles accessories industry, bike and pedicab/becak accessories industry (ISIC 2899, 2911, 2912, 3591, 3592) Agricultural machinery industry using medium technology such as rice peeler, corn peeler and handy-tractor (ISIC 2921) Manufacturer of wooden ships for marine tourism and fishing (ISIC 3511, 3512) Manufacturer of devices and fittings of wooden ships for marine tourism and fishing (ISIC 3511) Manufacturer of jewelry products from precious metal for personal use (ISIC 3330, 3691) Manufacturer of jewelry products from precious metal for non-personal use (ISIC 3330, 3691) Manufacturer of jewelry products from non-precious metal for non-personal use (ISIC 3330, 3699) Manufacture of precious stones (ISIC 3691) Manufacture of handicraft not elsewhere classified (ISIC 3699) Non-metal waste recycle (ISIC 3720) Sugar industry from sugar cane (White Crystal Sugar, Refined Crystal Sugar and Raw Crystal Sugar) (ISIC 1542) Fishery Processing Industry: Salting and drying of fish and biota from other waters (ISIC 1512); Smoking of fish and biota from other waters (ISIC 1512); Fish yeasting/fermentation, and other cooked products for extraction and fish jelly (ISIC 1512, 1549); Processing of minced fish and surimi (ISIC 1512) c. Recommendation or specific requirements by relevant authorities: Cigarette Industries: - Clove cigarette industry (ISIC 1600) - Regular non-clove cigarette industry (ISIC 1600) ANNEX II – SCHEDULE - INDONESIA – 53 of 72 - Other cigarette industries (ISIC 1600) Manufacturer of securities (inter alia, bank notes paper, cheque paper, watermark paper) (ISIC 2101) Money printing and special printing industry/Security documents such as stamp, stamp duty, valuable paper such as Bank Note Paper, Cheque Paper, Watermark paper, passport, demography document and hologram, Money Printing Industry. Special permit is required from the Minister of Industry and from the National Intelligence Agency (ISIC 2221) Cyclamate and Saccharin Industry(ISIC 2411) Special Ink Industry (ISIC 2429) Lead smelting industry (ISIC 2720) Saw Mill or Lumbering industry with production/output capacity above 2.000 M3/year (ISIC 2010) Veneer Industry, Plywood industry, Laminated Veneer Lumber (LVL) Industry (ISIC 2021) Wood chip industry and Wood Pellet Industry (ISIC 2029) Narcotics for Pharmaceutical Industry (Pharmaceutical Industry) (ISIC 2423) Medical Equipment Industry: - Class B (surgical masks, syringe, patient monitor, condom, surgical gloves, hemodialysis fluids, PACS, surgical knives) (ISIC 2423) - Class C (IV Catheter, X Ray, ECG, Patient Monitor, Orthopedic Implants, Contact Lens, Oximeters, Densitometers) (ISIC 2423) - Class D (CT Scan, MRI, Cardiac Catheter, Cardiac Stent, HIV Test, Pacemaker, Dermal Fillers, Ablation Catheters) (ISIC 2423) d. Requirement on source of raw material: Pulp industry (from wood) (ISIC 2101) e. Combination of the above requirements: Crumb rubber industry (ISIC 2519) Industry of raw materials for explosives (ISIC 2411) Industry of explosive materials and its components for industry (ISIC 2429) ANNEX II – SCHEDULE - INDONESIA – 54 of 72 Medical equipment industry: - Class A (Cotton, bandage, stick, IV pole, sanitary napkins, adult diapers, patient's bed, wheelchair) (ISIC 2423) Crops plantation seeding business industry for the following crops in an area of 25 hectares or more, until a certain area as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: - Jatropha curcas, other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, esssential oil crops, medicinal pharmaceutical crops, other spice crops, rubber and other trees for extraction of sap, and other crops not elsewhere classified (ISIC 0111, 0112, 0113, 0200) Plantation business for the following crops which are integrated with processing industry in an area of 25 hectares or over with a capacity equivalent to or exceeding a certain limit as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: Cashews plantation and manufacture of dried cashew nuts and cashew nut shell liquid (CNSL) (ISIC 0113, 1513, 1549); Peppercorns plantation and manufacture of dried white peppercorns and dried black peppercorns (ISIC 0112, 1513, 1549); Jatropha plantation and manufacture of jatropha oil (ISIC 0111, 0112, 2429); Sugar cane and manufacture of cane sugar, sugar cane top and sugar cane bagasse (ISIC 0111, 1542); Tobacco and manufacture of dried tobacco leaves (ISIC 0111, 1600); Cotton plantation and manufacture of cotton fiber (ISIC 0111); Coconut palms plantation and manufacture of coconut oil (ISIC 0113, 1514); Coconut palms plantation and manufacture of copra, fiber, coconut shell charcoal, dust, and nata de coco (ISIC 0113, 1514, 1549); Oil palms plantation and manufacture of palm oil (CPO) (ISIC 0113, 1514, 1549); ANNEX II – SCHEDULE - INDONESIA – 55 of 72 Existing Measures: : Coffee plantation and manufacture of coffee bean peeling, cleaning and sorting (ISIC 0113, 1513); Cocoa plantation and manufacture of cocoa bean peeling, cleaning and drying (ISIC 0113,

1513, 1549); Tea and manufacture of black tea/green tea (ISIC 0113, 1513, 1549); Cloves plantation and manufacture of dried clove buds (ISIC 0113, 0140, 1549); Essential oil crops plantation and manufacture of essential oil (ISIC 0111, 01112, 0113, 2429); Rubber plantation and manufacture of sheets, concentrated latex (ISIC 0111, 2519); Plantation of grains other than coffee and cocoa beans and manufacture of grain peeling and cleaning other than coffee beans and cocoa beans (ISIC 1513, 1549) Manufacturer of the following agricultural products with an equal or exceeding a certain limit as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: - Crude vegetable and animal oils (edible oils); copra, fiber, coconut shell charcoal, dust, nata de coco; coconut oil; palm oil; peeling, cleaning, drying and sorting of cocoa beans and coffee beans products; cane sugar, sugar cane top and sugar cane bagasse; black tea/green tea; dried tobacco leaves; rude jatropha oil; cotton fiber and cotton seeds; rubber for sheets, concentrated latex; cashews for dried cashew nut and cashew nut shell liquid (CNSL); peppercorns for dried white peppercorns and dried black peppercorns; dried clove buds (ISIC 0111, 0140, 1513, 1514, 1531, 1542, 1549, 1600, 2429, 2519) - Law No. 25 of 2007 Concerning Investment - Law No. 39 of 2014 Concerning Plantations - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Presidential Decree No. 21 of 2001 Concerning ANNEX II – SCHEDULE - INDONESIA – 56 of 72 Lubricant Supply and Services - Regulation of the Minister of Agriculture No. 98 of 2013 on Guidance of Plantation Business License j.o Regulation of the Minister of Agriculture No. 29 of 2016 on the Amendment of Regulation No. 98 of 2013 - Regulation of the Minister of Health No. 62 of 2017 Concerning Medical Devices and Household Health Products Distribution Authorization - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 57 of 72 2. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : Agriculture - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors: a. Limitation on Foreign Equity Participation For each individual crop seeding or seedling business in an area of more than 25 hectares: - Staple food crops (rice, corn, soybeans, groundnuts, green beans, including cassava and sweet potatoes) and other food crops not classified elsewhere (ISIC 0111, 0112, 0113, 0200) - Seasonal fruits crops, grapes, tropical fruits crops, citrus fruits, apples, pome and stone fruits, berries, annual vegetables, perennial vegetables, drug crops, mushrooms, floriculture crops (ISIC 0111, 0112, 0113, 0200) For each individual crops cultivation business in an area of more than 25 hectares: - Staple food crops (rice, corn, soybeans, groundnuts, green beans and other food crops including cassava and sweet potatoes) (ISIC 0111, 0112, 0113, 0200) - Seasonal fruits crops, grapes, tropical fruits crops, citrus fruits, apples, pome and stone fruits, berries, leafy vegetables (cabbages, mustard, scallion, celery), root vegetables (shallot, garlic, potatoes, carrots), fruit-bearing vegetables (tomatoes, cucumber), chili peppers, paprika, mushrooms, ornamental plants, non-flower ornamental plants (ISIC 0111, 0112, 0113, 0200, 1513) Each of the following agriculture related activities: - Horticultural research and quality test laboratories, horticultural agro tourism activities, horticultural post-harvest services, retail sale of flower, horticultural development consultants, horticultural landscaping, ANNEX II – SCHEDULE - INDONESIA – 58 of 72 Existing Measures: : and horticultural courses services (ISIC 0140, 2022, 7310, 9219, 9241, 9249, 5239, 7414, 7421, 8090, 9241) - Research and development on agricultural genetic resources and engineering, and research and development on genetically modified organisms (GMO) product sciences and engineering (genetic engineering) (ISIC 7310) b. Locational requirement: Swine breeding and farming with quantity of more than 125 heads (ISIC 0122) c. Combination of the above requirements: Plantation business for the following crops without any processing unit in an area of 25 hectares or more, until a certain area as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: Jatropha curcas, other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops, other spice crops, rubber and other trees for extraction of sap, and other crops not elsewhere classified (ISIC 0111, 0112, 0113, 0200). - Law No. 39 of 2014 Concerning Plantations - Law No. 18 of 2009 Concerning Livestock and Animal Health and Law No. 41 of 2014 Concerning the Amendment to Law No. 18 of 2009 - Law No. 41 of 1999 Concerning Forestry - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest - Government Regulation No. 8 of 1999 Concerning Utilization of Plant and Wild Animal Species Government Regulation number 18 of 2010 Concerning Plant Cultivating Business - Government Regulation No. 44 of 1995 Concerning Seeding of Plantations - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are ANNEX II – SCHEDULE - INDONESIA – 59 of 72 Closed to Investment and Business Fields That Are Conditionally Open For Investment - Agriculture Minister Regulation No. 98 of 2013 Concerning Guidance of Plantation Business License j.o Agriculture Minister Regulation No. 29 of 2016 Concerning the Amendment of Regulation No. 98 of 2013 - Agriculture Minister Decree No. 404 of 2002 Concerning Guidelines for License and Registration on Livestock Sector - Agriculture Minister Decree No. 348 of 2003 Concerning Guidelines for License on Horticulture Sector - Agriculture Minister Regulation No 2 of 2009 Concerning Guidelines of Veterinary Medical Services - Agriculture Minister Regulation No. 39 of 2010 Concerning the Guidelines on Business Licensing for Staple Crops Cultivation - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 60 of 72 3. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : Forestry - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors: a. Limitation on Foreign Equity

