FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF COLOMBIA AND THE REPUBLICS OF EL SALVADOR, GUATEMALA AND HONDURAS

PREAMBLE

The Government of the Republic of El Salvador, the Government of the Republic of Guatemala, the Government of the Republic of Honduras and the Government of the Republic of Colombia determined to:

STRENGTHEN regional economic integration, aware that it represents one of the essential instruments for Latin American countries to advance in their economic and social development, ensuring a better quality of life for their peoples;

STRENGTHEN the traditional bonds of friendship and the spirit of cooperation between their peoples;

RECOGNIZE the strategic and geographic position of each nation in its respective regional market;

ACHIEVE a better balance in its commercial relations;

CREATE a larger and more secure market for goods and services produced in their respective territories;

RECOGNIZE the differences in the levels of development and size of their economies and the need to create opportunities for economic development, through special and differential treatment to be agreed upon by the Parties to this Treaty;

AVOID distortions in their reciprocal trade;

ESTABLISH clear and mutually beneficial rules for the commercial exchange of their goods and services, as well as for the promotion and protection of investments in their territories;

RESPECT their respective rights and obligations under the Marrakesh Agreement establishing the World Trade Organization (WTO), as well as other bilateral and multilateral cooperation instruments;

STRENGTHEN the competitiveness of its companies in world markets;

CREATE employment opportunities and improve the living standards of their people in their respective territories;

PROMOTE economic development in a manner consistent with environmental protection and conservation, as well as sustainable development;

PRESERVE its ability to safeguard public welfare and public order;

ENCOURAGE the dynamic participation of the various economic agents, particularly the private sector, in efforts to deepen trade relations between their nations;

TO RECOGNIZE that the Republic of Colombia is a member of the Andean Community and that the Republic of El Salvador, the Republic of Guatemala and the Republic of Honduras are part of the Central American Integration System (SICA);

HAVE AGREED as follows:

Part ONE. GENERAL ASPECTS

Chapter 1. INITIAL PROVISIONS

Article 1.1. Establishment of the Free Trade Area

1. The Parties to this Agreement, in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services, establish a free trade area.

2. This Agreement does not apply between the Republic of El Salvador, the Republic of Guatemala and the Republic of Honduras.

Article 1.2. Objectives

1. The objectives of this Treaty are as follows:

(a) promote the expansion and diversification of trade in goods and services between the Parties;

(b) eliminate barriers to trade and facilitate the cross-border movement of goods and services within the Free Trade Zone;

(c) promote conditions of fair competition for trade between the Parties;

(d) promote, protect and substantially increase investment in each Party;

(e) create effective procedures for the implementation and enforcement of this Agreement, for its joint administration and for the settlement of disputes; and

(f) establish guidelines for bilateral cooperation aimed at expanding and enhancing the benefits of this Agreement.

2. The Parties shall interpret and apply the provisions of this Treaty in the light of the objectives set forth in paragraph 1 and in accordance with the general principles of public international law.

Article 1.3. Relationship to other International Agreements

1. The Parties confirm the rights and obligations in force between them under the WTO Agreement and other agreements to which they are party.

2. It shall be understood that any reference in this Agreement to any other International Agreement shall include its modifications, amendments and superseding Agreements to which the Parties are party.

3. If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended, the Parties shall consult with a view to amending the corresponding provision of this Agreement, as appropriate, in accordance with Article 21.2 (Amendments).

Article 1.4. Enforcement

Each Party shall ensure, in accordance with its constitutional and other provisions of its domestic law, the adoption of all measures necessary to give effect to the provisions of this Agreement within its territory and at all levels of government.

Chapter 2. GENERAL DEFINITIONS

Article 2.1. Definitions of General Application

For the purposes of this Agreement, unless otherwise provided:

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

Customs Valuation Agreement means the Agreement on Implementation of Article Vil of the General Agreement on Tariffs and Trade 1994, including its interpretative notes, which forms part of the WTO Agreement;

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

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

customs duty means any import tax or duty and any charge of any kind, imposed in connection with the importation of goods, including any form of surcharge or additional charge in respect of such importation, except:

(a) charges equivalent to an internal tax established in accordance with Article Ill (2) of GATT 1994;

(b) duties or other charges related to importation, proportionate to the cost of services rendered; or

(c) antidumping duties or countervailing measures that are applied in a manner consistent with the provisions of Chapter 8 (Antidumping Duties and Countervailing Measures) of this Agreement;

customs authority means the authority which, under the respective laws of each Party, is responsible for administering and enforcing customs laws and regulations;

chapter means the first two digits of the Harmonized System;

Commission means the Administrative Commission for the Treaty established pursuant to Article 17.1 (Administrative Commission for the Treaty);

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 with a view to use in the production or supply of goods or services for commercial sale or resale;

Agreement of the International Monetary Fund means the Articles of Agreement of the Intemational Monetary Fund, effective as of December 27, 1945;

days means calendar days;

enterprise means any legal entity constituted or organized under the applicable law of a Party, whether or not for profit and whether privately or governmentally owned, including companies, partnerships, foundations, trusts, participations, sole proprietorships, joint ventures or other associations;

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

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

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

goods means any article, material, matter, product or part;

originating good means a good that qualifies as an originating good pursuant to Chapter 4 (Rules of Origin);

MSMEs means micro, small and medium-sized enterprises;

national means a natural person of a Party under Annex 2.1, or a permanent resident of a Party;

WTO means the World Trade Organization, created by the WTO Agreement;

Party means a State that has consented to be bound by this Treaty and with respect to which the Treaty is in force;

heading means the first four digits of the Harmonized System;

person means a natural person or a company;

person of a Party means a national or company of a Party;

production means methods of obtaining goods including growing, harvesting,

raising, breeding, birthing, hunting, gathering, fishing, trapping, trapping, trapping, mining, extracting, manufacturing, assembling or processing;

producer means a person who engages in the production of a good in the territory of a Party;

Tariff Relief Program means "Tariff Relief Program", as set forth in Annex 3.4 (Tariff Relief Program);

Harmonized System means the Harmonized Commodity Description and Coding System, including its general rules of interpretation and its section, chapter, heading and subheading legal notes, as adopted and applied by the Parties in their respective customs legislation;

subheading means the first six digits of the Harmonized System;

territory means, in accordance with its national legislation and international law, the land, sea and air space of each Party, as well as its exclusive economic zone and continental shelf, over which it exercises sovereign rights and jurisdiction; and preferential tariff treatment means the application of the appropriate tariff rate to an originating good under the Tariff Relief Program set out in Article 3.4 (Tariff Relief) of this Agreement.

Annex 2.1. ANNEX 2.1 Country-Specific Definitions

For purposes of this Agreement, unless otherwise provided:

national means:

(a) with respect to the Republic of El Salvador, a Salvadoran as defined in Articles 90 and 92 of the Constitution of the Republic of El Salvador;

(b) with respect to the Republic of Guatemala, a Guatemalan as defined in Articles 144, 145 and 146 of the Political Constitution of the Republic of Guatemala;

(c) with respect to the Republic of Honduras, a Honduran as defined in Articles 23 and 24 of the Constitution of the Republic of Honduras; and

(d) with respect to the Republic of Colombia, Colombians by birth and by adoption, as determined by Article 96 of the Political Constitution of the Republic of Colombia.

Part TWO. TRADE IN GOODS

Chapter 3. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 3.1. Definitions

For the purposes of this Chapter:

essential character of the good means when a good does not lose its original manufacturing characteristic, and the good does not undergo any change that would make it a different or commercially different good;

printed advertising materials means brochures, leaflets, printed matter, loose sheets, trade catalogs, trade association yearbooks, tourism promotion materials and posters, classified in Chapter 49 of the Harmonized System, used to promote, publish or advertise a good or service, originating in one of the Parties and distributed free of charge;

goods admitted for sporting purposes means sporting equipment that is temporarily admitted for use in competitions, events or training in the territory of one of the Parties;

goods for exhibition or demonstration means goods that temporarily enter the territory of a Party for exhibition or demonstration purposes. It includes their components, auxiliary apparatus and accessories;

remanufactured goods means remanufactured goods, salvaged goods or any other similar appellation given to goods that after having been used have undergone some process to restore their original characteristics or specifications, or to restore them to the functionality they had when new;

used goods means used goods that have not undergone any further processing after use;

samples of negligible commercial value means commercial samples valued, individually or in the aggregate as shipped, at not more than one United States dollar (US $1.00) or the equivalent amount in the currency of another Party; or which are marked, torn, punctured or otherwise treated in a manner that disqualifies them for sale or for any use other than as samples; and

advertising films and recordings means visual media or recorded audio materials consisting essentially of images and/or sounds depicting the nature or performance of goods or services originating in any Party, offered for sale or hire by a person established or resident in the territory of any Party, provided that such materials are suitable for exhibition to potential customers, but not for dissemination to the general public, and are imported in packages each containing not more than one copy of each film or recording, and are not part of a larger consignment.

Article 3.2. Scope of Application.

Except as otherwise provided, this Chapter applies to trade between the Parties in new originating goods. For greater certainty, this Chapter does not apply to trade in used or remanufactured goods.

Section I. National Treatment

Article 3.3. National Treatment

1. Each Party shall accord National Treatment to goods of another Party in accordance with Article Ill of the GATT 1994, including its interpretative notes, and to that end Article Ill of the GATT 1994 and its interpretative notes are incorporated into and made an integral part of this Agreement.

2. The provisions of paragraph 1 relating to National Treatment mean, with respect to a Party, including its departments or municipalities, treatment no less favorable than the most favorable treatment that such Party, including its departments or municipalities, accords to any directly competitive or substitutable goods of domestic origin.

3. Paragraphs 1 and 2 do not apply to the measures listed in Annex 3.3.

Section II. Customs Tariff Relief Program

Article 3.4. Tariff Relief

1. Except as otherwise provided In this Agreement, each Party shall progressively eliminate its duties on originating goods in accordance with its tariff discharge schedule set out in Annex 3.4.

2. Except as otherwise provided in this Agreement, no Party may increase an existing customs duty or adopt a new customs duty on originating goods.

3. Paragraphs 1 and 2 are not intended to prevent a Party from disaggregating a tariff item, provided that the customs duty applicable to the new tariff openings is not higher than the tariff applied to the tariff item before it was disaggregated.

4. At the request of any Party, the requesting Party and one or more of the Parties shall consult through the Market Access Committee to examine the possibility of accelerating or improving the tariff treatment provided for in the Annex.

An agreement between the Parties on the tariff treatment of a good shall prevail over any customs duties or preferences provided for in the schedules of relief for that good once approved by the Parties, in accordance with the applicable legal procedures.

5. For greater certainty, a Party may:

(a) following a unilateral reduction, increase a customs duty to the level set out in its Schedule to Annex 3.4; or

(b) maintain or increase a customs duty when authorized by the WTO Dispute Settlement Body or the Dispute Settlement Mechanism of Chapter 18 (Dispute Settlement).

6. The Parties agree to fix the customs duties of goods under the Tariff Relief Program on an ad-valorem basis only.

7. In trade in goods between the Parties, the classification of goods shall be governed by the nomenclature of the Harmonized Commodity Description and Coding System and its future updates, which shall not modify the scope and conditions of access negotiated.

8. In case of inconsistencies between the provisions of this Treaty and the Decree for its implementation, this Treaty shall prevail.

Section III. Special Regimes

Article 3.5. Temporary Admission of Goods

1. Each Party shall authorize duty-free temporary admission for the following goods, irrespective of their origin:

(a) professional equipment, including press and television equipment, computer software, and broadcasting and cinematographic equipment, necessary for the exercise of the business activity, trade or profession of the business person that qualifies for temporary entry under the legislation of the importing Party;

(b) goods intended for exhibition or demonstration;

(c) commercial samples, films and advertising recordings; and

(d) goods admitted for sporting purposes.

2. Each Party shall, at the request of the person concerned and for reasons deemed valid by its customs authority, extend the period for temporary admission beyond the period initially fixed, in accordance with its national legislation.

3. No Party shall condition the temporary duty-free admission of a good referred to in paragraph 1 on conditions other than that the good:

(a) is used solely by or under the personal supervision of a national or resident of another Party in the exercise of that person's business, trade, professional or sporting activity;

(b) is not subject to sale or lease while it remains in its territory;

(c) is accompanied by a bond or guarantee in an amount not to exceed the charges that would otherwise be due for entry or final importation, refundable upon departure;

(d) is susceptible to identification at the time of departure;

(e) is re-exported upon the departure of the person referred to in subparagraph (a) or within a period corresponding to the purpose of the temporary admission that the Party may establish or within one (1) year unless extended on the basis of the provisions of its national legislation;

(f) is admitted in quantities no greater than is reasonable for its intended use; and

(g) otherwise admissible in the territory of the Party under its law.

4. If any of the conditions imposed by a Party under paragraph 3 have not been met, the Party may apply the customs duty and any other charges that would normally be due on the good plus any other charges or penalties established under its law.

5. Each Party shall allow a good temporarily admitted under this Article to be re-exported through a customs office other than the customs office through which it was admitted.

6. Each Party shall provide that its customs authority or other competent authority shall exempt the importer or other person responsible for a good admitted pursuant to this Article from any liability for the inability to re-export the good upon presentation of satisfactory evidence to the customs authority of the importing Party that the good has been destroyed in accordance with the national legislation of each Party within the original time limit set for temporary admission or any lawful extension.

7. Subject to Chapters 12 (Investment) and 13 (Cross-Border Trade in Services):

(a) each Party shall permit a vehicle or container used in international transportation that has entered its territory from the other Party to leave its territory by any route that has a reasonable relation to the prompt and economical departure of such vehicle or container;

(b) no Party shall require a bond or impose any penalty or charge solely on the grounds that the port of entry of the vehicle or container is different from the port of departure;

(c) no Party shall condition the release of any obligation, including any bond, which it has applied to the entry of a vehicle or container into its territory, on its departure through a particular port; and

(d) No Party shall require that the vehicle or carrier bringing a container into its territory from the territory of another Party be the same vehicle or carrier bringing the container into the territory of another Party.

8. For purposes of paragraph 7, vehicle means a truck, tractor-trailer, van, tractor, trailer or trailer unit, locomotive or railcar or other railroad equipment.

9. Each Party shall adopt procedures to facilitate the expeditious clearance of goods admitted under this Article. To the extent possible, where such merchandise accompanies a national or resident of another Party who is requesting temporary entry, such procedures shall allow the merchandise to be cleared simultaneously with the entry of that national or resident.

Article 3.6. Duty-Free Importation of Commercial Samples of Insignificant Value and Printed Advertising Materials

1. Each Party shall allow duty-free importation of commercial samples of negligible value and printed advertising materials imported from the territory of another Party, regardless of their origin, but may require that:

(a) such samples are imported solely for the purpose of soliciting orders for goods or services from the territory of another Party or non-Party; or

(b) such advertising materials are imported in packages containing not more than one copy of each form and that neither the materials nor the packages are part of a larger consignment.

Section IV. Non-Tariff Measures

Article 3.7. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction on the importation of any good of another Party or on the exportation or sale for export of any good destined for the territory of another Party, except as provided in Article XI of the GATT 1994 and its interpretative notes, and to that end, Article XI of the GATT 1994 and its interpretative notes are incorporated into this Agreement and made an integral part hereof, mutatis mutandis.

2. The Parties understand that the rights and obligations of the GATT 1994 embodied in paragraph 1 prohibit in any circumstances in which any other type of restriction that a Party adopts or maintains on reciprocal trade is prohibited:

(a) export and import price requirements, except as permitted for the enforcement of antidumping and countervailing duty provisions and undertakings;

(b) The granting of import licenses except as provided for in a Party's Schedule to Annex 3.3;

(c) voluntary export restrictions inconsistent with Article VI of GATT 1994, as applied under Article 18 of the WTO Agreement on Subsidies and Countervailing Measures and Article 8 of the WTO Agreement on Agriculture; or

(d) minimum, estimated, indicative, reference or any other valuation price, in cases where these prices replace the transaction value of the goods.

3. No Party shall require as a condition or commitment for the importation of a good that a person of another Party establish or maintain a contractual or other relationship with a distributor in its territory.

4. Nothing in the preceding paragraph precludes a Party from requiring the appointment of an agent for the purpose of facilitating communications between the regulatory authorities of the Party and a person of the other Party.

5. For purposes of paragraph 3, distributor means an individual, natural or juridical person of a Party who is responsible for the commercial distribution, agency, concession or representation in the territory of that Party of goods of another Party.

6. Paragraphs 1 and 2 shall not apply to the measures set forth in Annex 3.3.

Article 3.8. Customs Valuation

The Customs Valuation Agreement and any successor agreement shall regulate the customs valuation rules applied by the Parties to reciprocal trade.

Article 3.9. Import Licenses

1. No Party shall maintain or adopt a measure that is inconsistent with the WTO Agreement on Import Licensing Procedures (WTO Import Licensing Agreement).

2. Following the entry into force of this Agreement, each Party shall promptly notify the other Parties of any existing import licensing procedures and thereafter notify the other Parties of any new import licensing procedures and any modifications to its existing import licensing procedures within sixty (60) days prior to their entry into force. A notification established under this Article:

(a) include the information set forth in Article 5 of the WTO Import Licensing Agreement; and

(b) shall not prejudge whether the import licensing procedure is compatible with this Agreement.

3. No Party shall apply an import licensing procedure to a good of another Party without having provided a notification in accordance with paragraph 2.

Article 3.10. Administrative Burdens and Formalities

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

2. No Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of another Party.

3. Each Party shall make available and maintain, through the Internet, an updated list of fees or charges imposed in connection with importation or exportation.

Article 3.11. Export Taxes

Except as provided in Annex 3.3, no Party shall adopt or maintain any tax, levy or charge on the exportation of goods to the territory of another Party.

Article 3.12. Distinctive Products

At the request of a Party, the Committee on Trade in Goods shall consider amending the Agreement to designate a good as a distinct product.

Section V. Agriculture

Article 3.13. Definitions

For purposes of this Section:

agricultural products includes those goods included in Annex 1 of Article 2 of the WTO Agreement on Agriculture; and

export subsidies on agricultural products means those included in the WTO Agreement on Agriculture, including any subsequent modifications.

Article 3.14. Scope of Application

This Section applies to measures adopted or maintained by the Parties relating to reciprocal trade in agricultural products.

Article 3.15. Export Subsidies for Agricultural Products

1. The Parties share the objective of achieving the multilateral elimination of export subsidies on agricultural products. In this regard, they will cooperate in the effort to reach an agreement within the framework of the WTO Agreements.

2. The Parties undertake not to maintain, reintroduce or introduce export subsidies on agricultural products in their reciprocal trade, from the entry into force of this Agreement.

Article 3.16. Tariff Rate Quota Administration and Implementation

1. Tariff quotas for agricultural products will be administered in accordance with Article XIll of GATT 1994, including its interpretative notes and the WTO Import Licensing Agreement.

2. Each Party shall ensure that:

(a) unless otherwise provided, the procedures for administering tariff rate quotas are transparent, made available to the public in a timely, non- discriminatory manner, consistent with market conditions, and involve a minimum burden on trade;

(b) any natural or juridical person of a Party that complies with the legal and administrative requirements of that Party shall

be eligible to apply for and be considered for allocation of a quota quantity within the Party's tariff rate quotas;

(c) only governmental authorities and their related entities administer their tariff rate quotas and, in this regard, that governmental authorities do not delegate the administration of their tariff rate quotas to producer groups or other non-governmental organizations; and

(d) allocate quantities within tariff-rate quotas, in commercially viable shipping quantities and, to the extent possible, in the amounts requested by importers.

3. Each Party shall administer its tariff rate quotas in a manner that allows importers to make full use of them.

4. No Party may condition the application or use of a quota quantity within a tariff quota on the re-export of an agricultural product.

5. At the request of the exporting Party, the importing Party shall report on the administration of its tariff quotas.

Article 3.17. Agricultural Trade Committee

1. The Parties establish the Committee on Agricultural Trade, composed of a representative and an alternate designated by each Party. The representatives appointed by the Parties shall be officials responsible for handling matters related to this Section.

2. The Committee shall be integrated upon entry into force of the Treaty, and the Parties shall notify each other of the designation of their representatives.

3. The Committee shall report the results of its work and meetings to the Commission. 4. The Committee shall meet ordinarily once a year, and extraordinarily at the request of any Party, to ensure the effective execution and administration of this Section.

5. The ordinary meetings of the Committee shall be chaired successively by each Party, and the Party hosting the meeting shall be responsible for calling the meeting at least thirty (30) days in advance; it shall propose the agenda of the topics to be discussed and shall act as rapporteur.

6. The Committee shall meet at any time for extraordinary meetings, at the request of one of the Parties, convened at least thirty (30) days in advance.

7. The Agricultural Trade Committee shall have among its functions:

(a) to oversee the execution and compliance with the regulations contained in this Section;

(b) consider any other matter related to the implementation and enforcement of this Agreement that has a bearing on trade in agricultural products between the Parties;

(c) recommend to the competent authority the establishment of subcommittees or technical groups, when appropriate; and

(d) others assigned to it by this Agreement or the competent authority with respect to trade in agricultural products.

Section VI. Institutional Arrangements

Article 3.18. Committee on Trade In Goods

1. The Parties establish the Committee on Trade in Goods, composed of a representative and an alternate representative appointed by each Party.

2. The Committee shall be integrated upon entry into force of the Treaty, and the Parties shall notify each other of the designation of their representatives.

3. The Committee shall meet ordinarily once a year, and extraordinarily at the request of any Party, to ensure the effective implementation and administration of this Chapter.

4. The ordinary meetings of the Committee shall be chaired successively by each Party, and the Party hosting the meeting shall be responsible for calling the meeting at least thirty (30) days in advance and shall propose the agenda of the topics to be discussed. It shall also act as rapporteur.

5. The Committee shall meet at any time for extraordinary meetings, at the request of one of the Parties, convened within

twenty (20) days in advance. The request shall specify the purpose of the meeting. The meeting shall take place in the country to which the request for consultation was made.

6. The Party summoned shall respond its consent within ten (10) days of receipt of the request for an extraordinary meeting. If no response is received, it may proceed in accordance with the provisions of Chapter 18 (Dispute Settlement) of this Agreement.

7. The Commodity Trade Committee shall have among its functions:

(a) promote trade in goods between the Parties, including the improvement or acceleration of the tariff treatment provided for in Annex 3.4 under this Agreement and such other matters as may be appropriate;

(b) address barriers to trade in goods between the Parties and, if appropriate, submit these matters to the Commission for its consideration;

(c) to oversee the execution and compliance with this Chapter;

(d) evaluate, at the request of either Party, modifications or additions to this Chapter and, if appropriate, submit such matters to the Commission for its consideration;

(e) review updates and conversions of the nomenclature of the Harmonized Commodity Description and Coding System to ensure that each Party's obligations under this Agreement are not altered;

(f) consider any other matter relating to the implementation and enforcement of this Chapter, or trade in goods between the Parties;

(g) recommend to the competent authority the establishment of subcommittees or technical groups, when appropriate; and

(h) others assigned to it by this Agreement or the competent authority with respect to trade in goods.

8. A Party may request the participation of representatives of relevant governmental institutions for the purpose of addressing specific matters related to the implementation of this Chapter.

Chapter 4. RULES OF ORIGIN

Article 4.1. Definitions

For the purposes of this Chapter:

to allocate reasonably means to allocate in the appropriate manner in accordance with Generally Accepted Accounting Principles;

CIF means the value of the imported merchandise including insurance and freight costs to the port or place of introduction in the country of importation;

class of motor vehicles means any of the following categories of motor vehicles:

(a) vehicles for the transportation of passengers up to sixteen (16) persons, including the driver; and vehicles for the transportation of goods of a total weight with maximum load less than or equal to four thousand five hundred thirty seven (4,537) tons or ten thousand (10,000) American pounds, as well as their chassis with cabins;

(b) vehicles covered by heading 87.02, except those covered in (a) above;

(c) motor vehicles of subheading 8701.10 or subheadings 8701.30 to 8701.90;

(d) includes other vehicles not included in categories (a) and (b);

shipping containers and packing materials means goods used to protect merchandise during transportation and does not include containers and materials in which merchandise is packaged for retail sale;

net cost means total cost less sales promotion, marketing and after-sales service costs, royalties, packing and shipping costs, as well as ineligible interest costs that are included in total cost;

net cost of merchandise means the net cost that can be reasonably assigned to the merchandise using one of the following methods:

(a) by calculating the total cost incurred in respect of all goods produced by that producer, subtracting any costs of sales promotion, marketing, after-sales services, royalties, packing and shipping costs and ineligible interest costs included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the merchandise;

(b) calculating the total cost incurred in respect of all goods produced by that producer by reasonably allocating the total cost to the merchandise and then subtracting any costs of sales promotion, marketing, after-sales services, royalties, packing and shipping costs and unallowable interest costs included in the portion of the total cost allocated to the merchandise; or

(c) reasonably allocating each cost that forms part of the total cost incurred in respect of the merchandise, so that the sum of these costs does not include any sales promotion, marketing, after-sales service, royalties, packing and shipping costs and unallowable interest costs, provided that the allocation of such costs is consistent with the reasonable cost allocation provisions of Generally Accepted Accounting Principles;

ineligible interest costs means interest costs incurred by a producer in excess of seven hundred (700) basis points over yields on debt obligations of comparable maturities issued by the central level of government of the Party in which the producer is located;

total cost means all direct and indirect costs and expenses of manufacture of the good, costs and expenses of a period and other costs and expenses for a good incurred in the territory of one or more of the Parties;

FOB means free on board, regardless of the means of transport, at the point of direct shipment from the seller to the buyer;

model line means a group of motor vehicles having the same platform or the same model name;

material means a good that is used in the production of another good and includes ingredients, parts or components;

self-produced material means originating material that is produced by the producer of a good and used in the production of that good;

indirect material means a good used in the production, verification or inspection of another good, but not physically incorporated therein; or a good that is used in the maintenance of buildings or in the operation of equipment related to the production of another good, including:

(a) fuel, energy, solvents and catalysts;

(b) equipment, apparatus and attachments used for the verification or inspection of goods;

(c) gloves, goggles, footwear, clothing, safety equipment and attachments;

(d) tools, dies and molds;

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

(f) lubricants, greases, composites and other materials used in the production, operation of equipment or maintenance of buildings; and

(g) any other goods that are not incorporated into the goods, but whose use in the production of the goods can be reasonably demonstrated to be part of such production;

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

non-originating good or non-originating material means a good or material that does not comply with the provisions of this Chapter;

goods wholly obtained or produced entirely in the territory of one or more of the Parties means

(a) minerals extracted or obtained in the territory of one or more of the Parties;

(b) plants and plant products harvested, collected or gathered in the territory of one or more of the Parties;

(c) live animals, born and raised in the territory of one or more of the Parties;

(d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capture in the territory of one or more of the Parties;

(e) goods obtained from live animals in the territory of one or more of the Parties;

(f) fish, crustaceans and other marine species taken from the sea outside the territory of the Parties by fishing vessels registered or registered by a Party and flying the flag of that Party or by fishing vessels leased by enterprises established in the territory of a Party;

(g) goods obtained or produced on board factory ships, from the goods identified in subparagraph (f), provided that the factory ships are registered or registered in a Party and that they fly the flag of that Party or are leased by enterprises established in the territory of a Party;

(h) goods obtained from the seabed or subsoil outside the territorial waters of a Party, by a Party or a person of a Party, provided that the Party has rights to exploit that seabed or subsoil;

(i) wastes and residues from manufacturing or processing operations in the territory of one or more of the Parties and which are suitable for the recovery of raw materials; or

(j) goods produced in the territory of one or more of the Parties, exclusively from the goods mentioned in the previous paragraphs;

Generally accepted accounting principles means those on which there is a recognized consensus or which enjoy substantial and authoritative support, in the territory of a Party and at a given time, with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. Generally accepted accounting principles may include broad guidelines of general application as well as detailed standards, practices and procedures;

value means the value of a good or material for purposes of the assessment of customs duties or the application of this Chapter;

transaction value of a material means the price actually paid or payable for a good in connection with the transaction made by the producer of the material, in accordance with the rules of Articles 1 through 8 and Article 15 of the Customs Valuation Agreement, adjusted in accordance with the rules of paragraphs 1, 3 and 4 of Article 8 of the same Agreement, without regard to whether the good is sold for export. For purposes of this definition, the seller referred to in the same Agreement shall be the producer of the material; and

transaction value of a good means the price actually paid or payable for a good in connection with the transaction made by the producer of the good, in accordance with the rules of Articles 1 through 8 and Article 15 of the Customs Valuation Agreement, adjusted in accordance with the rules of paragraphs 1, 3 and 4 of Article 8 of the same Agreement, without regard to whether the good is sold for export. For purposes of this definition, the seller referred to in the same Agreement shall be the producer of the merchandise.

Article 4.2. Instruments of Application and Interpretation

1. For the purposes of this Chapter:

(a) the tariff classification of goods shall be based on the Harmonized System; and

(b) the rules of the Customs Valuation Agreement shall be used to determine the value of a good or material.

2. For the purposes of this Chapter, the Customs Valuation Agreement shall be applied to determine the origin of a good as follows:

(a) the rules of the Customs Valuation Agreement shall apply to domestic transactions, with such modifications as circumstances may require, as they would apply to international transactions; and

(b) the provisions of this Chapter shall prevail over those of the Customs Valuation Agreement, when there is incompatibility.

Article 4.3. Original Merchandise

Except as otherwise provided in this Chapter, a good shall be considered as originating in the territory of a Party when:

(a) is wholly obtained or produced entirely in the territory of one or more of the Parties;

(b) is produced entirely in the territory of one or more of the Parties exclusively from materials that qualify as originating under this Chapter; or

(c) is produced entirely in the territory of one or more of the Parties from non-originating materials that meet a change in tariff classification, a regional value content or other requirements, as specified in Annex 4.3, and the good complies with the other applicable provisions of this Chapter.

Article 4.4. Minimum Operations or Processes

Unless the specific rules of origin in Annex 4.3 indicate otherwise, the minimum operations or processes that individually or in combination do not confer origin to a good are the following:

(a) operations necessary for the preservation of the goods during transportation or storage, including aeration, ventilation, drying, refrigeration, freezing, removal of damaged parts, application of oil, anti-corrosive paint or protective coatings, application of salt, sulfur dioxide or any other aqueous solution;

(b) simple operations consisting of cleaning, washing, sifting, screening, sieving or shaking, sorting, grading or grading, threshing; peeling, shelling or shucking, shelling, boning, crushing or squeezing, rinsing, removal of dust or defective or damaged parts, sorting, breaking bulk shipments, grouping of packages, affixing of distinguishing marks, labels or signs on products and their packaging, packing, unpacking or repacking;

(c) the simple assembly or assembly of parts of products to constitute a complete good;

(d) operations of simple dilution in water or other solvents, ionization or salting, which do not alter the nature of the goods; or

(e) slaughter of animals.

Article 4.5. Indirect Materials

Indirect materials shall be considered as originating regardless of their place of production or processing.

Article 4.6. Accumulation

1. Originating materials or goods originating in the territory of a Party, incorporated into a good in the territory of one or more of the Parties, shall be considered as originating in the territory of the latter.

2. A good is originating when it is produced in the territory of one or more of the Parties by one or more producers, provided that the goods comply with the requirements set out in Article 4.3 and with the other requirements applicable to this Chapter.

3. For purposes of the cumulation of an originating good excluded from the Tariff Relief Program, the Party that excluded that good shall be considered a non-Party for purposes of compliance with the origin regime until such time as the Parties agree to include it in the Tariff Relief Program.

4. For purposes of extended cumulation of origin for goods classified in Chapters 50 through 63 of the Harmonized System with non-Parties to this Agreement with which they have trade agreements in common, the Parties shall enter into discussions within ninety (90) days after the date of entry into force of this Agreement or such other date as the Parties may determine, with a view to having materials produced in such non-Parties considered as originating under this Agreement, subject to consultations with the sectors and consensus of the Parties.

5. For other goods in which the Parties show a common interest in having extended cumulation with countries not Party to this Agreement, with which they have trade agreements in common, the Parties shall enter into consultations with such countries for the purpose of jointly arranging such cumulation of origin.

Article 4.7. Regional Content Value

1. Each Party shall provide that the regional value content of the goods shall be calculated by the exporter or producer of the good in accordance with the following formula:

RCV = [(MV-VMN)/MV] *100

where:

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

MV is the transaction value of the good adjusted on an FOB basis, except as provided in paragraph 2 determined in accordance with Articles 1 through 8 and Article 15 of the Customs Valuation Agreement; and

VMN is the transaction value of non-originating materials adjusted on a CIF basis, except as provided in paragraph 4 determined in accordance with the provisions of Articles 1 through 8 and Article 15 of the Customs Valuation Agreement.

2. When a good is not exported directly by its producer, the value will be adjusted to the point at which the buyer receives the good within the territory where the producer is located.

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

4. Where the producer of a good acquires a non-originating material within the territory of a Party where it is located, the value of the non-originating material shall not include freight, insurance, packing costs and all other costs incurred in transporting the material from the supplier's warehouse to the place where the producer is located.

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

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

(b) the producer of a commodity in the manufacture of a self-produced material.

6. Where Annex 4.3 specifies a regional value content test to determine whether a good a of the automotive industry (1) is originating, each Party shall provide that the importer, exporter, or producer may use the regional value content calculation for that good based on the following method:

Automobile industry merchandise method ("Net Cost Method")

RVC = CN-VMN/CN *100

where:

RCV is the regional content value expressed as a percentage;

CN is the net cost of goods; and

VMN is the value of non-originating materials acquired and used by the producer in the production of the good.

7. Each Party shall provide that for purposes of the method of calculating the regional value content pursuant to paragraph 6, the exporter or producer may use a calculation averaged over the producer's fiscal year, using any of the following categories, either on the basis of all motor vehicles in the category or only motor vehicles in the category that are exported to the territory of one or more of the Parties:

(a) the same model line in motor vehicles of the same class of vehicles produced in the same plant in the territory of a Party;

(b) the same class of motor vehicles produced in the same plant in the territory of a Party; or

(c) the same model line in motor vehicles produced in the territory of a Party.

8. Each Party shall provide that for purposes of calculating the regional value content under paragraph 6 for automotive goods (2) that are produced in the same plant, an exporter or producer may use the calculation:

(a) averaged:

(i) in the tax year of the producer of the motor vehicle to whom the goods are sold;

(ii) in any quarterly or monthly period; or

(iii) in its own fiscal year, provided that the merchandise was produced during a fiscal year, quarter or month used as the basis for the calculation;

(b) in which the average of subparagraph (a) is calculated separately for such goods sold to one or more producers of motor vehicles; or

(c) in which the average in subparagraph (a) or (b) is calculated separately for those goods that are exported to the territory of one or more of the Parties.

(1) Paragraph 6 shall apply only to goods classified under the following headings or subheadings of the Harmonized System: 87.01 to 87.05 (vehicles), 87.06 (chassis).

(2) Paragraph 8 shall apply only to goods classified under the following headings or subheadings of the Harmonized System: 87.01 to 87.05 (vehicles), 87.06 (chassis).

Article 4.8. De Minimis

1.A good shall be considered originating if the value of all non-originating materials used in the production of this good that do not meet the change in tariff classification requirement set out in Annex 4.3 does not exceed ten percent (10%) of the transaction value of the good determined in accordance with Article 4.7.

2. In the case of goods classified in Chapters 50 to 63 of the Harmonized System, the percentage referred to in paragraph 1 shall refer to the weight of the fibers or yarns in relation to the weight of the goods produced.

3. Paragraph 1 shall not apply to a non-originating material:

(a) that is used in the production of goods falling within Chapters 1 through 24 of the Harmonized System, unless the non-originating material falls within a subheading other than that of the good for which origin is being determined in accordance with this Article; or

(b) classified in Chapter 15 of the Harmonized System that is used in the production of a good classified in heading 15.11 or subheading 1513.21 or 1513.29.

Article 4.9. Goods and Fungible Materials

1. When originating and non-originating fungible goods or fungible materials are used in the production of an originating good or fungible material, the origin of this good or fungible material may be determined either by physical segregation of each good or material, or by the application of one of the following inventory management methods:

(a) First In, First Out (FIFO);

(b) Last In, First Out (UEPS); or (c) Averages.

2. Each Party shall provide that the inventory management method selected pursuant to paragraph 1 for a particular good or fungible material shall continue to be used for that good or fungible material throughout the fiscal year of the person that selected the inventory management method.

Article 4.10. Sets or Assortments of Merchandise

1. A set or assortment of goods that are classified in accordance with rule 3 of the General Rules for the Interpretation of the Harmonized System, as well as goods whose description under the nomenclature of the Harmonized System is specifically that of a set or assortment, shall qualify as originating, provided that each of the goods contained in that set or assortment complies with the rules of origin set out in this Chapter and Annex 4.3.

2. Notwithstanding paragraph 1, a set or assortment of goods shall be considered originating if the value of all non-originating goods used in the formation of the set or assortment does not exceed fifteen percent (15%) of the transaction value of the good, determined in accordance with Article 4.7.

Article 4.11. Accessories, Spare Parts and Tools

1. Accessories, spare parts or tools delivered with the good as a customary part of the good shall be considered parts of the good and shall be disregarded in determining whether all non-originating materials used in the production of a good comply with the applicable change in tariff classification set out in Annex 4.3, provided that:

(a) accessories, spare parts or tools are not invoiced separately from the merchandise; and

(b) the quantity and value of these accessories, spare parts or tools are those customary for the goods.

For those accessories, spare parts or tools that do not comply with the aforementioned conditions, the provisions of this Chapter shall apply to each of them.

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

Article 4.12. Retail Containers and Retail Packaging Materials

1. Where the containers and packaging materials in which a good is presented for retail sale are classified in the Harmonized System with the good they contain, they shall be disregarded in determining whether all non-originating materials used in the production of the good comply with the applicable change in tariff classification set out in Annex 4.3.

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

Article 4.13. Containers and Packing Materials for Shipment

Containers and packing materials in which the good is packed for transportation shall not be taken into account for purposes of determining whether a good is originating.

