FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA

THE GOVERNMENT OF CANADA and THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA, resolved to:

STRENGTHEN the special bonds of friendship and cooperation among their peoples;

CONTRIBUTE to the harmonious development and expansion of world and regional trade and provide a catalyst to broader international cooperation;

CREATE new employment opportunities and improve working conditions and living standards in their respective territories;

RECOGNIZE the differences in the level of development and the size of the Parties= economies and create opportunities for economic development;

CREATE an expanded and secure market for the goods and services produced in their territories;

REDUCE distortions to trade;

ESTABLISH clear and mutually advantageous rules governing their trade;

ENSURE a predictable commercial framework for business planning and investment; RECOGNIZE the importance of trade facilitation in promoting efficient and transparent procedures to reduce costs, and to ensure predictability, for importers and exporters of the Parties;

BUILD on their respective rights and obligations under the WTO Agreement and other multilateral and bilateral instruments of cooperation;

PROMOTE regional integration with an instrument that will contribute to the establishment of the Free Trade Area of the Americas (FTAA);

ENHANCE the competitiveness of their firms in global markets;

ENSURE that the benefits of trade liberalization are not undermined by anticompetitive activities;

PROMOTE sustainable development;

UNDERTAKE each of the preceding in a manner consistent with environmental protection and conservation;

PRESERVE their flexibility to safeguard the public welfare;

RECOGNIZE that States have the ability to preserve, develop and implement their cultural policies for the purpose of strengthening cultural diversity; and

RECOGNIZE the increased cooperation between our countries on labour and environmental cooperation;

HAVE AGREED as follows:

Part One. GENERAL PART

Chapter I. Objectives

Article I.1. Establishment of the Free Trade Area

The Parties to this Agreement, consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 which is part of the Marrakesh Agreement Establishing the World Trade Organization, hereby establish a free trade area.

Article I.2. Objectives

1. The objectives of this Agreement are to:

(a) establish a free trade area in accordance with this Agreement;

(b) promote regional integration through an instrument that contributes to the establishment of the Free Trade Area of the Americas (FTAA) and to the progressive elimination of barriers to trade and investment;

(c) create opportunities for economic development;

(d) eliminate barriers to trade in, and facilitate the cross-border movement of goods between the territories of the Parties;

(e) increase substantially investment opportunities in the territories of the Parties;

(f) facilitate trade in services and investment with a view to developing and deepening the Parties' relations under this Agreement;

(g) promote conditions of fair competition in the free trade area;

(h) establish a framework for further bilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement; and

(i) create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes.

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

Article I.3. Relation to other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the Marrakesh Agreement Establishing the World Trade Organization and other agreements to which such Parties are party.

2. In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement.

Article I.4. Relation to Environmental and Conservation Agreements

In the event of any inconsistency between this Agreement and the specific trade obligations set out in:

(a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended June 22, 1979;

(b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as amended June 29, 1990; or

(c) the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done at Basel, March 22, 1989,

such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

Article I.5. Extent of Obligations

Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory.

Chapter II. General Definitions

Article II.1. Definitions of General Application

1 . For purposes of this Agreement, unless otherwise specified:

Citizen means a Citizen as defined in Annex II.1.1 for the Party specified in that Annex;

Commission means the Free Trade Commission established under Article XIII.1 (The Free Trade Commission);

Coordinators means the Free Trade Coordinators established under Article XIII.2.1 (The Free Trade Coordinators);

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

days means calendar days, including weekends and holidays;

Dispute Settlement Understanding (DSU) means the Understanding on Rules and Procedures Governing the Settlement of Disputes, which is part of the WTO Agreement;

enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association;

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;

goods of a Party means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party;

Harmonized System (HS) means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes and Chapter Notes;

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

measure includes any law, regulation, procedure, requirement or practice; national means a natural person who is a citizen or permanent resident of a Party;

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

person means a natural person or an enterprise; person of a Party means a national, or an enterprise of a Party;

province means a province of Canada, and includes the Yukon Territory and the Northwest Territories and Nunavut and their successors;

Secretariat means the Secretariat established under Article XIII.3.1 (The Secretariat);

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

tariff classification means the classification of a good or material under a chapter, heading or subheading or tariff subheading;

tariff elimination schedule means the provisions of Annex II.2.2 (Tariff Elimination Schedule);

territory means for a Party the territory of that Party as set out in Annex II.1.1 (Country- Specific Definitions); and

WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, done on April 15, 1994, or any successor agreement to which both Parties are a party.