Participation: Hunting business in Hunting Parks and Hunting Blocks (ISIC 0150, 9219, 9241, 9249) Captive breeding of animals and plants, and conservation institutions (ISIC 0150) b. Partnership requirement: Exploitation of forests plants: Rattan (ISIC 2010), Pine Sap (Oleo Pine Resin) (ISIC 0200), Bamboo (ISIC 0200), Wood Rosin/Shorea Javanica (Damar) (ISIC 0200), Eaglewood/Aquilaria Malaccensis (Gaharu) (ISIC 0200) Exploitation of shellac, alternative food crops (sagoo), gums, and honeybee farming (ISIC 0200) Production of silkworm cocoon (natural silk farming) (ISIC 0122) c. Recommendation or specific requirements by relevant authorities: Development of Technology used on plant and wildlife genetics (ISIC 0200). Existing Measures: : - Law No. 41 of 1999 Concerning Forestry - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest - Government Regulation No. 36 of 2010 Concerning Natural Tourism Concession in the National Park Utilisation Zone, ANNEX II – SCHEDULE - INDONESIA – 61 of 72 Grand Forest Park, Nature Tourism Park - Government Regulation No. 8 of 1999 Concerning Utilization of Plant and Wild Animal Species - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 62 of 72 4. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central and Regional Investment Indonesia reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation, commercialisation or divestment of Government assets, entities or agencies including: (a) limitations on ownership of assets; (b) transfer or disposal of equity interests or their assets; (c) the right of foreign investors or their investments to control their assets; and (d) nationality of the senior management or members of the board of directors. For greater certainty: (a) where Indonesia transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to be an initial transfer or disposal of the interest for purposes of this entry; and (b) where Indonesia transfers or disposes of an interest in an existing state enterprise in multiple phases, subparagraph (a) shall apply separately to each such phase. - Law No. 19 of 2003 Concerning State Owned Enterprises - Law No. 40 of 2007 concerning Limited Liability Company - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 63 of 72 5. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central and Regional Investment Indonesia reserves the right to adopt or maintain any measures with respect to special preferences given to Micro, Small and Medium Sized Enterprises and Cooperatives ('Usaha Mikro, Kecil, Menengah dan Kooperasi' or UMKMK) in Indonesia12. - Law No. 13 of 2003 Concerning Manpower - Law No. 20 of 2008 Concerning Micro, Small and Medium Enterprises - Law No. 25 of 1992 Concerning Cooperatives. 12 For the purpose of this reservation, the terms "Micro", "Small", and "Medium Sized Enterprises" (UMKM) have the meanings set out in Law No. 20 of 2008. The term "Cooperatives" has the meaning set out in Law No. 25 of 1992. For illustrative purposes, the criteria for Micro, Small, and Medium Sized Enterprises, as stipulated in Law No. 20 of 2008, are as follows : (1) Criteria for Micro Enterprise are as follows: a. has a net asset, excluding land and building, up to IDR 50 million; or b. has an annual sales up to IDR 300 million. (2) Criteria for Small Enterprise are as follows: a. has a net asset, excluding land and building, more than IDR 50 million up to IDR 500 million; or b. has an annual sales more than IDR 300 million up to IDR 2.5 billion. (3) Criteria for Medium Enterprise are as follows: a. has a net asset, excluding land and building, more than IDR 500 million up to IDR 10 billion; or b. has an annual sales more than IDR 2.5 billion up to IDR 50 billion. The nominal amount as determined in paragraph 1, 2, and 3 above may be changed due to the economic condition by the Presidential Regulation. ANNEX II – SCHEDULE - INDONESIA – 64 of 72 6. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : : Fishery - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors: a. Partnership requirement: Fish hatcheries and fish rearings: Sea Fish, Brackishwater Fish, Freshwater Fish (ISIC 0502) b. Recommendation or specific requirements by relevant authorities: Cultivation of coral/ornamental coral reef (ISIC 0150). - Law No. 31 of 2004 as amended by Law No. 45 of 2009 Concerning Fishery - Law No. 5 of 1983 Concerning Indonesia's Exclusive Economic Zone - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2008 as amended by No. PER.12/MEN/2009 regarding Capture Fishery Business. - Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.12/MEN/2007 regarding Aquaculture Business Licensing ANNEX II – SCHEDULE - INDONESIA – 65 of 72 - Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2009 regarding Aquaculture Business Scale - Decree of the Minister of Forestry of the Republic of Indonesia No. 447/Kpts-II/2003 regarding Procedures on Exploitation or Capturing and Distribution of Wild Plants and Animals - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 66 of 72 7. Sector: Sub-Sector: Industry Classification: Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : Agriculture, Manufacturing Horticulture ISIC 0111, 0112, 0113, 0140, 1513, 1514, 1531, 1549, 2423 National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central Investment Indonesia reserves the right to adopt or maintain any measure affecting the establishment and operation of any horticulture business activities in Indonesia. Transition period of four years is provided for existing