Article 4.14. Transit and Transshipment

Each Party shall provide that a good that is the subject of a transit or transshipment operation shall not be considered originating if the good:

(a) undergoes further processing or is subject to any other operation within the territory of a non-Party, except unloading, reloading or any other operation necessary to maintain the good in good condition or to transport it to the territory of a Party; or

(b) does not remain under the control of the customs authority.

Article 4.15. Committee of Origin

1. The Parties establish the Committee of Origin, composed of two (2) representatives of each of them, one titular and one alternate, which shall have as its competence the present Chapter and Chapter 5 (Customs Procedures Related to the Origin of Goods).

2. The Origin Committee shall meet in ordinary session once (1) a year and in extraordinary session as often as necessary at the request of the Administrative Commission or any Party.

3. The Origin Committee shall have, in addition to the functions established in Article 17.5 (Technical Committees), the following functions:

(a) to develop no later than one hundred eighty (180) days after the entry into force of this Agreement or on such other date as the Parties may agree, the rules of procedure for the operation of the Committee of Origin, which may be modified by agreement of the Parties;

(b) to attend, analyze and study matters related to the interpretation, application and administration of the chapters under its jurisdiction in order to reach agreements on:

(i) matters related to rulings of origin or advance rulings;

(ii) modifications to the specific rules of origin;

(iii) modifications to the certificate of origin format and instructions to referred to in Article 5.2 (Certification of Origin);

(iv) new provisions or changes adopted by a Party concerning rules of origin or customs procedures relating to the origin of goods, for compliance with this Agreement; or

(v) any other matter deemed relevant by the Committee; and (c) to attend to any other matter agreed upon by the Parties.

Article 4.16. Consultations and Modifications

1. The Parties shall consult regularly to ensure that this Chapter and Chapter 5 (Customs Procedures Relating to the Origin of Goods) are administered effectively, uniformly and in accordance with the spirit and objectives of this Agreement and shall cooperate in the administration of this Chapter and Chapter 5 (Customs Procedures Relating to the Origin of Goods).

2. A Party that considers that one or more of the provisions of this Chapter or Chapter 5 (Customs Procedures Relating to the Origin of Goods) require Modification to take into account developments in production processes, shortages of originating materials or other relevant factors, may submit a proposal for modification, together with supporting reasons and studies, for consideration by the Commission.

3. Upon submission by a Party of a proposed modification pursuant to paragraph 2, the Commission may refer the matter to the Committee of Origin within sixty (60) days or such other date as the Commission may decide. The Origin Committee shall meet to consider the proposed modification within sixty (60) days of the referral or on such other date as the Commission may decide.

4. Within such period, as the Commission may direct, the Originating Committee shall provide a report to the Commission, setting forth its findings and recommendations, if any.

5. Upon receipt of the report, the Commission may take appropriate action in accordance with Article 17.1 (2) (c) or (3) (b) (Treaty Administrative Commission).

Article 4.17. Transitional Rules of Origin Applicable between the Republic of Colombia and the Republic of Honduras

The rules of origin for goods classified in Chapters 50 to 63 of the Harmonized System, applicable between the Republic of Colombia and the Republic of Honduras, are those set forth in Annex 4.17 and shall remain in force until the implementation of the provisions contained in Article 4.6 (4).

Chapter 5. CUSTOMS PROCEDURES RELATED TO THE ORIGIN OF GOODS

Article 5.1. Definitions

1. For the Purposes of this Chapter:

competent authority means:

(a) With respect to the Republic of El Salvador, the Ministry of Economy, which is responsible for the administration and the Directorate General of Customs of the Ministry of Finance, which is responsible for carrying out the procedures of verification of origin and issuance of advance rulings;

(b) with respect to the Republic of Guatemala, the Ministry of Economy;

(c) with respect to the Republic of Honduras, the Secretariat of State in the Offices of Industry and Commerce; and

(d) with respect to the Republic of Colombia, the Ministry of Commerce, Industry and Tourism or the National Tax and Customs Directorate;

or their successors;

valid certificate of origin means a certificate of origin issued in the format referred to in Article 5.2(2), completed, dated, and signed by the producer or exporter of a good in the territory of a Party, in accordance with the provisions of this Chapter and the instructions for completing the certificate;

exporter means a person who makes an export and is located in the territory of a Party;

importer means a person who makes an importation and is located in the territory of a Party;

identical goods means goods that are alike in all respects, without regard to minor differences in appearance that are not relevant to determining the origin of the goods, in accordance with Chapter 4 (Rules of Origin); and

origin determination means the written legal document issued by the competent

authority as a result of a procedure that verifies whether a good qualifies as originating, in accordance with Chapter 4 (Rules of Origin).

2. The definitions set forth in Chapter 4 (Rules of Origin) are incorporated into this Chapter.

Article 5.2. Certification of Origin

1. The importer may request preferential tariff treatment based on a written or electronic certificate of origin (1) , issued by the exporter or producer.

2. The Parties shall establish a single format for the certificate of origin, which shall enter into force on the same date of this Agreement and shall serve to certify that a good exported from the territory of one Party to the territory of the other Party qualifies as originating and may be modified by agreement between the Parties.

3. The exporter or producer who completes and signs a certificate of origin shall do so in terms of a sworn statement, undertaking to assume any administrative, civil or criminal liability, when false or incorrect information has been included in the certificate of origin.

4. Each Party shall provide that when the exporter is not the producer of the good, he shall complete and sign the certificate of origin on the basis of:

(a) its knowledge as to whether the good qualifies as originating; or

(b) the certification of origin completed and signed by the producer of the merchandise and voluntarily provided to the exporter.

5. Each Party shall provide that a certificate of origin may apply to:

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

(b) several shipments of identical goods to be made within any period set forth in the certificate of origin, not to exceed one (1) year from the date of certification.

6. Each Party shall provide that the customs authority of the importing Party shall accept a certificate of origin valid for a period of one (1) year from the date on which the certificate was signed and stamped by the exporter or producer.

7. Each Party shall provide that preferential tariff treatment shall not be denied solely because the good covered by a certificate of origin is invoiced by an enterprise located in the territory of a non-Party.

(1) Each Party shall implement the certification in electronic form referred to in this paragraph no later than three (3) years after the entry into force of the Agreement.

Article 5.3. Exceptions

No Party shall require a certification or information demonstrating that a good is originating when:

(a) the customs value of the importation does not exceed one thousand five hundred dollars of the United States of America (US$ 1,500.00) or the equivalent amount in the currency of the importing Party or such greater amount as may be established by the importing Party, unless the importing Party considers that the importation is part of a series of importations made or planned for the purpose of evading compliance with the laws of the Party governing claims for preferential tariff treatment under this Agreement; or

(b) is a good for which the importing Party does not require the importer to provide certification or information demonstrating origin.

Article 5.4. Obligations Relating to Imports

1. Each Party shall require that an importer claiming preferential tariff treatment for a good imported into its territory from the territory of the other Party:

(a) declare in writing on the import document required by its legislation, based on a valid certificate of origin, that a good qualifies as an originating good;

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

(c) provide, if requested by the customs authority, the certificate of origin ora copy thereof; and

(d) immediately present a corrected import document and pay the corresponding duty, when the importer has reason to believe that the certificate of origin on which the import document is based has incorrect information. The importer may not be penalized when he voluntarily presents the corrected import document before the customs authority has initiated its verification and control powers or before the customs authority notifies the revision, in accordance with the legislation of each Party.

2. Each Party shall provide that if an importer in its territory fails to comply with any of the requirements set out in this Chapter, it shall be denied the preferential tariff treatment provided in this Agreement for a good imported from the territory of the other Party.

3. Each Party shall provide that, where the importer has not requested preferential tariff treatment for the good imported into its territory that has qualified as originating, the importer may, no later than one (1) year after the date of importation, request a refund of the excess customs duties paid for not having requested preferential tariff treatment for that good, provided that the request is accompanied by:

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

(b) the certificate of origin or its copy; and

(c) any other documentation related to the importation of the goods, as may be required by the customs authority.

Article 5.5. Obligations Relating to Exports

1. Each Party shall provide that:

(a) the exporter or producer who has issued a certificate of origin shall deliver a copy of such certificate to his competent authority upon request;

(b) an exporter or producer who has issued a certificate of origin and has reason to believe that such certificate contains incorrect information, the exporter or producer shall immediately inform in writing all persons to whom he has delivered such certificate of any change which may affect the accuracy or validity of such certificate; and

(c) if its exporter or producer furnished a false certificate or false information, and therewith exported goods qualifying as originating goods into the territory of the other Party, it shall be subject to penalties similar to those that would apply to an importer in its territory for contravening its customs laws and regulations by making false declarations and statements in connection with an importation.

2. No Party shall impose penalties on an exporter or producer for providing an incorrect certificate, if the exporter or producer voluntarily communicates in writing that it was incorrect, to all persons to whom he has provided the certificate.

Article 5.6. Records

1. Each Party shall provide that an exporter or producer issuing a certificate of origin shall retain, for a period of at least five (5) years from the date of signature of the certificate, all accounting records and documentation relating to the origin of the goods, including those relating to:

(a) the purchase, costs, value and payment of the merchandise exported from its territory;

(b) the purchase, cost, value and payment of all materials, including indirect materials, used in the production of the merchandise exported from its territory; and

(c) the production of the goods in the form in which they are exported from its territory.

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the territory of that Party shall maintain a copy of the certificate of origin and related import documentation for a period of at least five (5) years from the date of importation of the good.

Article 5.7. Verification of Origin Procedures

1. The importing Party, through its competent authority, may request information on the origin of a good from the competent authority of the exporting Party.

2. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as originating, the importing Party may verify the origin of the good through its competent authority, by means of the following procedures:

(a) written requests for information addressed to the importer in its territory or to the exporter or producer of the good in the territory of the other Party, in which the good subject to verification shall be specifically indicated;

(b) written questionnaires addressed to the importer in its territory or to the exporter or producer of the merchandise in the territory of the other Party, in which the merchandise subject to verification shall be specifically indicated;

(c) verification visits to the premises of the exporter or producer of the good in the territory of the other Party for the purpose of examining the accounting records and related documentation referred to in Article 5.6 (1) and inspecting the facilities and materials used in the production of the good; or

(d) any other procedure agreed upon by the Parties.

3. For the purposes of this Article, questionnaires, requests, official letters, rulings of origin, notifications or any other written communication made directly by the competent authority of the importing Party to the importer, exporter or producer and to the competent authority of the exporting Party for the verification of origin, shall be considered valid, if they are made by means of:

(a) certified mail with a return receipt requested or other forms confirming receipt by the importer, exporter or producer of the documents or communications referred to in this paragraph; or

(b) any other form agreed upon by the Parties.

4. In accordance with paragraph 2 (a) and (b), requests for information or written questionnaires shall contain:

(a) the name or identification of the competent authority requesting the information;

(b) the name and address of the importer, exporter or producer from whom the information and documentation is requested;

(c) adescription of the information and documents required; and (d) the legal basis for requests for information or questionnaires.

5. The importer, exporter or producer receiving a request for information or a questionnaire pursuant to paragraph 2 (a) and (b) shall respond to the request for information or duly complete and return the questionnaire within thirty (30) days from the date of receipt. During the aforementioned period, the importer, exporter or producer may make a written request for an extension to the competent authority of the importing Party, which shall not exceed thirty (30) days. Such request for extension shall not have the consequence of denying preferential tariff treatment.

6. Each Party may, through its competent authority, request additional information, by means of a subsequent request or questionnaire, to the importer, exporter or producer, even if it has received the requested information or the completed questionnaire referred to in paragraph 2 (a) and (b). In this case the importer, exporter or producer shall have the same time limits as set forth in paragraph 5.

7. If the exporter or producer fails to provide the requested information, fails to properly complete a questionnaire, or fails to return the questionnaire within the periods set forth in paragraphs 5 and 6, the importing Party may deny preferential tariff treatment to the good subject to verification by issuing to the importer, exporter or producer, a determination of origin, including the facts and legal basis for that decision, and notifying the importer, exporter or producer in accordance with paragraph 3.

8. Prior to conducting a verification visit and in accordance with paragraph 2 (c), the importing Party, through its competent authority, shall notify in writing its intention to conduct the verification visit. The notification shall be sent to the exporter or producer as well as to the competent authority of the exporting Party, in accordance with paragraph 3. The competent authority of the importing Party shall request the written consent of the exporter or producer to conduct the verification visit.

9. In accordance with the provisions of paragraph 2 (c) the notification of intent to conduct the verification of origin visit referred to in paragraph 8 shall contain:

(a) the name or identification of the competent authority of the importing Party making the notification;

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

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

(d) the purpose and scope of the proposed verification visit, including the specific reference of the goods to be verified;

(e) the names and positions of the officials who will carry out the verification visit; and

(f) the legal basis for the verification visit.

Any modification of the information referred to in this paragraph shall be notified in accordance with paragraph 8.

10. If the exporter or producer of a good does not consent in writing to the visit within thirty (30) days of the day following the notification referred to in paragraph 8, the importing Party may deny preferential tariff treatment to the good subject to verification by issuing to the importer, exporter or producer a determination of origin, including the facts and legal basis for that decision, and notifying the importer, exporter or producer in accordance with paragraph 3.

11. The competent authority of the importing Party shall not deny preferential tariff treatment to a good if, within fifteen (15) days following the date of receipt of the notification, for a single time, the producer or exporter requests the extension of the proposed verification visit with the corresponding justifications, for a period of no more than thirty (30) days counted from the date on which the notification was received, or for a longer period agreed upon by the competent authority of the importing Party and the exporter or producer. For these effects, the competent authority of the importing Party shall notify the extension of the visit to the exporter or producer, to the importer of the merchandise and to the competent authority of the exporting Party.

12. Pursuant to paragraph 2 (c), the competent authority of the importing Party shall allow an exporter or producer who is subject to a verification visit to designate up to two (2) observers to be present during the visit and to act solely in that capacity. Failure to designate observers shall not be grounds for postponement of the visit.

13. For the verification of compliance with any requirement established in Chapter 4 (Rules of Origin) and its Annex, the competent authority shall adopt, where applicable, the generally accepted accounting principles applied in the territory of the Party from which the good subject to verification was produced or exported.

14. When the exporter or producer of a good of the automotive industry that is imported into the territory of a Party calculates the regional value content of this good in accordance with the provisions of Article 4.7 (6) through (8) (Regional Value Content), the importing Party may not verify the regional value content with respect to that good until the end of the period on which it was calculated.

15. Each Party shall require an exporter or a producer to make available to the competent authority of the importing Party conducting the verification visit the records and documents referred to in Article 5.6 (1). If the records and documents are not in the possession of the exporter or producer, the exporter or producer may request the producer of the good or supplier of the materials, as appropriate, to make them available to the competent authority of the importing Party.

16. The competent authority of the importing Party may deny preferential tariff treatment to a good subject to a verification where the exporter or producer of the good fails to make available to the competent authority of the importing Party the accounting records and related documentation referred to in Article 5.6 (1).

17. When the verification visit has been concluded, the importing Party shall draw up a record of the visit, which shall include the facts found by it. The exporter or producer who was the subject of the visit may sign the minutes.

18. Within one hundred and twenty (120) days of the conclusion of the verification, the competent authority of the importing Party shall issue a determination of origin, including the facts, findings and legal basis for such determination, to determine whether or not the good qualifies as originating, and shall notify the importer, exporter or producer of the good subject to verification and the competent authority of the exporting Party, in accordance with paragraph 3.

19. The procedure to verify the origin shall not exceed one (1) year. However, the competent authority of the importing Party, in duly justified cases and only once, may extend said term for a period not exceeding thirty (30) days, notifying the parties involved.

20. Once the term or the corresponding extension established in the previous paragraph has elapsed, without the

competent authority of the importing Party having issued a determination of origin, the good subject to the verification of origin shall receive the same preferential tariff treatment as if it were an originating good.

21. When through verification the importing Party determines that an exporter or producer has provided more than once false or unfounded statements or certifications of origin or false or unfounded information to the effect that a good qualifies as originating, the importing Party may suspend preferential tariff treatment to identical goods exported by that person until it satisfies the competent authority of the importing Party that the good meets all the requirements set out in Chapter 4 (Rules of Origin) and its Annex.

22. In case of resumption of preferential tariff treatment the competent authority of the importing Party shall issue a determination, including the facts and legal basis for such determination, and shall notify the importer, exporter or producer of the good subject to verification in accordance with paragraph 3.

23. If the importing Party issues a determination of origin under paragraph 18 that a good is non-originating, the Party shall not apply the determination to an importation made before the date of the determination when:

(a) the competent authority of the exporting Party issued an advance ruling regarding the tariff classification or valuation of one or more materials used in the good, pursuant to Article 6.10 (Advance Rulings);

(b) the determination of the importing Party is based on a tariff classification or valuation for such materials that is different from that provided in the advance ruling referred to in subparagraph (a); and

(c) the competent authority issued the advance ruling prior to the ruling of the importing Party.

Article 5.8. Confidentiality

1. Each Party shall, in accordance with its legislation, maintain the confidentiality of information collected under this Chapter and protect it from disclosure.

2. Confidential information collected pursuant to this Chapter may be disclosed only to the authorities in charge of the administration and enforcement of rulings of origin and customs and tax matters in accordance with the legislation of each Party.

Article 5.9. Review and Appeal

1. Each Party shall grant the same rights of review and appeal with respect to rulings of origin to its importers, or to exporters or producers of the other Party to whom such rulings have been notified under Article 5.7.

2. The rights referred to in the preceding paragraph include access to at least one administrative review, regardless of the official or office responsible for the original determinations under review, and access to judicial review of such determinations, as a last resort of administrative measures, in accordance with the legislation of each Party.

Article 5.10. Uniform Regulations

1. The Parties shall establish and implement, through their respective laws or regulations by the date on which this Agreement enters into force, or at such later date as the Parties may agree, uniform regulations regarding the interpretation, application and administration of Chapter 4 (Rules of Origin), this Chapter and such other matters as the Parties may agree.

2. Any modifications or additions to the uniform regulations shall be made by agreement between the Parties.

Chapter 6. TRADE FACILITATION

Article 6.1. Publication

1. The Parties shall publish in an orderly manner on the web page of their customs authority, their customs legislation, regulations and administrative procedures of a general nature.

2. Each Party shall, to the extent possible, make available to the public in electronic form all forms that a Party issues and that must be completed for the importation or exportation of a good.

3. Each Party shall, to the extent practicable, make known in advance any regulations of general application governing

customs matters it proposes to adopt and give interested persons an opportunity to comment prior to their adoption.

4. The Parties shall designate or maintain one or more consultation points to address inquiries from interested persons on customs matters and shall make available on the Internet information regarding the procedures to be adopted to formulate and respond to inquiries.

Article 6.2. Clearance of Goods

1. The Parties shall adopt or maintain simplified customs procedures for the efficient clearance of goods in order to facilitate trade between them.

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

(a) allow goods to be cleared at the point of arrival, without temporary transfer to warehouses or other premises;

(b) implement procedures that allow the clearance of goods in a period no longer than that required to ensure compliance with its customs legislation and, to the extent possible, clear the goods within forty-eight (48) hours of the start of the clearance process; and

(c) allow importers to remove goods from customs before the liquidation and payment of applicable customs duties, taxes and charges, without prejudice to the final decision of its customs authority on the same. For these purposes, a Party may require an importer to provide security, in the form of a bond, deposit or any other appropriate instrument that, to the satisfaction of the customs authority, covers the final payment of the customs duties, taxes and charges related to the importation of the good.

Article 6.3. Risk Management

Each Party shall endeavor to adopt or maintain risk management systems aimed at facilitating and simplifying the processing and procedures for the clearance of low-risk goods and directing its inspection and control activities towards the clearance of high-risk goods.

Article 6.4. Automation

1. Customs authorities shall endeavor to use information technology that will expedite the procedures for the release of goods. In choosing the information technology to be used for that purpose, each Party shall:

(a) will make efforts to use international standards;

(b) will make electronic systems accessible to customs users;

(c) provide for the electronic transmission and processing of information and data prior to the arrival of the shipment, in order to allow the clearance of goods upon arrival;

(d) use electronic or automated systems for risk analysis and risk management;

(e) work on the development of compatible electronic systems between the customs authorities of the Parties to facilitate the exchange of international trade data between governments; and

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

2. Customs authorities will, to the extent possible, accept the forms, which must be completed by an importer or exporter, submitted electronically, as the legal equivalent of the printed version.

Article 6.5. Cooperation

1. In order to facilitate the effective operation of this Agreement, each Party shall endeavor to notify each other in advance of any significant modification of its import laws or regulations that may affect the implementation of this Agreement.

2. The Parties shall cooperate to achieve compliance with their respective laws and regulations with respect to:

(a) the implementation and operation of the provisions of this Agreement relating to imports or exports, including applications and origin procedures;

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

(c) restrictions or prohibitions on imports or exports; and (d) such other customs matters as the Parties may agree.

3. Where a Party has reasonable suspicion of any unlawful activity related to its import legislation or regulations, the Party may request the other Party to provide specific confidential information, normally gathered in the course of importing goods.

4. A Party's request under paragraph 3 shall be in writing, shall specify the purpose for which the information is required and shall identify the information requested with sufficient specificity for the other Party to locate and provide it.

5. The Party from which the information is requested shall, in accordance with its legislation and any relevant international agreement to which it is a party, provide a written response containing such information.

6. For the purposes of paragraph 3, "reasonable suspicion of any unlawful activity" means a suspicion based on relevant factual information obtained from public or private sources, including one or more of the following:

(a) historical evidence of non-compliance with legislation or regulations governing imports by an importer or exporter;

(b) historical evidence of non-compliance with legislation or regulations governing imports by a manufacturer, producer or other person involved in the movement of goods from the territory of one Party into the territory of the other Party;

(c) historical evidence that any or all persons involved in the movement of goods from the territory of one Party into the territory of the other Party, for a specific product sector, have not complied with the Party's legislation or regulations governing imports; or

(d) other information that the requesting Party and the Party from which the information is requested agree is sufficient in the context of a particular request.

7. Each Party shall endeavor to provide the other Party with any additional information that may assist that Party in determining whether imports or exports from or to the territory of that Party comply with the laws or regulations governing imports of the other Party, in particular those relating to the prevention of illicit activities, such as smuggling and the like.

8. In order to facilitate trade between the Parties, each Party shall endeavor to provide the other Party with technical advice and assistance for the purpose of improving risk assessment and risk management techniques, simplifying and expediting customs procedures for the timely and efficient clearance of goods, improving the technical skills of personnel, and increasing the use of technologies that may lead to better compliance with legislation or regulations governing imports into a Party.

9. The Parties shall make efforts to cooperate in:

(a) strengthen each Party's ability to enforce regulations governing its imports;

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

(c) improve coordination in import-related matters.

10. The Parties shall cooperate in the fast and efficient clearance of goods. To this end, they will endeavor to take into account as additional elements the certification that they carry out throughout their foreign trade chain in the country of export, international business alliances that promote safe trade in cooperation with governments and international organizations.

11. The Parties agree to enter into a Mutual Assistance Agreement between their customs authorities within one month of the signing of this Agreement.

Article 6.6. Confidentiality

1. Where a Party provides information to the other Party pursuant to this Chapter and designates it as confidential, the other Party shall maintain the confidentiality of such information. The Party having the information may require a written assurance from the requesting Party that the information will be held in confidence, that it will be used only for the purposes specified in the other Party's request for information, and that it will not be disclosed without specific permission from the Party providing the information.

2. A Party may refuse to provide the information requested by the other Party when the requesting Party fails to provide the assurance provided for in the preceding paragraph.

3. Each Party shall adopt or maintain procedures to ensure that confidential information provided by a Party, including information the dissemination of which could prejudice the competitive position of the person providing it, is protected from unauthorized disclosure.

Article 6.7. Expedited Delivery Shipments

The Parties shall adopt or maintain expedited customs procedures for fast delivery shipments, maintaining appropriate screening and selection systems. These procedures shall:

(a) provide for the electronic transmission and processing of information necessary for the clearance of a fast delivery shipment prior to its arrival;

(b) to allow the electronic presentation of a single manifest covering all the goods contained in a shipment transported by an express delivery service;

(c) provide for the clearance of certain goods with a minimum of documentation, in accordance with the legislation of each Party;

(d) under normal circumstances, provide for the clearance of expedited shipments within six (6) hours of the presentation of the necessary customs documents, provided the shipment has arrived; and

(e) applied without regard to weight, volume or quantity.

Article 6.8. Review and Appeal

Each Party shall ensure with respect to its administrative acts on customs matters access to:

(a) a level of administrative review independent of the employee or office issuing the administrative acts; and

(b) judicial review of administrative acts. Article 6.9 Sanctions The Parties shall adopt or maintain a system that allows for the imposition of civil or administrative penalties and, where appropriate, criminal penalties for violations of their customs laws and regulations, including those governing tariff classification, customs valuation, country of origin and claims for preferential tariff treatment under this Agreement.

Article 6.10. Advance Rulings

1. In order to ensure uniform application of customs legislation, provide predictability in customs actions, eliminate discretion and offer legal certainty to the user of the customs service, the importing Party, through its customs authority or competent authority, at the written request of its importer or an exporter or producer (1) of the other Party, prior to the importation of a good into its territory, shall issue a written advance ruling with respect to:

(a) tariff classification;

(b) the application of customs valuation criteria for a particular case, in accordance with the application of the provisions contained in the Customs Valuation Agreement;

(c) the application of refunds, suspensions or other exemptions from customs duties;

(d) whether a good is originating under Chapter 4 (Rules of Origin), including Annex 4.3 (Specific Rules of Origin);

(e) country of origin marking; (f) the application of quotas; and (g) such other matters as the Parties may agree.

2. Each Party shall establish procedures for the request and issuance of advance rulings, including:

(a) the obligation of the interested party to provide the information required by the customs authority or competent authority to process a request for advance ruling, including, if required, a sample of the merchandise for which an advance ruling is being requested;

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

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

3. Each Party shall provide to any person requesting an advance ruling the same treatment as provided for any other person to whom an advance ruling has been issued, provided that the facts and circumstances are identical in all material respects.

4. Each Party shall provide that advance rulings shall take effect from the date of their issuance or other date specified in the ruling, provided that the facts or circumstances on which the ruling is based have not changed.

5. The customs authority or competent authority issuing the ruling may modify or revoke an advance ruling after the Party notifies the applicant. The Party issuing the ruling may modify or revoke an advance ruling for the purpose of collecting any applicable duties, taxes and charges foregone, only if the advance ruling was based on incorrect or false information, and shall notify the applicant immediately.

6. The customs authority or competent authority may modify or revoke an advance ruling, when:

(a) is based on errors such as the tariff classification of a good or of the materials that are the subject of the determination, the application of the customs valuation criteria of the goods or the application of the regional value content requirement under Chapter 4 (Rules of Origin);

(b) the determination is not in accordance with the uniform regulations referred to in Article 5.10 (Uniform Regulations) or Chapter 4 (Rules of Origin);

(c) there is a change in the facts and circumstances on which the resolution is based;

(d) Chapter 4 (Rules of Origin) or this Chapter is amended; or

(e) an administrative decision must be complied with regardless of the issuing authority, a judicial decision or to comply with a change in the national legislation of the Party that has issued the advance ruling.

7. Subject to confidentiality requirements under its law, each Party shall make its advance rulings publicly available.

8. If an applicant provides false information or omits facts or circumstances relevant to the advance ruling, or fails to act in accordance with the terms and conditions of the ruling, the importing Party may apply such measures as may be appropriate, including administrative, civil or criminal actions, monetary penalties or other sanctions.

9. Each Party shall provide that the holder of an advance ruling may use it only as long as the facts or circumstances on the basis of which it was issued continue to exist.

10. Any good subject to a verification of origin or a request for review or appeal in the territory of one of the Parties shall not be subject to an advance ruling.

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

Article 6.11. Trade Facilitation Committee

1. The Parties establish the Trade Facilitation Committee, composed of two (2) representatives of each Party, one representative and one alternate; said Committee shall be competent to hear matters related to the provisions of this Chapter.

2. The Trade Facilitation Committee shall meet in regular session once (1) a year and in special session as often as necessary at the request of the Commission or any Party.

3. The Trade Facilitation Committee shall have, in addition to the functions set forth in Article 17.5 (Technical Committees), the following functions:

(a) develop, no later than one hundred and eighty (180) days after the entry into force of this Agreement, or on such other date as the Parties may agree, the rules of procedure for the operation of the Trade Facilitation Committee, which may be modified by agreement between the Parties;

(b) propose to the Commission the adoption of customs practices and guidelines to facilitate trade between the Parties, in accordance with the evolution of WCO and WTO guidelines;

(c) propose to the Commission solutions to disputes arising in connection with:

(i) interpretation, application and administration of this Chapter;

(ii) tariff classification and customs valuation matters; and

(iii) other issues related to practices or procedures adopted by the Parties that impede the expeditious clearance of goods;

(d) to ensure the correct application of customs regulations by the customs authorities;

(e) propose to the Commission alternative solutions to the obstacles or inconveniences related to trade facilitation that arise between the Parties;

(f} propose uniform guidelines to the Commission, based on international standards, that will lead to the improvement of customs procedures;

(g) to examine proposals for the modification of customs regulations relating to this Chapter, which may affect the flow of trade between the Parties;

(h) report to the Commission on the development of its activities; and

(i) any other matter deemed relevant by the Committee. 4. A Party that considers that one or more of the provisions of this Chapter should be modified may submit a proposal for modification, together with the reasons and studies supporting them, for consideration by the Commission, which may refer the matter to this Committee, which shall provide a report to the Commission, setting forth its conclusions and recommendations, if any. Article 6.12 Implementation The Parties shall apply:

(a) Articles 6.2 (2) (b) and (c) and 6.7 one (1) year after the date of entry into force of this Agreement; and

(b) Articles 6.1(1) and (4), 6.3, 6.4 and 6.10 two (2) years after the date of entry into force of this Agreement.

Chapter 7. SAFEGUARD MEASURES

Article 7.1. Definitions

For the purposes of this Chapter:

threat of serious injury means "threat of serious injury" as defined in the Agreement on Safeguards;

competent investigating authority means:

(a) with respect to the Republic of El Salvador, the DirecciÃ©n de AdministraciÃ©n de Tratados Comerciales, del Ministerio de Economia;

(b) with respect to the Republic of Guatemala, the Direcci6Ã©n de AdministraciÃ©n del Comercio Exterior, of the Ministry of Economy;

(c) with respect to the Republic of Honduras, the General Directorate of Economic Integration and Trade Policy of the Secretariat of State in the Offices of Industry and Commerce; and

(d) with respect to the Republic of Colombia, the Subdirectorate of Commercial Practices of the Ministry of Commerce, Industry and Tourism;

or their successors;

safeguard measure means all tariff measures applied in accordance with the provisions of this Chapter;

domestic industry means, with respect to an imported good, the aggregate of producers of like or directly competitive goods operating in the territory of a Party, or those producers whose collective output of like or directly competitive goods constitutes a major proportion of the total domestic production of such good; and

transition period means a period of ten (10) years from the date of entry into force of this Agreement. For those products in which the relief period is longer, the transition period shall be equivalent to the Tariff Reduction Schedule of the Party applying the measure, in which case "transition period" means the period established in the indicated schedule.

Article 7.2. General Provisions

Except as provided in this Chapter, each Party shall be governed by its national legislation, Article XIX of the GATT 1994 and the Agreement on Safeguards.

Article 7.3. Imposition of a Safeguard Measure

1. A Party may apply a safeguard measure only during the transition period if, as a result of the reduction or elimination of a customs duty under this Agreement, an originating good is imported into the Party's territory in such increased quantities in absolute terms or relative to domestic production and under such conditions as to constitute a substantial cause of serious injury, or threat thereof, to the domestic industry producing a like or directly competitive good (1).

2. If the conditions referred to in the preceding paragraph are met, a Party may, to the extent necessary to prevent or remedy serious injury or threat thereof and to facilitate adjustment, apply a safeguard measure:

(a) suspend the future reduction of any tariff rate provided for in this Agreement for the good; or

(b) increase the tariff rate for the good to a level that does not exceed the Most Favored Nation (MFN) tariff rate applied at the time the measure is imposed (2).

(1) For the purposes of determining increased imports and serious injury, the injury analysis period should normally be at least three (3) years.

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

Article 7.4. Duration and Extension

1. No Party may maintain a safeguard measure:

(a) except to the extent and for the period necessary to prevent or remedy serious damage and to facilitate adjustment;

(b) for a period exceeding three (3) years; except that this period may be extended for an additional period of one (1) year, if the competent authority determines, in accordance with the procedures set forth in Article 7.5, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the domestic industry is adjusting; or

(c) after the expiration of the transition period.

2. A safeguard measure may be reapplied for a second time provided that the period of non-application is at least half of that during which the safeguard measure was first applied.

3. Upon termination of the safeguard measure, the rate of duty shall not be higher than the rate of duty that, according to the Party's Schedule to Annex 3.4 (Tariff Discharge Schedule), would have been in effect one (1) year after the commencement of the measure. As of January 1 of the year immediately following the year in which the measure ceases, the Party that has adopted the measure shall apply the tariff rate set out in the Party's Schedule to Annex 3.4 (Tariff Discharge Schedule) as if the safeguard measure had never been applied.

Article 7.5. Investigation Procedures and Transparency Requirements

1. A Party may apply a safeguard measure only after an investigation by the Party's competent authority, in accordance with its domestic law and Articles 3, 4.2 (b) and (c) of the Agreement on Safeguards and for this purpose, Articles 3, 4.2 (b) and (c) of the Agreement on Safeguards are incorporated into and made part of this Agreement, mutatis mutandis.

2. In the investigation described in paragraph 1, the Party shall comply with the requirements of its domestic law and Article 4.2(a) of the Agreement on Safeguards and for this purpose, Article 4.2(a) is incorporated into and made part of this Agreement, mutatis mutandis.

3. For the purposes of this Article, all information which by its nature is confidential shall be treated in accordance with the domestic legislation of each Party and in accordance with the provisions of Article 3 of the Agreement on Safeguards.

Article 7.6. Provisional Safeguard Measures

1. A Party may adopt a provisional safeguard measure, in critical circumstances in which any delay would cause damage difficult to repair to the domestic industry of like or directly competitive goods, pursuant to a preliminary determination of the existence of clear evidence that increased imports have caused or are threatening to cause serious injury.

2. The duration of the provisional measure shall not exceed two hundred (200) days and shall take the form of tariff increases, which shall be promptly refunded if the investigation does not determine that the increased imports have caused or threatened to cause serious injury to a domestic industry.

Article 7.7. Notification and Consultation

1. A Party shall promptly notify the other Party in writing, when:

(a) initiate a safeguard procedure in accordance with this Chapter; and

(b) adopt a decision to apply or extend a provisional or definitive safeguard measure.

2. A Party shall provide to the other Party a copy of the public version of the report of its competent investigating authority referred to in the preceding paragraph, in accordance with Article 7.5.

3. Upon request of a Party whose good is subject to a safeguard proceeding under this Chapter, the Party conducting the proceeding shall initiate consultations with the requesting Party to review the notifications under paragraph 1 of this Article, or any public notice or report issued by the competent investigating authority in connection with such proceeding.

Article 7.8. Global Safeguard Measures

1. This Agreement confers no additional rights or obligations on the Parties with respect to actions taken pursuant to Article XIX of the GATT 1994 and the Agreement on Safeguards, except that the Party imposing a global safeguard measure may exclude imports of a good originating in the other Party, if such imports are not a substantial cause of serious injury or threat thereof.

2.No Party shall apply, with respect to the same good, and during the same period:

(a) a safeguard measure; and

(b) a measure under Article XIX of GATT 1994 and the Agreement on Safeguards.

Chapter 8. ANTIDUMPING AND COUNTERVAILING MEASURES

Article 8.1. Sole Provision

Each Party retains its rights and obligations under the WTO Agreement with respect to the application of antidumping and countervailing duties.

Part THREE. TECHNICAL BARRIERS TO TRADE

Chapter 9. SANITARY AND PHYTOSANITARY MEASURES

Article 9.1. Definitions

1. For the purposes of this Chapter:

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

2. The Parties recognize the definitions contained in Annex A of the SPS Agreement and, in addition, the definitions recommended by the competent international organizations: World Organization for Animal Health - OIE, International Plant Protection Convention - IPPC, Codex Alimentarius and those that may be lacking, shall be established by mutual agreement between the Parties.

Article 9.2. General Provisions

1. The Parties confirm their rights and obligations under the SPS Agreement. In addition to the foregoing, the Parties shall be governed by the provisions of this Chapter.

2. The Parties agree to make joint efforts for the effective implementation of the SPS Agreement, with the purpose of

facilitating trade.

3. Competent authorities are those legally responsible for ensuring compliance with the sanitary and phytosanitary requirements set forth in this Chapter.

4. Through mutual cooperation, the Parties shall facilitate trade, endeavor to prevent the introduction or spread of pests and diseases, and improve plant health, animal health and food safety.

5. Disputes arising in connection with the application of this Chapter shall be resolved through the provisions of the General Dispute Settlement Mechanism of this Agreement. The Parties may use the WTO Dispute Settlement Understanding for those provisions that are contained in the SPS Agreement.

Article 9.3. Rights and Obligations of the Parties

Without prejudice to the provisions of the SPS Agreement, the Parties shall ensure that plants, animals, products and by-products are subject to sanitary and phytosanitary monitoring to ensure compliance with the requirements of the sanitary and phytosanitary measures established by the importing Party.

Article 9.4. Harmonization

Without prejudice to the provisions of Article 3 of the SPS Agreement, the Parties may develop criteria and procedures for the harmonization of sanitary and phytosanitary measures, including, among others, methods of sampling, diagnosis, inspection and certification of animals, plants, their products and by-products.