2. For purposes of this Agreement, unless otherwise specified, a reference to a province includes local governments of that province.

3. Country-specific definitions of national government are set out in Annex II.1.1 (Country-Specific Definitions).

Annex II.1.1. Country-Specific Definitions

For purposes of this Agreement, unless otherwise specified:

citizen means:

(a) with respect to Canada, a natural person who is a citizen of Canada under the Citizenship Act, R.S.C. 1985, c. C-29, as amended from time to time or under any successor legislation; and

(b) with respect to Costa Rica, the Costa Ricans by birth, according to Article 13 of the Political Constitution of the Republic of Costa Rica and the Costa Ricans by naturalization, according to Article 14 of the Political Constitution of the Republic of Costa Rica;

national government means:

(a) with respect to Canada, the Government of Canada; and

(b) with respect to Costa Rica, the Government of the Republic of Costa Rica; and

territory means:

(a) with respect to Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic law, Canada may exercise tights with respect to the seabed and subsoil and their natural resources; and

(b) with respect to Costa Rica, the territory and air space, and the maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea, over which it exercises, in accordance with international law and its domestic law, sovereign rights with respect to the natural resources of such areas.

Part Two. TRADE IN GOODS

Chapter III. National Treatment and Market Access of Goods

Article III.1. Scope and Coverage

This Chapter applies to trade in goods of a Party, including goods covered by Annex III.1 (Textile and Apparel Goods), except as provided in such Annex.

Section I. National Treatment

Article III.2. National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes, and to this end Article III of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement.

2. The provisions of paragraph 1 regarding national treatment shall mean, with respect to a province, treatment no less favourable than the most favourable treatment accorded by such province to any like, directly competitive or substitutable goods, as the case may be, of the Party of which it forms a part. (1)

3. Paragraphs 1 and 2 do not apply to the measures set out in Annex II.2 (Exceptions to Articles I.2 and II.7).

(1) "Goods of a Party" includes goods produced in the province of that Party.

Section II. Tariffs

Article III.3. Tariff Elimination (2)

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any customs duty, on a good. (3)

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on goods in accordance with its Schedule to Annex H1.3.1 (Tariff Elimination) (4) and Annex III.3.2 (Special Safeguards).

3. During the tariff elimination process, the Parties agree to apply to originating goods traded between them, the lesser of

the customs duties resulting from a comparison between the rate established in accordance with the Tariff Elimination Schedule, and the existing rate pursuant to Article II of GATT 1994.

4. On the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules or incorporating into one Party's Tariff Elimination Schedule goods that are not subject to the elimination schedule. An agreement between the Parties to accelerate the elimination of a customs duty on a good or to include a good in the Tariff Elimination Schedule shall supersede any duty rate or staging category determined pursuant to their Schedules for such good when approved by each such Party in accordance with its applicable legal procedures.

5. Except as otherwise provided in this Agreement, either Party may adopt or maintain import measures to allocate in-quota imports made pursuant to a tariff rate quota set out in Annex II.3.1 (Tariff Elimination), provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota.

6. On written request of either Party, a Party applying or intending to apply measures pursuant to paragraph 5 shall consult to review the administration of those measures.

(2) For the purpose of Article IIL3, a good may refer to an originating good or a good which benefits from tariff elimination under a TPI.

(3) This paragraph is not intended to prevent either Party from modifying its tariffs outside this Agreement on goods for which no tariff preference is claimed under this Agreement. This paragraph does not prevent either Party from raising a tariff back to an agreed level in accordance with the phase-out schedule in this Agreement following a unilateral reduction.

(4) Paragraphs 1 and 2 of this Article are not intended to prevent either Party from maintaining or increasing a customs duty as may be authorized by any dispute settlement provision of the WTO Agreement or any agreement under the WTO Agreement.

Article III.4. Temporary Admission of Goods

1. Each Party shall grant duty-free temporary admission for:

(a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter X (Temporary Entry);

(b) equipment for the press or for sound or television broadcasting and cinematographic equipment;

(c) goods imported for sports purposes and goods intended for display or demonstration; and

(d) commercial samples and advertising films;

imported from the territory of the other Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.