investors13 in the Horticulture sub-sectors to make adjustment to comply with measures stated in the Law No. 13 of 2010 and its implementing regulation. The definition of Horticulture sub-sectors can be found in the Law No. 13 of 2010. - Law No. 13 of 2010 Concerning Horticulture - Government Policy. 13 “Existing investors” refer to the existing investors before the enactment of Law No. 13 of 2010. ANNEX II – SCHEDULE - INDONESIA – 67 of 72 8. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central Investment Obligation of National Treatment and Senior Management and Board of Directors shall not apply to : (a) new and emerging sectors, sub-sectors, industries, products, or activities; or (b) existing sectors, sub-sectors, industries, products, or activities; which are unregulated at the date of entry into force of this Agreement. Any sector, sub-sector, industry, product or activity that is described in International Standard Industrial Classification of all economic activities (ISIC) or the Services Sectoral Classification List (W/120) at the date of entry into force of this Agreement, is not ‘unregulated’ for the purposes of this Agreement. Indonesia shall notify Australia before adopting measures in relation to a sector, sub-sector, industry, product, or activity which it considers ‘unregulated’. Government Policy. ANNEX II – SCHEDULE - INDONESIA – 68 of 72 9. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central Investment Indonesia reserves the right to maintain any existing measures with respect to foreign investors or investments that have been overlooked, provided that the measures involved are already in force at the date of entry into force of this Agreement. When an overlooked measure is identified, it will be promptly inserted into Annex 1 of Indonesia’s Schedule. If an overlooked measure referred to in paragraph 1 is identified, Indonesia will provide Australia with details of the measure and the opportunity for consultations at least 90 days before including it in its schedule. Indonesia will not withdraw a right or benefit from an investor that has made an investment in accordance with its laws and regulations, through the addition of an overlooked measure to this schedule. Government Policy. ANNEX II – SCHEDULE - INDONESIA – 69 of 72 10. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Regional Investment National Treatment may not apply to any measures relating to the issuance of investment implementation licenses/permits14 at the provincial level15, which shall be considered on a case by case basis. - Law No. 23 of 2014 Concerning Local Government - Provincial Regulations - Government Policy. 14 For illustrative purposes, this may include a location permit or a building permit. 15 For the purpose of this reservation, “provincial level” means the regional level of government. ANNEX II – SCHEDULE - INDONESIA – 70 of 72 11. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : Manufacturing, Agriculture, Fishery, Forestry - - National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain any measure to address a food security emergency as declared under relevant legislation and only for the duration of the declared food security emergency. - Article 33 of 1945 National Constitution - Law No. 18 of 2012 Concerning Foods - Government Regulation No. 17 of 2015 Concerning Food Security and Nutrition - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 71 of 72 12. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : All Sectors - - Most-Favoured-Nation Treatment (Article 14.5) Central and Regional Investment Indonesia reserves the right to adopt or maintain any measure related to more favourable treatment accorded to investors of a non-Party and their investments resulting from: a. any existing or future preferential agreement or arrangement between or among ASEAN Member States; b. any existing agreement in force or signed prior to the date of the entry into force of this Agreement; and c. any international agreement in force or signed after the date of the entry of into force of this Agreement, involving: i. aviation; ii. fisheries; or iii. maritime matters, including salvage. ANNEX II – SCHEDULE - INDONESIA – 72 of 72 13. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors including new services - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Prohibition of Performance Requirements (Article 14.6) Central Investment Indonesia reserves the right to adopt or maintain any measure for the protection of Indonesian essential security interests. Law No. 3 of 2002 of National Defense.

Management Consulting Services (CPC 865) only for: General management consulting services (CPC 86501) Marketing management consulting services (CPC 86503) Human resources management consulting services (CPC 86504) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 30 per cent of the capital share in a joint venture shall be owned by foreigners. Project Management Services other than Construction (CPC 86601) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None except: ANNEX II – SCHEDULE - INDONESIA – 18 of 72 a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association. Technical Testing and analysis services (8676) other than: Oil and gas support services: technical inspection services; Testing and analysis of electrical installation, Power construction and installation: Low / medium voltage electrical installation; Survey on destructive/ nondestructive testing; Technical Inspection Services (CPC 86764); Horticultural research and quality test laboratories; Testing and analysis of electrical installation: Electrical utility construction and high/extra-high voltage electrical installation (CPC 86763**); 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner

must be a member of the Indonesian Consultant Association. ANNEX II – SCHEDULE - INDONESIA – 19 of 72 Performance of periodic testing of motor vehicles (CPC86763**). Technical Testing and Analysis Services (CPC 8676**): Horticultural research and quality test laboratories 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 30 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association. Technical Testing and Analysis Services (CPC 8676**) only for: Testing and analysis of electrical installation: Electrical utility construction and high/extra-high voltage electrical installation (CPC 86763**) Performance of periodic testing of motor vehicles (CPC86763**) Technical Inspection Services (CPC 86764). 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian local partner must be a member of the Indonesian Consultant Association. Convention Services (Meetings, Incentives, 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None ANNEX II – SCHEDULE - INDONESIA – 20 of 72 Conventions and Exhibitions) CPC 87909** 3) None, except: no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Services Incidental of Manufacturing (CPC 884 not including CPC 88411, 88412, 88421, 88422, 88423, 88430, 88442, 88460, 88491, 88492). 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. No more than 33 per cent of the capital share in a joint venture shall be owned by foreign services suppliers; and b. The Indonesian local partner must be a member of the Indonesian Consultant Association. Services Incidental to Manufacturing (CPC 884**) - Liquefaction and Gasification only for Coal 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Services incidental to manufacture of metal products, machinery, and equipment (CPC 885) 1) None 2) None 3) None, except commercial presence shall be in the form of joint operation through a representative office in Indonesia. 1) None 2) None 3) None, except the Indonesian participant in the joint operation must be a member of the Indonesian Consultant Association. Services Incidental to energy distribution (CPC 887) exclusively covers only consultancy services related to operation of power plant and network 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreign services suppliers. ANNEX II – SCHEDULE - INDONESIA – 21 of 72 Electrical Power Installation Consultation (KBLI 71102) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 55 per cent of the capital share in a joint venture shall be owned by foreigners. Electrical Power Construction and Installation on Electrical Provision Installations (KBLI 42213) 1) None 2) None 3) None, except joint venture requirement and, where applicable, compliance with Electricity Supply Business Plan (RUPTL). 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Operation and Maintenance of Electrical Power Installation (KBLI 43211) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Power plant >10 MW (KBLI 35101) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 95 per cent of the capital share in a joint venture shall be owned by foreign services suppliers; and b) Foreign services suppliers are required to sell the produced energy to PLN (state owned company). Geothermal Power Plant: <= 10MW (KBLI 35101) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 22 of 72 Activities incidental to mining and other excavation (KBLI 09900), only for Geothermal Operating and Maintenance Services 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. Drilling services for geothermal project (KBLI 06202) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. Services Incidental to Mining (CPC 883**): • Oil and Gas Construction Service: Platform 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 75 per cent of the capital share in a joint venture shall be owned by foreigners. Drilling services for offshore oil and gas project 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. Site Preparation work for Mining (CPC 5115) 1) None 2) None 3) None, except: a) joint venture requirement; and b) subject to an economic needs test that gives priority to Indonesian enterprises, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Priority must be given to hiring Indonesian sub-contractors and workers, ANNEX II – SCHEDULE - INDONESIA – 23 of 72 as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement. Contract mining, meaning mining and related services rendered on a fee or contract basis at metallic, non-metallic and coal mining sites 1) None 2) None 3) None, except: a) joint venture requirement; and b) subject to an economic needs test that gives priority to Indonesian enterprises, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Priority must be given to hiring Indonesian sub-contractors and workers, as set out in Law No. 4 of 2009 as in force at the date of signature of this Agreement. Geological, geophysical and other scientific prospecting services (CPC 86751**): Only for Oil and Gas, Geology and Geophysics Survey Services 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Geological, geophysical

and other scientific prospecting services (CPC 86751**): Only for geothermal survey services 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. Engineering related scientific and technical consulting services (CPC 8675), only for: - Subsurface surveying services (CPC 86752) 1) None 2) None 3) None, except joint venture requirement. 1) None, except: a) Geospatial Data and Information shall be processed in Indonesia's territory; and b) If the necessary human resources, or equipment/utilities are not available ANNEX II – SCHEDULE - INDONESIA – 24 of 72 - Surface surveying services (CPC 86753) - Map-making services (CPC 86754) in Indonesia, processing of Geospatial Data and Information can be conducted overseas. 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreign services suppliers; b) Geospatial Data and Information shall be processed in Indonesia's territory; and c) If the necessary human resources, or equipment/utilities are not available in Indonesia, processing of Geospatial Data and Information can be conducted overseas. Maintenance and Repair of Equipment (not Including Maritime Vessels, Aircraft or other Transport Equipment) (CPC 8861+8866) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None except: a) No more than 33 per cent of the capital share in a joint venture shall be owned by foreigners; and b) The Indonesian participant must be a member of the Indonesian Consultant Association. Packaging Services (CPC 876) 1) Unbound 2) None 3) None, except joint venture requirement limited to eastern Indonesia. 1) Unbound 2) None 3) None, except no more than 70 per cent of the capital share in a joint venture shall be owned by foreigners. Market Research Services (CPC 86401) 1) None 2) None 1) None 2) None ANNEX II – SCHEDULE - INDONESIA – 25 of 72 3) None, except joint operation requirement through a representative office. 3) None, except the Indonesian participant in a joint operation must be a member of the Indonesian Consultant Association. COMMUNICATIONS SERVICES - Wired telecommunication services (KBLI 61100) - Wireless/satellite telecommunications services (KBLI 61200, 61300) - Wired/wireless/ satellite telecommunications services integrating with telecommunications services (KBLI 61921, 61922, 61923, 61929) - Content telecommunications services (ringtone, premium short message services, etc) (KBLI 61911) - Call centers and other added-value telephony services (KBLI 61919) - Internet service providers (KBLI 61921) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 26 of 72 - Data communications services (KBLI 61922) - Public internet telephony services (KBLI 61923) - Internet interconnection services (Network Access Point), other multimedia services (KBLI 61929) Local Services: − Public Switched Telephone Service (CPC 7521) − Teleconferencing Services (CPC 75292) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Long Distance − Public Switched Telephone Service (CPC 7521) − Teleconferencing Services (CPC 75292) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. International Services : − Public Switched Telephone Service (CPC 7521) − Teleconferencing Services (CPC 75292) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 27 of 72 Circuit Switched Public Data Network Services (CPC 7523**) − Local − International 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Circuit Switched Public Data Network Services (CPC 7523**): Long Distance 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Packet-switched public data network services (CPC 7523**) − X. 25 − Frame relay − Local − Local distance − International 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Private Leased Circuit Services (CPC 7522**+7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Telex services (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Telegraph services (CPC 7522) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None ANNEX II – SCHEDULE - INDONESIA – 28 of 72 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Facsimile (CPC 7521** + 7529**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Electronic data interchange (EDI) (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Enhance/Value-Added Facsimile Services, Including Store and Forward, Store and Retrieve (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. On-line Information and database Retrieval (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. On-line Information and or Data Processing (Including transaction processing) (CPC 843) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 29 of 72 Dedicated Network Services (CPC 7523**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be