Article 9.5. Equivalence

1. Without prejudice to the provisions of Article 4 of the SPS Agreement, the Parties may enter into sanitary and phytosanitary equivalence agreements, the objectives of which shall be to facilitate trade in goods subject to sanitary and phytosanitary measures and to promote mutual confidence. To this effect:

(a) equivalence may be determined for measures applied to a given product or category of products. By mutual agreement, Agreements on Recognition of Equivalence of sanitary and phytosanitary measures or systems may be established at the request of a Party; and

(b) when an equivalence agreement is being negotiated and until an understanding on such recognition is reached, the Parties may not apply more restrictive sanitary or phytosanitary measures than those in force in trade in the good(s) subject to the equivalence agreement, except those arising from sanitary or phytosanitary emergencies.

Article 9.6. Risk Assessment

Without prejudice to the provisions of Article 5 of the SPS Agreement:

1. In assessing the risk and establishing the appropriate level of protection, the Parties shall take into account, among other factors:

(a) epidemiology of pests and diseases of quarantine interest;

(b) analysis of critical control points in sanitary (food safety) and phytosanitary aspects;

(c) physical, chemical and biological hazards in food; (d) the structure and organization of sanitary and phytosanitary services;

(e) protection, epidemiological surveillance, diagnosis and _ treatment procedures to ensure food safety;

(f) the loss of production or sales in the event of the entry, establishment, spread or dissemination of a pest or disease;

(g) the applicable quarantine measures and treatments that satisfy the importing Party as to risk mitigation; and

(h) the costs of pest or disease control or eradication in the territory of the importing Party and the cost-effectiveness of other possible methods to reduce the risk.

2. Where there is a sound technical reason for a new risk assessment in situations where there is regular and fluid trade in agricultural commodities between the Parties, this should not be a reason to interrupt trade in the commodities in question,

unless the outcome of the risk assessment has not been overcome or in cases of sanitary or phytosanitary emergency.

3. When scientific information is insufficient to carry out the risk analysis, the Party may adopt provisional sanitary or phytosanitary measures, based on available information, including that from the competent international organizations mentioned in this Chapter. In such circumstances, the Parties shall seek to obtain the additional information necessary for a more objective risk analysis and review the sanitary or phytosanitary measures within a reasonable period of time for this purpose:

(a) the importing Party shall allow the exporting Party to submit its comments and shall take them into account for the conclusion of the risk assessment;

(b) the importing Party may request clarification of the information submitted by the exporting Party after having received the same;

(c) the adoption or modification of the provisional sanitary or phytosanitary measure shall be immediately notified to the other Party through the information centers established in accordance with the SPS Agreement; and

(d) if the outcome of the risk assessment implies the non-acceptance of the The scientific basis for the decision shall be notified in writing.

4. Where a Party has reason to believe that a sanitary or phytosanitary measure established or maintained by the other Party restricts or may restrict its exports and such measure is not based on relevant international standards, guidelines or recommendations, or no such_ international standards, guidelines or recommendations exist, it may request an explanation of the reasons for such sanitary and phytosanitary measures and the Party maintaining such measures shall provide such explanation within a reasonable period of time.

5. The Parties may take into account risk assessments or scientific information, including proposals for mitigation measures that the exporting Party may wish to provide, in order to support the importing Party's risk analysis process and risk management alternatives.

Article 9.7. Recognition of Free Zones and Low Prevalence Zones

Without prejudice to the provisions of Article 6 of the SPS Agreement:

1. The Party interested in obtaining the recognition of a pest or disease free area shall make the request and provide the corresponding scientific and technical information to the other Party.

2. The Party receiving the request for recognition may carry out inspections, tests and other verification procedures. In case of non-acceptance, it shall state in writing the technical basis for its decision.

Article 9.8. Procedures of Control, Inspection, Approval and Certification

Without prejudice to the provisions of Article 8 of the SPS Agreement:

1. When the competent authority of the exporting Party requests for the first time to the competent authority of the importing Party the inspection of a production unit or of a production process in its territory, the competent authority of the importing Party after review and complete evaluation of the necessary documents and data, will give the date to practice the inspection, without damage of the arranged thing in Annex 9.8. Once the inspection has been carried out, the competent authority of the importing Party shall issue a substantiated decision on the result obtained in the inspection and shall notify it to the exporting Party, without prejudice to the provisions of Annex 9.8.

2. Compliance with the recommendations made as a result of the inspection process shall be verified, certified and notified by the competent authority of the exporting Party.

3. In the case of production units or production processes that have a certification in force in the importing Party, they must request its renewal at least ninety (90) calendar days before the date of its expiration. The productive units or productive process units that comply with the term stipulated in this paragraph and have not yet received from the importing Party the approval for the renewal of the certification, shall be allowed to continue exporting until the competent authority of the importing Party completes the inspection procedures and issues the corresponding renewal certification.

4. Those productive units or productive process units that do not request their renewal within ninety (90) days, shall be governed by the procedure established in paragraph 1 of this Article.

5. Certifications of production units or production processes issued by the competent authority of the importing Party shall be valid in accordance with national legislation.

6. The Parties shall provide the necessary facilities for the evaluation of sanitary and phytosanitary services, through the procedures in force for the verification of controls, inspections, approval procedures, application of sanitary and phytosanitary measures and programs based on the guidelines and recommendations of the competent international organizations.

Article 9.9. Technical Cooperation

The Parties agree to provide reciprocal cooperation and technical assistance, as well as to promote its provision through the competent international organizations, in order to strengthen activities aimed at:

(a) the application of this Chapter;

(b) the implementation of the SPS Agreement;

(c) the participation more active participation at the organizations organizations and their reference bodies; and

(d) supporting the development and implementation of international and regional standards.

Article 9.10. Transparency

Without prejudice to the provisions of Article 7 of the SPS Agreement:

1. Each Party, when proposing the adoption or modification of a sanitary or phytosanitary measure of general application, shall notify the following:

(a) It shall also provide information on such measures, in accordance with the provisions of Annex B of the SPS Agreement, and shall make the pertinent adaptations;

(b) changes or modifications to sanitary or phytosanitary measures that have a significant effect on trade between the Parties, at least sixty (60) days prior to the entry into force of the new provision, to allow the other Party to comment. Emergency situations shall be exempted from the above time limit, in accordance with the provisions of Annex B of the SPS Agreement;

(c) changes occurring in the field of animal health, such as the emergence of exotic diseases and notifiable diseases on the OIE List of diseases, within twenty-four (24) hours of confirmation of the disease;

(d) changes in the phytosanitary field, such as the emergence of quarantine pests and diseases or the spread of pests and diseases under official control, within seventy-two (72) hours after verification;

(e) diseases scientifically proven to be caused by the consumption of foodstuffs; and

(f) report on the status of the admissibility processes and measures in process.

2. The Parties shall use the notification and information centers established in accordance with the SPS Agreement as a channel of communication. In the case of emergency measures, the Parties, through the competent national institutions, undertake to communicate in writing immediately, briefly indicating the objective and rationale of the measure, as well as the nature of the problem.

Article 9.11. Technical Consultation

1. Nothing in this Chapter shall prevent a Party, when in doubt as to the application or interpretation of its contents, from initiating consultations with the other Party.

2. When a Party requests consultations and so notifies the Committee, the Committee shall facilitate the consultations, and may request the opinion of a group of experts for technical advice or recommendations.

3. When the Parties have resorted to consultations pursuant to this Article without satisfactory results, such consultations shall constitute the consultations provided for in Chapter 18 (Dispute Settlement).

Article 9.12. Committee on Sanitary and Phytosanitary Measures

1. The Parties agree to establish the Committee on Sanitary and Phytosanitary Measures, the composition of which is set forth in Annex 9.12. The Committee shall be established no later than thirty (30) days after the entry into force of this Agreement through an exchange of letters identifying the representatives of each Party to the Committee and the respective principal representatives.

2. The Committee at its first meeting shall establish the rules and procedures for its operation.

3. The Committee shall hear matters relating to this Chapter and shall serve, inter alia, to promote consultation and cooperation on sanitary and phytosanitary measures and as a forum for the solution of practical problems identified by the Parties.

4. The Committee shall have the following functions:

(a) promote the implementation of this Chapter;

(b) promote the improvement of sanitary and phytosanitary conditions in the territory of the Parties;

(c) develop and recommend procedures for the recognition of equivalence of sanitary and phytosanitary measures, for risk assessment, including that of interim measures, and for the recognition of free zones and low prevalence zones. This work to develop the procedures may begin no later than nine (9) months after the Committee is constituted;

(d) promote technical assistance and cooperation between the Parties for the development, application and enforcement of sanitary and phytosanitary measures;

(e) seek, to the greatest extent possible, the technical assistance and cooperation of competent international organizations, in order to obtain scientific and technical advice;

(f) to conduct, attend to and promote consultations on specific matters related to sanitary or phytosanitary measures;

(g) promote the necessary facilities for the training and specialization of technical and scientific personnel;

(h) create technical working groups in the areas of animal health, plant health and food safety, among others, and establish their objectives, guidelines, functions and the deadlines within which they must submit their reports or resolve requests; and

(i) approve the results of the working groups.

5. The technical groups will report the outcome and conclusions of the work to the Committee.

6. The Committee shall seek to promote communication and foster present or future relations between the institutions of the Parties with responsibility for sanitary and phytosanitary matters.

7. All decisions of the Committee shall be made by consensus, unless the Committee decides otherwise.

8. The Committee may meet and adopt recommendations to address matters of bilateral interest to the Parties, provided that all Parties are notified sufficiently in advance so that they may participate in the meeting.

Recommendations adopted by the Committee under this paragraph shall have no effect with respect to a Party that did not attend the meeting.

9. The Committee shall report annually to the Commission on the implementation of this Chapter and shall meet ordinarily once a year or extraordinarily when the Parties so agree.

10. The Committee may also consult and carry out its work, when so agreed, through the means of communication agreed by the Parties, such as e-mail, videoconferences or others, through its principal representatives.

The Instituto Nacional de Vigilancia de Medicamentos y Alimentos (INVIMA); The Instituto Colombiano Agropecuario (ICA); and

The National Planning Department; or its

successors.

9-10

Chapter 10. TECHNICAL

Article 10.1. Definitions for the Purposes of this Chapter:

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

to make compatible means to bring different standardization measures, approved by different standards bodies, but with the same scope, to such a level that they are identical, equivalent or have the effect of allowing the goods to be used interchangeably or for the same purpose;

standardization measures means technical regulations or mandatory technical standards, conformity assessment procedures applicable thereto, approval or authorization procedures and metrology;

standard means a document approved by a recognized institution that provides, for common and repeated use, rules, guidelines or characteristics for related goods or processes and production methods, compliance with which is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements applicable to a commodity, process or production method;

international standard means that standard, guide, recommendation or normative specification that is adopted by an international standardizing body, in accordance with the guidelines and recommendations established in the TBT Agreement, as well as the provisions of this Chapter;

legitimate objectives means the imperatives of national security, the prevention of practices that may mislead consumers, the protection of human health or safety, animal or plant life or health, or the environment;

international standardizing and metrology body means a standardizing body open to participation by the relevant bodies of at least all Members of the TBT Agreement, including the International Organization for Standardization (ISO), the Intemational Electrotechnical Commission (IEC), the Codex Alimentarius Commission, the Intemational Organization of Legal Metrology (OIML) and the Intemational Commission on Radiological Units and Measurements (ICUMR) or such other body as the Parties may designate;

approval or authorization procedure means any mandatory administrative process for obtaining a registration, permit, license or any other authorization, other than customs procedures and border inspections and controls, in order for a good to be produced, marketed or used for defined purposes or in accordance with established conditions;

conformity assessment procedure means any procedure used, directly or indirectly, to determine whether relevant requirements established by technical regulations or mandatory technical standards or standards are met, comprising, inter alia, sampling, testing and inspection, evaluation, verification and assurance of conformity, registration, accreditation and approval, either separately or in various combinations;

Chapter 10. TECHNICAL BARRIERS TO TRADE

Article 10.1. Definitions

For the purposes of this Chapter:

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

to make compatible means to bring different standardization measures, approved by different standards bodies, but with the same scope, to such a level that they are identical, equivalent or have the effect of allowing the goods to be used interchangeably or for the same purpose;

standardization measures means technical regulations or mandatory technical standards, conformity assessment procedures applicable thereto, approval or authorization procedures and metrology;

standard means a document approved by a recognized institution that provides, for common and repeated use, rules, guidelines or characteristics for related goods or processes and production methods, compliance with which is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements applicable to a commodity, process or production method;

international standard means that standard, guide, recommendation or normative specification that is adopted by an

international standardizing body, in accordance with the guidelines and recommendations established in the TBT Agreement, as well as the provisions of this Chapter;

legitimate objectives means the imperatives of national security, the prevention of practices that may mislead consumers, the protection of human health or safety, animal or plant life or health, or the environment;

international standardizing and metrology body means a standardizing body open to participation by the relevant bodies of at least all Members of the TBT Agreement, including the International Organization for Standardization (ISO), the Intemational Electrotechnical Commission (IEC), the Codex Alimentarius Commission, the Intemational Organization of Legal Metrology (OIML) and the Intemational Commission on Radiological Units and Measurements (ICUMR) or such other body as the Parties may designate;

approval or authorization procedure means any mandatory administrative process for obtaining a registration, permit, license or any other authorization, other than customs procedures and border inspections and controls, in order for a good to be produced, marketed or used for defined purposes or in accordance with established conditions;

conformity assessment procedure means any procedure used, directly or indirectly, to determine whether relevant requirements established by technical regulations or mandatory technical standards or standards are met, comprising, inter alia, sampling, testing and inspection, evaluation, verification and assurance of conformity, registration, accreditation and approval, either separately or in various combinations;

administrative rejection means the actions taken by an organ of the public administration of the importing Party in the exercise of its powers, to prevent the entry into its territory of a good, for non-compliance with technical regulations or mandatory technical standard, conformity assessment procedure or metrology;

technical regulation or mandatory technical rule means a document that establishes the characteristics of goods or their related processes and production methods, including the applicable administrative provisions and whose observance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements applicable to a good, process or production method; and

comparable situation means one that guarantees the same level of security or protection to achieve a legitimate objective.

The terms used in this Chapter shall have the meaning assigned to them in Annex 1 of the TBT Agreement, in addition to those contained in this Chapter.

Article 10.2. General Provisions

1. The objectives of this Chapter are to increase and facilitate trade in goods and to obtain effective market access through proper implementation of the TBT Agreement.

2. The provisions of this Chapter are intended to ensure that the standardization measures and standards of the Parties do not constitute unnecessary barriers to trade.

3. Each Party shall ensure, in accordance with its domestic law, compliance with the obligations of this Chapter in its territory and, in this regard, shall adopt such measures as may be available to it with respect to non-governmental standardizing bodies in its territory.

4. Disputes arising in connection with the application of this Chapter shall be resolved through the dispute settlement provisions of this Agreement. The Parties may use the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO for those provisions that are contained in the TBT Agreement.

Article 10.3. Scope and Coverage

1. This Chapter applies to the elaboration, adoption and application of all standardization measures and standards that may, directly or indirectly, affect trade in goods between the Parties, including any amendments thereto and any additions to their rules or to the list of products to which they refer.

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

(a) the technical specifications established by public entities for the production or consumption requirements of such entities; and

(b) sanitary and phytosanitary measures.

Article 10.4. Basic Rights and Obligations

1. The Parties agree to reaffirm compliance with the rights and obligations contained in the TBT Agreement. In addition to the foregoing, the Parties shall be governed by the rights and obligations of this Chapter.

2. Each Party may develop, adopt, implement and maintain standardization measures to ensure the achievement of its legitimate objectives.

3. The Parties understand that the elaboration, adoption and application of technical regulations or mandatory technical standards, standards and conformity assessment procedures shall be based on the provisions of the TBT Agreement and the provisions of this Chapter.

Article 10.5. Trade Facilitation

1. The Parties will seek to identify trade facilitating initiatives in relation to their standardization measures and standards and increase understanding of each other's national systems.

2. Each Party shall permit persons of the other Party to participate in the development of its technical regulations or mandatory technical standards, standards, conformity assessment procedures and metrology, on terms no less favorable than those accorded to its own persons and those of any other country.

3. Each Party shall recommend that non-governmental standardizing bodies located in its territory comply with the preceding paragraph.

4. When a Party administratively rejects a good originating in the territory of the other Party due to a perceived non-compliance with a technical regulation or mandatory technical standard, it shall promptly notify the importer in writing of the reasons for its rejection, by means such as fax, courier document, e-mail or other suitable means.

5. The Parties agree to strengthen and guide, to the extent possible, their activities in the area of standardization measures and standards, based on the recommendations of international standardization, accreditation and metrology forums.

Article 10.6. Use of International Standards

Without prejudice to its rights and obligations under the TBT Agreement and the provisions of this Chapter, each Party shall use existing or imminently adopted international standards, or relevant elements thereof, for the development or implementation of its standardization measures and standards, except where such international standards do not constitute an effective or appropriate means to achieve its legitimate objectives, for example, fundamental climatic, geographical, technological, infrastructural factors, or for scientifically proven reasons, in accordance with the provisions of this Chapter.

Article 10.7. Compatibility and Equivalence

Without prejudice to their rights and obligations under the TBT Agreement and the provisions of this Chapter, and taking into account international standardization and metrology activities, the Parties shall, to the greatest extent possible, make their respective standardization measures compatible, without reducing the level of safety or protection of human, animal or plant life or health, the environment or consumers.

Article 10.8. Technical Regulations or Mandatory Technical Standards

1. A Party shall accept a technical regulation or mandatory technical standard adopted by the other Party as equivalent to one of its own when, in cooperation with that other Party, the importing Party determines that the technical regulations of the exporting Party adequately meet the legitimate objectives of the importing Party.

2. At the request of the exporting Party, the importing Party shall communicate in writing the reasons why it does not accept a technical regulation or mandatory technical standard as equivalent, in accordance with paragraph 1.

3. Where a Party accepts as its own the technical regulations or mandatory technical standards or conformity assessment procedures of a third country and does not accept as equivalent the technical regulations or mandatory technical standards or conformity assessment procedures of the other Party, it shall, upon request of that other Party, explain the reasons for its decision.

Article 10.9. Conformity Assessment

1. In order to advance trade facilitation, a Party shall favorably consider, at the request of the other Party, entering into negotiations aimed at concluding agreements on mutual recognition of the results of their respective conformity assessment procedures.

The Parties recognize that a wide range of mechanisms exist to facilitate the acceptance in the territory of one Party of the results of conformity assessment procedures carried out in the territory of the other Party, such as:

(a) the importing Party may accept a supplier's declaration of conformity;

(b) Conformity assessment bodies operating in the territory of a Party may establish voluntary agreements with conformity assessment bodies operating in the territory of the other Party to accept or validate the results of their conformity assessment procedures;

(c) A Party may adopt accreditation procedures to qualify conformity assessment bodies located in the territory of the other Party;

(d) A Party may designate conformity assessment bodies located in the territory of the other Party;

(e) a Party may agree with the other Party to accept the results of conformity assessment procedures carried out by entities located in the territory of the other Party with respect to specific technical regulations or mandatory technical standards; and

(f) A Party may recognize the results of conformity assessment procedures carried out in the territory of the other Party.

2. Each Party may accept the results of conformity assessment procedures carried out in the territory of the other Party, provided that they offer a satisfactory assurance equivalent to that offered by the procedures carried out or to be carried out in its territory and the result of which it accepts.

3. In the event that a Party does not accept the results of a conformity assessment procedure carried out in the territory of the other Party, it shall, at the request of that other Party, explain the reasons for its decision so that the necessary corrective actions may be taken.

4. Prior to acceptance of the results of a conformity assessment procedure in accordance with paragraph 2 and in order to strengthen the sustained reliability of each Party's conformity assessment results, the Parties may consult on matters such as the technical capability of the conformity assessment bodies concerned, including verified compliance with relevant international standards, through such means as accreditation.

5. In recognition that this should be to the mutual benefit of the Parties concerned, each Party shall accredit, approve or otherwise recognize conformity assessment bodies in the territory of the other Party, on terms no less favorable than those accorded to such bodies in its territory.

6. For conformity assessment procedures, the Parties may use the capacity and technical infrastructure of accredited bodies established in the territory of the Parties.

Article 10.10. Approval or Authorization Procedures

1. Each Party shall develop, adopt and apply approval or authorization procedures so as to grant access to like goods from the territory of the other Party on terms no less favorable than those accorded to its like goods or to those of any other non-Party in a comparable situation.

2. In connection with its approval or authorization procedures, each Party shall be obliged that:

(a) such proceedings are initiated and concluded as expeditiously as possible and in a nondiscriminatory order;

(b) the processing of each of these procedures is published or, upon request, the information is communicated to the applicant;

(c) the competent body or authority shall promptly examine, upon receipt of an application, the completeness of the documentation and inform the applicant of any deficiencies in a precise and complete manner, transmit to the applicant as soon as possible the results of the authorization in a precise and complete manner, so that corrective action can be taken if necessary, and inform the applicant of the stage reached in the procedure, explaining any delays;

(d) only the information necessary to authorize and calculate the fees is required;

(e) the confidentiality of information relating to a good of the other Party resulting from such procedures or provided in connection therewith shall be respected in the same manner as in the case of a good of that Party;

(f) the fees to be imposed for the approval or authorization procedure for a good of the other Party are equitable in comparison with those that would be charged for the approval or authorization procedure for a good of that Party, taking into account the costs of communications, transportation and other costs arising from differences in the location of the applicant's facilities and those of the approval or authorization procedure body; and

(g) that a procedure be established to review complaints regarding the application of an approval or authorization procedure and to take corrective action when the complaint is justified.

Article 10.11. Metrology

Each Party shall ensure, to the extent possible, the documented traceability of its standards and the calibration of its measuring instruments, as recommended by the International Bureau of Weights and Measures (BIPM) and the OIML, complying with the provisions of this Chapter.

Article 10.12. Notifications and Exchange of Information

1. In cases where there is no relevant international standard or where the technical content of a technical regulation or mandatory technical standard or conformity assessment procedure applicable to a technical regulation or mandatory technical standard in draft form is not in conformity with the technical content of the relevant international standards and provided that such technical regulation or mandatory technical standard may have a significant effect on the trade of the Parties, the Parties undertake to:

(a) exchange information on standards, technical regulations or mandatory technical standards and conformity assessment procedures, particularly those that may affect reciprocal trade;

(b) upon request of the other Party, provide information about the basic standard and the legitimate objective of the technical regulation or mandatory technical standard, or conformity assessment procedure that the Party has adopted or intends to adopt;

(c) transmit the proposed technical regulation or mandatory technical standard, or conformity assessment procedures applicable thereto, electronically to the other Parties through the contact points that each Party has established under Article 10 of the TBT Agreement, while notifying other WTO Members of the proposal in accordance with the TBT Agreement;

(d) provide in printed or electronic form within a reasonable period, any information or explanation that is required at the request of a Party in accordance with the provisions of this Chapter. The Party shall endeavor to respond to each request within sixty (60) days;

(e) apply in accordance with Article 10 of the WTO TBT Agreement, the recommendations indicated in the document Decisions and Recommendations adopted by the Committee since January 1, 1995, G/TBT/1/Rev.8, May 23, 2002, Section IV (Information Exchange Procedure) expressed by the WTO Committee on Technical Barriers to Trade;

(f) allow at least sixty (60) days after the notification, so that the persons and the other Parties may make written comments on the proposal of a technical regulation or mandatory technical standard or a conformity assessment procedure applicable to them, in order to allow the interested parties during this period to present and formulate comments and consultations so that the notifying Party may take them into account. A Party shall give favorable consideration to reasonable requests for extension of the period established for comments; and

(g) each Party shall annually notify the other Party in writing of its standardization plans and programs and shall make them available in a reasonable time to the information center of the other Party.

2. If urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit to give prior notification of the project, but once it is adopted it shall immediately notify and send it to the other Party.

3. The notifications set forth in paragraphs 1 and 2 shall be made in accordance with the formats set forth in the TBT Agreement.

Article 10.13. Information Centers

1. Each Party shall ensure that there is an information center in its territory capable of responding to all reasonable inquiries and requests from the other Party and interested persons, as well as providing relevant updated documentation regarding standardization measures or standards applicable thereto, adopted or proposed in its territory, by governmental or non-governmental bodies.

2. Each Party designates the information center indicated in Annex 10.13.

Article 10.14. Cooperation and Technical Assistance

1. The Parties shall promote cooperation on standards, technical regulations or mandatory technical standards, conformity assessment and metrology with a view to facilitating market access, increasing understanding of each other's national systems and strengthening the bonds of trust between the Parties.

2. At the request of a Party, the other Party shall provide, to the extent of its possibilities and taking into account the level of development of the requesting Party, advice, information and assistance to strengthen national standardization, conformity assessment and metrology systems.

3. The Parties shall develop cooperation and technical assistance programs aimed at achieving full and effective compliance with the obligations established in the TBT Agreement.

4. At the request of the other Party, a Party shall give favorable consideration to any proposal aimed at:

(a) facilitate trade for a specific sector and encourage greater cooperation under this Chapter;

(b) develop mechanisms to promote equivalence between technical regulations or mandatory technical standards and conformity assessment procedures applicable to them; mutual recognition agreements and the designation in the territory of the other Party of its conformity assessment bodies;

(c) create cooperation and technical assistance programs aimed at achieving standardization measures and harmonized standards;

(d) facilitate the coordination of the Parties' standardization bodies for their participation in international standardization processes; and

(e) support the development and application of international standards.

Article 10.15. Technical Consultation

1. When a Party considers that a standardization measure of the other Party is interpreted or applied in a manner inconsistent with the provisions of this Chapter, it shall deliver its written request to the other Party, including the identification of the standardization measure in force or in the pipeline and the reasons supporting the existence of the inconsistency.

2. When a Party requests consultations and so notifies the Committee, the Committee shall facilitate the consultations, and may refer them to an ad-hoc working group for the purpose of obtaining non-binding technical advice or recommendations from them.

3. When the Parties have resorted to consultations pursuant to this Article, without satisfactory results, such consultations shall constitute those provided for in the Chapter on Dispute Settlement, if the Parties so agree.

4. The Parties shall make every effort to reach a mutually satisfactory solution within a period of sixty (60) days.

Article 10.16. Technical Barriers to Trade Committee

1. The Parties establish the Committee on Technical Barriers to Trade, which shall be composed of representatives of each Party, in accordance with Annex 10.16.

2. The Committee shall hear matters relating to this Chapter and shall serve, inter alia, as a forum to promote consultation and cooperation on matters related to this Chapter, as well as to discuss and resolve problems identified by the Parties.

3. The Committee shall have the following functions:

(a) to follow up on the implementation and administration of this Chapter;

(b) identify and ensure that unnecessary technical barriers to trade are eliminated;

(c) facilitate the process through which the Parties will make compatible their respective measures relating to technical regulations or mandatory technical standards, standards and conformity assessment procedures applicable to them;

(d) Ensure that conformity assessment procedures applicable to technical regulations or mandatory technical standards do not constitute disguised barriers to trade and that their application is carried out in the most expeditious, transparent and non-discriminatory manner possible;

(e) to promote that the Parties' legal metrology activities are carried out in accordance with OIML guidelines, recommendations and documents and that the Parties ensure, as far as possible, the traceability of their metrological standards as recommended by the BIPM and the OIML;

(f) analyze and propose solutions for those measures related to technical regulations or mandatory technical standards, conformity assessment procedures and metrology applicable to them, which a Party considers a technical barrier to trade;

(g) as appropriate, facilitate sectoral cooperation between governmental and non-governmental standardization bodies, accreditation and conformity assessment in the territories of two (2) or more Parties;

(h) at the request of a Party, facilitate consultations on any matter arising under this Chapter;

(i) establish, if necessary, for particular matters or sectors, working groups for the treatment of specific matters related to this Chapter, such as standardization measures or standards; and

(j) report to the Commission on the implementation of this Chapter.

3. The Committee shall meet at least once (1) a year, unless otherwise agreed by the Parties.

4. The Committee may also consult and carry out its work through the means of communication agreed upon by the Parties, such as e-mail, videoconferences or others.

5. The Parties may hold bilateral meetings when it is not possible to convene the Committee, provided that all Parties are duly informed of the objectives of such a meeting.

6. All recommendations of the Committee shall be made by consensus, unless the Committee decides otherwise.

7. The Committee shall establish its rules and procedures within six (6) months after the entry into force of the Treaty.

Part FOUR. PUBLIC PROCUREMENT

Chapter 11. PUBLIC PROCUREMENT

Article 11.1. Coverage

1. Subject to the terms and conditions set out in Annex 11.1, Section A, this Chapter applies to measures relating to procurement of goods and services, including construction services, or any combination thereof, through any contractual means, including purchase and rental or lease, with or without option to purchase, by public entities of each Party, when they issue an open invitation to participate or to submit a tender, in accordance with the procurement modalities or regimes provided for in the legislation of each Party, listed in Annex 11.1, Section B.

2. This Chapter does not apply to:

(a) non-contractual arrangements or any form of assistance that a Party or a state enterprise provides, including grants, loans, capital transfers, tax incentives, subsidies, grants, guarantees, cooperation agreements, government provision of goods and services to persons or central or local governments, and purchases for the direct purpose of providing foreign assistance;

(b) procurement financed by loans or grants to a Party, including an entity of a Party, by a person, international entities, associations, another Party, or a non-Party, to the extent that such loans or grants establish conditions inconsistent with the provisions of this Chapter;

(c) the procurement of fiscal agency or depository services, settlement and administration services for regulated financial

institutions, and sales and distribution services for public debt;

(d) the contracting of public employees and employment-related measures; and

(e) purchases made under exceptionally favorable conditions that only occur for a very short period of time, such as extraordinary disposals made by companies that are not normally suppliers or the disposal of assets of companies in liquidation or under receivership.

3. For greater certainty, this Chapter does not apply to the procurement of banking, financial or specialized services relating to the following activities:

(a) public borrowing; or

(b) public debt and liability management.

4. For greater certainty:

(a) where a public entity is to award a contract that is not covered, any goods or services that are part of such contract shall not be included in the coverage of this Chapter; and

(b) the procurement of goods or services by a non-covered public entity shall be excluded from this Chapter.

Article 11.2. National Treatment, Non-Discrimination, and Transparency

With respect to coverage under this Chapter:

(a) each Party shall accord to goods, services, including construction services, and suppliers (1) of the other Party, treatment no less favorable than that it accords to its own goods, services and suppliers;

(b) no Party,

(i) shall accord to a locally established supplier less favorable treatment than that accorded to another locally established supplier because of the degree of association or foreign ownership; nor shall it accord a locally established supplier less favorable treatment than that accorded to another locally established supplier because of the degree of association or foreign ownership; or

(ii) shall discriminate against a locally established supplier on the ground that the goods or services offered by such supplier are goods or services of the other Party;

(c) each Party shall apply its procurement procedures in a manner that allows for the maximum possible competition and respects the principles of transparency, publicity and non-discrimination; and

(d) no Party or public entity of a Party shall establish requirements that have the purpose or effect of circumventing the obligations of this Chapter or creating unnecessary obstacles to trade.

2. With respect to covered procurement, a government entity shall refrain from taking into account, requesting or imposing special countervailing conditions at any stage of the procurement. For purposes of this Chapter, special countervailing conditions means conditions or commitments imposed or considered by a governmental entity that promote local development or improve a Party's balance of payments accounts through local content requirements, licensing for the use of technology, investment, countertrade or similar requirements.

3. Paragraphs 1 and 2 do not apply to measures relating to customs duties and other charges of any kind imposed on or in connection with importation, to the method of levying such duties or charges, to other import regulations, including restrictions and formalities, or to measures affecting trade in services, in all modes of supply, other than measures specifically regulating government procurement covered by this Chapter.

4. Each Party shall forward to the other Party its laws, regulations and other regulations of general application relating to government procurement and, in the event of changes, shall forward them to the other Party as soon as possible.

5. Nothing in this Chapter shall prevent a Party from developing new procurement policies, or adopting and amending its laws, regulations and practices relating to procurement, provided that they are not inconsistent with the provisions of this Chapter.

6. For purposes of the application of this Chapter, where there are provisions in domestic laws that establish qualification criteria that provide for domestic value- added requirements, the same requirements for goods or services of that Party

shall apply to goods or services of the other Party. For purposes of goods, the Parties shall allow the incorporation of originating materials or originating (2) of one or more of the Parties into a good of one of the Parties.

(1) supplier means a person that provides or may provide goods or services to a procuring entity in accordance with this Chapter

(2) Originating good shall be understood as defined in Chapter 2 (General Definitions) of this Agreement.

Article 11.3. General Exceptions

Part FIVE. INVESTMENT, SERVICES AND RELATED MATTERS

Chapter 12. INVESTMENT

Section A. Investment

Article 12.1. Definitions

For the purposes of this Chapter:

TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property Rights, which forms part of the WTO Agreement;

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

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

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

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

claimant means the investor of a Party that is a party to an investment dispute with the other Party;

protected information means confidential business information or information that is confidential or privileged or otherwise protected from disclosure under the laws of the Party;

investment means

1. Any type of asset of an economic nature owned or controlled, directly or indirectly, by an investor that has the characteristics of paragraph 3, including in particular, but not limited to, the following:

(a) movable and immovable property, as well as all rights in rem thereon;

(b) shares, social quotas and any other type of economic participation in companies;

(c) claims for money or any other claim that has economic value;

(d) intellectual property rights;

(e) concessions granted by law, by an administrative act or by virtue of a contract, such as concessions to explore, cultivate, extract or exploit natural resources; and

(f) any external credit operation, under the terms established by the legislation of each Party that is linked to an investment.

It will not be considered an investment:

(a) public debt operations;

(b) pecuniary claims arising exclusively from:

(i) commercial contracts for the sale of goods or services by a national or legal entity in the territory of a Party to a national or enterprise in the territory of the other Party; or

(ii) the granting of credit in connection with a commercial transaction;

2. A change in the manner in which the assets have been invested or reinvested does not affect their character as an investment under this Chapter, provided that such change falls within the definitions of this Article.

3. In accordance with paragraph 1 of the definition of investment, an investment must have at least the following elements:

(a) the contribution of capital or other resources;

(b) expectation of benefits and returns; and

(c) the existence of risk for the investor; covered investment means, with respect to a Party, an investment, as defined in this Article, in its territory of an investor of the other Party that exists as of the date of entry into force of this Agreement or is subsequently established, acquired or expanded;

investor of a Party

1. Designates for each of the Parties, to:

(a) a natural person of a Party who is considered a national of that Party in accordance with Annex 2.1 (Country-Specific Definitions);

(b) enterprise, which means any entity or person, whether or not for profit, and whether privately or governmentally owned, including companies, corporations, partnerships, foundations, trusts, participations, sole proprietorships, joint ventures, joint ventures, trade associations, or other associations, which are incorporated or otherwise duly organized under the law of that Party, and which have their domicile and substantial economic activities in the territory of the same Party;

(c) enterprise not established under the law of that Party but effectively controlled, according to the law of the Party in which the investment is made, by one or more natural persons as defined in subparagraph (a) or by one or more enterprises as defined in subparagraph (b).

2. The term investor of a Party refers to the natural person and enterprise, as defined in (a), (b) and (c) above, who intend to make, through concrete actions, are making or have made an investment in the territory of the other Party; provided, however, that a natural person who has dual nationality shall be considered exclusively a national of the State of his dominant and effective nationality;

freely usable currency means "freely usable currency" as determined in accordance with the Articles of Agreement of the International Monetary Fund;

disputing party means the plaintiff or the defendant; disputing parties means the plaintiff and the defendant; Non-disputing Party means a Party that is not a party to an investment dispute;

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

ICSID Additional Facility Rules means the Additional Facility Rules for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes;

income means the sums produced by an investment during a given period of time, and includes in particular, but not exclusively, profits, dividends and interest;

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

Tribunal means an arbitral tribunal established pursuant to Articles 12.21 y 12.28.

Article 12.2. Scope of Application (1)

1. This Chapter applies to measures adopted or maintained by a Party, at any level of government, relating to:

(a) investors of the other Party in all matters relating to their investment;

(b) covered investments; and

(c) all investments in the territory of the Party with respect to Articles 12.9 and 12.16.

2. This Chapter does not apply to disputes that have arisen prior to its entry into force, nor to disputes concerning events that occurred prior to its entry into force, even if their effects remain even after its entry into force.

3. In the case of external credits, this Chapter shall apply exclusively to those contracted after the entry into force of the Treaty.

4. Nothing in this Chapter shall obligate any Party to protect investments made with funds or assets of illicit origin, nor shall it be construed to prevent a Party from adopting or maintaining measures designed to preserve public order, the fulfillment of its obligations for the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

5. This Chapter does not apply to measures that a Party adopts or maintains relating to financial services.

(1) For greater certainty, nothing in this Agreement shall be construed to require a Party to privatize public services supplied in the exercise of governmental authority.

Article 12.3. Relationship to other Chapters

1. In case of incompatibility between a provision of this Chapter and a provision of another, the provision of the latter shall prevail to the extent of the incompatibility.

2. Notwithstanding the foregoing, for the purposes of this Chapter, the definitions provided herein shall prevail over any other definition set forth in this Agreement.

3. A Party's requirement that a service supplier of the other Party post a bond or other form of financial security as a condition for the supply of a cross-border service does not, of itself, make this Chapter applicable to measures adopted or maintained by the Party with respect to the cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party with respect to the bond or financial security, to the extent that such bond or financial security constitutes a covered investment.

Article 12.4. Investment Protection

1. Each Party shall ensure fair and equitable treatment in accordance with customary international law and full protection and security within its territory for covered investments.

2. For greater certainty,

(a) the concept of "fair and equitable treatment" does not require treatment in addition to that required by the minimum standard of treatment of aliens under customary international law, nor does it create additional substantive rights;

(b) "fair and equitable treatment" includes the obligation not to deny justice in criminal, civil, or administrative proceedings, in accordance with the principle of due process embodied in the principal legal systems of the world; and

(c) the concept of "full protection and security" does not imply treatment superior to the level of police protection afforded to nationals of the Party where the investment has been made.

3. A determination that another provision of this Chapter or of another international agreement has been violated shall not imply a breach of fair and equitable treatment or of full protection and security.

Article 12.5. National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favorable than that it accords, in like circumstances, 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 favorable than that 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.