2. Except as otherwise provided in this Agreement, neither Party may condition the duty-free temporary admission of a good referred to in paragraph 1(a), (b) or (c), other than to require that such good:

(a) be imported by a national or resident of the other Party who seeks temporary entry;

(b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person;

(c) not be sold or leased while in its territory;

(d) be accompanied by a bond in an amount no greater than 110 per cent of the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good; (5)

(e) be capable of identification when exported;

(f) be exported on the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and

(g) be imported in no greater quantity than is reasonable for its intended use.

3. Except as otherwise provided in this Agreement, neither Party may condition the duty-free temporary admission of a good referred to in paragraph 1(d), other than to require that such good:

(a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party;

(b) not be sold, leased or put to any use other than exhibition or demonstration while in its territory;

(c) be capable of identification when exported;

(d) be exported within such period as is reasonably related to the purpose of the temporary admission; and

(e) be imported in no greater quantity than is reasonable for its intended use.

4. Where a good is temporarily admitted duty-free under paragraph 1 and any condition the Party imposes under paragraph 2 and 3 has not been fulfilled, a Party may impose:

(a) the customs duty and any other charge that would be owed on entry or final importation of the good; and

(b) any applicable criminal, civil or administrative penalties that the circumstances may warrant.

5. Neither Party:

(a) shall prevent a vehicle or container used in international traffic that enters its territory from the territory of the other Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container;

(b) may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container;

(c) may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and

(d) may require that the vehicle or carrier bringing a container from the territory of the other Party into its territory be the same vehicle or carrier that takes such container to the territory of the other Party.

6. For purposes of paragraph 5, "vehicle" means a truck, a truck tractor, tractor, trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

(5) Where another form of monetary security is used, it shall not be more burdensome than the bonding requirement referred to in this subparagraph. Where a Party uses a non-monetary form of security, it shall not be more burdensome than existing fonms of security used by that Party.

Article III.5. Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:

(a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or

(b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article III.6. Goods Re-Entered after Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re- enters its territory after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.(6)

2. Neither Party may apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

(6) This paragraph does not cover goods imported in bond, into foreign trade zones, or in similar status, that are exported for repair and are not re-imported in bond, into foreign trade zones, or in similar status.

Section III. Non-Tariff Measures

Article III.7. Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994, including its interpretative notes, and to this end Article XI of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made a part of this Agreement.

2. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, export price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, import price requirements.

3. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, nothing in this Agreement shall be construed to prevent the Party from:

(a) limiting or prohibiting the importation from the territory of the other Party of such good of that non-Party; or

(b) requiring as a condition of export of such good of the Party to the territory of the other Party, that the good not be re-exported to the non-Party, directly or indirectly, without being consumed in the territory of the other Party.

4. In the event that a Party adopts or maintains a prohibition or restriction on the importation of a good from a non-Party, the Parties, on request of the other Party, shall consult with a view to avoiding undue interference with or distortion of pricing, marketing and distribution arrangements in the other Party.

5. Paragraphs 1 through 4 shall not apply to the measures set out in Annex II.2 (Exceptions to Articles III.2 and III.7).

Article III.8. Wine and Distilled Spirits

1. Neither Party may adopt or maintain any measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with any distilled spirits of the Party.

2. Annex III.8 (Wine and Distilled Spirits) applies to other measures relating to wine and distilled spirits.

Article III.9. Geographical Indications

The Parties shall protect the geographical indications for their products according to their rights and obligations set out in the Agreement on Trade Related Intellectual Property Rights, Annex 1C of the WTO Agreement, and any successor agreement to which both Parties are party.

Article III.10. Export Taxes

Subject to the provisions in Annex II.10 (Export Taxes), neither Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of the other Party, unless such duty, tax or charge is adopted or maintained on any such good when destined for domestic consumption.

Article III.11. Other Export Measures

1. Except as set out in Annex III.2 (Exceptions to Articles III.2 and III.7), a Party may adopt or maintain a restriction otherwise justified under Articles XI.2 (a) or XX (g), (i) or (j) of the GATT 1994 with respect to the export of a good of the Party to the territory of the other Party, only if:

(a) the restriction does not reduce the proportion of the total export shipments of the specific good made available to the other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36-month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree;

(b) | the Party does not impose a higher price for exports of a good to the other Party than the price charged for such good when consumed domestically, by means of any measure, such as licenses, fees, taxation and minimum price requirements. The foregoing provision does not apply to a higher price that may result from a measure taken pursuant to subparagraph (a) that only restricts the volume of exports; and

(c) the restriction does not require the disruption of normal channels of supply to the other Party or normal proportions among specific goods or categories of goods supplied to the other Party.