owned by foreigners. Domestic Services: − Mobile CellularTelephone Services (CPC 75213) − Internet Access Services Regional and National Paging Services (CPC 75291) − Public Payphone Services Voice Mail Service (CPC 7523) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. Voice Mail Services (CPC 7523**) Electronic Mail Services (CPC 75232) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. − Computer Time Sharing Services (CPC-84330) − Video text Services (CPC 75229) − Electronic Mail Box (CPC 75232) − File Transfer Services (CPC 75299) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 30 of 72 − Home Telemeter Alarm (CPC-75299) − Entertainment Services (CPC-75299) − Management Information Services (CPC75299) Audiovisual Services Motion Picture and VideoTape production (CPC 9611) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b. License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Motion Picture and Video Tape Distribution Services (CPC 9611) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Motion Picture Projection Services (CPC 9612) 1) None 2) None 1) None 2) None ANNEX II – SCHEDULE - INDONESIA – 31 of 72 3) None, except joint venture requirement. 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Sound Recording (KBLI 59201) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreign service suppliers; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. CONSTRUCTION AND RELATED ENGINEERING SERVICES2 Construction Work for Buildings (CPC 512) except for one- and two-dwelling buildings (CPC 51210) Contruction Work for Civil Engineering (CPC 513) 1) None 2) None 3) None, except commercial presence only permitted in the form of: a) Joint operation by establishing a representative office with qualification big; or b) Joint venture. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) License fee requirement for foreign service suppliers that may vary from 2 “Qualification big” refers to high risk, high technology or high capital, as stipulated in Law No. 2 of 2017 on construction services. ANNEX II – SCHEDULE - INDONESIA – 32 of 72 Assembly and Erection of Prefabricated Constructions (CPC 514) Installation Work (CPC 516) Building Completion and Finishing Work (CPC 517) Pre-erection Work at Construction Site (CPC 511) except Site Investigation Work (CPC 51110) and Site Formation and Clearance Work (CPC 51113) Special Trade Construction(CPC 515) Renting Services Related Equipment for Construction or Demolition of Building or Civil Engineering Works with Operator (CPC 518) that applicable to Indonesian service suppliers; c) Indonesian local partners shall have qualification big; d) Foreign service suppliers shall only provide services with high risk, high technology, or high capital; and e) Highest management in a representative office shall be Indonesian. DISTRIBUTION SERVICES Wholesale Trade Services of food, beverages, and tobacco with minimum 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: ANNEX II – SCHEDULE - INDONESIA – 33 of 72 space above 5,000 square meters (CPC 6222) Wholesale Trade Services of textile, clothing and footwear with minimum space above 5,000 square meter (CPC 6223) a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) Subject to qualification and licensing requirements and procedures including registration; c) Required to appoint Indonesian trade enterprises as agent, single agent, distributor or single distributor; d) Obligation to cooperate with at least 100 Indonesian Small and Medium Enterprises yearly as a supplier and retailer, along with training and development with due regard to the principles of mutual need, mutually reinforcing and mutually beneficial; and e) Only permitted to be located in the suburbs of the provincial capitals in the islands of Kalimantan, Sulawesi, Nusa Tenggara, Maluku and Papua. Direct Selling (Multi Level Marketing) 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) Subject to qualification and licensing requirements and procedures including registration; ANNEX II – SCHEDULE - INDONESIA – 34 of 72 c) Have the obligation to include Indonesian products in their list of products; and d) Must join the Indonesian Direct Selling Association. Franchising - Wholesale Trade Services of food, beverages, and tobacco with minimum space above 5,000 meter square 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; b) Subject to qualification and licensing requirements and procedures including registration; c) Required to appoint Indonesian trade enterprises as agent, single agent, distributor or single distributor; d) Obligation to cooperate with at least 100 Indonesian Small and Medium Enterprises yearly as a supplier and retailer, along with training and development with due regard to the principles of mutual need, mutually reinforcing and mutually beneficial; and e) Only permitted to be located in the suburbs of the provincial capitals in the islands of Kalimantan, Sulawesi, Nusa Tenggara, Maluku and Papua. ANNEX II – SCHEDULE - INDONESIA – 35 of 72 EDUCATIONAL SERVICES General Conditions Unless otherwise provided, commercial presence of the foreign service provider is permitted only through an education institution which is registered in Indonesia and must meet the following conditions: 1) Mutual recognition arrangement between relevant institutions on credits, programs, and

certifications is required; 2) Foreign education institutions providing services must establish a partnership with a local partner. Foreign language instructors must be native and Indonesian speakers; 3) Foreign education institutions must be listed in the Ministry of Education and Culture's List of Accredited Foreign Education and its local partner must be accredited; 4) Notwithstanding the horizontal section, commercial presence shall be established in the form of yayasan (foundation); 5) Foreign education institutions in cooperation with local partners may open education institutions in the cities of Jakarta, Surabaya, Bandung, Yogyakarta, and Medan; 6) Number of educators shall include at least thirty per cent Indonesian educators; and 7) Number of employees, other than educators and the head, shall be at least eighty per cent Indonesian employees. B. Secondary Education Services Technical and Vocational Secondary Education Services (electronic, automotive) (CPC 92230) 1) None 2) None 3) None, except as indicated in the General Conditions. 1) None 2) None 3) Unbound, except as indicated in the General Conditions. ANNEX II – SCHEDULE - INDONESIA – 36 of 72 C. Higher Education Services Work Training3 (Technical and Vocational Education Services) The General Conditions above do not apply to this sub-sector. 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. No more than 67 per cent of the capital share in the joint venture shall be owned by foreigners; and b. The ratio of Australian to Indonesian trainers and administrative staff will be agreed between the parties to the joint venture. No geographic or subject matter limitations apply. Australian providers are able to provide Australian Qualifications Framework qualifications, Indonesian Qualification Framework qualifications levels 1-5 and non-award courses. Australian requirements for trainers shall be accepted. Other higher education services (CPC 9239)4: priorities for Science, Technology, Engineering, 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a. In the form of non-profit Juridical Person; 3 Responsibility of Ministry of Manpower. 4 Any measure adopted after the date of entry into force of this Agreement in relation to Other higher education services (CPC 9239) shall be deemed an existing non-conforming measure subject to paragraph 1 of Article 9.7 (Trade in Services – Non-Conforming Measures), at which point the more liberalising commitment would prevail. ANNEX II – SCHEDULE - INDONESIA – 37 of 72 Math and Modern Business programs b. 100 per cent of the capital share can be owned by foreigners; c. Mutual recognition arrangement between relevant institutions on credits, programs, and certifications is required; d. Foreign language instructors must be English Speakers; e. Foreign education institutions must be accredited in Australia and listed in the Ministry of Research, Technology and Higher Education; f. Anywhere in Indonesia subject to economic needs test; g. License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers; and h. Four mandatory subjects (Religion, Pancasila, Citizenship Education/Kewarganergaraan and Bahasa Indonesia) shall be integrated into the curriculum and delivered by Indonesian educators. D. Adult Education Services Language Course and Training (CPC 924) 1) None 2) None 3) None, except as indicated in the General Conditions. 1) None 2) None 3) Unbound, except as indicated in the General Conditions. E. Other Education Services Other education services only for Football and Chess (CPC 929) 1) None 2) None 3) None, except as indicated in the General Conditions. 1) None 2) None 3) Unbound, except as indicated in the General Conditions. ANNEX II – SCHEDULE - INDONESIA – 38 of 72 ENVIRONMENTAL SERVICES A. Sewage Services (CPC 9401) Only for Wastewater management 1) None 2) None for training, technical consultation, sample testing 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. B. Refuse Disposal Services (CPC 9402) Solid Waste Disposal Services, only for : - Integrated hazardous waste treatment facility services for oil sludge and waste mercury treatment in a particular area. The services provider must be equipped with modern and sophisticated technology and environmental safety. The product will be used as a new material or energy power - In site hazardous waste treatment facility services for the treatment of waste of mining product and 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. ANNEX II – SCHEDULE - INDONESIA – 39 of 72 waste of fly ash and bottom ash of coal product Refuse disposal Services (CPC 94020), only for non-hazardous garbage, trash, waste and rubbish 1) Unbound* 2) None 3) None, except joint venture requirement. 1) Unbound* 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. C. Cleaning Services of Exhaust Gases (CPC 9404) for Air pollution Control D. Other Environmental Protection Services (CPC 9409) only for Laboratory Services for Environment (laboratory which has the ability and authority to test and examine the environmental quality parameter according to the current laws and regulations on environment) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 51 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. ANNEX II – SCHEDULE - INDONESIA – 40 of 72 Water Management5 only for drinkable water (CPC 36001) 1) Unbound* 2) None 3) None, except joint venture requirement. 1) Unbound* 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) License requirements for foreign service suppliers may vary from that applicable to Indonesian service suppliers. FINANCIAL SERVICES 1), 2), 3) Indonesia's commitments including its relevant terms, limitations, conditions, and qualifications for the financial services sectors and sub-sectors in its Schedule of Specific Services Commitments under AANZFTA6 are incorporated into this Schedule. For greater certainty, the elimination of Market Access and National Treatment limitations for Modes 1, 2 and 3 of Financial