Article 12.6. Most-Favored-Nation Treatment

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

3. Most-Favored-Nation Treatment to be granted in similar circumstances does not extend to dispute settlement mechanisms provided for in international investment treaties or agreements. (2)

(2) This Article refers to dispute settlement mechanisms such as those contained in Section B of this Chapter.

Article 12.7. Free Transfer

1. Each Party shall, subject to compliance with the requirements of its domestic legal system, permit all transfers relating to a covered investment to be made freely and without undue delay to and from its territory. Such transfers include:

(a) capital contributions;

(b) investment income, as defined in Article 12.1;

(c) the proceeds from the sale or liquidation, in whole or in part, of a hedged investment;

(d) interest, royalty payments, management fees, technical assistance and other charges;

(e) payments made under a contract, including a loan contract;

(f) payments made pursuant to Article 12.8 and 12.14;

(g) payments arising from a dispute; and

(h) salaries and other remuneration received by personnel hired abroad in connection with a hedged investment.

2. Notwithstanding the foregoing, for reasons affecting macroeconomic equilibrium, the Parties may adopt measures related to capital inflows from external credits and/or implying a surcharge on prepayment thereof, provided that such measures are applied equitably, non-discriminatorily and in good faith.

3. Each Party shall permit transfers related to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

4. Each Party shall permit transfers of profits in kind relating to a covered investment to be executed as authorized or specified in a written agreement between the Party and a covered investment or an investor of the other Party.

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

(a) bankruptcy, bankruptcy proceedings, corporate restructuring, insolvency or protection of creditors' rights;

(b) issuance, trading or operations of securities, futures, options or derivatives;

(c) criminal offenses;

(d) financial reporting or record keeping of transfers when necessary to cooperate with law enforcement, financial or foreign exchange regulatory authorities;

(e) guaranteeing compliance with orders or judgments in judicial, arbitration or administrative proceedings that have become final; or

(f) compliance with labor or tax obligations.

Article 12.8. Expropriation and Compensation

1. Covered investments of investors of one Party in the territory of the other Party shall not be subject to nationalization, direct or indirect expropriation, nor to any other measure having similar effects (hereinafter "expropriation") except for the reasons expressly provided for in the Constitutions of the Parties, in accordance with due process of law, in a non-discriminatory manner, in good faith and accompanied by the payment of prompt, adequate and effective compensation.

The reasons indicated in the preceding paragraph are as follows:

(a) with respect to the Republic of El Salvador: public utility or social interest;

(b) with respect to the Republic of Guatemala: collective utility, social benefit or public interest;

(c) with respect to the Republic of Honduras: public necessity or public interest; and (d) with respect to the Republic of Colombia: public utility or social interest.

2. Each Party, in accordance with the corresponding constitutional provisions, may establish monopolies or reserve strategic activities that deprive an investor of a Party from developing an economic activity, provided that it is for the constitutional reasons expressed in the preceding paragraph. In such events, the investor shall receive prompt, adequate and effective compensation, under the conditions provided for in this Article.

3. The Parties understand that:

(a) indirect expropriation results from a measure or series of measures of a Party that has an effect equivalent to a direct expropriation, without the formal transfer of the right of ownership;

(b) the determination of whether a measure or series of measures of a Party, in a specific situation, constitutes indirect expropriation requires a case-by- case analysis based on the facts and considering:

(i) the economic impact of the measure or series of measures. In any case, the mere fact that the measure or series of measures generates an adverse economic impact on the value of an investment does not imply that there is indirect expropriation; and

(ii) the scope of the measure or series of measures and their interference with the distinguishable and reasonable expectations of the investment;

(c) non-discriminatory measures of a Party that are designed and applied on the basis of the constitutional grounds set forth in paragraph 1 of this Article, or that are designed and applied for the reasons set forth in paragraph 1 of this Article, do not constitute indirect expropriation have objectives such as public health, safety and environmental protection; except in extraordinary circumstances, such as when a measure or series of measures are so severe in light of their objective that they cannot reasonably be perceived as the result of a bona fide adoption.

4. The compensation will be equivalent to the fair market value that the expropriated investment had immediately before the expropriation measure was taken or before the imminence of the expropriation became public knowledge, whichever occurs first (hereinafter "valuation date").

5. The fair market value will be calculated in a freely usable currency at the prevailing market rate of exchange for that currency on the valuation date. Compensation shall include interest at a commercial rate fixed at market rates for that currency from the date of expropriation to the date of payment. The compensation shall be paid without undue delay, shall be effectively realizable and freely transferable.

6. The legality of the measure and the amount of compensation may be challenged before the judicial authorities of the Party that adopted it, without prejudice to the administrative remedies available under the laws of each Party. (3)

7. The Parties confirm that, in development of the provisions of the TRIPS Agreement, the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, cannot be challenged under the provisions of this Article.

(3) For greater certainty, this paragraph is subject to the provisions of Article 12.22 (2) with respect to final forum selection.

Article 12.9. Performance Requirements

1. No Party may, in connection with the establishment, acquisition, expansion, management, conduct, operation, 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 or enforce any obligation or commitment to: (4)

(a) export a certain level or percentage of goods or services;

(b) to reach a certain degree or percentage of domestic content;

(c) to purchase, use or give preference to goods produced in its territory, or to purchase goods from persons in its territory;

(d) 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) restrict sales in its territory of the goods or services that such investment produces or supplies, by relating such sales in any way to the volume or value of its exports or to the foreign exchange earnings it generates;

(f) transfer to a person in its territory a particular technology, production process or other proprietary knowledge;$ or

(g) supply exclusively from the territory of the Party the goods produced by the investment or the services supplied by the investment to a specific regional market or to the world market.

2. No Party may condition the receipt of an advantage, or the continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of an investment in its territory by an investor of a Party or of a non-Party, on compliance with any requirement to:

(a) to reach a certain degree or percentage of domestic content;

(b) to purchase, use or grant preferences to goods produced in its territory or to purchase goods from persons in its territory;

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

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

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

(i) where a Party authorizes the use of an intellectual property right in accordance with Article 31 of the TRIPS Agreement or measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

(ii) where the requirement is imposed, or the commitment or obligation is ordered by a judicial or administrative tribunal or a competition authority, to remedy a practice that has been determined after judicial or administrative process to be anticompetitive under a Party's competition laws. (6)

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

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

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

(iii) related to the preservation of non-renewable natural resources, living or non-living.

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

(e) Paragraphs 1 (b), (c), (f) and (g) and 2 (a) and (b) do not apply with respect to Public Procurement.

(f) Paragraphs 2(a) and (b) do not apply to requirements imposed by an importing Party with respect to the content of goods necessary to qualify for preferential duties or quotas.

4. For greater certainty, paragraphs 1 and 2 do not apply to any requirements other than those indicated in those same paragraphs.

5. This Article does not preclude the application of any commitment, obligation or requirement between private parties, where a Party did not impose or require the commitment, obligation or requirement.

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

(5) 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 a non-Party in its territory, from imposing or enforcing a requirement or obligation or commitment to train workers in its territory, provided that such training does not require the transfer of any particular technology, production process or other proprietary knowledge to a person in its territory.

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

Article 12.10. Senior Management and Boards of Directors

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

2. A Party may require that a majority of the members of the board of directors, board committees or equivalent management bodies 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 significantly impair the ability of the investor to exercise control over its investment.

Article 12.11. Denial of Benefits

Upon notification and consultation, a Party may deny the benefits of this Chapter to:

(a) an investor of the other Party that is an enterprise of that other Party and the investments of such investor, if an investor of a non-Party owns or controls the enterprise and the enterprise does not have substantial business activities in the territory of the other Party; or

(6) an investor of the other Party that is an enterprise of that other Party and the investments of such investor, if an investor of the denying Party owns or controls the enterprise and the enterprise does not have substantial business activities in the territory of the other Party.

Article 12.12. Nonconforming Measures

1. Articles 12.5, 12.6, 12.9 and 12.10 shall not apply to:

(a) any existing non-conforming measure maintained by a Party In:

(i) the central level of government as specified by that Party in its Schedule to Annex I, or

(ii) a local level of goverment;

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

(c) the modification of any non-conforming measure referred to in subparagraph (a) above. (a) provided that such modification does not diminish the degree of conformity of the measure, as in effect immediately prior to the modification, with Articles 12.5, 12.6, 12.9 and 12.10;

(d) Articles 12.5, 12.6, 12.9 and 12.10 shall not apply to any measure that a Party adopts or maintains, in relation to sectors, sub-sectors or activities, as indicated in its Schedule to Annex II.

2. Article 12.6 shall not apply to treatment accorded by a Party pursuant to any Treaty or International Agreement, or with respect to sectors, subsectors, or activities, as set out in its Schedule to Annex III.

3. Neither Party may require, pursuant to any measure adopted after the date of entry into force of this Agreement and included in its Schedule to Annex II, an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. Articles 12.5, 12.6 and 12.10 shall not apply to:

(a) public procurement; or

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

(c) the modification of any non-conforming measure referred to in subparagraph (a) above. (a) provided that such modification does not diminish the degree of conformity of the measure, as in effect immediately prior to the modification, with Articles 12.5, 12.6, 12.9 and 12.10;

(d) Articles 12.5, 12.6, 12.9 and 12.10 shall not apply to any measure that a Party adopts or maintains, in relation to sectors, sub-sectors or activities, as indicated in its Schedule to Annex II.

2. Article 12.6 shall not apply to treatment accorded by a Party pursuant to any Treaty or International Agreement, or with respect to sectors, subsectors, or activities, as set out in its Schedule to Annex Ill.

3. Neither Party may require, pursuant to any measure adopted after the date of entry into force of this Agreement and included in its Schedule to Annex II, an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. Articles 12.5, 12.6 and 12.10 shall not apply to:

(a) public procurement; or

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

Article 12.13. Special Formalities and Information Requirements

1. Nothing in Article 12.5 shall be construed to prevent a Party from adopting or maintaining a measure prescribing special formalities in connection with a covered investment, such as a requirement that investors be residents of the Party or that covered investments be constituted in accordance with the Party's laws or regulations, provided that such formalities do not significantly impair the protection afforded by a Party to investors of the other Party and covered investments under this Chapter.

2. Notwithstanding Articles 12.5 and 12.6, a Party may require an investor of the other Party or its covered investment to provide information relating to that investment solely for informational or statistical purposes. The Party shall protect business information that is confidential from any disclosure that could adversely affect the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from obtaining or disclosing information relating to the equitable and good faith application of its laws.

Article 12.14. Compensation for Damage or Loss

Investors of a Party and covered investments that suffer losses due to war, armed conflict, or civil disturbance in the territory of the other Party shall receive from the other Party, in respect of redress, indemnification, compensation or other settlement, treatment no less favorable than that accorded to its investors or to investments of its own investors, or to investors or investments of investors of any third State.

Article 12.15. Subrogation

1. Where a Party or an agency authorized by it has provided insurance or some other financial guarantee against non-commercial risks in respect of an investment of one of its investors in the territory of the other Party, the latter Party shall recognize the rights of the former Party, or agency authorized by it, to subrogate itself to the rights of the investor when it has made a payment under such insurance or guarantee.

2. Where a Party or an agency authorized by it has paid its investor and by virtue thereof has assumed its rights and benefits, such investor may not claim such rights and benefits from the other Party, unless expressly authorized by the first Party.

Article 12.16. Investment and the Environment

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 investments in its territory are made in compliance with the ecological or environmental laws of that Party.

Section B. Investor-State Dispute Settlement

Article 12.17. Consultation and Negotiation

Any dispute arising between an investor of a Party and the other Party shall be settled by the parties to a dispute, to the extent possible, by amicable agreement. Any dispute shall be communicated in writing by the investor to the Party receiving the investment, including a justification of the facts and points of law underlying the communication.

Article 12.18. Submission of a Claim

1. In the case of administrative acts, in order to submit a claim to the domestic forum or to the arbitration provided for in this Article, it shall be indispensable to previously exhaust governmental or administrative remedies, by the investor or its investment, when the legislation of the Party so requires. Such exhaustion may in no case exceed a period of six (6) months from the date of its initiation by the investor and shall not prevent the investor from requesting the consultations referred to in paragraph 3 of this Article.

2. To submit a claim to arbitration under this Chapter on the grounds that the respondent has breached its obligation not to deny justice and thereby failed to accord fair and equitable treatment in accordance with customary international law, the investor shall have exhausted domestic jurisdictional remedies, unless:

(a) there is no remedy in the domestic legislation of the Party for the protection of the right alleged to have been violated; or if there is a remedy, the principle of due process embodied in the principal legal systems of the world is not guaranteed;

(b) has not been allowed access to domestic remedies, or has been prevented from exhausting them; or

(c) there is unjustified delay in the decision on the aforementioned appeals. 3. Nothing in this Article shall be construed to prevent the parties to a dispute, by mutual agreement, from resorting to mediation or conciliation, ad hoc or institutional, before or during the arbitration proceedings.

4. In the event that a disputing party considers that an investment dispute cannot be resolved through consultation and negotiation:

(a) the claimant, at its own expense, may submit to arbitration a claim alleging:

(i) that the Respondent has breached an obligation under Section A; and

(ii) that the claimant has suffered loss or damage by reason of or as a result of such breach;

(b) the claimant, on behalf of an enterprise of the respondent that is a legal person owned or controlled directly or indirectly by the claimant, may, in accordance with this Section, submit to arbitration a claim alleging:

(i) that the Respondent has breached an obligation under Section A, and

(ii) that the company has suffered loss or damage by reason of, or as a result of, such breach.

5. If the dispute cannot be resolved in this manner within nine days of the date of the dispute (9) months from the date of the written communication referred to in Article 12.17, the dispute may be submitted, at the option of the investor, to:

(a) an ad-hoc arbitral tribunal which, unless otherwise agreed by the disputing parties, shall be established in accordance with the UNCITRAL Arbitration Rules; or

(b) the ICSID Convention and the Rules of Procedure Applicable to ICSID Arbitration Proceedings, provided that both the respondent and the Party of the claimant are parties to the ICSID Convention; or

(c) the ICSID Additional Facility Rules provided that either the respondent or the Party of the claimant, but not both, is a party to the ICSID Convention; or

(d) an arbitral tribunal under another arbitration institution or under other arbitration rules agreed upon by the Parties.

6. Whenever the period of time provided for in paragraph 5 of this Article has elapsed and at least ninety (90) days before a claim is submitted to arbitration under this Section, the claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration. The notice shall specify:

(a) the name and address of the claimant and if the claim is submitted on behalf of a company, the name, address and place of incorporation of the company;

(b) for each claim, the provision of this Chapter alleged to have been violated;

(c) the grounds for each claim, namely:

(i) questions of fact and law; (ii) losses or damages generated to the investment; and

(iii) the causal link between the violation of the Chapter and the loss or damage to the investment; and

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

7. No claim may be submitted to arbitration under this Section unless:

(a) the plaintiff consents in writing to submit to arbitration, in accordance with the procedures provided for in this Agreement; and

(b) the request for arbitration is accompanied:

(i) of the claimant's written waiver of claims submitted to arbitration under this Article; and

(ii) of the claimant's and the enterprise's written waivers of claims submitted to arbitration under this Article;

of any right to initiate before any judicial or administrative tribunal under the law of any Party, or other dispute settlement procedures, any action with respect to any measure alleged to constitute a breach referred to in this Article.

8. Notwithstanding paragraph 7(b), a claimant for claims initiated under this Article may initiate or continue an interim measure of protection, not involving the payment of monetary damages, before a judicial or administrative tribunal of the respondent, provided that such measure is brought for the sole purpose of preserving the rights and interests of the claimant or the enterprise during the pendency of the arbitration. (7)

(7) In an interim measure such as any of those described in paragraph 3 (including measures seeking to preserve evidence and property pending the resolution of the claim submitted to arbitration), a court or administrative tribunal of the respondent Party to a dispute submitted to arbitration pursuant to Section B shall apply the law of that Party, including its conflict of laws tules, as well as such rules of intemational law as may be applicable.

Article 12.19. Consent of Each Party to Arbitration

Each Party gives its irrevocable consent in advance that any dispute relating to an investment may be submitted to any of the arbitral proceedings referred to in Article 12.18(5)(b), (c) and (d).

Article 12.20. Venue of Arbitration Proceedings

The disputing parties may agree on the legal place where any arbitration is to be held in accordance with the applicable arbitral rules, in accordance with Article 12.18(5). In the absence of agreement between the disputing parties, the Tribunal shall determine such place in accordance with the applicable arbitral rules, provided that the place is in the territory of a State that is a party to the New York Convention.

Article 12.21. Selection of Arbitrators

1. Unless the disputing parties agree otherwise, the Tribunal shall be composed of three (3) arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, shall be appointed by agreement of the disputing parties.

2. In the event that a disputing party fails to appoint an arbitrator or if no agreement is reached on the appointment of the President of the Tribunal, the Secretary General shall appoint the arbitrators in the arbitration proceedings in accordance with this Section.

3. If a tribunal has not been constituted within seventy-five (75) days from the date on which the claim was submitted to arbitration pursuant to this Section, the Secretary-General shall, at the request of a disputing party, appoint within a period not to exceed ninety (90) days under this Section the arbitrator or arbitrators not yet appointed. (8) In any event, the majority of the arbitrators shall not be nationals of the disputing Party or nationals of the Party of the disputing investor.

4. The Secretary General shall appoint the President of the Tribunal within ninety (90) days of the request referred to in paragraph 3. In the event that there is no agreement between the parties after the Secretary-General has proposed three (3) candidates for President of the Tribunal from the list pursuant to paragraph 5 of this Article, and no arbitrator is available on the list to preside over the Tribunal, the Secretary-General shall appoint, from the ICSID Panel of Arbitrators, the President of the Tribunal, provided that he or she is of a nationality other than that of the disputing Party or the Party of the disputing investor.

5. As of the date of entry into force of this Agreement, the Parties shall establish and maintain a list of sixteen (16) arbitrators as potential presidents of the Tribunal, who meet the requirements of the ICSID Convention and the rules referred to in Article 12.18 and who have experience in international and investment law. Each Party shall nominate four (4) candidates for President. In the event of the death or resignation of a member of the list, the appointing Party shall designate another person to replace him or her for the remainder of the term for which he or she was appointed.

6. For the purposes of Article 39 of the ICSID Convention and Article 7 of Part C of the ICSID Additional Facility Rules, and without prejudice to objecting to an arbitrator on grounds other than nationality:

(a) the respondent accepts the appointment of each of the members of the Tribunal established in accordance with this Article, or alternatively with the Agreement of the ICSID CONVENTION or with the Rules of ICSID Additional Facility Rules;

(b) the claimant referred to in Article 12.18 (4) (a) may pursue a claim under the ICSID Convention or the ICSID Additional Facility Rules only on condition that at the preliminary hearing under ICSID Arbitration Rule 21 or under Article 29 of the ICSID Additional Facility Arbitration Rules, the claimant consents in writing to the appointment of each member of the Tribunal; and

(c) the claimant referred to in Article 12.18(4)(b) may pursue a claim under the ICSID Convention or the ICSID Additional Facility Rules only on condition that at the preliminary hearing under ICSID Arbitration Rule 21 or under Article 29 of the ICSID Additional Facility Arbitration Rules, the claimant and the enterprise consent in writing to the appointment of each of the members of the Tribunal.

(8) For greater certainty, the Secretary General may only appoint the President of the Tribunal once the procedure established in this Article has been exhausted.

Article 12.22. Conditions and Limitations on Parties' Consent

1. The investor may not file a claim if more than three (3) years have elapsed from the date on which the investor knew or should have known of the alleged violation of this Chapter, as well as of the losses or damages suffered.

2. Once the investor has initiated a proceeding before a competent tribunal of the Party in whose territory the investment was admitted or has notified the other Party of its intention to initiate any of the arbitral proceedings referred to in Article 12.18(5), the choice of one or the other proceeding shall be final.

Article 12.23. Conduct of the Arbitration

1. The Parties shall refrain from dealing through diplomatic channels with matters related to disputes between a Party and an investor of the other Party, which are subject to judicial proceedings or international arbitration pursuant to the provisions of this Section, except in the event that one of the disputing parties has not complied with the court judgment or the award of the arbitral tribunal, under the terms set forth in the respective judgment or arbitral award.

2. A non-disputing Party may make oral or written submissions to the Tribunal concerning the interpretation of this Agreement.

3. The Tribunal shall have the authority to accept and consider amicus curiae briefs from a person or entity that is not a disputing party. Each submission must be submitted in Spanish or with a Spanish translation and identify its owner and any person or organization that has provided or will provide any financial or other assistance in the preparation of the submission.

4. In order to accept and consider an amicus curiae brief, the Court must ensure:

(a) the matters in dispute are of public interest, and the resolution of which could affect, directly or indirectly, persons other than the disputing parties; and

(b) the person or entity submitting the amicus curiae brief proves to the Tribunal a legitimate interest in submitting the brief and demonstrates to the Tribunal the expertise and independence necessary for his or her brief to be of assistance to the Tribunal.

5. The Tribunal shall decide preliminary objections, such as objections as to jurisdiction or admissibility, before deciding on the merits of the case. A tribunal shall also hear and decide as a preliminary question any objection by the respondent that, as a matter of law, the claim submitted is not a claim in respect of which an award in favor of the claimant may be made under Article 12.29.

(a) Such objection shall be submitted to the Tribunal as soon as possible after the constitution of the Tribunal, and in no event later than the date the Tribunal fixes for the Respondent to file its Statement of Defense (or in the case of an amendment to the Request for Arbitration, the date the Tribunal fixes for the Respondent to file its Answer to the amendment).

(b) Upon receipt of an objection under this paragraph, the Tribunal shall suspend any action on the merits of the dispute, establish a timetable for consideration of the objection that shall be consistent with any timetable that has been established for consideration of any other preliminary issue and issue a decision or award on the objection, setting forth the grounds therefor.

(c) In deciding an objection under this paragraph, the Tribunal shall take as true the factual allegations submitted by the claimant in support of any claim contained in the Request for Arbitration (or any modification thereof) and, in disputes brought under the UNCITRAL Arbitration Rules, the Statement of Claim referred to in Article 18 of the UNCITRAL Arbitration Rules. The Tribunal may also consider any other relevant facts not in dispute.

(d) The respondent does not waive any objection with respect to jurisdiction or any substantive argument, merely because it has or has not raised an objection under this paragraph, or avails itself of the expedited procedure set forth in paragraph 6.

6. If the Respondent so requests, the Tribunal shall, within forty-five (45) days after the constitution of the Tribunal, decide, in an expeditious manner, an objection under paragraph 5 and any other objection that the dispute is not within the jurisdiction of the Tribunal. The Tribunal shall suspend any action on the merits of the dispute and shall render a decision or award on such objection, stating the basis thereof, not later than one hundred and fifty (150) days after the date of the request. However, if a disputing party requests a hearing, the Tribunal may take an additional thirty (30) days to issue the decision or award. Regardless of whether a hearing has been requested, the Tribunal may, upon a showing of extraordinary cause, delay rendering its decision or award for an additional brief period, which may not exceed thirty (30) days.

7. When the Tribunal decides a respondent's objection under paragraph 4 or 5, it shall, if warranted, award to the prevailing disputing party reasonable costs and attorney's fees incurred in raising or opposing the objection. In determining whether such an award is warranted, the Tribunal shall consider whether the claimant's claim or the respondent's objection was frivolous, and shall give the disputing parties a reasonable opportunity to comment. In the case of a frivolous claim the Tribunal shall order the claimant to pay the costs.

8. (a) In any arbitration conducted pursuant to this Section, at the request of any disputing party, the Tribunal shall, before rendering a decision or award on liability, communicate its proposed decision or award to the disputing parties and to the non-disputing Parties. Within sixty (60) days after such proposed decision or award is communicated, the disputing parties may submit written comments to the Tribunal concerning any aspect of its proposed decision or award. The Tribunal shall consider such comments and render its decision or award no later than forty-five (45) days after the expiration of the sixty (60) day comment period.

(b) Paragraph (a) shall not apply to any arbitration conducted pursuant to this Section in which an appeal is available under paragraph 9.

9. If a separate multilateral treaty enters into force between the Parties establishing an appellate body for the purpose of review of arbitral awards rendered by tribunals constituted under international trade or investment agreements to hear investment disputes, the Parties shall endeavor to reach an agreement that would cause such appellate body to review awards rendered pursuant to Article 12.29 of this Section in arbitrations commenced after such treaty enters into force for the Parties.

Article 12.24. Transparency of Arbitral Proceedings

1. Subject to paragraphs 2 and 4, the Respondent shall promptly deliver to the non-disputing Parties the following documents and make them available to the public:

(a) the notice of intent;

(b) the request for arbitration;

(c) the pleadings, statements of claim and explanatory notes submitted to the Tribunal by a disputing party and any written communications submitted pursuant to Articles 12.23 and 12.28;

(d) minutes or transcripts of Tribunal hearings, when available; and (e) orders, awards and decisions of the Tribunal.

2. Unless a reasoned objection by a disputing party is duly considered by the Tribunal and subject to its decision, the Tribunal shall conduct hearings open to the public and determine, in consultation with the disputing parties, the appropriate logistical arrangements. However, any disputing party intending to use at a hearing information classified as protected information shall so inform the Tribunal. The Tribunal shall make appropriate arrangements to protect the information from disclosure.

3. Nothing in this Section requires the Respondent to make available protected information or to provide or permit access to information that it may withhold pursuant to Article 19.2 (National Security) or Article 19.4 (Disclosure of Information).

4. Any protected information submitted to the Tribunal shall be protected from disclosure in accordance with the following procedures:

(a) subject to subparagraph (d), neither the disputing parties nor the Tribunal shall disclose to any non-disputing Party or to the public any protected information when the disputing party providing the information clearly designates it as such in accordance with subparagraph (b);

(b) any disputing party claiming that certain information constitutes protected information shall clearly designate it at the time it is submitted to the Tribunal;

(c) a disputing party shall, at the same time it submits a document containing information claimed to be protected information, submit a redacted version of the document that does not contain the protected information. Only the redacted version shall be provided to the non-disputing Parties and shall be made public in accordance with paragraph 1; and

(d) the Tribunal shall decide any objection to the designation of information claimed to be protected information. If the Tribunal determines that such information was not properly designated, the disputing party that submitted the information may:

(i) remove all or part of the presentation containing such information, or

(ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the Tribunal's determination and (c).

In any event, the other disputing party shall, where necessary, resubmit complete and redacted documents, which either omit the information withdrawn pursuant to subparagraph (i) by the disputing party that first submitted the information or redesignate the information in a manner consistent with the designation made pursuant to subparagraph (ii) of the disputing party that first submitted the information.

5. Nothing in this Section requires a respondent to deny the public access to information that, under its law, must be disclosed.

Article 12.25. Applicable Law

1. The dispute settlement mechanisms provided for in this Section shall be based on the provisions of this Chapter, international law and customary international law, general principles of law and the national law of the Party in whose territory the investment has been made, including the rules relating to conflicts of laws.

2. A decision of the Commission declaring the interpretation of a provision of this Chapter under Article 17.1 (Treaty Administrative Commission) shall be binding on a tribunal established under this Section and any decision or award rendered by the tribunal shall be consistent with that decision.

Article 12.26. Interpretation of Annexes

1. Where the Respondent raises as a defense that the measure alleged to be in breach is within the scope of Annex I, Annex II or Annex III, the Tribunal shall, at the request of the Respondent, request the Commission for an interpretation of the matter. Within sixty (60) days of the delivery of the request, the Commission shall submit in writing to the Tribunal any decision stating its interpretation, pursuant to Article 17.1 (Treaty Administrative Commission).

2. The decision rendered by the Commission pursuant to paragraph 1 shall be binding on the Tribunal and any decision or award rendered by the Tribunal shall be consistent with that decision. If the Commission fails to issue such a decision within sixty (60) days, the Tribunal shall decide the matter.

Article 12.27. Expert Reports

Without prejudice to the appointment of other types of experts where authorized by the applicable arbitration rules, the Tribunal, at the request of a disputing party or, unless the disputing parties do not agree, on its own initiative, may appoint one or more experts to report in writing on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party in a proceeding, on such terms and conditions as the disputing parties may agree.

Article 12.28. Joinder of Proceedings

1. Where two or more separate claims have been submitted to arbitration under Article 12.18(5) and the claims raise in common a question of law or fact and arise out of the same facts or circumstances, any disputing party may seek a consolidation order pursuant to the agreement of all disputing parties in respect of which the consolidation order is sought or in accordance with the terms of paragraphs 2 through 8.

2. A disputing party seeking a consolidation order pursuant to this Article shall deliver a request, in writing, to the Secretary-General and to all disputing parties in respect of which the consolidation order is sought and shall specify in the request the following:

(a) the name and address of all disputing parties in respect of whom the joinder order is sought;

(b) the nature of the requested consolidation order; and

(c) the basis on which the request is supported.

3. Unless the Secretary-General determines, within thirty (30) days after receipt of a request pursuant to paragraph 2, that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless otherwise agreed by all the disputing parties in respect of which the consolidation order is sought, the Tribunal to be established pursuant to this Article shall consist of three (3) arbitrators:

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

(b) an arbitrator appointed by the respondent; and

(c) the presiding arbitrator appointed by the Secretary General, who shall not be a national of either Party.

5. If, within sixty (60) days after receipt by the Secretary-General of the request made pursuant to paragraph 2, the respondent or the claimants fail to appoint an arbitrator pursuant to paragraph 4, the Secretary-General shall, at the request of any of the disputing parties in respect of which the order for consolidation is sought, appoint the arbitrator or arbitrators not yet appointed. If the respondent fails to appoint an arbitrator, the Secretary-General shall appoint a national of the disputing party and, if the claimants fail to appoint an arbitrator, the Secretary-General shall appoint a national of a party of the claimants. The appointment shall be made in accordance with Article 12.21(3).

6. In the event that the Tribunal established pursuant to this Article has found that two or more claims under Article 12.18 (5), raising a common question of law or fact, and arising out of the same facts or circumstances, have been submitted to arbitration, the Tribunal may, in the interest of reaching a fair and efficient resolution of the claims and after hearing the disputing parties, by order:

(a) assume jurisdiction over and hear and determine jointly all or part of the claims;

(b) assume jurisdiction over and hear and determine one or more claims, the determination of which it considers would contribute to the resolution of the other claims; or

(c) direct a Tribunal previously established under Article 12.21 to assume jurisdiction over and hear and determine jointly all or part of the claims, provided that:

(i) that Tribunal, at the request of any claimant that was not previously a disputing party before that Tribunal, is reinstated with its original members, except that the arbitrator on the claimants' side shall be appointed under paragraphs 4(a) and 5; and

(ii) that tribunal decides whether to repeat any previous hearing.

7. Where a Tribunal has been established under this Article, a claimant who has submitted a claim to arbitration under Article 12.18(5), and whose name is not mentioned in an application made under paragraph 2, may make a written application to the Tribunal for the purpose of having such claimant included in any order made under paragraph 6 and shall specify in the application:

(a) the name and address of the claimant;

(b) the nature of the order for joinder sought; and

(c) the grounds on which the application is based.

The claimant shall deliver a copy of its request to the Secretary General.

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

9. A Tribunal established under Article 12.21 shall not have jurisdiction to decide a claim, or part of a claim, in respect of which a Tribunal established or instructed under this Article has assumed jurisdiction.

10. On the request of a disputing party, a tribunal established under this Article may, pending its decision under paragraph 6, order that the proceedings of a Tribunal established under Article 12.21 be adjourned, unless the latter Tribunal has already adjourned its proceedings.

Article 12.29. Awards

1. Arbitral awards shall be final and binding only upon the disputing parties and only in respect of the particular case.

2. Awards shall be enforced in accordance with the domestic law of the Party in whose territory the investment was made.

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

4. Where a tribunal renders a final award against the respondent, the Tribunal may only award restitution or monetary damages and interest as appropriate; it may also award costs and attorneys' fees in accordance with this Article and the applicable arbitration rules. The Tribunal shall not have jurisdiction to rule on the legality of the measure as a matter of domestic law and shall not be authorized to order the payment of punitive damages.

5. Subject to paragraph 6 and to the review procedure applicable to an interim award, the disputing party shall promptly abide by and comply with the award.

6. The disputing party may not request enforcement of the final award until: (a) in the case of a final award rendered under the ICSID Convention:

(i) one hundred and twenty (120) days have elapsed from the date on which the award was rendered and no disputing party has requested revision or annulment of the award; or

(ii) the review or annulment proceedings have been concluded; and

(b) in the case of a final award rendered under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules or the corresponding arbitration rules selected:

(i) ninety (90) days have elapsed since the date on which the award was rendered and no proceeding to revise, set aside or annul the award has been instituted by any disputing party; or

(ii) a Tribunal has dismissed or admitted an application for revision, revocation or annulment of the award and this decision cannot be appealed.

7. Where the respondent fails to comply with or abide by a final award, upon delivery of a request by the Party of the claimant, a panel shall be established in accordance with Article 18.11 (Request for Establishment of Arbitral Tribunal). The requesting Party may request in such proceedings:

(a) a determination that non-compliance or disregard of the terms of the final award is contrary to the obligations of this Agreement; and

(b) in accordance with the procedures set forth in Article 18.17 (Draft Award), a decision that the Respondent abide by or comply with the final award.

8. A disputing party may seek enforcement of an arbitral award under the ICSID Convention, the New York Convention or the Inter-American Convention, whether or not proceedings under paragraph 7 have been instituted.

9. For the purposes of Article I of the New York Convention and Article I of the Inter-American Convention, a claim submitted to arbitration under this Section shall be deemed to arise out of a commercial relationship or transaction.

Article 12.30. General Provisions

Time at which the claim is considered to be subject to the arbitration procedure

1. A claim is deemed to be submitted to arbitration under the terms of this Section when the claimant's request for arbitration (9) ("request for arbitration"):

(a) has been received by the Secretary-General pursuant to Article 36(1) of the ICSID Convention;

(b) has been received by the Secretary-General pursuant to Article 2 of Part C of the ICSID Additional Facility Rules; or

(c) has been received by the disputing party in accordance with the notice of arbitration under the UNCITRAL Arbitration Rules.

Delivery of the request for arbitration and other documents 2. The delivery of the request for arbitration and other documents to a Party shall be made at the place designated by it in Annex 12.A or at the place notified by the relevant Party to the Commission and published by the Commission as an annex to the Treaty.

(9) For the purposes of this Chapter, the term "request for arbitration" shall be understood as equivalent to the term "notice of arbitration", as such term is used in the UNCITRAL Arbitration Rules.

Annex 12.A. Delivery of Documents to a Party under Section B

El Salvador

Notices and other documents relating to disputes under Section B shall be served in El Salvador by delivery to:

Directorate of Trade Treaties Administration Ministry of Economy Alameda Juan Pablo Il and Calle Guadalupe Building C1-C2, Master Plan Government Center San Salvador, El Salvador

Guatemala Notices and other documents relating to disputes under Section B shall be served in Guatemala by delivery to:

Directorate of Foreign Trade Administration Ministry of Economy 8a. Av. 10-43 Zona 1 Guatemala, Guatemala

Honduras Notices and other documents relating to disputes under Section B shall be served in Honduras by delivery to:

General Directorate of Economic Integration and Trade Policy Secretariat of State in the Offices of Industry and Trade Boulevard JosÃ© Cecilio del Valle San JosÃ© Building, former Fenaduanah building Tegucigalpa, Honduras

Colombia Notices and other documents relating to disputes under Section B shall be served in Colombia by delivery to:

Foreign Investment and Services Directorate Ministry of Commerce, Industry and Tourism Calle 28 #13 .A-15 Bogota D.C., Colombia

Chapter 13. CROSS-BORDER TRADE IN SERVICES

Article 13.1. Definitions

For the purposes of this Chapter:

trade cross-border trade from services or supply cross-border of services means the supply of a service:

(a) from the territory of one Party to the territory of the other Party;

(b) in the territory of a Party by a person of that Party, to a service consumer of the other Party; or

(c) by a national of a Party in the territory of the other Party;

but does not include the supply of a service in the territory of a Party through an investment, as defined in Article 12.1 (Definitions);

company means a "company" as defined in Chapter 2 (General Definitions) and a branch of a company;

enterprise of a Party means an enterprise incorporated or organized under the laws of a Party and branches located in the territory of a Party and carrying on business therein;

service supplier of a Party means a person of the Party intending to supply or supplying a service; (1)

specialized air services means any air service other than transportation, such as firefighting, scenic flying, spraying, aerial surveying, aerial mapping, aerial photography, aerial photography, parachute service, glider towing, helicopter services for log transport and construction, and other air services related to agriculture, industry and inspection; and

professional services means services that for their provision require higher education, related to a specific area of knowledge, equivalent training or experience (2) and whose exercise is authorized or restricted by a Party, but does not include services provided by persons engaged in a trade or to crew members of merchant ships and aircraft.

(1) The Parties understand that for the purposes of Articles 13.3 and 13.4, "service suppliers" has the same meaning as "services and service suppliers" as used in Articles II and XVII of the GATS.

(2) When the legislation of each Party so stipulates.

Article 13.2. Scope of Application

1. This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services supplied by service suppliers of the other Party. Such measures include those affecting:

(a) the production, distribution, marketing, sale and supply of a service;

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

(c) access to and use of distribution systems, transport or telecommunication networks and services related to the supply of a service;

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

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

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

(a) central or local governments and authorities; and

(b) non-governmental institutions in the exercise of the powers delegated to them by central or local authorities or governments.

3. Articles 13.5, 13.8 and 13.9 shall apply to measures of a Party affecting the supply of a service in its territory by a covered investment. (3)

4. This Chapter does not apply to:

(a) cross-border financial services;

(b) public procurement carried out by a State Party or enterprise;

(c) air services, including domestic and international air transport services, scheduled and non-scheduled, as well as related support services for air services, except:

(i) aircraft repair and maintenance services during the period in which an aircraft is removed from service;

(ii) specialized air services; and (iii) computerized reservation system (CRS) services (4); and

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

Annex 13.2 (4) (d) sets forth an understanding of the Parties with respect to subparagraph (d).

5. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking to enter its labor market or to have permanent employment in its territory, or to confer any rights on that national with respect to such access or employment.