2. The Parties shall cooperate in the maintenance and development of effective controls on the export of each other's goods to a non-Party in implementing this Article.

Article III.12. Export Subsidies on Agricultural Goods

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall cooperate in an effort to achieve such an agreement.

2. Notwithstanding any other provisions of this Agreement, the Parties agree to eliminate, as of the date of entry into force of this Agreement, any form of export subsidy for agricultural goods destined for the other Party, and to prevent the reintroduction of such subsidies in any form.

Article III.13. Domestic Support for Agricultural Goods

2. The Parties recognize that domestic support measures can be of crucial importance to their agricultural sectors but may also have distorting effects on the production and trade of agricultural goods.

3. The Parties agree to cooperate in the WTO negotiations on agriculture to achieve:

(a) the maximum possible reduction or elimination of production and trade-distorting domestic support, including support under "production limiting" or "blue box" programs;

(b) an overall limit on the amount of domestic support of all types ("green", "blue" and "amber");

(c) a review of the criteria for the "green box" category to ensure that "green" support does not distort production and trade; and

(d) agreement that "green box" support should not be countervailable.

3. Pending the elimination of trade-distorting domestic support measures, if either Party maintains such a measure which the other Party considers to be distortive of bilateral trade under this Agreement, the Party applying the measure shall, at the request of the other Party, consult with a view to making a best efforts endeavour to avoid nullification or impairment of concessions granted under this Agreement.

Section IV. Consultations

Article III.14. Consultations and Committee on Trade In Goods and Rules of Origin

1. The Parties hereby establish a Committee on Trade in Goods and Rules of Origin, comprising representatives of each Party.

2. The Committee shall meet periodically, and at any other time on the request of either Party or the Commission, to ensure the effective implementation and administration of this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations. In this regard, the Committee shall:

(a) monitor the implementation and administration by the Parties of this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations to ensure their uniform interpretation;

(b) at the request of either party, review any proposed modification of or addition to this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) or any Uniform Regulations;

(c) recommend to the Commission any modification of or addition to this Chapter, Chapter IV (Rules of Origin), Chapter V

(Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) or any Uniform Regulations and to any other provision of this Agreement as may be required to conform with any change to the Harmonized System; and

(d) consider any other matter relating to the implementation and administration by the Parties of this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations referred to it by:

(i) a Party;

(ii) the Customs Sub-Committee established under Article V.13 (The Customs Sub-Committee); or

(iii) the Sub-Committee on Agriculture established under paragraph 4.

3. If the Committee fails to resolve a matter referred to it pursuant to paragraph 2 (b) or (d) within 30 days of such referral, either Party may request a meeting of the Commission under Article XIII.1 (The Free Trade Commission).

4. The Parties hereby establish a Sub-Committee on Agriculture that shall:

(a) provide a forum for the Parties to consult on issues relating to market access for agricultural goods;

(b) monitor the implementation and administration of this Chapter, Chapter IV (Rules of Origin), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations as they affect agricultural goods;

(c) meet periodically or whenever so requested by either Party;

(d) refer to the Committee any matter under sub-paragraph (b) on which it has been unable to reach agreement;

(e) submit to the Committee for its consideration any agreement reached under this paragraph;

(f) report to the Committee; and

(g) follow-up and promote cooperation in matters relating to agricultural goods.

5. Each Party shall to the greatest extent practicable, take all necessary measures to implement any modification of or addition to this Chapter, Chapter IV (Rules of Origin), Chapter V (Customs Procedures), Chapter VI (Emergency Action), Chapter IX (Trade Facilitation and Additional Provisions) and any Uniform Regulations within 180 days of the date on which the Commission agrees on the modification or addition.

6. The Parties shall convene on the request of either Party a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, and regulation of transportation for the purpose of addressing issues related to movement of goods through the Partiesâ ports of entry.

7. Nothing in this Chapter shall be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to a matter under consideration by the Committee or from taking such other action as it considers necessary, pending a resolution of the matter under this Agreement.