Services under this Agreement by the year 2020 shall take place only if Indonesia also eliminates them under AANZFTA. HEALTH RELATED AND SOCIAL SERVICES Hospital Services (CPC 93110)7 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) Foreign hospital may only establish class A or class B hospital, as defined by Minister of Health Regulation No. 56 of 2014 on the classification and licencing of Foreign class B hospital may phase up from 100 to 250 beds within two years as provided in its business plan submitted at the time of application for establishment. 5 Water management incudes series of supplying services activities related to surface water purification from the water source, water distribution directly from the water terminal, water tank transportation, with the purpose to selling those to consumers. 6 For greater certainty, Indonesia's commitments on Financial Services in relation to local presence do not go beyond its commitments under AANZFTA. 7 For greater certainty, this commitment includes pathology services and paramedic services provided in hospitals. ANNEX II – SCHEDULE - INDONESIA – 41 of 72 hospitals as at the date of signature of this Agreement; and c) May only employ foreign health professionals to the extent that there are not sufficiently qualified Indonesians. Other Human Health Services (CPC 9319) only for : Ambulance (CPC 93192) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; b) May only employ foreign health professionals to the extent that there are not sufficiently qualified Indonesians; c) Must be established in a class A or B hospital-owned premises, as defined by Minister of Health Regulation No. 56 of 2014 on the classification and licencing of hospitals as at the date of signature of this Agreement; and d) The management shall be integrated with the hospital. Welfare Services Delivered Through Residential Institutions to Old Persons and the Handicapped (CPC 93311) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and ANNEX II – SCHEDULE - INDONESIA – 42 of 72 Welfare services not delivered through residential institutions (CPC 93323) b) May only employ foreign health professionals to the extent that there are not sufficiently qualified Indonesians. TOURISM AND TRAVEL RELATED SERVICES Hotels8 (3, 4 and 5 star hotels) 1) None 2) None 3) None 1) None 2) None 3) None, except higher paid up capital is required of foreign service suppliers. This measure will be eliminated in the year 2020. Hotels (1 or 2 star hotel) (KBLI 55115, 55114) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. Motel (KBLI 55199) 1) None 2) None 3) None except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. Letting services of furnished accommodations (CPC 64193), excluding homestay 1) None 2) None 3) None except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. 8 Starred Hotel is a service business which provides accommodation and food and beverages facilities and other services typically provided by hotels, except casinos and other activities prohibited by law for reasons of public morals, religion, security and public order. ANNEX II – SCHEDULE - INDONESIA – 43 of 72 Meal Serving Services with Full Restaurant Services (CPC 64210) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. Beverage Serving Services without Entertainment (CPC 64310) Beverage Serving Services With Entertainment (CPC 64320) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. B. Travel Agencies and Tour Operators Tour Operator (CPC 74710**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. C. Tourist Guide Services Tourist Guide Services (CPC 74720) 1) None 2) None 3) Unbound. 1) None 2) None 3) Unbound. D. Other Tourist Resorts including9 hotel (3, 4 and 5 stars), not including marina facilities and hotel management) 1) None 2) None 3) None 1) None 2) None 3) None, except higher paid up capital is required of foreign service suppliers. This measure will be eliminated in the year 2020. 9 Tourist Resort is an area built to accommodate the facilities needed for tourists such as hotels, marinas, golf courses, cultural open stages and other facilities, except casinos and other activities prohibited by law; for reasons of public morals, religion, security and public order. ANNEX II – SCHEDULE - INDONESIA – 44 of 72 Tourism Consultancy Services (KBLI 70201) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 67 per cent of the capital share in a joint venture may be owned by foreigners. RECREATIONAL, CULTURAL AND SPORTING SERVICES (OTHER THAN AUDIO VISUAL SERVICES) A. Entertainment Services (including theatre, live bands and circus services) Theatre and opera house (CPC 96193) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. D. Sporting and Other Recreational Services Golf Courses and other facilities Only within the tourist resorts (CPC 96413) 1) None 2) None 3) None. 1) None 2) None 3) None, except higher paid up capital is required of foreign service suppliers. This measure will be eliminated in the year 2020. E. Other Marina facilities 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 45 of 72 TRANSPORTATION SERVICES A. Maritime Transport Services Passenger and freight transportation excluding cabotage and auxiliary services Maintenance and repair of Vessels (CPC 8868**) 1) Unbound 2) None 3) None, except joint venture only for vessel classification above 50000 DWT. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary

from that applicable to Indonesian service suppliers. Pushing and Towing Services for Maritime Transport (CPC 7214) (Excluding Cabotage) 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Vessel Salvage and Refloating Services (CPC 7454) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that ANNEX II – SCHEDULE - INDONESIA – 46 of 72 applicable to Indonesian service suppliers. Supporting services for maritime transport, only for port operation services (CPC 7451**) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Internal Waterways Transport Maintenance and repair of vessels (internal waterways) (CPC 8868**) 1) Unbound 2) None 3) None, except joint venture only in the eastern part of Indonesia. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Maritime Auxiliary Services ANNEX II – SCHEDULE - INDONESIA – 47 of 72 Maritime Cargo Handling Services 1) Unbound10 except for no limitation on transshipment (board to board or via the quay) or on the use of on-board cargo handling 2) None 3) None, except a) joint venture requirement; b) only allowed to operate in main ports. 1) Unbound11 except for no limitation on transshipment (board to board or via the quay) or on the use of on-board cargo handling 2) None 3) None, except: a) no more than 51 per cent of capital share shall be owned by foreigners with 49 per cent through Foreign Direct Investment and the remaining percentage through other mechanisms subject to domestic regulation; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Access to and use of port facilities in the ports which are opened for international shipping are permitted. Air Transport Services a. Aircraft repair and maintenance services 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. b. Computer reservation system (CRS) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None Airlines are permitted to operate their own Computer 10 A commitment on this mode of delivery is not feasible. 11 A commitment on this mode of delivery is not feasible. ANNEX II – SCHEDULE - INDONESIA – 48 of 72 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. reservation system. c. Selling and marketing 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Airlines are permitted to operate their own selling and marketing. Airport operation services, and airport activity services (KBLI 52230) 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 49 per cent of the capital share in a joint venture shall be owned by foreigners. Rail Transport Services Operation of railways 1) None 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 51 per cent of the capital share in a joint venture shall be owned by foreigners. Road Transport Services Maintenance and repair of road transport equipment (CPC 8867, excluding motorcycle) 1) Unbound 2) None 3) None, except joint venture requirement with foreign partner shall have manufacturing activities in Indonesia, including its local group companies, relating to the maintenance and repair of Automobiles. 1) Unbound 2) None 3) None, except: a) No more than 35 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. ANNEX II – SCHEDULE - INDONESIA – 49 of 72 Supporting services for road transport, only for: Highway, bridge and tunnel operation services (CPC 7442) Parking services (CPC 7443) 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except: a) No more than 67 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. SUPPORTING AND AUXILIARY TRANSPORT SERVICES Maritime Freight Forwarding Services 1) Unbound 2) None 3) None, except joint venture requirement. 1) Unbound 2) None 3) None, except: a) No more than 49 per cent of the capital share in a joint venture shall be owned by foreigners; and b) Licensing requirement for foreign service suppliers may vary from that applicable to Indonesian service suppliers. Storage and warehousing services Outside Port Area and 1st Area only for: - Storage services of frozen or refrigerated goods (CPC 7421) -Other storage or warehousing services (CPC 7429) 1) Unbound 2) None 3) None, except joint venture requirement. 1) None 2) None 3) None, except no more than 30 per cent of the capital share in a joint venture shall be owned by foreigners. ANNEX II – SCHEDULE - INDONESIA – 50 of 72 APPENDIX B Sector Architectural Services (CPC 8671) Advisory and Consultative Engineering Services (CPC 86721) Engineering design services for the construction of foundations and building structures (CPC 86722) Engineering design services for mechanical and electrical installations for buildings (CPC 86723) Engineering design services for the construction of civil engineering works (CPC 86724) Engineering design services for industrial processes and production (CPC 86725) Other engineering services during the construction and installation phase (CPC 86727) Other engineering services (CPC 86729) Integrated Engineering Services (CPC 8673) Urban Planning Services (CPC 86741) Technical Testing and analysis services (8676) other than Oil and gas support services: technical inspection services; Testing and analysis of electrical installation, Power construction and installation: Low / medium voltage electrical installation; Survey on destructive/ non-destructive testing Testing and analysis of electrical installation: Electrical utility construction and

high/extra-high voltage electrical installation (CPC 86763**) Performance of periodic testing of motor vehicles (CPC86763**) Technical Inspection Services (CPC 86764) Maintenance and repair of equipment (not including Maritime Vessels, Aircraft or other Transport Equipment) (CPC 8861+8866)] Construction Work for Buildings (CPC 512) except for one- and two-dwelling buildings (CPC 51210) Construction Work for Civil Engineering (CPC 513) Assembly and Erection of Prefabricated Constructions (CPC 514) Installation Work (CPC 516) Building Completion and Finishing Work (CPC 517) Pre-erection Work at Construction Site (CPC 511) except Site Investigation Work (CPC 51110) and Site Formation and Clearance Work (CPC 51113) Special Trade Construction (CPC 515) Renting Services Related Equipment for Construction or Demolition of Building or Civil Engineering Works with Operator (CPC 518) Secondary Education Services : Technical and Vocational Secondary Education Services (electronic, automotive) (CPC 92230) Higher Education Services: Work Training: TVET Other higher education services (CPC 9239) Adult Education Services: Language Course and Training (CPC 924) Other Education Services: Football and Chess only (CPC 929) Hospital Services (CPC 9311) ANNEX II – SCHEDULE - INDONESIA – 51 of 72

Section B.

1. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : Manufacturing - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors : a. Limitation on Foreign Equity Participation: Cars maintenance and repair (ISIC 5020) Patent medicine industry (ISIC 2423) b. Partnership requirement: Manufacturer of copra (10421) Sweetening and saline fruits and vegetable industry (ISIC 1513) Manufacturer of soy sauce (10771) Milk powder and condensed milk processing and industry (ISIC 1520) Stamped Batik Industry (ISIC 1712) Rattan processing industry (ISIC 2010) Preserving industry of rattan, bamboo, and the likes (ISIC 2010) Manufacturer of wooden goods (moulding and construction material components industry) (16221) Essential Oil Industry (ISIC 2429) Tobacco drying and preliminary processing industry (ISIC 1600) Bricks and clay/ceramic industry (ISIC 2691, 2692, 2693) Goods made from clay/ceramic industry (ISIC 2691, ISIC 2693) Lime industry (ISIC 2694) ANNEX II – SCHEDULE - INDONESIA – 52 of 72 Goods made from cement industry (ISIC 2695) Good made from lime industry (ISIC 2695) Other goods made from cement and lime industry (ISIC 2695) Nails, nuts and bolts industry, component and spare parts to start up motor industry, pumps and compressor industry, component and two and three wheels vehicles accessories industry, bike and pedicab/becak accessories industry (ISIC 2899, 2911, 2912, 3591, 3592) Agricultural machinery industry using medium technology such as rice peeler, corn peeler and handy-tractor (ISIC 2921) Manufacturer of wooden ships for marine tourism and fishing (ISIC 3511, 3512) Manufacturer of devices and fittings of wooden ships for marine tourism and fishing (ISIC 3511) Manufacturer of jewelry products from precious metal for personal use (ISIC 3330, 3691) Manufacturer of jewelry products from precious metal for non-personal use (ISIC 3330, 3691) Manufacturer of jewelry products from non-precious metal for non-personal use (ISIC 3330, 3699) Manufacture of precious stones (ISIC 3691) Manufacture of handicraft not elsewhere classified (ISIC 3699) Non-metal waste recycle (ISIC 3720) Sugar industry from sugar cane (White Crystal Sugar, Refined Crystal Sugar and Raw Crystal Sugar) (ISIC 1542) Fishery Processing Industry: Salting and drying of fish and biota from other waters (ISIC 1512); Smoking of fish and biota from other waters (ISIC 1512); Fish yeasting/fermentation, and other cooked products for extraction and fish jelly (ISIC 1512, 1549); Processing of minced fish and surimi (ISIC 1512) c. Recommendation or specific requirements by relevant authorities: Cigarette Industries: - Clove cigarette industry (ISIC 1600) - Regular non-clove cigarette industry (ISIC 1600) ANNEX II – SCHEDULE - INDONESIA – 53 of 72 - Other cigarette industries (ISIC 1600) Manufacturer of securities (inter alia, bank notes paper, cheque paper, watermark paper) (ISIC 2101) Money printing and special printing industry/Security documents such as stamp, stamp duty, valuable paper such as Bank Note Paper, Cheque Paper, Watermark paper, passport, demography document and hologram, Money Printing Industry. Special permit is required from the Minister of Industry and from the National Intelligence Agency (ISIC 2221) Cyclamate and Saccharin Industry(ISIC 2411) Special Ink Industry (ISIC 2429) Lead smelting industry (ISIC 2720) Saw Mill or Lumbering industry with production/output capacity above 2.000 M3/year (ISIC 2010) Veneer Industry, Plywood industry, Laminated Veneer Lumber (LVL) Industry (ISIC 2021) Wood chip industry and Wood Pellet Industry (ISIC 2029) Narcotics for Pharmaceutical Industry (Pharmaceutical Industry) (ISIC 2423) Medical Equipment Industry: - Class B (surgical masks, syringe, patient monitor, condom, surgical gloves, hemodialysis fluids, PACS, surgical knives) (ISIC 2423) - Class C (IV Catheter, X Ray, ECG, Patient Monitor, Orthopedic Implants, Contact Lens, Oximeters, Densitometers) (ISIC 2423) - Class D (CT Scan, MRI, Cardiac Catheter, Cardiac Stent, HIV Test, Pacemaker, Dermal Fillers, Ablation Catheters) (ISIC 2423) d. Requirement on source of raw material: Pulp industry (from wood) (ISIC 2101) e. Combination of the above requirements: Crumb rubber industry (ISIC 2519) Industry of raw materials for explosives (ISIC 2411) Industry of explosive materials and its components for industry (ISIC 2429) ANNEX II – SCHEDULE - INDONESIA – 54 of 72 Medical equipment industry: - Class A (Cotton, bandage, stick, IV pole, sanitary napkins, adult diapers, patient's bed, wheelchair) (ISIC 2423) Crops plantation seeding business industry for the following crops in an area of 25 hectares or more, until a certain area as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: - Jatropha curcas, other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, esssential oil crops, medicinal pharmaceutical crops, other spice crops, rubber and other trees for extraction of sap, and other crops not elsewhere classified (ISIC 0111, 0112, 0113, 0200) Plantation business for the