6. This Chapter does not apply to services supplied in the exercise of governmental authority in the territory of a Party. A "service supplied in the exercise of governmental authority" means any service supplied neither on a commercial basis, nor in competition with one or more service suppliers.

(3) The Parties understand that a breach of the provisions of this Chapter, including this paragraph, shall not be subject to the investor-State Dispute Settlement mechanism under Section B of Chapter 12 (Investment).

(4) As defined in the GATS Annex on Air Transport Services.

Article 13.3. National Treatment

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

Article 13.4. Most-Favored-Nation Treatment

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

Article 13.5. Market Access

No Party may adopt or maintain measures that:

(a) impose limitations on:

(i) the number of service suppliers, either in the form of numerical quotas, monopolies, exclusive suppliers of the total value of assets or service transactions in the form of numerical quotas or by requiring an economic needs test;

(ii) the total number of service operations or the total quantity of service output, expressed in terms of designated numerical units, in the form of numerical quotas or the requirement of an economic needs test; (5) or

(iii) the total number of natural persons who may be employed in a given service sector or who may be employed by a service provider and who are necessary for the supply of a specific service and are directly related to it, in the form of numerical quotas or the requirement of an economic needs test; or

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

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

Article 13.6. Local Presence

No Party may require the service supplier of the other Party to establish or maintain representative offices or other business or to reside in its territory as a condition for the cross-border supply of a service.

Article 13.7. Nonconforming Measures

1. Articles 13.3, 13.4, 13.5 and 13.6 do not apply to:

(a) any existing non-conforming measure maintained by a Party in:

(i) the central level of government as provided by that Party in its Schedule to Annex I; or

(ii) a local level of goverment;

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

(c) the modification of any non-conforming measure referred to in subparagraph (a), provided that such modification does not diminish the degree of conformity of the measure, as in effect immediately prior to the modification, with Articles 13.3, 13.4, 13.5 or 13.6.

2. Articles 13.3, 13.4, 13.5 or 13.6 do not apply to any measures that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

3. Article 13.4 does not apply to treatment accorded by a Party in accordance with international treaties or conventions listed in Annex III.

4. The Parties shall establish procedures for a Party to notify the other Party and include in its relevant lists, modifications to measures referred to under paragraphs 1 and 2 of this Article.

5. Through future negotiations that may be convened by the Commission, the Parties shall deepen the liberalization achieved in the different services sectors, with a view to achieving the elimination of the remaining restrictions listed in accordance with paragraphs 1 and 2 of this Article.

Article 13.8. National Regulations (6)

1. Where a Party requires authorization for the supply of a service, the competent authorities of the Party shall, within a reasonable time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision on its application. At the request of the applicant, the competent authorities of the Party shall, without undue delay, provide information concerning the status of the application. This obligation shall not apply to authorization requirements that are covered by the scope of Article 13.7.

2. In order to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall endeavor to ensure, as appropriate to each specific sector, that any such measures it adopts or maintains:

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

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

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

3. If the results of negotiations relating to Article VI:4 of the GATS (or the results of any similar negotiations conducted in another multilateral forum in which the Parties participate) enter into force for each Party, this Article shall be modified, as appropriate, following consultations between the Parties, so that those results enter into force under this Agreement. The Parties shall coordinate, as appropriate, in such negotiations.

(6) Annex 13.8 establishes an understanding in this regard between the Republic of Colombia and the Republic of Guatemala.

Article 13.9. Transparency at the Development and Application of Regulations (7)

In addition to Chapter 16 (Transparency):

(a) each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons concerning its regulations relating to matters covered by this Chapter;

(b) after consultation with an interested person, if a Party does not give advance notice or opportunity to comment, it shall, to the extent possible, provide written reasons for doing so;

(c) at the time of adopting final regulations relating to the subject matter of this Chapter, each Party shall respond in writing,

to the extent practicable, including upon request, to substantive comments received from interested persons with respect to the proposed regulations; and

(d) to the extent possible, each Party shall allow a reasonable period of time between the publication of final regulations and the date on which they enter into force.

(7) For greater certainty, "regulations" includes regulations for the establishment or application of authorization or licensing criteria.

Article 13.10. Recognition

1. For the purposes of compliance, in whole or in part, with its standards or criteria for the authorization, licensing or certification of service suppliers, and subject to the requirements of paragraph 4 of this Article, a Party may recognize education or experience obtained, requirements met or licenses or certificates granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the country concerned or may be agreed autonomously.

2. When a Party recognizes, autonomously or by means of an agreement or arrangement, the education or experience obtained, the requirements met, or licenses or certificates granted in the territory of a non-Party, nothing in Article 13.4 shall be construed to require the Party to accord such recognition to education or experience obtained, requirements met, or licenses or certificates granted in the territory of the other Party.

3. A Party that is a party to an agreement or convention of the type referred to in paragraph 1 of this Article, existing or future, shall provide adequate opportunities to the other Party, if that Party is interested in negotiating its accession to such an agreement or convention or in negotiating agreements or conventions comparable thereto. Where a Party grants recognition autonomously, it shall provide adequate opportunities for the other Party to demonstrate that education, experience, licenses or certificates obtained or requirements fulfilled in the territory of that other Party should be subject to recognition.

4. A Party shall not grant recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing or certification of service suppliers or a disguised restriction on trade in services.

5. Annex 13.10 applies to measures adopted or maintained by a Party relating to the licensing or certification of professional service suppliers, as set out in the provisions of that Annex.

Article 13.11. Transfers and Payments

1. Each Party shall allow all transfers and payments related to the cross-border supply of services to be made freely and without delay to and from its territory.

2. Each Party shall allow such transfers and payments related to the cross-border supply of services 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 condition or prevent the making of a transfer or payment, through the equitable, non-discriminatory and good faith application of its laws relating to:

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

(b) issuance, trading or operations of securities, futures, options or derivatives;

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

(d) criminal offenses; or

(e) guarantee of compliance with orders or rulings in judicial or administrative proceedings.

Article 13.12. Denial of Benefits

Upon notification and consultation, a Party may deny the benefits of this Chapter to:

(a) service suppliers of the other Party where the service is being supplied by an enterprise owned or controlled by persons of a non-Party and the enterprise does not have substantial business activities in the territory of the other Party; or

(b) service suppliers of the other Party where the service is supplied by an enterprise owned or controlled by persons of the denying Party and the enterprise has no substantial business activities in the territory of the other Party.

Article 13.13. Implementation

The Parties shall consult annually, or as otherwise agreed, to review the implementation of this Chapter and to consider other matters of mutual interest affecting trade in services.

Chapter 14.

ELECTRONIC COMMERCE

Article 14.1. Definitions for the Purposes of this Chapter:

authentication means the process or act of establishing the identity of a party to an electronic communication or transaction or ensuring the integrity of an electronic communication;

electronic means means the use of computerized processing;

carrier medium means any physical object designed primarily for use in storing a digital product by any method now known or later developed and from which a digital product can be perceived, reproduced or communicated, directly or indirectly, and includes, but is not limited to, an optical medium, floppy disk or magnetic tape;

digital products means computer programs, text, video, images, sound recordings and other products that are digitally encoded;' and

electronic transmission or electronically transmitted means the transfer of digital products using any electromagnetic or photonic means.

Article 14.2. General Provisions

1. The Parties recognize the economic growth and opportunity that electronic commerce generates, the importance of avoiding obstacles to its use and development, and the applicability of WTO rules to measures affecting electronic commerce.

2. For greater certainty, nothing in this Chapter shall prevent a Party from imposing internal taxes or other internal charges on domestic sales of digital products, provided that such taxes or charges are imposed in a manner consistent with this Agreement.

Article 14.3. Electronic Provision of Services

For greater certainty, the Parties affirm that measures affecting the supply of a service through the use of an electronic medium are within the scope of the

âFor clarity, digital products do not include digital representations of financial instruments, including money.

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similar electronically transmitted digital products that are created, produced, published, stored, transmitted, contracted, commissioned or first made available on a commercial basis in the territory of a non-Party; or

(b) whose author, performer, producer, manager or distributor is a person of the other Party than it grants to similar electronically transmitted digital products whose author, performer, producer, manager or distributor is a person of a non-Party.

5. Paragraphs 3 and 4 do not apply to any non-conforming measure under Articles 12.12 (Non-Conforming Measures) and 13.7 (Non-Conforming Measures).

Chapter 14. ELECTRONIC COMMERCE

Article 14.1. Definitions

For the Purposes of this Chapter:

authentication means the process or act of establishing the identity of a party to an electronic communication or transaction or ensuring the integrity of an electronic communication;

electronic means means the use of computerized processing;

carrier medium means any physical object designed primarily for use in storing a digital product by any method now known or later developed and from which a digital product can be perceived, reproduced or communicated, directly or indirectly, and includes, but is not limited to, an optical medium, floppy disk or magnetic tape;

digital products means computer programs, text, video, images, sound recordings and other products that are digitally encoded; (1) and

electronic transmission or electronically transmitted means the transfer of digital products using any electromagnetic or photonic means.

(1) For clarity, digital products do not include digital representations of financial instruments, including money.

Article 14.2. General Provisions

1. The Parties recognize the economic growth and opportunity that electronic commerce generates, the importance of avoiding obstacles to its use and development, and the applicability of WTO rules to measures affecting electronic commerce.

2. For greater certainty, nothing in this Chapter shall prevent a Party from imposing internal taxes or other internal charges on domestic sales of digital products, provided that such taxes or charges are imposed in a manner consistent with this Agreement.

Article 14.3. Electronic Provision of Services

For greater certainty, the Parties affirm that measures affecting the supply of a service through the use of an electronic medium are within the scope of the obligations contained in the relevant provisions of Chapters 12 (Investment) and 13 (Cross-Border Trade in Services) and subject to any exceptions or non-conforming measures set out in this Agreement, which are applicable to such obligations.

Article 14.4. Digital Goods

1. No Party may establish customs duties, tariffs, or other charges in connection with the import or export of digital products by means of electronic transmission.

2. For purposes of determining the applicable customs duties, each Party shall determine the customs value of the imported carrier medium incorporating a digital good based solely on the cost or value of the carrier medium, regardless of the cost or value of the digital good stored on the carrier medium.

No Party shall accord less favorable treatment to some digital products transmitted electronically than that accorded to other like digital products transmitted electronically:

(a) on the basis that:

(i) the digital products receiving less favorable treatment are created, produced, published, published, stored, transmitted, hired, commissioned, or otherwise made available for the first time on commercial terms outside its territory; or

(ii) the author, performer, producer, manager, or distributor of such digital products is a person of another Party or of a non-Party; or

(b) otherwise provide protection for other similar digital products that are created, produced, published, stored, transmitted, hired, commissioned or otherwise made available for the first time on commercial terms in its territory. (2)

4. No Party shall accord less favorable treatment to digital products transmitted electronically:

(a) that are created, produced, published, published, stored, transmitted, contracted, commissioned or otherwise made available for the first time on commercial terms in the territory of the other Party than it accords to similar digital products transmitted electronically that are created, produced, published, stored, transmitted, contracted, commissioned or otherwise made available for the first time on commercial terms in the territory of a non-Party; or (b) that are created, produced, published, stored, transmitted, contracted, commissioned or otherwise made available for the first time on commercial terms in the territory of a non-Party.

(b) whose author, performer, producer, manager or distributor is a person of the other Party than it grants to similar electronically transmitted digital products whose author, performer, producer, manager or distributor is a person of a non-Party.

5. Paragraphs 3 and 4 do not apply to any non-conforming measure under Articles 12.12 (Non-Conforming Measures) and 13.7 (Non-Conforming Measures).

(2) For greater certainty, this paragraph does not grant any right to a non-Party or to a person of a non-Party.

Article 14.5. Transparency

Each Party shall publish or otherwise make publicly available its laws, regulations and other measures of general application that relate to electronic commerce.

Article 14.6. Consumer Protection

1. The Parties recognize the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices when conducting transactions through electronic commerce.

2. The Parties recognize the importance of cooperation between national consumer protection agencies in activities related to cross-border electronic commerce in order to strengthen consumer protection.

Article 14.7. Authentication and Digital Certificates

No Party may adopt or maintain legislation on electronic authentication that would prevent the parties from having the opportunity to establish before judicial or administrative bodies that the electronic transaction complies with any legal requirements established by the legislation of each Party with respect to authentication.

Article 14.8. Cooperation

Taking into consideration the global nature of electronic commerce, the Parties recognize the importance of:

(a) working together to overcome the obstacles faced by small and medium- sized companies in the use of e-commerce;

(b) share information and experiences on e-commerce laws, regulations and programs, including those related to data privacy, consumer confidence, cybersecurity, electronic signatures, intellectual property rights and electronic forms of government;

(c) work to maintain cross-border information flows as an essential element of a dynamic environment for electronic commerce;

(d) encouraging the development by the private sector of self-regulatory methods, including codes of conduct, model contracts, guidelines and compliance mechanisms that encourage electronic commerce; and

(e) actively participate in international forums, both at the hemispheric and multilateral levels, to promote the development of electronic commerce.

Chapter 15. TEMPORARY ENTRY OF BUSINESS PEOPLE

Article 15.1. Definitions

1. For the purposes of this Chapter:

business activities means those legitimate activities of a commercial nature created and operated for the purpose of making a profit in the marketplace. It does not include the possibility of obtaining employment or wages or remuneration from a source of labor in the territory of a Party;

labor certification means the procedure carried out by the competent administrative authority to determine whether a national of a Party, who intends to enter temporarily the territory of another Party, displaces national labor in the same branch of employment or significantly impairs labor conditions therein;

temporary entry means the entry of a business person of one Party into the territory of the other Party, without the intention of establishing permanent residence;

national means a "national" as defined in Annex 2.1 (Country-Specific Definitions) of Chapter 2 (General Definitions);

person means a natural person;

business person means a national engaged in the trade of goods or supply of services, or in investment activities; and

recurrent practice means a practice carried out by the immigration authorities of a Party repeatedly during a representative period prior to and immediately following the implementation of the practice.

2. For purposes of Annex 15.4:

executive functions means those assigned within an organization, under which the person has primarily the following responsibilities:

(a) directing the management of the organization or a relevant component or function thereof;

(b) establish the policies and objectives of the organization, component or function; or

(c) receive general supervision or direction only from senior management, the organization's board of directors or management council, or the organization's shareholders;

managerial functions means those assigned within an organization, under which the person has primarily the following responsibilities:

(a) to direct the organization or an essential function within the organization;

(b) supervise and control the work of other professional employees, supervisors or managers;

(c) have the authority to hire and fire, or recommend such actions, as well as other actions with respect to the management of personnel being directly supervised by that person and perform functions at a higher level within the organizational hierarchy or with respect to the function for which he or she is responsible; or

(d) execute actions at his or her discretion with respect to the day-to-day operation of the function over which that person has authority; and

functions involving specialized knowledge means those involving special knowledge of the organization's merchandise, services, research, equipment, techniques, management of the organization or its interests and their application in international markets, or an advanced level of knowledge or experience in the organization's processes and procedures.

Article 15.2. General Principles

1. This Chapter reflects the preferential trade relationship between the Parties, as well as the mutual desire of the Parties to facilitate the temporary entry of persons related to trade in goods, services and investment on a basis of reciprocity and transparency. The Parties further recognize that the achievement of the foregoing objectives shall occur within the framework of their need to protect the domestic labor market and permanent employment in their respective territories.

2. Nothing in this Chapter applies to measures adopted or maintained affecting nationals seeking access to the labor market of the Parties, nor to measures relating to nationality, residence or employment on a permanent basis.

Article 15.3. General Obligations

1. Each Party shall apply the measures relating to the provisions of this Chapter in accordance with Article 15.2 and, in particular, shall apply them in a manner that expeditiously to avoid undue delay or prejudice to trade in goods and services, or to investment activities covered by this Agreement.

2. For greater certainty, nothing in this Chapter shall be construed to prevent the Parties from applying immigration measures necessary to protect the integrity of their borders and to ensure the orderly movement of persons across their borders, provided that such measures are not applied in a manner that unduly delays or impairs trade in goods or services or the conduct of investment activities in accordance with this Agreement.

Article 15.4. Temporary Entry Authorization

1. In accordance with the provisions of this Chapter, including those contained in Annex 15.4, each Party shall authorize the temporary entry of business persons who comply with other applicable measures relating to public health and safety, as well as those relating to national security.

2. A Party may, in accordance with its legislation, deny temporary entry to a business person when his temporary entry would adversely affect his business:

(a) the settlement of any labor dispute in progress at the place where she is or will be employed; or

(b) employment of any person involved in such a conflict.

3. Where a Party refuses temporary entry pursuant to paragraph 2, that Party shall, at the request of the person concerned, inform in writing the reasons for the refusal.

4. Each Party shall limit the amount of the fees for processing applications for temporary entry to the approximate cost of the services rendered.

5. The authorization of temporary entry under this Chapter does not replace the requirements for the exercise of a profession or activity in accordance with the specific regulations in force in the territory of the Party authorizing the temporary entry.

6. Nothing in this Chapter shall be construed to prevent a Party from requiring, as a precondition for authorizing the temporary entry of a business person, that such person obtain a visa or equivalent document prior to entry. The Parties shall consider the possibility of avoiding or eliminating visa or equivalent document requirements (1).

(1) The Parties recognize that the migration policy of the Republic of El Salvador, the Republic of Guatemala and the Republic of Honduras is part of the Central American Integration System (SICA).

Article 15.5. Provision of Information

1. In addition to the provisions of Article 16.3 (Publication), each Party shall:

(a) provide another Party with information material to enable it to become acquainted with the measures it adopts with respect to this Chapter; and

(b) no later than one (1) year after the date of entry into force of this Agreement, prepare, publish and make available, both in its own territory and in the territory of the other Party, a consolidated document containing material explaining the requirements for temporary entry under this Chapter, so that business persons of the other Party may become acquainted with them.

2. Each Party shall compile, maintain and make available to the other Party, information regarding the granting of temporary entry authorizations to business persons of the other Party who have been issued immigration documentation in accordance with this Chapter. This collection shall include information for each authorized category.

Article 15.6. Implementation

The Parties shall consult at least once a year, with the participation of the competent authorities, to review the implementation of this Chapter and to consider other matters of mutual interest affecting the temporary entry of business persons.

Article 15.7. Settlement of Disputes

1. Disputes arising between the Parties arising out of the interpretation and application of this Chapter shall be subject to the dispute settlement mechanism provided for in Chapter 18 (Dispute Settlement). A Party may not initiate dispute

settlement proceedings with respect to a denial of temporary entry authorization under this Chapter unless:

(a) the matter concerns a recurring practice (2) ; and

(b) the business person concerned has exhausted the administrative remedies available under the laws of the other Party with respect to that particular matter.

2. The appeals mentioned in paragraph (b) shall be considered exhausted when the competent authority has not issued a final resolution within a period of six (6) months from the initiation of the administrative proceeding and the resolution has not been delayed for reasons attributable to the business person concerned.

(2) For greater certainty, recurrent practice shall also be understood as the repetitive application of a rule.

Article 15.8. Relationship to other Chapters

1. Except as provided in this Chapter, nothing in this Agreement shall impose any obligation on the Parties with respect to their migration measures.

2. Nothing in this Chapter shall be construed to impose any obligations or commitments with respect to the provisions of other chapters of this Agreement.

Annex 15.4. Provisions Applicable to Temporary Entry

Section A. Business Visitors

1. Each Party shall authorize temporary entry and issue supporting documentation to the business person who intends to carry out any business activity mentioned in Appendix 1 of this Chapter, prior to compliance with the immigration measures in force applicable to temporary entry, without requiring more than those established therein, and which it exhibits:

(a) proof of nationality of a Party;

(b) documentation indicating the purpose of your entry and certifying that you will undertake such activities; and

(c) proof of the international character of the business activity proposed to be undertaken and that the person does not intend to enter the local labor market.

2. Each Party shall stipulate that a business person meets the requirements set forth in paragraph 1 (c), when it demonstrates that:

(a) the principal source of remuneration for that activity is outside the territory of the Party authorizing temporary entry; and

(b) the principal place of business and where most of its profits are actually earned is outside the territory of the Party authorizing temporary entry.

3. For the purposes of paragraph 2, each Party shall normally accept a statement as to the principal place of business and the place where profits are earned. Where the Party requires additional verification, it may consider as sufficient evidence a letter from the company or business association legally constituted and in operation stating these circumstances.

4. Subject to Article 15.4(6), no Party may: (a) require, as a condition for authorizing temporary entry under paragraph 1, prior approval procedures, petitions, proof of labor certification or other procedures of similar effect; or

(b) impose or maintain numerical restrictions on temporary entry in accordance with paragraph 1.

Section B. Merchants and Investors

1. Each Party shall authorize temporary entry and issue supporting documentation to the business person exercising supervisory, executive or specialized knowledge functions, provided that he/she complies with the immigration measures in force applicable to temporary entry and intends to:

(a) to engage in significant trade in goods or services, principally between the territory of the Party of which the business person is a national and the territory of the Party from which entry is sought; or

(b) establish, develop, manage, or provide key technical advice or services in supervisory, executive, or critical skill functions, to carry out or manage an investment in which the person or his or her company has committed, or is in the process of committing, a significant amount of capital.

2. Subject to Article 15.4(6), no Party may:

(a) require proof of labor certification or other procedures of similar effect, as a condition for authorizing temporary entry under paragraph 1; or

(b) impose or maintain numerical restrictions in connection with temporary entry pursuant to paragraph 1.

Section C. Transfers of Personnel Within an Enterprise

1. Each Party shall authorize temporary entry and issue supporting documentation to a business person employed by an enterprise of another Party for a period of not less than one (1) year immediately preceding the date of application for temporary entry into that other Party who intends to perform managerial, executive or specialized knowledge functions in that enterprise, in its parent company or in one of its subsidiaries or affiliates, provided that he or she complies with the immigration measures in force applicable to temporary entry.

2. Subject to Article 15.4(6), no Party may:

(a) requiring proof of labor certification or other procedures of similar effect as a condition for authorizing temporary entry under paragraph 1; or

(b) impose or maintain numerical restrictions in connection with temporary entry pursuant to paragraph 1.

Section D. Professionals (3)

1. Each Party shall authorize temporary entry and issue supporting documentation to a person who intends to carry out activities at the professional level by providing professional services on the basis of an existing contract between that person and a national or an enterprise of the other Party, when the person, in addition to complying with the current immigration requirements applicable to temporary entry, exhibits:

(a) proof of nationality of a Party; and

(b) documentation that the person will undertake such activities and stating the purpose of entry.

2. Subject to Article 15.4 (6) neither Party may:

(a) require prior approval procedures, petitions, proof of labor certification or others of similar effect, as a condition for authorizing temporary entry under paragraph 1; or

(b) impose or maintain numerical restrictions in connection with the temporary movement pursuant to paragraph 1.

3. Notwithstanding paragraph 2, a Party may require documentation attesting that such person possesses the minimum academic qualifications relevant to the supply of professional services established in its legislation.

4. A professional shall be understood to be a national of one of the Parties whose specialized occupation requires:

(a) the theoretical and practical application of a body of specialized knowledge; and

(b) obtaining a post-secondary degree in the respective field, which requires four or more years of post-secondary study as a minimum requirement for the exercise of the respective occupation.

(3) For greater certainty, in accordance with Article 15.4 (5), the authorization of temporary entry for professionals, under no circumstances replaces the requirements for the practice of a profession, in accordance with the specific regulations in force in the territory of the Party authorizing the temporary entry.

Appendix 1. Business Visitors

For the purposes of this Chapter, business visitors include the following activities:

Research

- Technical, scientific and statistical researchers conducting research independently or for an enterprise established in the territory of the other Party.

Cooperation and consultation

- Business people attending cooperative activities or consulting with business associates.

Cultivation, manufacturing and production

- Purchasing and production personnel, at management level, who carry out commercial operations for an enterprise established in the territory of the other Party.

Marketing

- Market researchers and analysts who conduct research or analysis independently or for a company established in the territory of the other Party.

- Trade show and promotional staff attending trade conventions.

Sales

- Sales representatives and sales agents who take orders or negotiate contracts for goods and services for an enterprise established in the territory of the other Party, but do not deliver the goods or provide the services.

- Buyers making purchases for an enterprise established in the territory of the other Party.

Distribution

- Customs brokers providing advisory services to facilitate the import or export of goods.

After-sales services

- Installation, repair, maintenance, and supervisory personnel who have the technical expertise essential to fulfill the seller's contractual obligation; and who provide services or train workers to provide such services pursuant to a warranty or other service contract related to the sale of commercial or industrial equipment or machinery, including computer software purchased from an enterprise established outside the territory of the Party from which temporary entry is sought during the term of the warranty or service contract.

General Services

- Consultants conducting business activities at the cross-border trade in services level.

- Management and supervisory personnel engaged in business operations for an enterprise established in the territory of the other Party.

- Financial services personnel engaged in commercial transactions for an enterprise established in the territory of the other Party.

- Public relations and advertising personnel who advise clients or attend or participate in conventions.

- Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting an excursion that has been initiated in the territory of the other Party.

- Translators or interpreters providing services as employees of an enterprise established in the territory of the other Party.

Appendix 3. Migratory Measures in Force for Temporary Entry

With respect to the Republic of El Salvador:

(a) Migration Law, Legislative Decree No. 2772 dated December 19, 1958, published in the Official Gazette No. 240, volume 181, dated December 23, 1958;

(b) Regulation of the Immigration Law, Executive Decree No. 33 dated March 9, 1959, published in the Official Gazette No. 56, volume 182, dated March 31, 1959;

(c) Law on Foreigners, Legislative Decree No. 299 dated February 18, 1986, published in the Official Gazette No. 34, volume 290, dated February 20, 1986; and

(d) CA-4 Regional Agreement on Migration Procedures for the Extension of the Central American Single Visa, the Scope of the Framework Treaty and the Mobility of Persons in the Region, dated June 30, 2005 and effective as of July 1, 2005.

With respect to the Republic of Guatemala:

(a) Decree No. 95-98 of the Congress of the Republic, Migration Law, published in the Diario de Centro AmÃ©rica on December 23, 1998;

(b) Governmental Agreement No. 529-99, Regulation of the Migration Law, published in the Diario de Centro AmÃ©rica on July 29, 1999 and its amendments; and

(c) CA-4 Regional Agreement on Migration Procedures for the Extension of the Central American Single Visa, the Scope of the Framework Treaty and the Mobility of Persons in the Region, dated June 30, 2005 and effective as of July 1, 2005.

With respect to the Republic of Honduras:

(a) Decree No. 208-2003, Migration and Alien Law, dated March 3, 2004;

(b) Agreement No. 018-2004, Regulation of the Immigration Law, dated May 3, 2004;

(c) Agreement No. 21-2004, dated June 8, 2004;

(d) Agreement No. 8 on Migratory Procedures and Facilities for Foreign Investors and Traders, dated August 19, 1998; and

(e) CA-4 Regional Agreement on Migration Procedures for the Extension of the Central American Single Visa, the Scope of the Framework Treaty and the Mobility of Persons in the Region, dated June 30, 2005 and effective as of July 1, 2005.

With respect to the Republic of Colombia:

(a) Decree 4000 of November 30, 2004, published in the Official Gazette of Colombia No. 45749 of December 1, 2004 (Visa and Immigration Statute);

(b) Decree 4248 of December 16, 2004, published in the Official Gazette of Colombia No. 45766 of December 18, 2004;

(c) Decree 164 of January 31, 2005, published in the Official Gazette of Colombia No. 45809 of February 1, 2005;

(d) Resolution 0255 of January 26, 2005, published in the Official Gazette of Colombia No. 45806 of January 29, 2005;

(e) Resolution 0273 of January 27, 2005, published in the Official Gazette of Colombia No. 45805 of January 29, 2005; and

(f) Resolution 4420 of September 21, 2005, published in the Official Gazette of Colombia No. 46051 of October 4, 2005.

Part SIX. ADMINISTRATIVE AND INSTITUTIONAL ARRANGEMENTS

Chapter 16. TRANSPARENCY

Article 16.1. Definitions

For the purposes of this Chapter, "administrative resolution of general application" shall mean an administrative resolution or interpretation that applies to all persons and factual situations that fall within its scope and that establishes a rule of conduct, but does not include:

(a) rulings or decisions in administrative proceedings that apply to a particular person, good or service of another Party in a specific case; or

(b) a ruling that resolves with respect to a particular act or practice.

Article 16.2. Information Center

1. Each Party shall designate a unit as an information center which, except as otherwise provided in this Agreement, shall be

responsible for sending and receiving all communications, information and notifications between the Parties on any matter covered by this Agreement.

2. Without prejudice to the provisions of paragraph 1, when a Party so requests, the information center of another Party shall inform the agency or entity responsible for dealing with a particular matter, in order to facilitate communication with the requesting Party.

Article 16.3. Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application that relate to any matter covered by this Agreement are published promptly.

2. To the extent possible, each Party:

(a) publish any draft measures of general application which it proposes to adopt relating to matters covered by this Agreement; and

(b) provide other Parties and any interested parties with a reasonable opportunity to comment on such projects.

Article 16.4. Provision of Information

1. Each Party shall ensure that published measures and projects are made available to the other Party and to any interested party upon request. Likewise, it shall promptly respond to questions regarding such measures.

2. Each Party shall communicate to the other Party, to the extent practicable, any existing or proposed measures that it considers may in the future affect the operation of this Agreement or otherwise substantially affect the interests of that other Party under the terms of this Agreement.

3. The communication or provision of information on measures in force or in the pipeline referred to in this Article shall be made without prejudice to whether or not the measure is compatible with this Treaty.

Article 16.5. Hearing, Legality and Due Process Guarantees

Each Party shall ensure that in judicial and administrative proceedings relating to the application of any measure referred to in Article 16.3, the guarantees of hearing, legality and due process enshrined in its respective legislation, within the meaning of Articles 16.6 and 16.7, are observed.

Article 16.6. Administrative Procedures for the Application of Measures

In accordance with its domestic legal provisions, each Party shall ensure that in its administrative procedures applying its laws, regulations, procedures and administrative rulings of general application with respect to particular persons, goods or services of another Party in specific cases:

(a) persons of that other Party who are directly affected by a proceeding are given notice of the institution of the proceeding, including a description of the nature of the proceeding, a statement of the authority legally entitled to institute the proceeding, and a general description of all issues in dispute;

(b) such persons have the opportunity to present facts and arguments in support of their positions, prior to any final administrative action; and

(c) its procedures are in accordance with its legislation. Article 16.7 Review and Challenge 1. Each Party shall maintain judicial and administrative tribunals and procedures in accordance with its respective legislation for the purpose of prompt and timely review and, where appropriate, correction of acts.

The courts and tribunals shall be impartial and not connected with the agency or administrative enforcement authority and shall have no substantial interest in the outcome of the matter. These tribunals shall be impartial and not connected with the administrative enforcement agency or authority and shall have no substantial interest in the outcome of the matter.

2. Each Party shall ensure that before such courts and in such proceedings, the parties to the proceedings have the right to:

(a) a reasonable opportunity to support or defend their respective positions and arguments; and

(b) a resolution that considers the evidence y arguments presented by them.

3. Each Party shall ensure that, subject to the means of challenge or subsequent review available under its laws, such resolution is implemented by its competent agencies or authorities.

Article 16.8. Communications, Information and Notifications

Unless otherwise provided, a communication, information or notification shall be deemed to have been delivered to a Party upon its receipt at the information center provided for in Article 16.2.

Article 16.9. Cooperation Against Corruption

The Parties shall cooperate in preventing and combating corrupt practices that may arise in connection with the implementation of this Treaty and reaffirm their existing rights and obligations under the Inter-American Convention against Corruption.

Article 16.10. Promotion of Free Competition

The Parties shall promote the actions they deem necessary to provide an adequate framework to identify and sanction any practices that restrict free competition.

Chapter 17. TREATY ADMINISTRATION

Section A. Treaty Administrative Commission, Treaty Coordinators and Administration of Dispute Settlement Proceedings

Article 17.1. Treaty Administrative Commission

1. The Parties establish the Administrative Commission of the Treaty, composed of the representatives of each Party at the ministerial level referred to in Annex 17.1, or by the officials designated by them.

2. The Commission shall have the following functions:

(a) to ensure compliance with and the correct application of the provisions of this Treaty;

(b) evaluate the results achieved in the implementation of this Treaty;

(c) monitor the development of the Treaty and recommend to the Parties such modifications as it deems appropriate;

(d) seek to resolve disputes arising out of the interpretation or application of this Agreement in accordance with the provisions of Chapter 18 (Dispute Settlement);

(e) supervise the work of all committees established or created pursuant to this Treaty, in accordance with the provisions of Article 17.5 (3);

(f) to hear any other matter that may affect the operation of this Agreement, or any other matter that may be entrusted to it by the Parties;

(g) to establish the rules and procedures applicable for the proper functioning and coordination of the Treaty; and

(h) the other functions provided for in this Treaty. 3. The Commission may: (a) establish such ad hoc or standing committees and groups of experts as may be required for the implementation of this Treaty and assign functions to them;

(b) modify, in compliance with the objectives of this Treaty:

(i) the list of a Party's goods contained in Annex 3.4 (Tariff Relief Program) for the purpose of incorporating one or more excluded goods into the tariff treatment;

(ii) the deadlines set forth in Annex 3.4 (Tariff Reduction Program), in order to accelerate tariff reduction; and

(iii) the rules of origin set forth in Annex 4.3 (Specific Rules of Origin);

(c) convene the Parties to future negotiations to examine the deepening of the liberalization achieved in the different services or investment sectors;

(d) seek advice from individuals or groups with no governmental affiliation;

(e) issue interpretations of the provisions of this Agreement;

(f) adopt and amend any regulations necessary for the execution of this Treaty;

(g) if agreed by the Parties, take any other action for the exercise of its functions; and

(h) review the impacts, including any benefits of the Agreement on small and medium-sized enterprises of the Parties. To this end, the Commission may appoint working groups to assess such impacts and make relevant recommendations to the Commission, including work plans focused on the needs of MSMEs; to this end, the Commission may receive information, input and contributions from representatives of small and medium-sized enterprises and their trade associations.

4. The modifications referred to in paragraph 3 (b) and (f) shall be implemented by the Parties in accordance with their respective domestic laws, where applicable. In this case, the respective modifications shall take effect between the Republic of Colombia and each of the other Parties as of the date on which the compliance with the domestic legal requirements is communicated by means of notes.

5. Notwithstanding the provisions of paragraph 1, the Commission may meet and adopt decisions when representatives of the Republic of Colombia and the Republic of El Salvador, the Republic of Guatemala or the Republic of Honduras attend to deal with matters of bilateral interest to those Parties, provided that the other Party or Parties are notified sufficiently in advance so that they may participate in the meeting. In such cases, decisions shall be adopted by the Parties interested in the respective matter. The other Party or Parties shall intervene in the adoption of decisions upon demonstration of their interest in the matter.

6. Decisions adopted by the Commission pursuant to paragraph 5 shall have effect only as between the Parties that have adopted them.

7. The Commission shall establish its rules and procedures.

8. The Committee shall make its decisions by consensus.

9. The Commission shall meet at least once a year, in ordinary session and at the request of any Party, in extraordinary session. The sessions shall be held alternately between the Parties.

Article 17.2. Treaty Coordinators

1. Each Party shall designate a Treaty Coordinator, in accordance with Annex 17.2.

2. The Treaty Coordinators shall have the following functions:

(a) develop agendas as well as other preparations for the Commission's meetings;

(b) prepare and review the technical files necessary for decision-making within the framework of the Treaty;

(c) to follow up on the decisions made by the Commission;

(d) provide assistance to the Commission;

(e) on the instructions of the Commission, support and supervise the work of the technical committees and expert groups established under this Treaty; and

(f) to hear any other matter that may affect the operation of this Treaty, which may be entrusted to it by the Commission.

Article 17.3. Administration of Dispute Resolution Procedures

1. Each Party shall:

(a) designate an office to provide administrative support to the arbitral tribunals contemplated in Chapter 18 (Dispute Settlement) of this Agreement; and

(b) notify the Commission of the address, telephone number and any other relevant information of the place where its designated office is located.

2. Each Party shall be responsible for: (a) the operation and costs of its designated office; and

(b) the remuneration and expenses payable to arbitrators, assistants and experts, as stipulated in Annex 17.3.

Section B. Technical Committees and Expert Groups

Article 17.4. General Provisions

1. The provisions of this Section shall apply, on a supplementary basis, to all committees and groups of experts created within the framework of this Treaty.

2. Each committee and group of experts shall be composed of representatives of each of the Parties and all recommendations shall be adopted by consensus.

Article 17.5. Technical Committees

1. The Commission may establish committees other than those established in Annex 17.5.

2. Each committee shall have the following functions:

(a) promote the implementation of the Chapters of this Treaty that fall within its competence;

(b) to hear matters submitted to it by a Party that considers that an existing measure of the other Party affects the effective implementation of any commitment under the Chapters of this Agreement within its competence and to make such recommendations as it deems appropriate;

(c) request technical reports from the competent authorities, necessary for the formulation of its recommendations;

(d) evaluate and recommend to the Commission proposals for modification, amendment or addition to the provisions of the Chapters of this Treaty within its competence; and

(e) to perform such other tasks as may be entrusted to it by the Commission under the provisions of this Treaty and other instruments derived therefrom.

3. The Commission and the Treaty Coordinators shall oversee the work of all committees established or created under this Treaty.

4. Each committee may establish its own rules and procedures and those of related expert groups and shall meet at the request of either Party or the Commission.

Article 17.6. Expert Groups

Notwithstanding the provisions of Article 17.1 (3) (a), a committee may also create groups of experts, for the purpose of carrying out such technical studies as it deems necessary for the performance of its functions. The group of experts shall strictly comply with what has been entrusted to it, within the terms and time limits established. Unless otherwise provided, the group of experts shall report to the Commission or the committee that created it.

Article 17.7. Meetings of Governing Bodies

The bodies created In Sections A and B of this Chapter may meet in person or in a non face-to-face meeting, and in the latter case may use any technological means available to the Parties.