Article III.15. Customs Valuation Agreement

The Customs Valuation Agreement and any successor Agreement shall govern the customs valuation rules applied by the Parties to their reciprocal trade. The Parties agree that they will not make use in their reciprocal trade of the options and reservations permitted under Article 20 and paragraphs 2, 3 and 4 of Annex III of the Customs Valuation Agreement.

Section V. Definitions

Article III.16. Definitions

For Purposes of this Chapter:

advertising films means recorded visual media, with or without sound-tracks, consisting essentially of images showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film and

that do not form part of a larger consignment;

agricultural goods means the products listed in Annex 1 of the WTO Agreement on Agriculture with any subsequent changes agreed in the WTO to be automatically effective for this Agreement.

commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than one U.S. dollar, or the equivalent amount in the currency of either of the Parties, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples;

consumed means:

(a) actually consumed; or

(b) further processed or manufactured so as to result in a substantial change in value, form or use of the good or in the production of another good;

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

(a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, or any equivalent provision of a successor agreement to

which both Parties are party, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(b) antidumping measure or countervailing duty that is applied pursuant to a Party's domestic law and not applied inconsistently with Chapter VII (Antidumping Measures);

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

(d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels;

distilled spirits include distilled spirits and distilled spirit-containing beverages; duty-free means free of customs duties;

export subsidies means subsidies contingent on export performance as defined in Article 1.(e) of the WTO Agreement on Agriculture, with any subsequent changes agreed in the WTO to be automatically effective for this Agreement;

goods imported for sports purposes means sports requisites for use in sports contests, demonstrations or training in the territory of the Party into whose territory such goods are imported;

goods intended for display or demonstration includes their component parts, ancillary apparatus and accessories;

printed advertising materials means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicize or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge;

repair or alteration does not include an operation or process that either destroys the essential characteristics of a good or creates anew or commercially different good; (7)

total export shipments means all shipments from total supply to users located in the territory of the other Party;

total supply means all shipments, whether intended for domestic or foreign users, from:

(a) domestic production;

(b) domestic inventory; and

(c) other imports as appropriate.

(7) An operation or process that is part of the production or assembly of an unfinished good into a finished good is not a repair or alteration of the unfinished good; a component of a good is a good that may be subject to repair or alteration.

Chapter IV. Rules of Origin

Article IV.1. Originating Goods

Except as otherwise provided in this Chapter, a good shall originate in the territory of a Party where:

(a) the good is wholly obtained or produced entirely in the territory of one or both of the Parties, as defined in Article IV.15;

(b) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification as set forth in Annex IV.1 (Specific Rules of Origin) as a result of production occurring entirely in the territory of one or both of the Parties, or the good otherwise satisfies the applicable requirements of that Annex where no change in tariff classification is required, and the good satisfies all other applicable requirements of this Chapter;

(c) the good is produced entirely in the territory of one or both of the Parties exclusively from originating materials; or

(d) except for a good of Chapter 39 or Chapter 50 through 63 or except as provided in Annex IV.1 (Specific Rules of Origin), the good is produced entirely in the territory of one or both of the Parties but one or more of the non-originating materials used in the production of the good cannot undergo a change in tariff classification because both the good and the non-originating materials are classified in the same subheading, or heading that is not further subdivided into subheadings, provided that the regional value-content of the good, determined in accordance with Article IV.2, is not lower than 35 per cent when the transaction value method is used, or 25 per cent when the net cost method is used, and the good meets the other applicable requirements of this Chapter.

Article IV.2. Regional Value-content

1. Except as provided in paragraph 5, each Party shall provide that the regional value content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of either the transaction value method set out in paragraph 2 or, for an automotive good of subheading 8407.31 through 8407.34 or heading 87.01 through 87.08, the net cost method set out in paragraph 3.

2. Each Party shall provide that an exporter or producer may calculate the regional value content of a good on the basis of the following transaction value method:

RVC = TV-VNM/TV x 100

where:

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

TV is the transaction value of the good, adjusted to an F.O.B. basis; and

VNM is the value of non-originating materials used by the producer in the production of the good, in accordance with paragraph 6 of this Article.