following crops which are integrated with processing industry in an area of 25 hectares or over with a capacity equivalent to or exceeding a certain limit as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: Cashews plantation and manufacture of dried cashew nuts and cashew nut shell liquid (CNSL) (ISIC 0113, 1513, 1549); Peppercorns plantation and manufacture of dried white peppercorns and dried black peppercorns (ISIC 0112, 1513, 1549); Jatropha plantation and manufacture of jatropha oil (ISIC 0111, 0112, 2429); Sugar cane and manufacture of cane sugar, sugar cane top and sugar cane bagasse (ISIC 0111, 1542); Tobacco and manufacture of dried tobacco leaves (ISIC 0111, 1600); Cotton plantation and manufacture of cotton fiber (ISIC 0111); Coconut palms plantation and manufacture of coconut oil (ISIC 0113, 1514); Coconut palms plantation and manufacture of copra, fiber, coconut shell charcoal, dust, and nata de coco (ISIC 0113, 1514, 1549); Oil palms plantation and manufacture of palm oil (CPO) (ISIC 0113, 1514, 1549); ANNEX II – SCHEDULE - INDONESIA – 55 of 72 Existing Measures: : Coffee plantation and manufacture of coffee bean peeling, cleaning and sorting (ISIC 0113, 1513); Cocoa plantation and manufacture of cocoa bean peeling, cleaning and drying (ISIC 0113, 1513, 1549); Tea and manufacture of black tea/green tea (ISIC 0113, 1513, 1549); Cloves plantation and manufacture of dried clove buds (ISIC 0113, 0140, 1549); Essential oil crops plantation and manufacture of essential oil (ISIC 0111, 01112, 0113, 2429); Rubber plantation and manufacture of sheets, concentrated latex (ISIC 0111, 2519); Plantation of grains other than coffee and cocoa beans and manufacture of grain peeling and cleaning other than coffee beans and cocoa beans (ISIC 1513, 1549) Manufacturer of the following agricultural products with an equal or exceeding a certain limit as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: - Crude vegetable and animal oils (edible oils); copra, fiber, coconut shell charcoal, dust, nata de coco; coconut oil; palm oil; peeling, cleaning, drying and sorting of cocoa beans and coffee beans products; cane sugar, sugar cane top and sugar cane bagasse; black tea/green tea; dried tobacco leaves; rude jatropha oil; cotton fiber and cotton seeds; rubber for sheets, concentrated latex; cashews for dried cashew nut and cashew nut shell liquid (CNSL); peppercorns for dried white peppercorns and dried black peppercorns; dried clove buds (ISIC 0111, 0140, 1513, 1514, 1531, 1542, 1549, 1600, 2429, 2519) - Law No. 25 of 2007 Concerning Investment - Law No. 39 of 2014 Concerning Plantations - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Presidential Decree No. 21 of 2001 Concerning ANNEX II – SCHEDULE - INDONESIA – 56 of 72 Lubricant Supply and Services - Regulation of the Minister of Agriculture No. 98 of 2013 on Guidance of Plantation Business License j.o Regulation of the Minister of Agriculture No. 29 of 2016 on the Amendment of Regulation No. 98 of 2013 - Regulation of the Minister of Health No. 62 of 2017 Concerning Medical Devices and Household Health Products Distribution Authorization - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 57 of 72 2. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : Agriculture - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors: a. Limitation on Foreign Equity Participation For each individual crop seeding or seedling business in an area of more than 25 hectares: - Staple food crops (rice, corn, soybeans, groundnuts, green beans, including cassava and sweet potatoes) and other food crops not classified elsewhere (ISIC 0111, 0112, 0113, 0200) - Seasonal fruits crops, grapes, tropical fruits crops, citrus fruits, apples, pome and stone fruits, berries, annual vegetables, perennial vegetables, drug crops, mushrooms, floriculture crops (ISIC 0111, 0112, 0113, 0200) For each individual crops cultivation business in an area of more than 25 hectares: - Staple food crops (rice, corn, soybeans, groundnuts, green beans and other food crops including cassava and sweet potatoes) (ISIC 0111, 0112, 0113, 0200) - Seasonal fruits crops, grapes, tropical fruits crops, citrus fruits, apples, pome and stone fruits, berries, leafy vegetables (cabbages, mustard, scallion, celery), root vegetables (shallot, garlic, potatoes, carrots), fruit-bearing vegetables (tomatoes, cucumber), chili peppers, paprika, mushrooms, ornamental plants, non-flower ornamental plants (ISIC 0111, 0112, 0113, 0200, 1513) Each of the following agriculture related activities: - Horticultural research and quality test laboratories, horticultural agro tourism activities, horticultural post-harvest services, retail sale of flower, horticultural development consultants, horticultural landscaping, ANNEX II – SCHEDULE - INDONESIA – 58 of 72 Existing Measures: : and horticultural courses services (ISIC 0140, 2022, 7310, 9219, 9241, 9249, 5239, 7414, 7421, 8090, 9241) - Research and development on agricultural genetic resources and engineering, and research and development on genetically modified organisms (GMO) product sciences and engineering (genetic engineering) (ISIC 7310) b. Locational requirement: Swine breeding and farming with quantity of more than 125 heads (ISIC 0122) c. Combination of the above requirements: Plantation business for the following crops without any processing unit in an area of 25 hectares or more, until a certain area as stipulated in the Regulation of the Minister of Agriculture No. 98 of 2013 and No. 29 of 2016: Jatropha curcas, other sweetener crops, sugar cane, tobacco, textile raw materials and cotton, cashews, coconut palms, oil palms, beverage crops (tea, coffee and cocoa), peppercorns, cloves, essential oil crops, medicinal pharmaceutical crops, other spice crops, rubber and other trees for extraction of sap, and other crops not elsewhere classified (ISIC 0111, 0112, 0113, 0200). - Law No. 39 of 2014 Concerning Plantations - Law No. 18 of 2009 Concerning Livestock and Animal Health and Law No. 41 of 2014 Concerning the Amendment to Law No. 18 of 2009 - Law No. 41 of 1999 Concerning Forestry - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest - Government Regulation No. 8 of 1999 Concerning Utilization of Plant and Wild Animal Species Government Regulation number 18 of 2010 Concerning Plant Cultivating Business - Government Regulation No. 44 of 1995 Concerning Seeding of Plantations - Presidential Regulation of