Annex 17.6. Members of the Administrative Commission of the Treaty

The Administrative Commission of the Treaty established in Article 17.1 (1) shall be composed of:

(a) with respect to the Republic of El Salvador, by the Minister of Economy;

(b) with respect to the Republic of Guatemala, by the Minister of Economy;

(c) with respect to the Republic of Honduras, by the Secretary of State in the Offices of Industry and Commerce; and

(d) with respect to the Republic of Colombia, by the Minister of Commerce, Industry and Tourism;

or their successors.

Annex 17.7. Treaty Coordinators

The Treaty Coordinators will be:

(a) with respect to the Republic of El Salvador, the DirecciÃ©dn de AdministraciÃ©n de Tratados Comerciales del Ministerio de Economia;

(b) with respect to the Republic of Guatemala, the DirecciÃ©n de AdministraciÃ©n del Comercio Exterior del Ministerio de Economia;

(c) with respect to the Republic of Honduras, the General Directorate of Economic Integration and Trade Policy of the Secretariat of State in the Offices of Industry and Commerce; and

(d) with respect to the Republic of Colombia, the Directorate of Economic Integration of the Ministry of Commerce, Industry and Tourism or the agency designated by the Minister of Commerce, Industry and Tourism;

or their successors.

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ANNEX 17.8 Remuneration and Payment of Expenses

1. The Commission shall fix the amounts of remuneration and expenses to be paid to the arbitrators, their assistants and experts.

2. Each party to the dispute shall bear the expenses of its appointed arbitrator. The expenses of the Chairman of the Arbitral Tribunal and the general expenses associated with the proceedings shall be borne by the losing Party.

3. Each arbitrator, assistant and expert shall keep a record and submit a final

account of his time and expenses and the arbitration team shall keep a similar record and submit a final account of all general expenses.

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ANNEX 17.5 Committees

Committee on Agricultural Trade (Article 3.17)

Committee on Trade in Goods (Article 3.18)

(d) with respect to the Republic of Colombia, the Directorate of Economic Integration of the Ministry of Commerce, Industry and Tourism or the agency designated by the Minister of Commerce, Industry and Tourism;

or their successors.

Annex 17.8. Remuneration and Payment of Expenses

1. The Commission shall fix the amounts of remuneration and expenses to be paid to the arbitrators, their assistants and experts.

2. Each party to the dispute shall bear the expenses of its appointed arbitrator. The expenses of the Chairman of the Arbitral Tribunal and the general expenses associated with the proceedings shall be borne by the losing Party.

3. Each arbitrator, assistant and expert shall keep a record and submit a final account of his time and expenses and the arbitration team shall keep a similar record and submit a final account of all general expenses.

Annex 17.5. Committees

Committee on Agricultural Trade (Article 3.17)

Committee on Trade in Goods (Article 3.18)

Committee on Origin (Article 4.15)

Trade Facilitation Committee (Article 6.11)

Committee on Sanitary and Phytosanitary Measures (Article 9.12) Committee on Technical Barriers to Trade (Article 10.16)

Chapter 18. DISPUTE SETTLEMENT

Section A. Dispute Settlement

Article 18.1. Definitions

For the purposes of this Chapter:

Consulting Party means any Party consulting under Article 18.6;

Disputing Party means the complaining Party or the Party complained against; Party complained against means the party against whom a claim is made; and Claimant means the party making a claim.

Article 18.2. Cooperation

1. The Parties shall at all times endeavor to reach agreement on the interpretation and application of this Agreement and shall, through cooperation and consultation, endeavor to reach a mutually satisfactory resolution of any matter that may affect its operation.

2. All solutions of matters arising under the provisions of this Chapter shall be consistent with this Treaty and shall not nullify or impair the benefits accruing to the Parties under this Treaty, nor shall they impede the attainment of the objectives of this Treaty.

3. Mutually satisfactory solutions agreed between the disputing Parties on matters arising under the provisions of this Chapter shall be notified to the Commission within fifteen (15) days from the agreement.

Article 18.3. Scope of Application

Except as otherwise provided in this Agreement, the procedure of this Chapter shall apply:

(a) to the prevention or settlement of all disputes between the Parties relating to the application or interpretation of this Agreement;

(b) where a Party considers that an existing or proposed measure of another Party is or may be inconsistent with the obligations of this Agreement;

(c) where a Party considers that an existing measure of another Party causes or may cause nullification or impairment within the meaning of Annex 18.3; or

(d) where a Party considers that another Party has in any way failed to comply with one or more of its obligations under this Agreement.

Article 18.4. Election of Forums

1. Disputes arising in connection with the provisions of this Agreement, the WTO Agreement or the conventions negotiated pursuant to the latter shall be settled in the forum of the complaining Party's choice.

2. Once a Party has requested the establishment of an arbitral tribunal under Article 18.14, or has requested the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO, the forum selected under paragraph 1 of this Article shall be exclusive of the others.

Article 18.5. Perishable Goods

In disputes concerning perishable goods (1), the time limits set forth in this Chapter shall be reduced by half, unless the Parties to a dispute agree on different time limits.

(1) For greater certainty, the term "perishable goods" means agricultural and fishery goods classified in chapters 1 to 24 of the Harmonized

System that deteriorate in quality within a short period of time; it also includes those goods that lose their commercial value after a certain date. In both cases, provided that the goods are in the primary customs zone or customs area of the importing country and their importation is impossible.

Article 18.6. Consultations

1. A Party may request in writing to another Party the holding of consultations under the terms of Article 18.2, when any of the situations contemplated in Article 18.3 of this Agreement arise.

2. The requesting Party shall deliver the request to the other Party and explain the reasons for the request, including identification of the measure in force or proposed measure or other matter at issue and the legal basis for the complaint. A copy of the request shall be sent simultaneously to the other Parties to this Agreement.

3. The consulting Parties shall use their best efforts to reach a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement. To that end, the Parties shall:

(a) provide such information as will permit a full consideration of how the existing or proposed measure, or any other matter, may affect the operation or application of this Agreement; and

(b) treat confidential information exchanged during consultations in the same manner as it is treated by the Party that provided it.

4. Consultations may be requested and conducted in person or by any technological means available to the Parties. Face-to-face meetings shall be held in the capital city of the Party from which the consultations have been requested, unless otherwise agreed by the consulting Parties.

5. After one (1) year of inactivity from the date of the last meeting in the consultation phase and in the event that the situation that gave rise to the dispute persists, the consulting Party shall request new consultations.

Article 18.7. Refusal of Consultation

If the Party consulted does not reply to the request for consultations within ten (10) days of notification of the request, proposing a date for a meeting, the consulting Party may refer the matter to the Commission without waiting for the thirty (30) day period referred to in Article 18.8 to elapse, or it may proceed in accordance with Article 18.11.

Article 18.8. Intervention of the Commission

1. Any consulting Party may request in writing that the Commission be convened, provided that a matter is not resolved in any of the following cases:

(a) in the case set forth in Article 18.7;

(b) within sixty (60) days of receipt of the request for consultations or within such other period as the consulting Parties may agree; or

(c) within thirty (30) days after receipt of the request for consultations in the case of perishable goods.

2. The Party requesting the intervention of the Commission shall explain the reasons for the request and shall include identification of the measure in force or proposed or other matter at issue and an indication of the legal basis of the complaint.

3. The request shall be submitted to the Commission. A copy of the request shall be sent to the other Party.

Article 18.9. Proceedings Before the Commission

1. Unless the Party requesting the intervention of the Commission decides on a longer period, the Commission shall meet within ten (10) days of receipt of the request and shall seek to resolve the dispute without delay.

2. In order to assist the parties to the dispute in reaching a mutually satisfactory resolution of the dispute, the Commission may:

(a) convene technical advisors or set up such working groups or expert groups as it deems necessary;

(b) use of good offices, conciliation, mediation or other means of alternative dispute resolution; or

(c) formulate recommendations.

The costs incurred by the processes set forth in paragraphs (a) and (b) shall be borne by the Parties in controversy, in equal parts.

3. All agreements reached in the proceeding before the Commission shall be complied with within the time limits indicated therein, which may not exceed three (3) months or, as the case may be, within the reasonable period of time established by the Commission for such purpose. For the purpose of reviewing such compliance, the Party against which the proceeding before the Commission was requested shall submit to the Commission a monthly written report on the progress of compliance.

4. The Commission may meet face-to-face or non-face-to-face, and in the latter case may use any technological means available to the Parties, which will allow it to comply with this stage of the procedure.

Article 18.10. Joinder of Proceedings

Unless otherwise decided, the Commission shall join two (2) or more proceedings before it under this Chapter relating to the same measure or matter. Likewise, it may join two (2) or more proceedings concerning other matters before it, when it considers it convenient to examine them jointly.

Article 18.11. Request for the Establishment of the Arbitral Tribunal

1. A Party may request in writing the establishment of an arbitral tribunal whenever a matter is not resolved in any of the following cases:

(a) in the case set forth in Article 18.7;

(b) within thirty (30) days after receipt of the request for a meeting of the Commission or any other time limit agreed upon by the disputing Parties, or when the meeting has not been held in accordance with the provisions of Article 18.9 (1);

(c) in the case of joinder of proceedings when the matter has not been resolved within thirty (30) days from the date of the meeting of the Commission to deal with the most recent matter submitted to it, in accordance with Article 18.10;

(d) where the Parties have not resolved the dispute at the consultation stage within the time limits of thirty (30) days provided for in Article 18.5 or sixty (60) days provided for in Article 18.6 or within another time limit agreed by the Parties in consultations; or

(e) where the Party requesting the intervention of the Commission considers, after the expiration of the time limit indicated by the Commission, that no measures were taken to comply with the agreement obtained in accordance with Article 18.9.

2. The complaining Party shall deliver the request to the other Party and a copy to the other Parties and the Commission, stating the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis of the complaint.

3. The establishment of an arbitral tribunal may not be requested to review a proposed measure.

Article 18.12. List of Arbitrators

1. Each Party shall appoint, no later than six (6) months after the entry into force of this Agreement, to the roster of arbitrators, four (4) nationals and two (2) non-nationals of the Parties, who are qualified and willing to serve as arbitrators. Such nominations shall be sent to the office referred to in Article 17.3 (Administration of Dispute Settlement Procedures).

2. The members of the list of arbitrators shall meet the qualifications stipulated in Article 18.13 (1).

3. The members of the list of arbitrators shall remain on the list for a period of three (3) years and may be re-elected for equal periods. However, either Party may revise its list of arbitrators before the expiration of such term. In the latter case, the new members of the list of arbitrators shall serve for the remainder of the original term, without prejudice to their re-election.

4. Every three (3) years, a new process for the formation of the list of arbitrators shall be carried out. For this purpose, the Parties shall send to the office referred to in Article 17.3 (Administration of Dispute Settlement Procedures) their appointed

arbitrators before the expiration of the aforementioned period, or, as the case may be, an express manifestation of their wish to re-elect those already appointed. In case of silence, it shall be understood that the arbitrators of the respective Party have been re-elected.

5. The Parties may use the list of arbitrators even if it is not complete.

6. If at the expiration of the three (3) year period for which the members of the list of arbitrators were appointed, one of them is appointed as arbitrator in an ongoing proceeding, he/she shall continue to serve in that specific proceeding until its conclusion.

Article 18.13. Qualifications of Arbitrators

1. All referees shall meet the following qualifications:

(a) have specialized knowledge or experience in law, international trade, matters related to the matters contained in this Agreement or in the settlement of disputes arising from international trade agreements;

(b) be chosen strictly on the basis of their objectivity, impartiality, probity, reliability and sound judgment; and

(c) without prejudice to the provisions of Article 18.12, not be related to the Parties, not receive instructions from the Parties and be independent.

2. The members of the arbitral tribunal shall comply with the Code of Conduct established by the Commission.

3. Persons who have intervened in a dispute, as referred to in Article 18.9, may not be arbitrators for the same dispute.

Article 18.14. Integration of the Arbitral Tribunal

The following procedure shall apply for the establishment of the Arbitral Tribunal:

(a) the disputing Parties shall meet within fifteen (15) days after receipt of the request for the establishment of the Arbitral Tribunal to agree on its composition, unless they agree on a longer period of time. The meeting shall be held in the territory of the Party complained against unless the disputing Parties decide otherwise;

(b) the disputing Parties should endeavor to select arbitrators who have relevant knowledge or experience in the subject matter of the dispute;

(c) the arbitral tribunal shall be composed of three (3) members;

(d) within the framework of the meeting for the composition of the arbitral tribunal, the disputing Parties shall endeavor to agree on the appointment of the chairman of the arbitral tribunal from the list of arbitrators referred to in Article 18.12, who may not be a national of either Party;

(e) within the framework of the meeting for the composition of the arbitral tribunal, each disputing Party shall select an arbitrator from the list referred to in Article 18.12 who may have the nationality of the Party that has appointed him or her;

(f) if the disputing Parties are unable to agree on the appointment of the chairman of the arbitral tribunal within the time limit referred to in subparagraph (a), the chairman shall be appointed within one business day after the expiration of such time limit, by lot drawn by the disputing Parties from among the members of the list who are not nationals of the Parties. The chairman shall be a national of a State with which the Parties to the dispute have diplomatic relations;

(g) if a disputing Party fails to appoint an arbitrator within the time limit referred to in subparagraph (a), the arbitrator shall be appointed within the next business day by lot by the disputing Parties from among the members of the list referred to in Article 18.12; and

(h) the disputing Parties shall appoint at the meeting, from among the members of the list referred to in Article 18.12, alternate arbitrators in the event of non-acceptance, death, resignation or removal of one of the appointed arbitrators, in accordance with the rules for the composition of the arbitral tribunal contained in this Article.

2. The arbitrators shall preferably be selected from the list. Any disputing Party may challenge, without giving a reason, at the integration meeting, any person not on the list who is proposed as a member of the arbitral tribunal by a disputing Party. In this case, such person may not be a member of the arbitral tribunal.

3. The disputing Parties shall communicate to the office referred to in Article 17.3 (Administration of Dispute Settlement

Procedures) the appointment of the arbitrators of the arbitral tribunal within fifteen (15) days from the date of their appointment. The arbitral tribunal shall be constituted once the arbitrators have expressed their acceptance to said office.

Article 18.15. Model Rules of Procedure

1. Within six (6) months following the entry into force of this Agreement, the Commission shall approve the Model Rules of Procedure in order to regulate the procedural aspects necessary for the proper development of all the stages contained in this Chapter. Likewise, these rules shall regulate the development of the arbitration process in accordance with the following principles:

(a) the proceedings shall guarantee the right to at least one hearing before the arbitral tribunal, as well as the opportunity to present written pleadings and replies, and shall allow the use of any technological means that guarantee their authenticity;

(b) the hearings before the arbitral tribunal, the deliberations, as well as all pleadings and communications presented therein, shall be confidential; and

(c) the arbitral tribunal shall issue a work schedule considering that within the first sixty (60) days from its constitution, it shall be available to the disputing Parties to receive their written communications and to hold hearings, and that the last thirty (30) days of the period it has to issue its draft award shall be devoted exclusively to the analysis of the information available, without the disputing Parties to the dispute being able to submit additional information, unless the arbitral tribunal, on its own initiative or at the request of a disputing Party, deems it necessary.

2. Unless otherwise agreed by the disputing Parties, the proceedings before the arbitral tribunal shall be governed by the Model Rules of Procedure.

3. Unless the disputing Parties agree otherwise within twenty (20) days of receipt of the request for the establishment of the arbitral tribunal, the terms of reference of the arbitral tribunal shall be:

"Examine, in the light of the applicable provisions of this Treaty, the matter submitted to it under the terms of the request for the establishment of the arbitral tribunal and make the Award."

4. If the complaining Party alleges in the request for the establishment of the arbitral tribunal that a matter has given rise to nullification or impairment of benefits within the meaning of Article 18.3(c), the terms of reference shall so state.

5. Where the complaining Party requires in the request for the establishment of the arbitral tribunal that the tribunal make findings as to the extent of the adverse trade effects on that Party of a breach of the obligations of this Agreement by the other Party, or that a measure is found to be inconsistent with the provisions of this Agreement, or that such measure has caused nullification or impairment within the meaning of Article 18.3(c), the terms of reference shall so state.

Article 18.16. Information and Technical Assistance

At the request of a disputing Party or on its own motion, the arbitral tribunal may seek information and technical advice from such persons or institutions as it deems appropriate.

Article 18.17. Draft Award

1. Unless the disputing Parties agree otherwise, the arbitral tribunal shall make a draft award on the basis of the applicable provisions of this Agreement, the submissions, arguments and evidence presented by the disputing Parties and any information it has received pursuant to the preceding Article.

2. Unless the disputing Parties decide otherwise, the arbitral tribunal shall, within ninety (90) days of its constitution, submit to the disputing Parties a draft award containing:

(a) findings of fact, including any arising from an application under Article 18.15(5);

(b) a determination as to whether the measure in question is inconsistent with the obligations under this Agreement, or is a cause of nullification or impairment within the meaning of Annex 18.3 or any other determination requested in the mandate; and

(c) the opinions of the arbitrators on the issues on which there was no unanimity.

3. The disputing Parties may submit written comments to the arbitral tribunal on the draft award within fifteen (15) days of its submission.

4. In the case of paragraph 3, after examining the written observations, the arbitral tribunal may, on its own initiative or at the request of a disputing Party:

(a) request the observations of any disputing Party;

(b) conduct any due diligence it deems appropriate; or

(c) reconsider the draft award. Article 18.18 Award 1. The arbitral tribunal shall communicate to the disputing Parties its Award, which shall include written opinions on the issues on which there is no unanimity, within thirty (30) days after the submission of the draft award, unless the disputing Parties agree on a different time limit.

2. The arbitral tribunal shall not disclose confidential information in its Award, but may state findings based on such information.

3. The disputing Parties shall make the Award available to the public by any means within fifteen (15) days of its notification. The lack of publicity of the Award by one of the disputing Parties shall not prejudice the enforceability of the Award.

4. No arbitral tribunal may disclose in its Award the identity of the arbitrators who voted with the majority or minority.

Article 18.19. Compliance with the Award

1. The Award shall be binding on the disputing Parties under the terms and within the time limits ordered by the Award, which shall not exceed six (6) months from its notification, unless the Parties agree on another time limit.

2. Where the award of the arbitral tribunal declares that the measure is incompatible with the provisions of this Agreement, the Party complained against shall refrain from enforcing the measure or shall revoke it.

3. Where the award of the arbitral tribunal finds that the measure causes nullification or impairment within the meaning of Article 18.3(c) it shall determine the level of nullification or impairment and may suggest, if the disputing Parties so request, such adjustments as it considers mutually satisfactory to them.

Article 18.20. Suspension of Benefits

1. Unless the disputing Parties have notified the Commission within five (5) days after the expiration of the time limit fixed in the Award or otherwise agreed by the disputing Parties, that the Award has been complied with, the complaining Party may immediately apply the suspension of benefits, which shall be notified to the Party complained against, indicating, in addition, the level of such suspension. The level of the suspension of benefits shall have an effect equivalent to the benefits foregone.

2. In considering the benefits to be suspended pursuant to paragraph 1:

(a) the complaining Party shall first seek to suspend benefits within the same sector or sectors that are affected by the measure, or by another matter that the arbitral tribunal has found to be inconsistent with the obligations under this Agreement, or that has been the cause of nullification or impairment; and

(b) if the complaining Party considers that it is not feasible or effective to suspend benefits in the same sector or sectors, it may suspend benefits in other sectors.

3. If the Party complained against considers that the level of benefits suspended is excessive, it may request the office referred to in Article 17.3 (Administration of Dispute Settlement Procedures) to convene the arbitral tribunal for the suspension of benefits so that it may examine the matter.

(a) a Party considers that a question of interpretation or application of this Agreement arising or arising in a judicial or administrative proceeding of another Party warrants interpretation by the Commission; or

(b) a Party communicates to it the receipt of a request for an opinion on

a question of interpretation or application of this Agreement in a judicial or administrative proceeding of that Party.

2. The Party in whose territory the judicial or administrative proceeding takes place shall present the interpretation or response of the Commission in accordance with the procedures of that forum.

3. When the Commission fails to issue an interpretation or answer, any Party may submit its own opinion in the judicial or

administrative proceedings, in accordance with the procedures of that forum.

Article 18.23. Rights of Individuals

No Party may grant a right of action under its law against another Party on the ground that a measure of the latter Party is inconsistent with this Agreement.

Article 18.24. Alternative Means of Dispute Resolution between Private Parties

1. To the fullest extent possible, each Party shall promote and facilitate arbitration and other alternative means of settling international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall have appropriate procedures to ensure the observance of the International Arbitration Conventions it has ratified, and the recognition and enforcement of arbitral awards rendered in such disputes.

3. The Commission may establish an Advisory Committee on Private Commercial Disputes, composed of persons with expertise or experience in the resolution of private international commercial disputes. Once constituted, the Committee shall submit reports and recommendations of a general nature to the Commission on the existence, use and effectiveness of arbitration and other procedures for the settlement of disputes between private parties.

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ANNEX 18.3 Cancellation or Impairment

1. A Party may have recourse to the dispute settlement mechanism of this Chapter where, by virtue of the application of a measure of the other Party that does not contravene this Agreement, it considers that the benefits that it could

reasonably have expected to receive from the application of such measure are nullified or impaired:

(a) Part Two (Trade in Goods); (b) Part Three (Technical Barriers to Trade); or (c) Chapter 13 (Cross-Border Trade in Services).

(a) a Party considers that a question of interpretation or application of this Agreement arising or arising in a judicial or administrative proceeding of another Party warrants interpretation by the Commission; or

(b) a Party communicates to it the receipt of a request for an opinion on a question of interpretation or application of this Agreement in a judicial or administrative proceeding of that Party.

2. The Party in whose territory the judicial or administrative proceeding takes place shall present the interpretation or response of the Commission in accordance with the procedures of that forum.

3. When the Commission fails to issue an interpretation or answer, any Party may submit its own opinion in the judicial or administrative proceedings, in accordance with the procedures of that forum.

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2. To this end, each Party shall have appropriate procedures to ensure the observance of the International Arbitration Conventions it has ratified, and the recognition and enforcement of arbitral awards rendered in such disputes.

3. The Commission may establish an Advisory Committee on Private Commercial Disputes, composed of persons with expertise or experience in the resolution of private international commercial disputes. Once constituted, the Committee shall submit reports and recommendations of a general nature to the Commission on the existence, use and effectiveness of arbitration and other procedures for the settlement of disputes between private parties.

Annex 18.3. Nullification or Impairment

1. A Party may have recourse to the dispute settlement mechanism of this Chapter where, by virtue of the application of a measure of the other Party that does not contravene this Agreement, it considers that the benefits that it could reasonably have expected to receive from the application of such measure are nullified or impaired:

(a) Part Two (Trade in Goods);

(b) Part Three (Technical Barriers to Trade); or (c) Chapter 13 (Cross-Border Trade in Services).

2. No Party may invoke paragraph 1 of this Annex with respect to any measure subject to an exception under Article 19.1 (General Exceptions).

3. In determining the elements of nullification or impairment, the Parties may take into consideration the principles set forth in the jurisprudence of paragraph 1 (b) of Article XXIII of GATT 1994.

Chapter 19. EXCEPTIONS

Article 19.1. General Exceptions

1. The following Articles are incorporated into and form an integral part of this Agreement XX of GATT 1994 and its interpretative notes, mutatis mutandis, for purposes of:

(a) Chapters 3 (National Treatment and Market Access for Goods), 4 (Rules of Origin), 5 (Customs Procedures Relating to the Origin of Goods), 6 (Trade Facilitation), 7 (Safeguard Measures) and 8 (Antidumping and Countervailing Measures), except to the extent that any of their provisions apply to services or investment; and

(b) Chapters 9 (Sanitary and Phytosanitary Measures) and 10 (Technical Barriers to Trade), except to the extent that any of their provisions apply to services or investment.

2. Paragraphs (a), (b) and (c) of Article XIV of the GATS are incorporated into this Agreement and form an integral part thereof, mutatis mutandis, for the purposes of:

(a) Chapters 3 (National Treatment and Market Access for Goods), 4 (Rules of Origin), 5 (Customs Procedures Relating to the Origin of Goods), 6 (Trade Facilitation), 7 (Safeguard Measures) and 8 (Anti-dumping and Countervailing Measures), to the extent that any of their provisions apply to services;

(b) Chapters 9 (Sanitary and Phytosanitary Measures) and 10 (Technical Barriers to Trade), to the extent that any of their provisions apply to services; and

(c) Chapters 12 (Investment), 13 (Cross-Border Trade in Services), and 15 (Temporary Entry of Business Persons).

Article 19.2. National Security

Nothing In this Agreement shall be construed to mean:

(a) oblige a Party to provide or give access to information the disclosure of which it considers contrary to its essential security interests;

(b) prevent a Party from taking any measure it considers necessary to protect its essential security interests:

(i) concerning trade in armaments, munitions and war materiel and trade in transactions in goods, materials, services and technology carried out for the direct or indirect purpose of supplying a military institution or other defense establishment;

(ii) applied in times of war or in other cases of serious international tension; or

(iii) applied to national policies or international agreements on non- proliferation of nuclear weapons or other nuclear explosive devices;

(c) prevent a Party from taking action in fulfillment of its obligations under the United Nations Charter for the Maintenance of International Peace and Security; and

(d) prevent a Party from adopting or maintaining measures it considers necessary to preserve public order.

Article 19.3. Balance of Payments

1. Ifa Party experiences serious or serious difficulties in its balance of payments or its balance of payments is seriously threatened, it may adopt or maintain restrictive measures on trade in goods and services and on payments and capital movements, including those related to investment.

2. The Parties shall endeavor to avoid the application of the restrictive measures referred to in paragraph 1.

3. Restrictive measures adopted or maintained under this Article shall be non- discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments situation or threat thereof and shall be in accordance with the terms of the WTO Agreement and consistent with the Articles of Agreement of the International Monetary Fund, as applicable.

4. When a Party adopts or maintains a measure under this Article, it shall, as soon as possible, notify the other Party.

Article 19.4. Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or give access to confidential information to another Party, the disclosure of which would impede the enforcement of its Constitution or laws, or which would be contrary to the public interest, or which would prejudice the legitimate commercial interest of public or private enterprises.

Article 19.5. Taxation

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

2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention (1). In the event of any inconsistency between any such treaty and this Agreement, the former shall prevail to the extent of the inconsistency. In the case of a tax treaty between two (2) or more Parties, the competent authorities under that treaty shall have the sole responsibility for determining whether there is any inconsistency between this Agreement and that treaty.

3. Notwithstanding the provisions of paragraph 2:

(a) Article 3.3 (National Treatment) and such other provisions in this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as Article Ill of GATT 1994; and

(b) Article 3.11 (Export Taxes), shall apply to tax measures.

4. For purposes of this Article, tax measures do not include: (a) a"customs duty" as defined in Chapter 2 (General Definitions); or (b) the measures listed in exceptions (b) and (c) of that definition.

5. Subject to the provisions of paragraph 2:

(a) Article 13.3 (National Treatment) shall apply to taxation measures on income, capital gains or taxable capital of enterprises, relating to the acquisition or consumption of specific services, except that nothing in this subparagraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the acquisition or consumption of specific services on the requirement to supply the service in its territory; and

(b) Articles 12.5 (National Treatment) and 12.6 (Most-Favored-Nation Treatment); 13.3 (National Treatment) and 13.4 (Most-Favored-Nation Treatment); shall apply to all taxation measures, other than those relating to income, capital gains or taxable capital of corporations, as well as estate, inheritance and gift taxes, except that nothing in the provisions of the articles referred to in subparagraphs (a) and (b) above shall (b) shall apply to:

(i) any most-favored-nation obligation with respect to benefits granted by a Party pursuant to a tax treaty;

(ii) a non-conforming provision of any tax measure in effect;

(iii) the continuation or prompt renewal of a non-conforming provision of any tax measure in effect;

(iv) an amendment to a non-conforming provision of any existing tax measure, so long as such amendment does not, at the time it is made, reduce its degree of conformity with any of those articles;

(v) any new tax measure, aimed at ensuring the equitable and effective application and collection of taxes (as permitted by GATS Article XIV (d)) (2) ; or

(vi) a provision that conditions the receipt, or continued receipt, of an advantage in relation to contributions to, or income from, pension trusts or pension plans on the requirement that the Party maintain continuing jurisdiction over the pension

trust or pension plan.

6. Subject to paragraph 2 and without prejudice to the rights and obligations of the Parties under paragraph 3, Article 12.9 (Performance Requirements) shall apply to taxation measures.

7. Article 12.8 (Expropriation and Compensation) and Article 12.18 (Submission of Claim) shall apply to a taxation measure that is alleged to be expropriatory or a breach of Chapter 12 (Investment). However, no investor may invoke Article 12.8 (Expropriation and Compensation) as a basis for a claim where it has been determined, in accordance with this paragraph, that the measure does not constitute an expropriation. An investor seeking to invoke Article 12.8 (Expropriation and Compensation) with respect to a taxation measure shall first submit the matter to the competent authorities of the claimant and respondent parties set out in Annex 19.5 at the time of giving notice of its intention to submit a claim to arbitration under Article 12.18 (Submission of Claim), in order for those authorities to determine whether the measure constitutes an expropriation. If the competent authorities do not agree to examine the matter or if, having agreed to examine the matter, they do not agree that the measure does not constitute an expropriation, within six (6) months after the matter has been submitted to them, the investor may submit its claim to arbitration, in accordance with Article 12.18 (Submission of Claim).

(1) For the purposes of this Article, a tax treaty shall mean a convention or other international arrangement in tax matters for the avoidance of double taxation.

(2) For greater certainty, this paragraph extends to any tax measure in force that grants different tax treatment to residents and non-residents.

Annex 19.5. Competent Authorities

For the purposes of this Chapter: competent authorities means:

(a) with respect to the Republic of El Salvador, the Vice Minister of Finance;

(b) with respect to the Republic of Guatemala, the Vice Minister of Public Finance;

(c) with respect to the Republic of Honduras, the Undersecretary of Finance; and

(d) with respect to the Republic of Colombia, the Technical Vice-Minister of the Ministry of Finance and Public Credit;

or their successors.

Chapter 20. COOPERATION

Article 20.1. Objectives

The cooperation to be developed between the Parties shall have the following objectives:

(a) To contribute to the strengthening and establishment of trade, financial, technological and investment flows;

(b) enhancing the capacity of the public and private sectors to take advantage of the opportunities offered by this Treaty; and

(c) Promote a favorable environment for the development of MSMEs and the generation of exportable supply.

Article 20.2. Cooperative Actions

1. The Parties may initiate and implement cooperative projects and activities with the participation of experts and national and international institutions, as appropriate, to promote the achievement of the objectives and the fulfillment of their obligations under the terms of this Agreement.

2. The Parties shall develop an indicative work plan that reflects national priorities and shall make the necessary provisions for its fulfillment. This work plan shall be adjusted over time according to the needs of the Parties.

3. Cooperative projects and activities will be carried out taking into consideration:

(a) economic, environmental, geographic, social, cultural differences and legal systems among the Parties;

(b) national priorities agreed upon by the Parties;

(c) the advisability of not duplicating existing cooperation actions, seeking complementarity and coordination; and

(d) existing cooperation mechanisms.

4. The cooperation projects and activities agreed upon in this area will be integrated into the regular mechanisms of cooperation between the Parties, which have been defined in the basic cooperation agreements.

5. For the definition of projects and activities, the agencies involved and those technically responsible for cooperation will come to an agreement, and will follow up and evaluate them through the formal cooperation mechanisms.

6. Definitions of cooperation appearing in other Chapters of this Treaty shall be understood to be equally binding in this Treaty.

7. The projects and activities undertaken will be within the framework of non- reimbursable technical cooperation in both channels, to the extent of the capabilities of each Party, and will be governed in general terms by the principles of technical cooperation among developing countries (TCDC), without prejudice to the possibility of involving other sources of resources.

Article 20.3. Cooperation In Investor-State Disputes

In order to promote cooperation in training and adequate representation of the Parties in investor-State disputes, the Parties shall promote specific training, representation services and technical cooperation to act in conciliation or arbitration proceedings through the investment consultative mechanism or a similar regional or multilateral center providing such services.

Article 20.4. Exclusion from Dispute Settlement

This Chapter shall not be subject to the provisions of Chapter 18 (Dispute Settlement).

Annex 20.2. Indicative Work Plan for Cooperation between the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras, and the Republic of Colombia

1. The Parties draw up an indicative work plan in which the project proposals and activities prioritized by the Parties are set out.

2. The Parties have preliminarily defined, as high priority issues, those related to Technical Barriers to Trade, Sanitary and Phytosanitary Measures and MSMEs, which will be developed as described below:

I. Technical Barriers to Trade and Sanitary and Phytosanitary Measures

Activities (1)

(a) preparation, implementation and review of technical cooperation and institutional programs;

(b) promotion of bilateral exchange of institutional and regulatory information; and

(c) promotion of bilateral cooperation through the respective agencies for international and multilateral standards including metrology.

(1) For the purposes of this Chapter, "activities" shall be understood to be those specific actions involving the exchange of information and establishment of contacts, which do not have the integral characteristics of a project.

Projects

(a) promotion of cooperation to develop surveillance systems, including technical standards for food control and safety, effectiveness and registration of drugs and related products, in order to achieve equivalence of systems;

(b) technical assistance in inspection systems and good manufacturing, packing and packaging practices;

(c) technical assistance in the development of technical standards for ethnic products and quality systems; and

(d) exchange of experience on conformity assessment mechanisms for various sectors.

ll. Cooperation for MSMEs Activities

(a) Promote business alliances and the establishment of information networks that enable the development of MSMEs;

(b) promoting the adoption of new technologies among MSMEs to modernize their business management, expand their markets and facilitate compliance with their obligations; and

(c) to build a scenario of horizontal cooperation in the interval of intermediate groups, for the different levels in which the companies operate: networks, associative structures, cooperatives, strategic alliances, franchises, consortiums, joint investments and public and private investment promotion institutions.

Projects

(a) to support research and studies that expand, promote and facilitate the financing and operation of programs and projects to develop the competitiveness of MSMEs, in order to increase trade;

(b) support the improvement of the business environment, especially in terms of policies and regulations aimed at the competitive development of MSMEs;

(c) disseminate best practices in public policies for the promotion and development of the sector, where legislative developments, regulatory frameworks, initiatives for formality and other development instruments, particularly technological development and innovation centers and the promotion of entrepreneurship, are known and transferred to the regions;

(d) support the strengthening of MSME associations as valid interlocutors capable of interpreting both the interests of the companies they represent and those of the State itself, in addition to being the social legitimizers of policies and processes;

(e) promote systems that guarantee interconnectivity, which, in addition to improving the quality of life, will help MSMEs learn about opportunities for accessing markets. To this end, internships, technical and trade missions, sectoral meetings within the segment and joint missions to third countries should be promoted; and

(f) technical assistance for strengthening the policy evaluation system and support systems for MSMEs, among others.

3. In addition to the aforementioned priority issues, the Parties agree to develop the following activities:

I. Market Access Cooperation

(a) technical cooperation in the area of Market Access, with emphasis on floriculture and textiles, among others; and

(b) cooperation to optimize efficiency and competitiveness in logistics to improve market access conditions and strengthen information exchange mechanisms.

ll. Cooperation in Public Procurement

(a) strengthen the public sector's capacity to manage this issue with technical assistance on related issues; and

(b) strengthen information exchange mechanisms regarding the procedures for determining whether a supplier of one Party is eligible in the other Party.

lll. Cooperation in Foreign Trade Procedures and Business Development

(a) technical assistance and training for coordination and coordination among the various institutions, programs and projects that promote MSMEs;

(b) to develop and propose programs for the formalization and creation of new companies to promote the business development of the Parties;

(c) share experiences on instruments to support trade development among the Parties;

(d) exchange of information to strengthen the trade and development data bank and training in the management of market statistics;

(e) strengthening and training for the procedures of the agile window, in terms of expediting the registration of companies; and

(f) technical assistance in the development of customs information systems and border merchandise management.

IV. Cooperation in Trade Facilitation

(a) Exchanges of information and internships of officials and technicians in trade facilitation; and

(b) Technical assistance and training of human resources. V. Export Promotion and Market Intelligence Cooperation

(a) promotion of market research and commercial analysis, identification of market niches, strategies for better product access; and

(b) to carry out training activities such as seminars, forums, conferences, exchanges of experiences and business meetings.

Any country may accede to this Agreement subject to the terms and conditions agreed between that country and the Parties. The Agreement shall enter into force for that country on the thirtieth (30th) day after the date on which that country notifies that all its domestic legal requirements have been fulfilled.

Article 21.5. Denunciation

1. This Agreement may be denounced by any of the Parties by means of written notification addressed to the other Parties. In the event of denunciation by the Republic of Colombia vis-a-vis all the other Parties, the Treaty shall cease to be in force.

2. The denunciation shall take effect one hundred and eighty (180) days after receipt of the notification by the other Parties, notwithstanding that the Parties may agree on a different date.

3. With respect to covered investments admitted prior to the expiration of the period referred to in paragraph 2, its provisions shall remain in force with respect to such investments for an additional period of ten (10) years after such expiration.

Article 21.6. Provisional Application

Notwithstanding the provisions of Article 21.3, this Treaty may be applied provisionally by the Republic of Colombia, in accordance with its constitutional requirements, from the date of signature until the time of its definitive entry into force. Provisional application shall also cease at such time as the Republic of Colombia notifies the other Parties of its intention not to become a Party to the Treaty or of its intention to suspend provisional application.

Article 21.7. Evolutionary Clause

1. The Parties agree on their interest in deepening their trade relations through the development of this Agreement, taking into account the experience derived from its implementation and its effects on trade. To this effect, the Parties decide to initiate a negotiation process on market access _ within three (3) years following the entry into force of the Agreement, including tariff and non-tariff measures, as well as the applicable rules of origin and any other element that may be necessary to achieve the proposed objectives.

2. For those products that are moved from the Exclusion category to a relief category, if necessary, at the request of one of the Parties, a special safeguard mechanism will be negotiated.