3. Each Party shall provide that an exporter or a producer may calculate the regional value content of an automotive good of subheading 8407.31 through 8407.34 or heading 87.01 through 87.08 on the basis of the following net cost method:

RVC = NC-VNM/NC x 100

where:

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

NC is the net cost of the good; and

VNM is the value of non-originating materials used by the producer in the production of the good, in accordance with paragraph 6 of this Article.

4. The value of non-originating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under paragraph 2 or 3, include the value of non-originating materials used to produce originating materials that are subsequently used in the production of the good. (1)

5. For purposes of calculating the net cost of a good under paragraph 3, the producer of the good may:

(a) calculate the total cost incurred with respect to all goods produced by that producer, subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, as well as non-allowable interest costs that are

included in the total cost of all such goods, and then reasonably allocate the resulting net cost of those goods to the good;

(b) calculate the total cost incurred with respect to all goods produced by that producer, reasonably allocate the total cost to the good, and then subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs that are included in the portion of the total cost allocated to the good; or

(c) reasonably allocate each cost that forms part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or non-allowable interest costs. (2)

6. Except as provided in paragraph 7, the value of a material used in the production of a good shall:

(a) be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Agreement;

(b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Agreement, be determined in accordance with Articles 2 through 7 of the Customs Valuation Agreement;

(c) where not covered under subparagraph (a) or (b), include freight, insurance, packing and all other costs incurred in transporting the material to the place of importation; or

(d) inthe case of a domestic transaction, be determined in accordance with the principles of the Customs Valuation Agreement in the same manner as an international transaction, with such modifications as may be required by the circumstances.

7. The value of an intermediate material shall be:

(a) the total cost incurred with respect to all goods produced by the producer of the good that can be reasonably allocated to that intermediate material; or

(b) the sum of all costs that comprise the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material.

8. The value of an indirect material shall be based on the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

(1) Article IV.2.4 applies to intermediate materials, and VNM in paragraphs 2 and 3 does not include: (i) the value of any non-originating materials used by another producer to produce an originating material that is subsequently acquired and used in the production of the good by the producer of the good, and (ii) the value of non-originating materials used by the producer to produce an originating intermediate material. With respect to paragraph 4, where an originating intermediate material is subsequently used by a producer with non-originating materials (whether or not produced by the producer) to produce the good, the value of such non-originating materials shall be included in the VNM of the good.

(2) With respect to paragraph 5, sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs included in the value of materials used in the production of the good are not subtracted out of the net cost in the calculation under Article IV.2.3.

Article IV.3. Accumulation

For purposes of determining whether a good is an originating good, the production of the good in the territory of one or both of the Parties by one or more producers shall, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of either of the Parties by that exporter or producer, provided that:

(a) all non-originating materials used in the production of the good undergo an applicable tariff classification change set forth in Annex IV.1 (Specific Rules of Origin), and the good satisfies any applicable regional value content requirement, entirely in the territory of one or both of the Parties; and

(b) the good satisfies all other applicable requirements of this Chapter.

Article IV.4. De Minimis

1. Except as provided in paragraphs 2 and 3, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin) is not more than 10 per cent of the transaction value of the good, adjusted to an F.O.B. basis, provided that:

(a) if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and

(b) the good satisfies all other applicable requirements of this Chapter.

2. Except as specified in a product-specific rule of origin of Annex IV.1 (Specific Rules of Origin) applicable to a good, paragraph 1 does not apply to a non-originating material used in the production of a good of Chapter 1 through 24 of the Harmonized System unless the non-originating material is provided for in a different subheading from the good for which origin is being determined under this Article.

3. A good of Chapter 50 through 63 of the Harmonized System that is not originating because certain fibres or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin), shall nonetheless be considered as originating if the total weight of all such fibres or yarns in that component is not more than 10 per cent of the total weight of that component. (3)

(3) For purposes of applying paragraph 3, the identification of the component that determines the tariff classification of the good shall be based on the General Rules for the Interpretation of the Harmonized System. When the component that determines the tariff classification is a blend of 2 or more yarns or fibres, all yarns and, where applicable, fibres, in that component are to be taken into account.