The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are ANNEX II – SCHEDULE - INDONESIA – 59 of 72 Closed to Investment and Business Fields That Are Conditionally Open For Investment - Agriculture Minister Regulation No. 98 of 2013 Concerning Guidance of Plantation Business License j.o Agriculture Minister Regulation No. 29 of 2016 Concerning the Amendment of Regulation No. 98 of 2013 - Agriculture Minister Decree No. 404 of 2002 Concerning Guidelines for License and Registration on Livestock Sector - Agriculture Minister Decree No. 348 of 2003 Concerning Guidelines for License on Horticulture Sector - Agriculture Minister Regulation No 2 of 2009 Concerning Guidelines of Veterinary Medical Services - Agriculture Minister Regulation No. 39 of 2010 Concerning the Guidelines on Business Licensing for Staple Crops Cultivation - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 60 of 72 3. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : Forestry - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors: a. Limitation on Foreign Equity Participation: Hunting business in Hunting Parks and Hunting Blocks (ISIC 0150, 9219, 9241, 9249) Captive breeding of animals and plants, and conservation institutions (ISIC 0150) b. Partnership requirement: Exploitation of forests plants: Rattan (ISIC 2010), Pine Sap (Oleo Pine Resin) (ISIC 0200), Bamboo (ISIC 0200), Wood Rosin/Shorea Javanica (Damar) (ISIC 0200), Eaglewood/Aquilaria Malaccensis (Gaharu) (ISIC 0200) Exploitation of shellac, alternative food crops (sagoo), gums, and honeybee farming (ISIC 0200) Production of silkworm cocoon (natural silk farming) (ISIC 0122) c. Recommendation or specific requirements by relevant authorities: Development of Technology used on plant and wildlife genetics (ISIC 0200). Existing Measures: : - Law No. 41 of 1999 Concerning Forestry - Law No. 5 of 1990 Concerning Conservation of Natural Resources and Its Ecosystems - Government Regulation No. 6 of 2007 as amended by Government Regulation No. 3 of 2008 Concerning Forest Administration and Compilation of Forest Management Planning and Utilisation of Forest - Government Regulation No. 36 of 2010 Concerning Natural Tourism Concession in the National Park Utilisation Zone, ANNEX II – SCHEDULE - INDONESIA – 61 of 72 Grand Forest Park, Nature Tourism Park - Government Regulation No. 8 of 1999 Concerning Utilization of Plant and Wild Animal Species - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 Concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 62 of 72 4. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central and Regional Investment Indonesia reserves the right to adopt or maintain any measure relating to the privatisation, corporatisation, commercialisation or divestment of Government assets, entities or agencies including: (a) limitations on ownership of assets; (b) transfer or disposal of equity interests or their assets; (c) the right of foreign investors or their investments to control their assets; and (d) nationality of the senior management or members of the board of directors. For greater certainty: (a) where Indonesia transfers an interest in an existing state enterprise to another state enterprise, such transfer shall not be considered to be an initial transfer or disposal of the interest for purposes of this entry; and (b) where Indonesia transfers or disposes of an interest in an existing state enterprise in multiple phases, subparagraph (a) shall apply separately to each such phase. - Law No. 19 of 2003 Concerning State Owned Enterprises - Law No. 40 of 2007 concerning Limited Liability Company - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 63 of 72 5. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central and Regional Investment Indonesia reserves the right to adopt or maintain any measures with respect to special preferences given to Micro, Small and Medium Sized Enterprises and Cooperatives ('Usaha Mikro, Kecil, Menengah dan Kooperasi' or UMKMK) in Indonesia12. - Law No. 13 of 2003 Concerning Manpower - Law No. 20 of 2008 Concerning Micro, Small and Medium Enterprises - Law No. 25 of 1992 Concerning Cooperatives. 12 For the purpose of this reservation, the terms "Micro", "Small", and "Medium Sized Enterprises" (UMKM) have the meanings set out in Law No. 20 of 2008. The term "Cooperatives" has the meaning set out in Law No. 25 of 1992. For illustrative purposes, the criteria for Micro, Small, and Medium Sized Enterprises, as stipulated in Law No. 20 of 2008, are as follows : (1) Criteria for Micro Enterprise are as follows: a. has a net asset, excluding land and building, up to IDR 50 million; or b. has an annual sales up to IDR 300 million. (2) Criteria for Small Enterprise are as follows: a. has a net asset, excluding land and building, more than IDR 50 million up to IDR 500 million; or b. has an annual sales more than IDR 300 million up to IDR 2.5 billion. (3) Criteria for Medium Enterprise are as follows: a. has a net asset, excluding land and building, more than IDR 500 million up to IDR 10 billion; or b. has an annual sales more than IDR 2.5 billion up to IDR 50 billion. The nominal amount as determined in paragraph 1, 2, and 3 above may be changed due to the economic condition by the Presidential Regulation. ANNEX II – SCHEDULE - INDONESIA – 64 of 72 6. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : Fishery - ISIC (see below) National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain measures for the establishment and operation of foreign investment in the following sub-sectors: a. Partnership requirement: Fish hatcheries and fish rearings: Sea Fish, Brackishwater Fish, Freshwater Fish (ISIC 0502) b. Recommendation or specific requirements by relevant authorities: Cultivation of coral/ornamental coral reef (ISIC 0150). - Law No. 31 of 2004 as amended by Law No. 45 of 2009 Concerning Fishery - Law No. 5 of 1983 Concerning Indonesia's Exclusive Economic Zone - Presidential Regulation of The Republic of Indonesia No. 44 of 2016 concerning Lists of Business Fields That Are Closed to Investment and Business Fields That Are Conditionally Open For Investment - Regulation of the

Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2008 as amended by No. PER.12/MEN/2009 regarding Capture Fishery Business. - Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.12/MEN/2007 regarding Aquaculture Business Licensing ANNEX II – SCHEDULE - INDONESIA – 65 of 72 - Regulation of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No. PER.05/MEN/2009 regarding Aquaculture Business Scale - Decree of the Minister of Forestry of the Republic of Indonesia No. 447/Kpts-II/2003 regarding Procedures on Exploitation or Capturing and Distribution of Wild Plants and Animals - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 66 of 72 7. Sector: Sub-Sector: Industry Classification: Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : Agriculture, Manufacturing Horticulture ISIC 0111, 0112, 0113, 0140, 1513, 1514, 1531, 1549, 2423 National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central Investment Indonesia reserves the right to adopt or maintain any measure affecting the establishment and operation of any horticulture business activities in Indonesia. Transition period of four years is provided for existing investors13 in the Horticulture sub-sectors to make adjustment to comply with measures stated in the Law No. 13 of 2010 and its implementing regulation. The definition of Horticulture sub-sectors can be found in the Law No. 13 of 2010. - Law No. 13 of 2010 Concerning Horticulture - Government Policy. 13 “Existing investors” refer to the existing investors before the enactment of Law No. 13 of 2010. ANNEX II – SCHEDULE - INDONESIA – 67 of 72 8. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central Investment Obligation of National Treatment and Senior Management and Board of Directors shall not apply to : (a) new and emerging sectors, sub-sectors, industries, products, or activities; or (b) existing sectors, sub-sectors, industries, products, or activities; which are unregulated at the date of entry into force of this Agreement. Any sector, sub-sector, industry, product or activity that is described in International Standard Industrial Classification of all economic activities (ISIC) or the Services Sectoral Classification List (W/120) at the date of entry into force of this Agreement, is not ‘unregulated’ for the purposes of this Agreement. Indonesia shall notify Australia before adopting measures in relation to a sector, sub-sector, industry, product, or activity which it considers ‘unregulated’. Government Policy. ANNEX II – SCHEDULE - INDONESIA – 68 of 72 9. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Central Investment Indonesia reserves the right to maintain any existing measures with respect to foreign investors or investments that have been overlooked, provided that the measures involved are already in force at the date of entry into force of this Agreement. When an overlooked measure is identified, it will be promptly inserted into Annex 1 of Indonesia’s Schedule. If an overlooked measure referred to in paragraph 1 is identified, Indonesia will provide Australia with details of the measure and the opportunity for consultations at least 90 days before including it in its schedule. Indonesia will not withdraw a right or benefit from an investor that has made an investment in accordance with its laws and regulations, through the addition of an overlooked measure to this schedule. Government Policy. ANNEX II – SCHEDULE - INDONESIA – 69 of 72 10. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors - - National Treatment (Article 14.4) Regional Investment National Treatment may not apply to any measures relating to the issuance of investment implementation licenses/permits14 at the provincial level15, which shall be considered on a case by case basis. - Law No. 23 of 2014 Concerning Local Government - Provincial Regulations - Government Policy. 14 For illustrative purposes, this may include a location permit or a building permit. 15 For the purpose of this reservation, “provincial level” means the regional level of government. ANNEX II – SCHEDULE - INDONESIA – 70 of 72 11. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : Manufacturing, Agriculture, Fishery, Forestry - - National Treatment (Article 14.4) Central Investment Indonesia reserves the right to adopt or maintain any measure to address a food security emergency as declared under relevant legislation and only for the duration of the declared food security emergency. - Article 33 of 1945 National Constitution - Law No. 18 of 2012 Concerning Foods - Government Regulation No. 17 of 2015 Concerning Food Security and Nutrition - Government Policy. ANNEX II – SCHEDULE - INDONESIA – 71 of 72 12. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: : : : : : : All Sectors - - Most-Favoured-Nation Treatment (Article 14.5) Central and Regional Investment Indonesia reserves the right to adopt or maintain any measure related to more favourable treatment accorded to investors of a non-Party and their investments resulting from: a. any existing or future preferential agreement or arrangement between or among ASEAN Member States; b. any existing agreement in force or signed prior to the date of the entry into force of this Agreement; and c. any international agreement in force or signed after the date of the entry of into force of this Agreement, involving: i. aviation; ii. fisheries; or iii. maritime matters, including salvage. ANNEX II – SCHEDULE - INDONESIA – 72 of 72 13. Sector: Sub-Sector: Industry Classification: Classification Obligations Concerned: Level of Government: Description: Existing Measures: : : : : : : : All Sectors including new services - - National Treatment (Article 14.4) Senior Management and Board of Directors (Article 14.10) Prohibition of Performance Requirements (Article 14.6) Central Investment Indonesia reserves the right to adopt or maintain any measure for the protection of Indonesian essential security interests. Law No. 3 of 2002 of National Defense.