Article 21.8. Transitory Provisions

Notwithstanding the provisions of Article 21.3 (2), importers may request the application of Partial Scope Agreements No. 5, 8 and 9 signed in 1984 between the Republic of Colombia and the Republics of Guatemala, El Salvador and Honduras, respectively, for a period of thirty (30) days counted as of the entry into force of this Agreement. For these effects, the certificates of origin issued in accordance with the respective Partial Scope Agreement, must have been completed prior to the entry into force of this Agreement, be in force and be enforceable until the indicated term.

Annex I. Existing Measures - Explanatory Notes

1. A Party's Schedule to this Annex sets forth, in accordance with Articles 12.12 (Non-Conforming Measures) and 13.7 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(b) Articles 12.6 (Most-Favored-Nation Treatment) or 13.4 (Most-Favored-Nation Treatment);

(c) Article 12.9 (Performance Requirements);

(d) Article 12.10 (Senior Executives and Boards of Directors);

(e) Article 13.5 (Market Access); or

(f) Article 13.6 (Local Presence).

2. Each tab of the List establishes the following elements:

(a) Sector refers to the sector for which the record has been made;

(b) Affected Obligations specifies the obligation or obligations referred to in paragraph 1 that, by virtue of Articles 12.12 (Nonconforming Measures) and 13.7 (Nonconforming Measures), do not apply to the nonconforming aspects of the law, regulation, or other measure, as provided in paragraph 3;

(c) Measures identifies the laws, regulations or other measures for which the record has been made. A measure cited in the Measures element: (1)

(i) means the measure as modified, continued or renewed, as of the date of entry into force of this Agreement; and

(ii) includes any action subordinate to, adopted or maintained under the authority of and consistent with such action; and

(d) Description sets out the liberalization commitments, if any, at the date of entry into force of this Agreement and the remaining non-conforming aspects of the existing measures on which the record has been made.

3. In interpreting a fiche of the List, all elements of the fiche shall be considered. A fiche shall be interpreted in the light of the relevant obligations of the Chapters in respect of which the fiche has been made. To the extent that:

(a) the Measures element is qualified by a liberalization commitment of the Description element, the Measures element so qualified shall prevail over any other element; and

(b) the Measures element is not qualified, the Measures element shall prevail over any other element, except where any discrepancy between the Measures element and the other elements considered as a whole is so substantial and material that it would be unreasonable to conclude that the Measures element should prevail, in which case, the other elements shall prevail to the extent of the discrepancy.

4. Pursuant to Article 12.12 (Nonconforming Measures) and 13.7 (Nonconforming Measures), the articles of this Agreement specified in the Affected Obligations element of a tab do not apply to the law, regulation or other measure identified in the Measures element of that tab.

5. Where a Party maintains a measure requiring a service supplier to be a national, permanent resident or resident in its territory as a condition for the supply of a service in its territory, a Schedule entry made for that measure in relation to Articles 13.3 (National Treatment), 13.4 (Most-Favored-Nation Treatment) or 13.6 (Local Presence) shall operate as a Schedule entry in relation to Articles 12.5 (National Treatment), 12.6 (Most-Favored-Nation Treatment) or 12.9 (Performance Requirements) with respect to such measure.

6. For greater certainty, Article 13.5 (Market Access) refers to non-discriminatory measures.

(1) For greater certainty, the Republic of El Salvador and the Republic of Honduras do not include in this Annex their existing non-conforming measures applicable to the Business Services sector, sub-sector Professional Services under their Annex II measure.

Annex I. Schedule of the Republic of Colombia

Sector: All Sectors

Obligations Concerned: Local Presence (Article 13.6)

Measures: Code of Commerce, 1971, Articles 469, 471 and 474.

Description: Cross-border trade in services

A legal person incorporated under the laws of another country, and with its principal domicile abroad, must be established

as a branch or other legal form in Colombia to develop a concession obtained from the Colombian State.

Sector: All Sectors

Obligations Concerned: Performance requirements (Article 12.9) National Treatment (Article 13.3)

Measures: Substantive Labor Code, 1993, Articles 74 and 75.

Description: Investment and Cross-Border Trade in Services

Every employer that has more than ten (10) workers in its service must employ Colombians in a proportion of not less than ninety percent (90%) of the ordinary workers and not less than eighty percent (80%) of the qualified or specialist personnel or management or trust personnel.

At the request of the employer, this proportion may be reduced in the case of strictly technical and indispensable personnel and only for the time necessary to prepare Colombian personnel and through the obligation of the petitioner to provide the complete education required for this purpose.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree 2080 of 2000, Articles 26 and 27. Description: Investment A foreign investor may make portfolio investments in securities in Colombia only through a foreign equity investment fund.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Law 226 of 1995, Articles 3 and 11.

Description: Investment

If the Colombian State decides to sell all or part of its interest in an enterprise to a person other than another Colombian state enterprise or other Colombian governmental entity, it must first offer such interest on an exclusive basis, and under the conditions set forth in Article 11 of Law 226 of 1995, to:

(a) workers, pensioners and former workers (other than former workers terminated with just cause) of the company and other companies owned or controlled by that company;

(b) associations of employees or former employees of the company;

(c) labor unions;

(d) federations and confederations of workers' unions;

(e) employee funds;

(f) severance and pension funds; and

(g) cooperative entities.

Colombia does not reserve the right to control any subsequent transfer or other sale of such interest.

Sector: All Sectors

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law 915 of 2004, Article 5

Description: Cross-border trade in services Only a person with its principal place of business in the Free Port of San Andres, Providencia and Santa Catalina can provide services in that region. For the sake of clarity, this measure does not affect the cross-border supply of services as defined in Article 13.1 (Cross-border trade in services or cross-border supply of services) subparagraphs (a) and (b).

Sector: Accounting Services

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Law 43 of 1990, Article 3 Paragraph 1. Resolution No. 160 of 2004, Article 2 Paragraph and Article 6

Description: Cross-border trade in services

Only persons registered with the Central Board of Accountants may practice as accountants. A foreigner must have been domiciled in Colombia uninterruptedly for at least three (3) years prior to the application for registration and demonstrate accounting experience in the territory of Colombia for at least one (1) year. This experience may be acquired simultaneously or subsequent to the public accounting studies.

For natural persons, the term "domiciled" means being a resident in Colombia and intending to remain in Colombia.

Sector: Research and Development Services

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree 309 of 2000, Article 7

Description: Cross-border trade in services

Any foreign person planning to carry out scientific research on biological diversity in the territory of Colombia must involve at least one (1) Colombian researcher in the research or in the analysis of its results. For greater certainty, this measure does not refer to the rights of any person related to such scientific research or analysis.

Sector: Fishing and Fishing-Related Services

Obligations Concerned: National Treatment (Articles 12.5 and Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5)

Measures: Decree 2256 of 1991, Articles 27, 28 and 67 Agreement 005 of 2003, Section II and VII.

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals may engage in artisanal fishing.

A foreign flag vessel may engage in fishing and related activities in Colombian territorial waters only through association with a Colombian company holding the permit. The value of the permit and the fishing patent are higher for foreign flag vessels than for Colombian flag vessels.

If the flag of a foreign flag vessel corresponds to a country that is party to another bilateral agreement with Colombia, the terms of that other bilateral agreement will determine whether or not the requirement to associate with a Colombian company holding the permit applies.

Sector: Services Directly Related to Exploration and Minerals and Hydrocarbons Exploitation

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law 685 of 2001, Articles 19 and 20. Legislative Decree 1056 of 1953, Article 10 Commercial Code, 1971, Articles 471 and 474.

Description: Cross-border trade in services

To provide services directly related to the exploration and exploitation of minerals and hydrocarbons in Colombia, any legal person incorporated under the laws of another country must establish a branch, subsidiary or affiliate in Colombia.

The preceding paragraph does not apply to service providers involved in such services for less than one (1) year.

Sector: Surveillance and Private Security Services

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Decree 356 of 1994, Articles 8, 12, 23 and 25. Description: Investment and Cross-Border Trade in Services

Only a company organized under Colombian law as a limited liability company or as private security and surveillance cooperatives (1) may provide private security and surveillance services in Colombia. The partners or members of these companies must be Colombian nationals.

Companies incorporated prior to February 11, 1994 with foreign partners or capital may not increase the participation of

foreign partners. Cooperatives incorporated prior to this date may maintain their legal nature.

(1) Article 23 of Decree 356 of 1994 defines a "private security and surveillance cooperative" as a non-profit associative company in which the workers are simultaneously the contributors and managers of the company, created for the purpose of providing private security and surveillance services, and related services, on a paid basis.

Sector: Journalism

Obligations Affected: Senior Executives and Boards of Directors (Article 12.10)

Measures: Law 29 of 1944, Article 13

Description: Investment

The director or general manager of any newspaper published in Colombia that deals with national politics must be a Colombian national.

Sector: Travel and Tourism Agents

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Law 32 of 1990, Article 5 Decree 502 of 1997, Articles 1 to 7

Description: Cross-border trade in services

Foreigners must be domiciled in Colombia to provide travel and tourism agent services within the territory of Colombia.

For greater certainty, this entry does not apply to services provided by tourist guides, nor does it affect the cross-border supply of services as defined in Article 13.1 (Cross-border trade in services or cross-border supply of services) subparagraphs (a) and (b).

Sector: Notary and Registry Services

Obligations Concerned: National Treatment (Article 13.3) Market Access (Article 13.5)

Measures: Decree Law 960 of 1970, Articles 123, 124, 126, 127 and 132. Decree Law 1250 of 1970, Article 60

Description: Cross-border trade in services

Only Colombian nationals may be Notaries and/or Registrars.

Approval of new notaries is subject to an economic needs test that considers the population of the proposed service area, service needs and the availability of communication facilities, among other factors.

Sector: Public Utilities

Obligations Concerned: National Treatment (Article 13.3) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 142 of 1994, Articles 1, 17, 18, 19 and 23 Code of Commerce, Articles 471 and 472.

Description: Investment and Cross-Border Trade in Services

A domiciliary public utility company must be established under the regime of "Empresas de Servicios Publicos" or "E.S.P.", must be domiciled in Colombia and _ legally constituted under Colombian law as a joint stock company. The requirement to be organized as a joint stock company does not apply in the case of decentralized entities that take the form of an industrial and commercial enterprise of the State.

For the purposes of this entry, domiciliary public utilities include the provision of water, sewage, waste disposal, electric power, fuel gas distribution and basic public switched telephone services (TPBC) and their complementary activities. Complementary activities to basic public switched telephone services are public long distance telephony and mobile telephony in the rural sector, but are not commercial mobile services.

A company in which an organized local community has a majority stake will be preferred over any other company that has submitted an equivalent offer in the granting of concessions or licenses for the provision of residential public services to that community.

Sector: Electric Power

Obligations Concerned: Market Access (Article 13.5)

Measures: Law 143 of 1994, Article 74

Description: Cross-border trade in services Only companies legally incorporated in Colombia prior to July 12, 1994, may carry out the activity of commercialization and transmission of electric energy or carry out more than one of the following activities at the same time: generation, distribution and transmission of electric energy.

Sector: Customs Services

Obligations Concerned: Local Presence (Article 13.6)

Measures: Decree 2685 of 1999, Articles 74 and 76. Description: Cross-border trade in services

To perform the following customs services, a person must be domiciled in Colombia or have a representative domiciled and legally responsible for its activities in Colombia: customs brokerage, brokerage for postal and specialized courier (1) (including express shipments), warehousing of goods, transportation of goods under customs control, or international freight forwarder, or act as Permanent Customs Users or Highly Exporters.

(1) "Specialized courier service" means the kind of postal service that is provided independently of the official postal networks of the national and international mail, and that requires the application and adoption of special procedures for the reception, collection and personalized delivery of mail and other postal items, transported by surface and/or air, within and from the territory of Colombia.

Sector: Postal and Specialized Courier Services

Obligations Affected: Local Presence (Article 13.6)

Measures: Decree 229 of 1995, Articles 14 and 17, numeral

Description: Cross-border trade in services

Only legal entities legally constituted in Colombia may provide postal and specialized courier services in Colombia.

Sector: Telecommunications Services

Obligations Concerned: National Treatment (Article Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 671 of 2001 Decree 1616 of 2003, Articles 13 and 16 Decree 2542 of 1997, Article 2 Decree 2926 of 2005, Article 2

Description: Cross-border trade in services

Only companies legally incorporated in Colombia may receive concessions for the provision of telecommunications services in Colombia.

Until July 31, 2007, concessions for the routing of international long-distance traffic will be granted only to operators on the basis of their facilities.

Colombia may grant licenses to companies for the provision of long distance basic public switched telephone service on less favorable terms, only with respect to payment and duration, than those granted to Colombia Telecomunicaciones S.A. E.S.P. under article 2 of Decree 2542 of 1997, articles 13 and 16 of Decree 1616 of 2003, and Decree 2926 of 2005.

Sector: Cinematography

Obligations Concerned: Performance Requirements (Article 12.9)

Measures:

Description:

National Treatment (Article 13.3) Law 814 of 2003, Articles 5, 14, 15, 18 and 19. Investment and Cross-Border Trade in Services

The exhibition or distribution of foreign films is subject to the Film Development Fee which is established at eight point five

percent (8.5%) of the monthly net income derived from such exhibition or distribution.

Obligations Concerned: Performance Requirements (Article 12.9) National Treatment (Article 13.3)

Measures: Law 814 of 2003, Articles 5, 14, 15, 18 and 19.

Description: Investment and Cross-Border Trade in Services

The exhibition or distribution of foreign films is subject to the Film Development Fee which is established at eight point five percent (8.5%) of the monthly net income derived from such exhibition or distribution.

The fee charged to the exhibitor shall be reduced to two point twenty-five percent (2.25%) when the exhibition of foreign films is presented together with a national short film.

Until 2013, the Quota applied to a distributor will be reduced to five point five percent (5.5%) if, during the immediately preceding year, the percentage of Colombian feature film titles it distributed for theaters or other exhibitors equaled or exceeded the percentage target established by the government.

Sector: Sound Broadcasting

Obligations Concerned: National Treatment (Article 13.3) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 80 of 1993, Article 35 Law 74 of 1966, Article 7 Decree 1447 of 1995, Articles 7, 9 and 18.

Description: Cross-border trade in services

Concessions to provide radio broadcasting services may only be granted to Colombian nationals or to legal entities legally incorporated in Colombia. The number of concessions for the provision of radio broadcasting services is subject to an economic necessity test that applies criteria established by law.

Directors of news or journalistic programs must be Colombian nationals.

Sector: Television Broadcasting

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Performance Requirements (Article 12.9) Access to Markets (Article 13.5) Local Presence (Article 13.6)

Measures: Law 014 of 1991, Article 37

Law 680 of 2001, Articles 1 and 4

Law 335 of 1996, Articles 13 and 24

Law 182 of 1995, Article 37 numeral 3, Articles 47 and 48 Agreement 002 of 1995, Article 10 Paragraph

Agreement 023 of 1997, Article 8 Paragraph

Agreement 024 of 1997, Articles 6 and 9

Agreement 020 of 1997, Articles 3 and 4

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals or legal entities legally incorporated in Colombia may obtain concessions to provide broadcast television services.

To obtain a concession for a privately operated national channel providing free-to-air television services, a legal entity must be organized as a corporation.

The number of concessions for the provision of open television services of national and local coverage for profit is subject to an economic necessity test in accordance with the criteria established by law.

Foreign capital in any open television concession company is limited to forty percent (40%).

National television Providers (operators and concessionaires of slots) of national free-to-air television services must broadcast on each channel nationally produced programming as follows:

(a) a minimum of seventy percent (70%) between 19:00 hours and 22:30 hours;

(b) a minimum of fifty percent (50%) between 22:30 hours and 24:00 hours;

(c) a minimum of fifty percent (50%) between 10:00 a.m. and 7:00 p.m.; and

(d) a minimum of fifty percent (50%) for Saturdays, Sundays and holidays during the hours described in paragraphs (a), (b) and (c) until January 31, 2009, after which date the minimum for those days and hours will be reduced to thirty percent (30%).

Regional and local television

Regional television may only be provided by state-owned entities.

Regional and local free-to-air television service providers

must broadcast on each channel a minimum of fifty percent (50%) of nationally produced programming.

Sector: Subscription television

Obligations Concerned: Performance Requirements (Article 12.9) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 680 of 2001. Articles 4 and 11

Law 182 of 1995, Article 42

Agreement 014 of 1997, Articles 14, 16 and 30 Law 335 of 1996, Article 8

Agreement 032 of 1998, Articles 7 and 9

Description: Investment and Cross-Border Trade in Services

Only legal entities legally incorporated in Colombia may provide subscription television service. Such legal entities must make available to subscribers the reception, at no additional cost, of Colombian national, regional and municipal open television channels available in the authorized coverage area. The transmission of regional and municipal channels will be subject to the technical capacity of the subscription television operator.

Satellite television service providers are only obliged to include in their basic programming the transmission of public interest channels of the Colombian State. When rebroadcasting programming of an open television channel subject to domestic content quota, the subscription television service provider may not modify the content of the original signal.

Subscription television, not including satellite

The concessionaire of the subscription television service that transmits commercials other than those of origin must comply with the minimum percentages of nationally produced programming to which the providers of national free-to-air television services are obligated as described in the Open Television entry on pages 21 and 22 of this Annex. Colombia interprets Article 16 of Agreement 014 of 1997 as not requiring the providers of subscription television services to comply with minimum percentages of nationally produced programming when commercials are inserted into programming outside the territory of Colombia. Colombia shall continue to apply this interpretation, subject to Article 13.7 (1) (c) (Nonconforming Measures).

There will be no restrictions on the number of subscription television concessions at the zonal, municipal and district levels once the current concessions at these levels expire and in no case beyond October 31, 2011.

Cable television service providers must produce and broadcast in Colombia a minimum of one hour of such programming daily, between 6:00 p.m. and midnight.

Sector: Community Television

Obligations Concerned: Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 182 of 1995, Article 37 numeral 4. Agreement 006 of 1999, Articles 3 and 4

Description: Cross-border trade in services

Community television services may only be provided by communities organized and legally constituted in Colombia as foundations, cooperatives, associations or corporations governed by civil law.

For greater certainty, these services have restrictions regarding coverage area, number and type of channels; they may be

offered to no more than six thousand (6000) associates or community members; and they must be offered under the modality of local access channels of closed networks.

Sector: Waste Disposal Services

Obligations Concerned: National Treatment (Annex 12.5)

Measures: Decree 2080 of 2000, Article 6

Description: Investment

Foreign investment is not allowed in activities related to the processing, disposal and disposal of toxic, hazardous or radioactive wastes not produced in the country.

Sector: Transportation

Obligations Concerned: Local Presence (Article 13.6)

Measures: Law 336 of 1996, Articles 9 and 10. Decree 149 of 1999, Article 5

Description: Cross-border trade in services

Providers of public transportation services within the Colombian territory must be companies legally incorporated and domiciled in Colombia.

Only foreign companies with an agent or representative domiciled and legally responsible for their activities in Colombia may provide multimodal transportation of cargo within and from the territory of Colombia.

Sector: Maritime and Inland Waterway Transport

Obligations Concerned: Performance Requirements (Article 12.9)

Measures: National Treatment (Article 13.3) Local Presence (Article 13.6)

Decree 804 of 2001, Articles 2 and 4 subsection 4 Code of Commerce of 1971, Article 1455 Decree 2324 of 1984, Articles 99, 101 and 124.

Law 658 of 2001, Article 11

Decree 1597 of 1988, Article 23

Description: Investment and Cross-Border Trade in Services

Only companies legally incorporated in Colombia using Colombian flag vessels may provide public maritime and river transportation services between two (2) points within Colombian territory (cabotage).

Every foreign flag vessel arriving at a Colombian port must have a representative legally responsible for its activities in Colombia and domiciled in Colombia.

Pilotage in Colombian territorial seas and rivers may only be performed by Colombian nationals.

In Colombian-registered vessels and foreign-flagged vessels (except fishing vessels) that operate in Colombian jurisdictional waters for a term of more than six (6) continuous or discontinuous months from the date of issuance of the respective permit, the captain, officers and at least eighty percent (80%) of the rest of the crew must be Colombian nationals.

Sector: Port Services

Obligations Concerned: National Treatment (Article 13.3) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Law 1 of 1991, Articles 5.20 and 6. Decree 1423 of 1989, Article 38

Description: Cross-border trade in services

The holders of a concession to provide port services must be legally incorporated in Colombia as a corporation, whose corporate purpose is the construction, maintenance and administration of ports.

Only Colombian flag vessels may provide port services in Colombian jurisdictional maritime areas. However, in exceptional cases, the General Maritime Directorate may authorize the rendering of such services by foreign flag vessels if there are no

Colombian flag vessels capable of rendering the service. The authorization shall be given for a term of six (6) months, but may be extended up to one (1) year.

Sector: Special Aerial Works

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Performance Requirements (Article 12.9) Most-Favored-Nation Treatment (Article 13.4) Local Presence (Article 13.6)

Measures: Code of Commerce, 1971, Articles 1795, 1803, 1804 and. 1864

Description: Investment and Cross-Border Trade in Services

Only Colombian nationals or legal entities legally constituted and domiciled in Colombia may provide special aerial work within Colombian territory.

Only Colombian nationals or legal entities legally constituted in Colombia may own and have actual and effective control of any aircraft registered to provide special aerial work in Colombia.

Any special air services company that has established an agency or branch in Colombia must employ Colombian workers in a proportion of not less than ninety percent (90%) for its operation in Colombia. This percentage shall not apply to foreign workers from a country that offers reciprocity to Colombian workers. The aeronautical authority may allow, for duly justified reasons and for the indispensable time, to disregard the limit of workers indicated.

Annex I. Schedule of the Republic of El Salvador

Sector: All sectors

Obligations Concerned: National Treatment (Article 12.5) Most-Favored-Nation Treatment (Article 12.6)

Measures: Constitution of the Republic of El Salvador, Articles 95 and 109

Description: Investment

A foreign person may not own rural property, including a branch of a foreign person, if the person is a national of a country or is incorporated under the laws of a country that does not allow Salvadoran nationals to own rural property, except in the case of land for industrial establishments.

A company incorporated under Salvadoran law, whose majority capital is owned by foreign persons or whose partners are mostly foreigners, is subject to the preceding paragraph.

Sector: All sectors

Obligations Concerned: National Treatment (Article 12.5) Most-Favored-Nation Treatment (Article 12.6)

Measures: Constitution of the Republic of El Salvador, Articles 95 and 115

Investment Law, Legislative Decree 732, Article 7

Commercial Code, Article 6 Investment

Trade, industry and the provision of small services are the exclusive patrimony of Salvadorans by birth and natural Central Americans. Consequently, foreign investors will not have access to such activities.

A company incorporated under Salvadoran law, the majority of whose capital is foreign-owned, or the majority of whose partners are foreigners, may not establish a small company to engage in trade, industry and the provision of small services.

For purposes of this fact sheet, a small business is a business with a capitalization of not more than two hundred thousand United States dollars ($200,000).

Sector: All sectors

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4)

Measures: Labor Code, Articles 7 and 10

Description: Cross-border trade in services

Every employer is obliged to integrate the personnel of his company with at least ninety percent (90%) of Salvadoran workers. In special circumstances, the Ministry of Labor and Social Security may authorize the employment of more foreigners when it is difficult or impossible to replace them with Salvadorans, and employers are obliged to train Salvadoran personnel under the supervision and control of said Ministry, for a period not exceeding five (5) years.

Sector: Cooperative production companies

Obligations Concerned: National Treatment (Article 12.5)

Measures: Regulations of the General Law of Cooperative Associations, Title VI, Chapter I, Article 84.

Description: Investment

In production cooperative associations, at least three fourths (3/4) of the number of associates must be Salvadoran.

For purposes of this non-conforming measure, a branch of a company that has not been incorporated under Salvadoran law is not considered a Salvadoran person.

For greater certainty, a cooperative production association exists to provide certain benefits to its members, including distribution, sales, administration and technical assistance. Its functions are not only economic but also social.

Sector: Shopping Centers and Establishments Free of Taxes

Obligations Concerned: National Treatment (Article 12.5)

Measures: Constitution of the Republic of El Salvador, Article 95.

Law for the Establishment of Free Stores in the Maritime Ports of El Salvador, Article 5

Description: Investment

Only Salvadoran nationals born in El Salvador and companies incorporated under Salvadoran law may apply for a permit to establish a duty-free commercial center or establishment in the seaports of El Salvador.

However, a company incorporated under Salvadoran law, the majority of whose capital is owned by foreigners or the majority of whose partners are foreigners, may not establish tax-free commercial centers or establishments in the seaports of El Salvador.

Sector: Air Services: Specialized Air Services

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4)

Measures: Organic Law on Civil Aviation, Articles 5, 89 and 92.

Description: Cross-border trade in services

The provision of specialized air services requires prior authorization from the Civil Aviation Authority. The authorization of the Civil Aviation Authority is subject to reciprocity and must take into consideration the national air transportation policy.

Sector: Aircraft Repair and Service: Aircraft Repair and maintenance during which the aircraft is withdrawn from service and pilots of specialized air services

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4)

Measures: Organic Law on Civil Aviation, Articles 39 and 40.

Description: Cross-border trade in services

El Salvador applies reciprocity requirements when recognizing or validating licenses, certificates and authorizations issued by foreign aeronautical authorities to:

(a) technical personnel providing repair and maintenance services during the period when the aircraft is removed from service; and

(b) pilots and other technical personnel providing specialized air services.

Sector: Communications Services: Advertising and promotion services for radio and television

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4)

Measures: Decree of provisions to regulate the exploitation of works of an intellectual nature by means of public communication and the participation of Salvadoran artists in public shows. Legislative Decree No. 239, dated June 9, 1983, published in the Official Gazette No. 111, Volume 279, dated June 15, 1983, Article 4.

Decree No. 18, Substitution of Articles 1 and 4 of Legislative Decree No. 239, dated June 9, 1983, published in the Official Gazette No. 7, Volume 282, dated January 10, 1984.

Description: Cross-border trade in services

At least ninety percent (90%) of the production and recording of any commercial advertisement to be used in the public media of El Salvador, whether television, radio broadcast and printed material, originating in El Salvador, must be done by companies organized under Salvadoran law.

Commercial advertisements produced or recorded by a company incorporated under the laws of a Central American country may be used in the media of El Salvador, provided that such Party provides similar treatment to commercial advertisements produced or recorded in El Salvador.

Commercial advertisements that do not meet the aforementioned requirements may be broadcast in the public media of El Salvador, if they are advertisements of international products, brands or services imported or produced in the country under license, and shall be subject to the payment of a one- time fee to be collected by the National Board of Advertising which may evaluate the application of this provision.

Sector: Services from Services: Services Television and Radio Broadcasting Services

Obligations Concerned: National Treatment (Article 12.5)

Measures: Telecommunications Law, Article 123

Description: Investment

Concessions and licenses for free reception broadcasting services shall be granted to Salvadoran nationals born in El Salvador or to companies incorporated in accordance with Salvadoran laws. In the case of such companies, the capital stock must be constituted with at least fifty-one percent (51%) of Salvadoran nationals.

Sector: Performing Arts

Obligations Concerned: National Treatment (Article 13.3)

Measures: Migration Law, Articles 62-A and 62-B.

Legislative Decree No. 382, dated May 29, 1970, published in the Official Gazette No. 64, Volume 227, dated April 10, 1970.

Executive Decree No. 16 dated May 12, 1970, published in the Official Gazette No. 87, Volume 227, dated May 18, 1970.

Description: Cross-border trade in services

No foreign artist may offer a performance of any kind without the express authorization of the Ministry of the Interior, which shall previously hear the illustrative opinion of the legally established union of artists in the field of work of the foreign artist, within 15 days of the presentation of the request. The foreign artists shall pay in advance to the respective union, a performance fee of ten percent (10%) of the gross remuneration they receive in the country.

If advance payment is not possible, the artist will have to provide a sufficient surety in favor of the respective union.

No foreign artist or group of artists may perform in the country for more than thirty (30) consecutive days or at intervals within a period of one (1) year counted from the first day of its performance.

An artist is any person who performs in El Salvador, either individually or in the company of another or others, for the performance of music, singing, dancing or reading or offering performances, either in person (live) before a large or small audience or by means of radio or television.

Sector: Circuses

Obligations Concerned: National Treatment (Article 13.3)

Measures: Migration Law, Article 62-C.

Decree No. 122 dated November 4, 1988, published in the Official Gazette No. 219, Volume 301, dated November 25, 1988, Article 3

Legislative Decree No. 382 dated May 29, 1970, published in the Official Gazette No. 64, Volume 227, dated April 10, 1970.

Decree No. 193 dated March 8, 1989, published in the Official Gazette No. 54, Volume 302, dated March 17, 1989, Articles 1 and 2.

Regulations for the Application of Legislative Decrees 122 and 193 Related to Circus Enterprises, Articles 1 and 2

Description: Cross-border trade in services

Foreign circuses or similar shows must pay to the respective Circus Artists Union the performance fee equivalent to two point five percent (2.5%) of the gross admission, which is collected daily at the box office. The fee must be paid in full through the withholding system.

Every foreign circus must be authorized by the corresponding Ministry and, once authorized, notify the AsociaciÃ©n Salvadorefia de Empresarios Circenses (ASEC) and is obliged to pay to the ASEC three percent (3%) of the gross income from the sale of tickets for each presentation, as well as ten percent (10%) of the total income obtained from the sale to the public within the circus of banners, caps, T-shirts, balloons, photographs and other kinds of objects. The foreign circus shall render sufficient surety in favor of the ASEC.

A foreign circus entering El Salvador may only work in the city of San Salvador for a period of fifteen (15) days, extendable only once for another fifteen (15) days.

A foreign circus that has performed in the country may only enter again after one (1) year has elapsed from the date of its departure.

Sector: Performing Arts

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree of the provisions to regulate the exploitation of works of an intellectual nature by means of public communication and the participation of Salvadoran artists in public shows, Legislative Decree No. 239, dated June 9, 1983, published in the Official Gazette No. 111, Volume 279, dated June 15, 1983.

Decree No. 18, Substitution of Articles 1 and 4 of Legislative Decree No. 239, dated June 9, 1983, published in the Official Gazette No. 7, Volume 282, dated January 10, 1984.

Description: Cross-border trade in services

In the case of public shows with the live participation of artists of any genre, the participation of Salvadoran nationals shall be equivalent to twenty percent (20%) of the number of foreigners participating.

Sector: Transportation Services: Land Transportation Services

Obligations Concerned: National Treatment (Articles 12.5 and 13.3)

Measures: Constitution of the Republic of El Salvador, Article 95.

Law of Land Transportation, Transit and Road Safety, Articles 38-A and 38-B

Regulation General of Transportation Land Transportation, Articles 1 and 2

Description: Investment and Cross-Border Trade in Services

Permits for the provision of regular and non-regular passenger transportation services within El Salvador may only be granted to Salvadoran nationals or their partners.

Only vehicles with Salvadoran license plates may transport goods from points in El Salvador to other points in El Salvador.

At least fifty-one percent (51%) of the capital stock of an enterprise engaged in the transportation of goods in El Salvador must be owned by Salvadoran nationals. If such capital is owned by a company, at least fifty-one percent (51%) of the shares of such company must be owned by Salvadoran nationals.

Sector: Land Transportation

Obligations Concerned: Market Access (Article 13.5)

Measures: General Land Transportation Regulations, Title Ill, Article 11, Title V, Articles 29 and 30.

Description: Cross-border Trade In Services

The concessions of public land passenger transportation for a specific route will be limited, subject to technical studies of the existing demand. A concession of a free supply service of public land passenger transportation is limited to one vehicle.

Sector: Construction and Related Engineering Services

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Local Presence (Article 13.6)

Measures: Law on Incentives to National Construction Industry Enterprises, Legislative Decree No. 504, published in Official Gazette No. 167, Volume 308, dated July 9, 1990, amended by Legislative Decree No. 733, published in Official Gazette No.80, Volume 311, dated April 23, 1991.

Description: Investment and Cross-Border Trade in Services

To develop activities of design, consulting, consulting and management of engineering or architectural projects, or any type of work or study regarding the construction of such projects, either before, during or after construction, a company whose majority capital is owned by foreigners ("foreign company"), must be contractually associated with a company legally registered, qualified and established in El Salvador ("Salvadoran company").

The foreign company must appoint a_ resident representative in El Salvador.

Additionally, an engineering or architectural project is subject to the following requirements:

(a) companies incorporated under Salvadoran law must have an investment in the project equivalent to at least forty percent (40%) of the value of the project; and

(b) such firms must provide at least thirty percent (30%) of the technical personnel and ninety percent (90%) of the administrative personnel for the project.

For more certainty, the staff technical and administrative personnel does not include executive personnel. The requirements of (a) and (b) above shall not apply:

(i) when the funds for the project come partially or totally from foreign governments or international organizations; or

(ii) to specific projects or grants for specialized technical cooperation.

Sector: Public Accounting and Auditing

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4)

Measures: Law Regulatory of Exercise of ofthe Accountancy, Articles 2, 3 and 4

Description: Investment and Cross-Border Trade in Services

Only a Salvadoran national may be authorized as a public accountant. Only a person authorized as a public accountant can be authorized as an external auditor.

For a company to be authorized to provide public accounting services, the principal partners, shareholders or associates must be Salvadoran nationals, and at least one person among the partners, shareholders, associates or administrators must be authorized as a public accountant in El Salvador.

Annex I. Schedule of the Republic of Guatemala

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 118-96 of the Congress of the Republic, which amends Decrees Numbers: 38- 71 and 48-72, Articles 1 and 2, both of the Congress of the Republic.

Description: Investment

Only the following persons may obtain titles of ownership, lease or usufruct of national lands in the Department of Petén:

(1) Guatemalans by birth, who are not owners of rustic real estate in any part of the territory not exceeding forty-five (45) hectares; and

(2) Guatemalans by birth, who are not owners of industrial, mining or commercial enterprises.

Companies owned one hundred percent (100%) by Guatemalans by birth, which meet the requirements listed in the previous paragraph, may obtain titles of ownership, lease or usufruct of national lands in the Department of Petén.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 49-79 of the Congress of the Republic, Supplementary Titling Law, Article 2.

Description: Investment

Only Guatemalans by birth and companies that are majority owned by Guatemalans by birth can obtain supplementary title.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Constitution Policy from ofthe Republic of Guatemala, Article 122

Decree No. 126-97 of the Congress of the Republic, Ley Reguladora de las Areas de Reservas Territoriales del Estado de Guatemala, Article 5.

Description: Investment

Foreigners require authorization from the State Reserve Areas Control Office to acquire ownership of the following State-owned lands:

(a) national lands located in urban areas; and

(b) national lands in property, on which there are rights registered in the General Property Registry, prior to March 1, 1956, located in:

(i) A three-kilometer strip of land along the oceans;

(ii) 200 meters around the shores of the lakes;

(iii) 100 meters on each side of the banks of navigable rivers; and

(iv) 50 meters around fountains and springs that supply water to the population.

Only the Government of Guatemala may grant the lease of state-owned real estate, as described above, to companies legally incorporated in Guatemala.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Constitution Policy from ofthe Republic of Guatemala, Article 123

Description: Investment

Only Guatemalans by birth and companies owned one hundred percent (100%) by Guatemalans by birth, may own or possess national lands located within fifteen (15) kilometers of the borders.

Foreigners may, however, own or possess urban property or State property rights, registered in the General Property Registry, prior to March 1, 1956, within fifteen (15) kilometers of the border.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 2-70 of the Congress of the Republic, Code of Commerce and its amendments.

Description: Investment

In order for a company incorporated under foreign laws to establish itself in Guatemala, in any form, it must constitute an assigned capital for its operations in Guatemala, and a bond in favor of third parties for an amount not less than the equivalent in quetzales of fifty thousand dollars of the United States of America (US $ 50,000), which must remain in force during all the time that such company operates in Guatemala.

The exact amount of the guarantee will be determined by the Commercial Registry based, among other factors, on the amount of the investment.

For greater certainty, the requirement of a bond should not be considered as an impediment for a company organized under the laws of a foreign country to establish itself in Guatemala.

Sector: Forestry

Obligations Concerned: National Treatment (Article 12.5)

Measures: Constitution Policy from of the Republic of Guatemala, Article 126

Description: Investment

The exploitation of all forest resources and their renewal shall correspond exclusively to Guatemalan persons by birth, individuals or legal entities.

Sector: Professional Services - Notaries

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Decree No. 314 of the Congress of the Republic, Notarial Code, Article 2.

Description: Cross-border trade in services

To practice as a notary an individual must be Guatemalan by birth and reside in Guatemala.

Sector: Professional Services

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree No. 2-70 of the Congress of the Republic, Commercial Code, Article 213.

Description: Investment

A company organized under the laws of a foreign country engaged in the provision of professional services that requires legal university recognition of a university degree, title or diploma may not be established in Guatemala (1).

However, a foreign company may provide such services in Guatemala through a contract or other relationship with a company incorporated in Guatemala.

(1) For clarity, this measure does not affect the supply of services, as defined in Article 13.1 (Cross-border trade in services or cross-border supply of services) paragraphs (a) and (b).

LIST OF THE REPUBLIC OF GUATEMALA

Sector:

Obligations Affected:

Measures:

Sector: Cultural Entertainment

Obligations Concerned: National Treatment (Article Local Presence (Article 13.6)

Measures: Decree No. 574 of the President of the Republic, Public Entertainment Law, Articles 36, 37 and 49.

Ministerial Agreement No. 592-99 of the Ministry of Culture and Sports, Article 1

Description: Cross-border trade in services

To contract with foreign groups, companies or artists, authorization from the Cultural Entertainment Administration is required.

A company of company, for the presentation of artists 0 groups foreign artists or artistic groups in Guatemala, must present a letter of consent from the union or non-governmental organization of the country. of artists, legally recognized in Guatemala.

In the presentation of mixed shows, consisting of one or more films and a number of variety shows, special inclusion will be given to Guatemalans, if the circumstances of the cast, program and contract allow it.