Article IV.5. Fungible Goods and Materials

For purposes of determining whether a good is an originating good:

(a) where originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating need not be made through the identification of any specific fungible material, but may be determined on the basis of any of the inventory management methods set out in Annex IV.5 (Inventory Management Methods); and

(b) where originating and non-originating fungible goods are physically combined or mixed in inventory and, prior to their exportation, do not undergo any production or any other operation in the territory of the Party in which they were physically combined or mixed in inventory, other than unloading, reloading, or any other operation necessary to preserve the goods in good condition or to transport the goods for exportation to the other Party's territory, the determination may be made on the basis of any of the inventory management methods set out in Annex IV.5 (Inventory Management Methods).

Article IV.6. Sets or Assortments of Goods

1. Except as provided in Annex IV.1 (Specific Rules of Origin), a set or assortment as defined in Rule 3 of the General Rules for the Interpretation of the Harmonized System, shall be considered as originating, provided that:

(a) all the component products, including packaging materials and containers, are originating; or

(b) where the set or assortment contains non-originating component products, including packaging materials and containers:

(i) at least one of the component products, or all the packaging materials and containers for the set, is originating; and

(ii) the regional value content of the set or assortment is not less than 50 per cent under the transaction value method.

2. For purposes of subparagraph 1(b), the value of packaging materials and containers for the set shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the set.

Article IV.7. Accessories, Spare Parts and Tools

Accessories, spare parts and tools delivered with the good that form part of the good's standard accessories, spare parts or tools, shall be considered as originating if the good originates and shall be disregarded in determining whether all the non-

originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin), provided that:

(a) the accessories, spare parts and tools are not invoiced separately from the good, whether or not each is listed or detailed on the invoice;

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

(c) if the good is subject to a regional value content requirement, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article IV.8. Indirect Materials

An indirect material shall be considered as originating without regard to where it is produced.

Article IV.9. Packaging Materials and Containers for Retail Sale

Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin) and, if the good is subject to a regional value content requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article IV.10. Packing Materials and Containers for Shipment

Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether:

(a) the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin); and

(b) the good satisfies a regional value-content requirement.

Article IV.11. Transshipment

A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of Article IV.1 if, subsequent to that production, the good:

(a) undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party;

(b) does not remain under customs control while outside the territories of the Parties; or

(c) enters into trade or consumption in the territory of a non-Party.

Article IV.12. Non-Qualifying Operations

Except for sets of Article IV.6 or of Annex IV.1 (Specific Rules of Origin) or except as specified in a product-specific rule of origin of Annex IV.1 (Specific Rules of Origin) applicable to the good, a good shall not be considered to be an originating good merely by reason of :

(a) disassembly of the good into its parts;

(b) achange in the end use of the good;

(c) the mere separation of one or more individual materials or components from an artificial mixture;

(d) mere dilution with water or another substance that does not materially alter the characteristics of the good;

(e) removal of dust or damaged parts from, oiling, or applying anti-rust paint or protective coatings to, the good;

(f) testing or calibration, division of loose shipments, grouping into packages, or attaching identifying labels, markings or

signs to the good or its packaging; or

(g) packaging or repackaging of the good.

Article IV.13. Interpretation and Application

For purposes of this Chapter:

(a) the basis for tariff classification in this Chapter is the Harmonized System (4),

(b) where applying Article IV.1(d), the determination of whether a heading or subheading under the Harmonized System provides for both a good and the materials that are used in the production of the good shall be made on the basis of the nomenclature of the heading or subheading and the relevant Section or Chapter Notes, in accordance with the General Rules for the Interpretation of the Harmonized System;

(c) in applying the Customs Valuation Agreement under this Chapter:

(i) the principles of the Customs Valuation Agreement shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions;

(ii) the provisions of this Chapter shall take precedence over the Customs Valuation Agreement to the extent of any difference; and

(iii) the definitions in Article IV.15 shall take precedence over the definitions in the Customs Valuation Agreement to the extent of any difference; and

(d) all costs referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

(4) The rules of origin under Chapter IV are based on the 1996 Harmonized System.

Article IV.14. Consultation and Modifications

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter in accordance with Chapter V (Customs Procedures).

2. Should problems arise between the Parties concerning the interpretation of the provisions of this Chapter, the Parties agree to consult with each other on the establishment and implementation, through their respective laws or regulations, of Uniform Regulations regarding the interpretation, application and administration of this Chapter.

3. A Party that considers that this Chapter requires modification to take into account developments in production processes or other matters may submit a proposed modification along with supporting rationale and any studies to the other Party for consideration and any appropriate action under Chapter III (National Treatment and Market Access of Goods).