Sector: Tourism Services - Tourist Guides

Obligations Concerned: National Treatment (Article Local Presence (Article 13.6)

Measures: Agreement No. 219-87 of the Guatemalan Institute of Tourism - Operation of Tourist Guides, Article 6.

Description: Cross Border Trade in Services

Only Guatemalans by birth or foreigners residing in Guatemala may render services as tourist guides in Guatemala.

Sector: Specialized Air Services

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree No. 93-2000 ofthe Congress of ofthe Republic, Law of Civil Aviation, Article 62

Description: Cross-border trade in services

In the operations of Specialized Air Services of Guatemalan operators, all personnel performing aeronautical functions on board must be Guatemalan by birth; however, the Directorate General of Civil Aeronautics may authorize foreign personnel for a period not to exceed three (3) months, counted from the date of authorization.

The Directorate General of Civil Aeronautics may extend this period if it is determined that there are no trained personnel in Guatemala.

Annex I. Schedule of the Republic of Guatemala

Sector: Specialized Air Service

Obligations Concerned: Most-Favored-Nation Treatment (Article 13.4)

Measures: Decree No. 93-2000 of the Congress of ofthe Republic,

Law of Civil Aviation, Article 24

Description: Cross Border Trade in Services

Persons performing aeronautical functions on board foreign aircraft, must possess for the exercise of the same, certificate, license or the equivalent accepted by the General Directorate of Civil Aeronautics or issued in accordance with the International Agreements to which Guatemala is a party and under reciprocity conditions.

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 131, Constitution of the Republic, Title lil, Chapter ll, Article 107.

Decree No. 90-1990, Law for the Acquisition of Urban Property in the Areas delimited by Article 107 of the Constitution of the Republic. Articles 1 and 4

Decree No. 968, Law for the Declaration, Planning and Development of Tourism Zones, Title V, Chapter V, Article 16.

Description: Investment

State, communal, communal or privately owned lands located in the border area of neighboring states, or on the coast of

both seas, in an extension of forty (40) kilometers towards the interior of the country and those of the islands, keys, reefs, breakwaters, rocks, sirtes and sandbanks in Honduras, may only be acquired, possessed or held in any title by Hondurans by birth, or by companies integrated in their totality by Honduran partners and by the institutions of the State, under penalty of nullity of the respective act or contract.

Notwithstanding the preceding paragraph, any person may acquire, own, hold, or lease for up to forty (40) years (which may be renewed) urban lands in such areas provided that it is certified and approved for tourism, economic or social development purposes, or for the public interest, qualified and approved by the Secretary of State in the Office of Tourism.

Any person acquiring, owning, or holding urban land holdings may transfer such land only upon authorization of the Secretary of State in the Office of Tourism.

Annex I. Schedule of the Republic of Honduras

Sector: All Sectors

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 131 Constitution of the Republic of Honduras, Title Vi, Chapter 1, Article 337.

Agreement No. 345-92 Regulation of of theLaw investment Law, Chapters | and VI, Articles 3 and 49

Description: Investment

Small-scale industry and commerce are the heritage of Hondurans.

Foreign investors may not engage in small-scale industry and commerce, except in those cases in which they have acquired a letter of naturalization as Hondurans, and must present documentation evidencing the respective naturalization, provided that there is reciprocity in their country of origin.

"Small scale industry and commerce" is defined as a company with capital of less than one hundred and fifty thousand (150,000.00) Lempiras, excluding land, buildings, and vehicles.

Sector: All sectors

Obligations Concerned: National Treatment (Article 12.5) Most-Favored-Nation Treatment (Article 12.6)

Measures: Decree No. 65-87 Law of Cooperatives of Honduras, Title I, Chapter |, Article 19, dated May 20, 1987.

Agreement No. 191-88 dated May 30, 1988, Regulation of the Law of Cooperatives of Honduras, Article 34 (c) and (d).

Description: Investment

Non-Honduran cooperatives may be established in Honduras with the prior authorization of the Honduran Institute of Cooperatives of Honduras, such authorization will be granted if and when it exists:

(a) reciprocity in the country of origin with respect to the treatment of foreign cooperatives under Honduran law; and

(b) the non-Honduran cooperative has at least one permanent legal representative in Honduras.

Sector: Agricultural

Obligations Concerned: National Treatment (Article 12.5)

Measures: Agreement No. 2124-92, Regulations for Land Adjudication in Agrarian Reform, Article 1 and 2.

Description: Investment The beneficiaries of the agrarian reform must be Honduran nationals by birth, individually or organized in peasant cooperatives or other peasant enterprises.

Sector: Fishing Industry

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 154 Fisheries Law, Chapter I, Articles 20, 26 and 29.

Description: Investment

When it is for exploitation or profit, only Honduran residents and Honduran juridical persons in which at least fifty-one percent (51%) of the capital belongs to Hondurans may freely fish in waters, territorial seas, rivers and lakes of public use located in Honduras.

Only Hondurans by birth may be skippers or captains of fishing vessels of any species.

Only vessels flying the Honduran flag may engage in fishing activities in territorial waters.

Sector: Communications Services- Telecommunications

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree No. 185-95 Law Framework of the Telecommunications Sector Chapter I, Article No. 26

Agreement No. 141-2002 General Regulations of the Framework Law of the Telecommunications Sector dated December 26, 2002, Article 93, Title lll, Chapter I.

Description: Cross-border trade in services

Foreign governments may not participate directly in the provision of public telecommunications services.

Sector: Radio, Television and Newspapers

Obligations Concerned: Senior Executives and Boards of Directors (Article 12.10)

Measures: Decree No. 131 Constitution of the Republic of Honduras, Chapter ll, Article 73, third paragraph.

Decree No. 6 Law on the Broadcasting of Thought, Chapter IV, Article 30

Decree No. 759 Law of the College of Journalists of Honduras, Article 8, amended by Decree No. 79 of January 1, 19817.

Description: Investment

Only Hondurans by birth may hold senior management positions in printed newspapers, or freely transmitted news media (radio and television), including the intellectual, political and administrative orientation thereof. (1)

(1) For greater certainty, this measure does not apply to printed newspapers or news media established outside the Republic of Honduras.

Sector: Distribution Services- Representatives, distributors and agents of domestic and foreign companies.

Obligations Concerned: National Treatment (Article 12.5)

Measures: Law on Representatives, Distributors and Agents of Domestic and Foreign Companies, Decree No. 549 Chapter I, Article 4, Amended by Decree No. 804.

Description: Investment

To be a concessionaire (2) it is required to be Honduran or a Honduran corporation. A Honduran corporation shall be understood to be one in whose capital stock a purely Honduran investment predominates, in a proportion of no less than fifty-one percent (51%).

(2) A concessionaire is understood to be a national natural or juridical person who, by contract or by the real and effective rendering of the service, represents, distributes or manages the products or services of a grantor or principal, national or foreign, exclusively or not, in all or part of the national territory.

Sector: Distribution Services- Petroleum products (liquid fuel, automotive oil, Diesel, Kerosene and LPG).

Obligations Concerned: National Treatment (Article 12.5)

Measures: Decree No. 549 Law on Representatives, Distributors and Agents of Domestic and Foreign Companies, Chapter I and VI, Article 4 and 25.

Decree No. 804 amends Article 4 of the Law on Representatives, Distributors and Agents of Domestic and Foreign Companies.

Description: Investment

Only Honduran nationals and companies incorporated under Honduran law may be authorized to sell petroleum products. Companies must be at least fifty- one percent (51%) owned by Honduran nationals.

Sector: Construction services- Construction or consulting services and related engineering services- Civil engineering.

Obligations Concerned: National Treatment (Articles 12.5 and 13.3)

Measures: Regulations of the Organic Law of the College of Architects of Honduras, Articles 4 (h), 7 (d) and (h), 13, 68 and 69.

Decree No. 902 Organic Law of the College of Mechanical, Electrical and Chemical Engineers of Honduras, Article 40 (c), (d) and (h).

Description: Investment and Cross-Border Trade in Services

Consulting and construction firms must be organized in accordance with Honduran law in order to be members of the Colegio de Ingenieros Civiles de Honduras (CICH) and to perform civil engineering projects in Honduras.

For greater certainty, consulting and construction companies incorporated under the law of a foreign country may provisionally register with the CICH to perform specific civil engineering projects.

Higher registration fees will apply to foreign companies. In addition, foreign personnel must be authorized by CICH to work on such projects.

Education- Services services from preschool, primary and secondary education

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (13.4) Local Presence (Article 13.6) Senior Executives and Boards of Directors (Article 12.10)

Measures: Decree No. 131 Constitution of the Republic, Title Ill, Chapter Vill, Articles 34 and 168.

Decree No. 79 Organic Law of Education, Articles 64 and 65

Decree No. 136-97 Ley del Estatuto del Docente, Articles 7 and 8.

Executive Agreement No. 0760-5E-99 General Regulation of the Teachers' Statute, Article 6

Higher Education Law, Decree No. 142-89, Article 32.

Description: Investment and Cross-Border Trade in Services

Management and supervisory positions in educational institutions may only be held by Honduran teachers by birth.

Foreigners may only, within the limits established by law, perform jobs in the teaching of science and the arts and provide technical or advisory services to the State, when there are no Hondurans who can perform such jobs or provide such services.

Foreign teachers may enter the teaching career, provided that in their country of origin there is reciprocity with Honduran teachers. Likewise, they may not teach the Constitution of the Republic, History and National Geography and Civic Education.

Private schools at all levels must be incorporated under Honduran law. For more information certainty, no there are restrictions on the foreign ownership of such schools.

Sector: Entertainment Services- Musical Artists

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree No. 123 Law for the Protection of Musical, Art. 1 and 2

Description: Cross-border Trade In Services

Notwithstanding the above measure, Honduras agrees that foreign musical artists wishing to present shows in Honduras, either individually or as a group, must pay the Sindicato de Artistas de Honduras five percent (5%) of their fees and the impresario or lessee shall, if possible, hire local musical artists from the country for the same show.

For greater certainty, foreign musical artists must register with the Sindicato de Artistas de Honduras for each performance

in Honduras.

Sector: Recreational, Cultural and Sporting Services - Soccer Championships and Games Services.

Obligations Concerned: Local Presence (Article 13.6)

Measures: Player Registration Regulations, Liga Nacional de Futbol Profesional de Primera Division, Articles 9 and 10.

Description: Cross-border trade in services

For the registration of foreign players, a certificate issued by the Ministry of Interior and Justice shall be required, stating that the residency document is being processed.

Each club affiliated to the Soccer League may register a maximum of four (4) foreign players.

Sector: Recreational, Cultural and Sporting Services- Gambling casinos (includes roulette, checkers, cards, point and bank, baccarat, slot machines and other similar games).

Obligations Concerned: National Treatment (Article 13.3) Local Presence (Article 13.6)

Measures: Decree No. 488-1997 Law on Gambling Casinos, Article 3 (a).

Agreement No. 520 Regulation of the Gambling Casinos Law

Description:Cross-border trade in services

Only Hondurans by birth and legal entities constituted in accordance with the laws of the country may apply to the Executive Branch for licenses to operate gambling casinos.

Sector: Services Provided a the Companies- Customs Brokers and Customs Agencies

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree No. 212-87 Customs Law, Title IX, Chapter I, First and Third Section, Articles 177 and 182.

Description: Cross-border trade in services

To obtain a customs broker's license it is required to be Honduran by birth. The auxiliary employees that the customs broker designates to manage in his name and representation procedures before the customs and revenue administrations must be Honduran by birth.

LIST OF THE REPUBLIC OF HONDURAS

Sector:

Sector: Services Provided to Businesses - Investigation and Security Services

Obligations Concerned: National Treatment (Article 12.5) Senior Executives and Boards of Directors (Article 12.10) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Decree No. 156-98 Organic Law of the National Police, Article 91.

Agreement No. 0771-2005 dated June 18, 2005, Articles 5 and 15, paragraphs 1), t), u) and v).

Description: Investment and Cross-Border Trade in Services

Foreign companies requesting a permit for the provision of private security services must associate with Honduran companies engaged in the same activity and appoint a Honduran manager by birth.

Foreign employees providing services to private security companies in Honduras must present original criminal and police records from their country of origin, as well as a duly authenticated residence permit. To develop specific functions in security matters, foreign employees must present a photocopy of a permit from the General Directorate of Migration and Foreigners and the Secretary of State in the Office of Labor.

In the case of foreign partners or owners, they must present authenticated proof of criminal and police records from their country of origin and current residence.

Sector: Transportation- Specialized air services

Obligations Concerned: National Treatment (Article 13.3)

Measures: Decree No. 55-2004 dated May 19, 2004, Civil Aeronautics Law, Title Vill, Chapter I, Article 149.

Description: Cross-border trade in services

To perform private air services for remuneration, authorization is required from the General Directorate of Civil Aeronautics and to be a natural or juridical person of Honduran nationality.

The Directorate General of Civil Aeronautics, whenever it deems necessary, may authorize the temporary employment of foreign technical personnel and aircraft for the performance of private air services for remuneration.

Sector: Rail Transportation

Obligations Concerned: National Treatment (Article 12.5) Senior Executives and Boards of Directors (Article 12.10)

Measures: Decree No. 48 Ley Constitutiva del Ferrocarril Nacional de Honduras, Chapters I and VIII, Article 32 and Article 12 amended by Decree No. 54.

Description: Investment

Ferrocarril Nacional de Honduras may sell its subsidiaries to private companies of Honduran nationality and to companies incorporated under Honduran law.

To be a manager of Ferrocarril Nacional, it is required to be a Honduran national by birth.

Sector: Maritime Transportation-Coastal Navigation.

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Local Presence (Article 13.6)

Measures: Decree No. 167-94 dated January 2, 1995, Organic Law of the National Merchant Marine, Title Ill, Chapters 1, land Vil, Article 40.

Agreement No. 000764 Maritime Transportation Regulations dated December 13, 1997, Articles 5 and 6.

Description: Investment and Cross-Border Trade in Services

Cabotage navigation for mercantile purposes is reserved to Honduran merchant vessels. Exceptionally, when there are no Honduran merchant vessels or they are not available and for the time that such circumstance lasts, the General Directorate of the National Merchant Marine may authorize foreign merchant vessels, particularly those of Central American nationality, to provide cabotage services in Honduras.

The national shipping company must be incorporated under Honduran law, and at least fifty-one percent (51%) of its subscribed and paid-up capital stock must be owned by Honduran nationals and the company must be domiciled in Honduras.

Sector: Land Transportation

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most Favored Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Measures: Decree No. 319-1976 Land Transportation Law, Articles 3, 5 and 18.

Agreement No. 200, Regulation of the Land Transportation Law, Articles 7 and 34.

Decree No. 205-2005 Traffic Law of January 3, 2006, Article 46.

Description: Investment and Cross-Border Trade in Services

Domestic public land passenger transportation services and cargo transportation services may be provided only by Honduran nationals and companies incorporated under Honduran law, in which at least fifty-one percent (51%) of the capital is owned by Honduran nationals. For the provision of this service it is required to obtain a certificate of operation subject to an economic study.

International public land passenger transport services and cargo transport services may be provided by foreign nationals and by companies incorporated under the laws of a foreign country on the basis of reciprocity, but authorization for

particular routes shall be granted in preference to nationals of Honduras and to companies incorporated under the law of Honduras.

Foreigners entering the national territory may drive with the valid license they carry and shall be subject to the principle of reciprocity.

Sector: Electric Power Services

Obligations Concerned: Market Access (Article 13.15)

Measures: Decree No. 158-94 dated November 26, 1994, Framework Law of the Electricity Sub Sector, Chapter V, Articles 15 and 23.

Description: Cross-border trade in services

Only the Government of Honduras, through the Empresa Nacional de Energia ElÃ©ctrica, may operate the transmission and conduction system of the Electricity Dispatch Center.

In order to be established in Honduras and to be able to provide electricity distribution services, a company must be incorporated as a trading company with nominal shares.

Sector: Communications Services - Postal Services (3)

Obligations Concerned: Market Access (Article 13.5)

Measures: Decree No. 120-93 Law Organic Law of of the Empresa Hondureña de Correos, Articles 3 and 4

Description: Cross-border trade in services

The operation of the postal service in Honduras is reserved exclusively for the Empresa Hondureña de Correos (HONDUCOR).

(3) For greater certainty, this measure does not apply to specialized courier services.

Sector: Leisure Services-Lotteries

Obligations Affected: Market Access (Article 13.5)

Measures: Decree No. 438 dated April 23, 1977, Art. 5 (c), Organic Law of the National Child Welfare Agency

Description: Cross-border trade in services

The Patronato Nacional de la Infancia (PANI) is responsible for the administration of the National Lottery.

Sector: Distribution- Wholesale and Retail - Weapons- ammunition and other related items.

Obligations Affected: Market Access (Article 13.5)

Measures: Decree No. 131 Constitution of the Republic, Title V, Chapter 2.

Decree No. 80-92, Investment Law, Chapter VI, Article 16.

Description: Cross-border trade in services

Wholesale and retail distribution of the following items is reserved exclusively for the Armed Forces of Honduras:

- ammunition;

- war planes;

- military rifles;

- all kinds of pistols and revolvers, 41 caliber or larger;

- regulation pistols of the Honduran Army;

- silencers for all kinds of firearms;

- firearms;

- accessories and ammunition;

- cartridges for firearms;

- equipment and other accessories essential for loading cartridges;

- gunpowder, explosives, percussion caps and fuses;

- protective masks against asphyxiating gases; and

- wind shotguns.

For greater certainty, the use of explosives for commercial purposes may be authorized by the competent Honduran authority.

Sector: Other Commercial Services -General Warehousing.

Obligations Affected: Market Access (Article 13.5)

Measures: Agreement No. 0681 Regulation of the General Warehouses of Deposits of October 24, 2005, Article 5.

Description: Cross-border trade in services

Only companies incorporated as corporations with fixed capital and with the sole purpose of providing warehousing services are authorized to provide such services.

Sector: Environmental Services

Obligations Concerned: Market Access (Article 13.5)

Measures: Decree No. 134-90 Law of Municipalities, Article 13. (3) y (4)

Decree No. 104-93 Law General ofthe Environment, Articles 29 and 67

Decree No. 118-2003 Drinking Water and Sanitation Sector Framework Law, Articles 16, 17 and 20.

Description: Cross-border trade in services

Only the State, through its municipalities, can provide public services of water distribution, waste treatment, and sanitation and hygiene services.

For greater certainty, municipalities are responsible for the construction of aqueducts, the maintenance and administration of drinking water, sanitary sewerage, drainage and the promotion and development of related projects.

Annex II. Future Reservations - Explanatory Notes

1. A Party's Schedule to this Annex sets out, in accordance with Articles 12.12 (Nonconforming Measures) and 13.7 (Nonconforming Measures), the specific sectors, subsectors, or activities for which that Party may maintain existing measures or adopt new or more restrictive measures that are inconsistent with the obligations imposed by:

(a) Articles 12.5 (National Treatment) or 13.3 (National Treatment);

(b) Articles 12.6 (Most-Favored-Nation Treatment) or 13.4 (Most-Favored-Nation Treatment);

(c) Article 12.9 (Performance Requirements);

(d) Article 12.10 (Senior Executives and Boards of Directors);

(e) Article 13.5 (Market Access); or

(f) Article 13.6 (Local Presence).

2. Each tab of the List establishes the following elements:

(a) Sector refers to the sector for which the record has been made;

(b) Obligations Affected specifies the obligation(s) referred to in paragraph 1 that, by virtue of Articles 12.12 (Nonconforming Measures) and 13.7 (Nonconforming Measures), do not apply to the sectors, subsectors or activities listed on the schedule;

(c) Description indicates the coverage of the sectors, sub-sectors or activities covered by the record; and

(d) Measures in Force identifies, for transparency purposes, the measures in force that apply to the sectors, subsectors or activities covered by the fact sheet.

3. Pursuant to Article 12.12 (Non-Conforming Measures) and 13.7 (Non- Conforming Measures), the articles of this Treaty specified in the Obligations Affected element of a schedule do not apply to the sectors, sub-sectors and activities identified in the Description element of that schedule.

Annex II. Schedule of Colombia

Sectors: Some Sectors.

Obligations Concerned: Market Access (Article 13.5)

Description: Cross-border trade in services

Colombia reserves the right to adopt or maintain any measure in the following sectors:

(a) investigation and security services;

(b) research and development services;

(c) the establishment of exclusive service areas for services incidental to the distribution of energy and gas in order to guarantee the provision of universal service;

(d) distribution services - wholesale and retail commercial services in sectors in which the government establishes a monopoly, pursuant to Article 336 of the Colombian Constitution, with revenues dedicated for public or social service. As of the date of signature of this agreement, Colombia has established monopolies only with respect to liquor and gambling;

(e) primary and secondary education services, and with respect to higher education services, requirements related to the specific type of legal entity to provide such services;

(f) environment-related services that are established or maintained for reasons of public interest;

(g) health and social services and health-related professional services;

(h) library, archives and museum services;

(i) sports and other recreational services;

(j) the number of concessions and the total number of operations for road passenger transport services, rail passenger and freight transport services, pipeline transport services, ancillary services in connection with all modes of transport and other transport services.

For greater certainty, no measure shall be inconsistent with Colombia's obligations under Article XVI of the GATS.

Sector: All sectors

Obligations Concerned: National Treatment (Article 12.5)

Description: Investment

Colombia reserves the right to adopt or maintain measures related to the ownership of real estate by foreigners in the border regions, national coasts or insular territory of Colombia.

For the purposes of this entry:

(a) border region means a zone two (2) kilometers wide, parallel to the national boundary line;

(b) national coast is a zone two (2) kilometers wide, parallel to the line of the highest tide; and

(c) insular territory means the islands, islets, cays, keys, morros and banks that are part of the territory of Colombia.

Sector: Social Services

Obligations Concemed: National Treatment (Articles 12.5 and 13.3)

Description:

Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Performance Requirements (Article 12.9)

Senior Executives and Boards of Directors (Article 12.10) Market Access (Article 13.5)

Local Presence (Article 13.6)

Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services that are established or maintained in the public interest: social rehabilitation, income insurance or security, social security services, social welfare, public education and training, health and child care.

For greater certainty, the comprehensive social security system in Colombia is currently comprised of the following mandatory systems: the General Pension System, the General Social Security Health System, the General Professional Risks System and_ the Unemployment and Unemployment Assistance System.

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Sector:

LIST OF THE REPUBLIC OF COLOMBIA ANNEX II: FUTURE ACTIONS

Minority and Ethnic Group Affairs

Obligations Concemed: National Treatment (Articles 12.5 and 13.3)

Obligations Concemed: National Treatment (Articles 12.5 and 13.3)

Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Performance Requirements (Article 12.9)

Senior Executives and Boards of Directors (Article 12.10) Market Access (Article 13.5)

Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services that are established or maintained in the public interest: social rehabilitation, income insurance or security, social security services, social welfare, public education and training, health and child care.

For greater certainty, the comprehensive social security system in Colombia is currently comprised of the following mandatory systems: the General Pension System, the General Social Security Health System, the General Professional Risks System and the Unemployment and Unemployment Assistance System.

Sector: Minority and Ethnic Group Affairs

Obligations Concemed: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Performance Requirements (Article 12.9) Senior Executives and Boards of Directors (Article 12.10) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities and their ethnic groups, including with respect to communal lands owned by ethnic groups in accordance with Article 63 of the Political Constitution of Colombia. The ethnic groups in Colombia are: the indigenous and ROM (gypsy) peoples, the Afro-Colombian communities and the Raizal community of the Archipelago of San Andres, Providencia and Santa Catalina.

Sector: Cultural Industries and Activities

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4)

Description: Investment and Cross-Border Trade in Services

For the purposes of this entry, the term "cultural industries and activities" means:

(a) publication, distribution, or sale of books, magazines, periodicals, or electronic or printed newspapers, excluding the printing or typesetting of any of the foregoing;

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

(c) production, distribution, sale or exhibition of musical recordings in audio or video format;

(d) production and presentation of performing arts;

(e) production or exhibition of visual arts;

(f) production, distribution or sale of printed music, or machine-readable music;

(g) design, production, distribution and sale of handicrafts;

(h) broadcasting to the general public, as well as all activities related to radio, television and cable television, satellite programming services and radio broadcasting networks; and

(i) creation and design of advertising content.

Colombia reserves the right to adopt or maintain any measure granting preferential treatment to persons from any other country by any treaty between Colombia and such country, containing specific commitments regarding cultural cooperation or co-production, with respect to cultural industries and activities.

For greater certainty, Articles 12.5 (National Treatment) and 12.6 (Most-Favored-Nation Treatment) and Chapter 13 (Cross-Border Trade in Services) do not apply to "government support" (1) the promotion of cultural industries and activities.

Colombia may adopt or maintain any measure that grants to a person of another Party treatment equivalent to that granted by that other Party to Colombian persons in the audiovisual, musical or publishing sectors.

(1) For purposes of this entry, "government support" means tax incentives, incentives for the reduction of mandatory contributions, grants provided by a goverment, loans provided by a goverment, and guarantees, autonomous estates or insurance provided by a government, regardless of whether a private entity is wholly or partially responsible for the administration of the "government support". However, a measure is not covered by this entry to the extent that it is inconsistent with Article 20.5 (Taxation).

Sector: Jewelry design, Performing arts, Music, Visual arts, Audiovisuals, Publishing

Obligations Concerned: Performance Requirements (Article 12.9) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government (2) for the development and production of jewelry design, performing arts, music, visual arts, audiovisual and publishing on the recipient achieving a given level or percentage of domestic creative content.

For greater certainty, this entry does not apply to advertising and performance requirements shall in all cases be consistent with the WTO Agreement on Trade-Related Investment Measures.

(2) As defined in the footer of the previous entry.

Sector: Craft Industries

Obligations Concerned: Performance Requirements (Article 12.9) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure related to the design, distribution, retail sale or exhibition of handicrafts identified as Colombian handicrafts.

For greater certainty, performance requirements should in all cases be consistent with the WTO Agreement on Trade-Related Investment Measures.

Sector: Audiovisual Advertising

Obligations Concerned: Performance Requirements (Article 12.9) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Cinematographic works

(a) Colombia reserves the right to adopt or maintain any measure requiring that a_ specified percentage (not to exceed fifteen percent (15%) of the total number of cinematographic works shown annually in movie theaters or exhibition halls in Colombia consist of Colombian cinematographic works. In order to establish such percentages, Colombia shall take into account the conditions of national film production, the existing exhibition infrastructure in the country and the attendance averages.

Cinematographic works on free-to-air television

(b) Colombia reserves the right to adopt or maintain any measure requiring that a_ specified percentage (not to exceed ten percent (10%) of the total number of cinematographic works shown annually on free television channels consist of Colombian cinematographic works. In order to establish such percentage, Colombia shall take into account the availability of national cinematographic works for free television. Such works shall count as part of the domestic content requirements that apply to the channel as described in the Open Television entry on page 21 and 22, paragraph 5, of Annex I.

Community / television (3)

(c) Colombia reserves the right to adopt or maintain any measure requiring that a specified portion of weekly community television programming (not to exceed fifty-six (56) hours per week) consist of national programming produced by the community television operator.

(3) As defined in Agreement 006 of 1999.

Multichannel commercial free-to-air television

(d) Colombia reserves the right to impose the minimum programming requirements listed in the Open Television entry on page 21 and 22, paragraph 5 of Annex I, on multichannel commercial open television, except that these requirements may not be imposed on more than two (2) channels or twenty-five percent (25%) of the total number of channels (whichever is greater) made available by the same provider.

Advertising

(e) Colombia reserves the right to adopt or maintain any measure requiring that a _ specified percentage (not to exceed twenty percent (20%) of the total advertising orders contracted annually with media services companies established in Colombia, other than newspapers, journals and subscription services headquartered outside Colombia, be produced and created in Colombia. Any such measures shall not apply to: (i) the advertising of movie premieres in theaters or exhibition halls; and (ii) any media where the programming or content originates outside Colombia or to the rebroadcastingÂ§ or rebroadcasting of such programming within Colombia.

Sector: Traditional Expressions

Obligations Concemed: National Treatment (Articles 12.5 and 13.3)

Description: Investment and Cross-Border Trade in Services Colombia reserves the right to adopt or maintain any measure that grants rights or preferences to local communities with respect to the support and development of expressions related to the intangible cultural heritage declared under Resolution No. 0168 of 2005.

Sector: Interactive Audio and/or Video Services

Obligations Concerned: Performance Requirements (Article 12.9) National Treatment (Article 13.3)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain measures to ensure that, once the Government of Colombia finds that

Colombian audiovisual content is not readily available to Colombian consumers, access to Colombian audiovisual content programming through interactive audio and/or video services is not unreasonably denied to Colombian consumers.

Sector: Professional Services

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-border trade in services

Colombia reserves the right to adopt or maintain any measure restricting the cross-border supply of professional. (4)

Within two (2) years of the entry into force of this Agreement, the Parties shall enter into consultations with a view to deepening the commitments undertaken under this Agreement in the professional services sector.

(4) For greater certainty, investment related to professional services does not preclude compliance with professional practice legislation under the definition of cross-border trade in services in this Agreement.

Sector: Land and River Transportation

Obligations Concerned: Most-Favored-Nation Treatment (Article 13.3)

Description: Cross-border trade in services Colombia reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international agreement signed after the date of entry into force of this Agreement on land and river transport services.

Annex II. Schedule of the Republic of El Salvador

Sector: Postal Services

Obligations Affected: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4)

Description: Investment and Cross-Border Trade in Services

El Salvador reserves the right to adopt or maintain any measure with respect to the provision of postal services.

Sector: Social Services

Obligations Affected: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Performance Requirements (Article 12.9) Senior Executives and Boards of Directors (Article 12.10) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

El Salvador reserves the right to adopt or maintain any measure with respect to law enforcement and social readjustment services as well as the following services, insofar as they are social services that are established or maintained for reasons of public interest: pensions, unemployment insurance, social security services, social welfare, public education, public training, health and child care.

Sector: Minority Affairs

Obligations Affected: National Treatment (Articles 12.5 and 13.3) Performance Requirements (Article 12.9) Senior Management and Boards of Directors (Article 12.10) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services El Salvador reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities.

Sector: Transportation Services: road transportation services.

Obligations Affected: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Local Presence (Article 13.6)

Description: Cross-border trade in services El Salvador reserves the right to adopt or maintain any measure restricting the transport of goods by road.

Sector: Business Services: Professional Services

Obligations Affected: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-border trade in services

El Salvador reserves the right to adopt or maintain any measure relating to cross-border trade in professional services. (1)

Within two (2) years of the entry into force of this Agreement, the Parties shall enter into consultations with a view to deepening the commitments undertaken under this Agreement in the professional services sector.

(1) For greater certainty, investment related to professional services does not preclude compliance with professional practice legislation under the definition of cross-border trade in services in this Agreement.

Sector: Construction Services

Obligations Affected: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-border trade in services

El Salvador reserves the right to adopt or maintain any measure with respect to construction services during the two (2) years following the entry into force of this Agreement.

Once the period indicated in the previous paragraph has elapsed, the measure or measures in force, if they are not in conformity with the obligations affected in this sheet, shall be understood to be incorporated in Annex I.

Annex II. Schedule of Guatemala

Sector: Social Services

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Performance Requirements (Article 12.9) Senior Executives and Boards of Directors (Article 12.10) Local Presence (Article 13.6) Market Access (Article 13.5)

Description: Investment and Cross-Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure with respect to the execution of public order laws and the supply of social rehabilitation services as well as the following services, to the extent that they are social services established or maintained for public purpose: pensions, unemployment insurance, social security services, social welfare, public education, public training, health and child care.

Sector: Construction Services

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure restricting the supply of construction services during the two (2) years following the entry into force of the Agreement.

After the period indicated in the preceding paragraph, the measure or measures in force at that date, if they are not in conformity with the obligations affected in this schedule, shall be subject to the provisions set forth in Article 13.7 (1) (Nonconforming Measures).

Sector: Indigenous populations and issues related to minority and disadvantaged populations.

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Performance Requirements (Article 12.9) Senior Executives and Boards of Directors (Article 12.10) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure that guarantees rights or preferences for socially and

economically disadvantaged Minorities and Indigenous Populations.

Sector: Professional Services

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-border trade in services

Guatemala reserves the right to adopt or maintain any measure relating to cross-border trade in professional services. (1)

Within two (2) years of the entry into force of this Agreement, the Parties shall enter into consultations with a view to deepening the commitments undertaken under this Agreement in the professional services sector.

(1) For greater certainty, investment related to professional services does not preclude compliance with professional practice legislation under the definition of cross-border trade in services in this Agreement.

Sector: Road Transportation Services

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4)

Description: Cross Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure regulating the cross-border supply of road freight transport services.

Sector: Artisanal fishing

Obligations Concerned: National Treatment (Articles 12.5 and 13.3)

Description: Investment and Cross-Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure relating to the requirements for investment in, ownership or control of, and operation of vessels engaged in artisanal fishing and related activities in Guatemalan jurisdictional waters.

Sector: Maritime

Obligations Concerned: National Treatment (Articles 12.5 and Market Access (Article 13.5)

Description: Investment and Cross-Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure related to the supply of maritime transportation services.

Annex II. Schedule of Honduras

Sector: Communication Services-Telecommunications

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Market Access (Article 13.5)

Description: Investment and Cross-Border Trade in Services

Honduras reserves the right to adopt, maintain or modify the level of ownership interest in Empresa Hondureña de Telecomunicaciones (HONDUTEL), as well as its affiliates or subsidiaries.

Sector: Social Services

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most-Favored-Nation Treatment (Articles 12.6 and 13.4) Performance Requirements (Article 12.9) Senior Executives and Boards of Directors (Article 12.10) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Honduras reserves the right to adopt or maintain any measure with respect to the application and enforcement of laws and the provision of social rehabilitation services; as well as the following services to the extent that they are social services that are established or maintained for reasons of public interest: pensions, unemployment insurance, social security services, pension fund services, social welfare, public education, public training, health and child care.

Sector: Minority Affairs

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Performance Requirements (Article 12.9) Senior Management and Boards of Directors (Article 12.10) Local Presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Honduras reserves the right to adopt or maintain any measure that grants rights or preferences to socially and economically disadvantaged minorities.

Sector: Wholesale Distribution Services- Petroleum Products.

Obligations Concerned: National Treatment (Articles 12.5 and 13.3) Most favored nation treatment (Articles 12.6 and 13.4) Market Access (Article 13.5) Local presence (Article 13.6)

Description: Investment and Cross-Border Trade in Services

Honduras reserves the right to adopt or maintain measures related to the importation, supply and wholesale distribution of crude, reconstituted and refined petroleum products and all their derivatives.

Sector: Services Provided to Businesses- Professionals

Obligations Concerned: National Treatment (Article 13.3) Most-Favored-Nation Treatment (Article 13.4) Market Access (Article 13.5) Local Presence (Article 13.6)

Description: Cross-border trade in services

Honduras reserves the right to adopt or maintain any measure relating to cross-border trade in professional (1).

Within two (2) years of the entry into force of this Agreement, the Parties shall enter into consultations with a view to deepening the commitments undertaken under this Agreement in the professional services sector.

(1) For greater certainty, investment related to professional services does not preclude compliance with professional practice legislation under the definition of cross-border trade in services in this Agreement.

Annex III. Schedule of the Republic of Colombia - Exceptions to the Most-Favoured Nation treatment

Sector: All sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 12.6 and 13.4)

Description: Investment and Cross-Border Trade in Services

Colombia reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

Colombia reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international agreement in force or entered into after the date of entry into force of this Agreement with respect to:

(a) aviation;

(b) fishing; and

(c) maritime affairs, including salvage.

Annex III. Schedule of the Republic of El Salvador - Exceptions to the Most-Favoured Nation treatment

Sector: All sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 12.6 and 12.7). 13.4)

Description: Investment and Cross-Border Trade in Services

El Salvador exempts from the application of the following Articles 12.6 and 13.4 (Most-Favored-Nation Treatment) any measure that accords different treatment to countries pursuant to any bilateral or multilateral international agreement in force or entered into prior to the date of entry into force of this Agreement (1).

El Salvador exempts from the application of the following Articles 12.6 and 13.4 (Most-Favored-Nation Treatment) any measure that accords different treatment to countries pursuant to any bilateral or multilateral international agreement in force or entered into after the date of entry into force of this Agreement with respect to:

(a) aviation;

(b) fishing; or

(c) maritime affairs, including salvage.

(1) For greater certainty, El Salvador may adopt or maintain any measure derived from a rule of Community law derived from an instrument of Community law or adopted by an organ of the Central American Integration System or its successor.

Annex III. Schedule of the Republic of Guatemala - Exceptions to the Most-Favoured Nation treatment

Sector: All sectors

Type of Reservation: Most-Favored-Nation Treatment (Articles 12.6 and 12.7). 13.4)

Description: Investment and Cross-Border Trade in Services

Guatemala reserves the right to adopt or maintain any measure that grants a different treatment to another country, in accordance with any bilateral or multilateral international treaty in force or signed prior to the date of entry into force of this Agreement (1).

Guatemala reserves the right to adopt or maintain any measure providing for different treatment between countries under any international agreement in force or entered into after the date of entry into force of this Agreement with respect to:

(a) aviation;

(b) fishing; and

(c) maritime affairs, including salvage.

(1) For greater certainty, Guatemala may adopt or maintain any measure derived from a rule of Community law derived from an instrument of Community law or adopted by an organ of the Central American Economic Integration System or its successor.

Annex III. Schedule of the Republic of Honduras - Exceptions to the Most-Favoured Nation treatment

Sector: All sectors

Obligations Concerned: Most-Favored-Nation Treatment (Articles 12.6 and 13.4)

Description: Investment and Cross-Border Trade in Services

Honduras reserves the right to adopt or maintain any measure that grants different treatment to countries pursuant to any bilateral or multilateral international treaty in force or entered into prior to the date of entry into force of this Agreement (1).

Honduras reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement with respect to:

(a) aviation;

(b) fishing; and

(c) maritime affairs, including salvage.

(1) For greater certainty, Honduras may adopt or maintain any measure derived from a rule of Community law, as a result of an instrument of Community law, or adopted by an organ of the Central American Economic Integration System or its successor.