Article IV.15. Definitions for Purposes of this Chapter:

F.O.B. means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer;

fungible goods or fungible materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

Generally Accepted Accounting Principles means the principles used in the territory of each Party, which provide substantial authorized support with regard to the recording of income, costs, expenses, assets and liabilities involved in the disclosure of information and preparation of financial statements. These indicators may be broad guidelines of general application, as well as those standards, practices and procedures usually employed in accounting;

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

(a) minerals and other non-living natural resources extracted in or taken from the territory of one or both of the Parties;

(b) vegetable goods harvested in the territory of one or both of the Parties;

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

(d) goods obtained from live animals in the territory of one or both of the Parties;

(e) goods obtained from hunting or fishing in the territory of one or both of the Parties;

(f) goods (fish, shellfish and other marine life) taken from the sea, seabed or subsoil outside the territory of one or both of the Parties by a vessel registered, recorded or listed with a Party, or leased by a company established in the territory of a Party, and entitled to fly its flag or by a vessel not exceeding 15 tons gross tonnage that is licensed by a Party;

(g) goods produced on board a factory ship from the goods referred to in subparagraph (f), provided such factory ship is registered, recorded or listed with a Party, or leased by a company established in the territory of a Party, and entitled to fly its flag;

(h) goods, other than fish, shellfish and other marine life, taken or extracted from the seabed or the subsoil of the continental shelf or the exclusive economic zone of either of the Parties;

(i) goods, other than fish, shellfish and other marine life, taken or extracted from the seabed or the subsoil, in the area outside the continental shelf and the exclusive economic zone of either of the Parties or of any other State as defined in the United Nations Convention on the Law of the Sea, by a vessel registered, recorded or listed with a Party and entitled to fly its flag, or by a Party or person from a Party;

(j) goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in a non-Party;

(k) waste and scrap derived from:

(i) production in the territory of one or both of the Parties; or

(ii) used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials; and

(iii) goods produced in the territory of one or both of the Parties exclusively from goods referred to in subparagraphs (a) through (k), or from their derivatives, at any stage of production;

identical or similar goods means "identical goods" and "similar goods", respectively, as defined in the Customs Valuation Agreement;

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

(a) fuel and energy;

(b) tools, dies and moulds;

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

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

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

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

(g) catalysts and solvents; and

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

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

material means a good that is used in the production of another good, and includes a part or an ingredient;

net cost means total cost minus sales promotion, marketing and after-sales service costs, royalties, shipping and packing

costs, and non-allowable interest costs that are included in the total cost;

net cost of a good means the net cost that can be reasonably allocated to a good using one of the methods set out in Article IV.2.5;

non-allowable interest costs means interest costs incurred by a producer that exceed 700 basis points above the applicable national government interest rate identified for comparable maturities;

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

producer means a person who grows, mines, harvests, fishes, hunts, manufactures, processes or assembles a good;

production means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good;

reasonably allocate means to apportion in a manner appropriate to the circumstances;

royalties means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use or right to use any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance or similar agreements that can be related to specific services such as:

(a) personnel training, without regard to where performed; and

(b) if performed in the territory of one or both of the Parties, engineering, tooling, die-setting, software design and similar computer services, or other services;

sales promotion, marketing and after-sales service costs means the following costs related to sales promotion, marketing and after-sales service:

(a) sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after-sales service literature (product brochures, catalogues, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

(b) sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

(c) salaries and wages; sales commissions; bonuses; benefits (for example, medical, insurance, pension); traveling and living expenses; membership and professional fees; for sales promotion, marketing and after-sales service personnel;

(d) recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customersâ employees, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(e) product liability insurance;

(f) office supplies for sales promotion, marketing and after-sales service of goods, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(g) telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centres;

(i) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centres, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer; and

(j) payments by the producer to other persons for warranty repairs;

shipping and packing costs means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding costs of preparing and packaging the good for retail sale;

total cost means all product costs, period costs and other costs incurred in the territory of one or both of the Parties;

transaction value means:

(a) the price actually paid or payable for a good or material with respect to a transaction of the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Agreement, regardless of whether the good or material is sold for export; or

(b) where there is no transaction value or the transaction value is unacceptable under Article 1 of the Customs Valuation Agreement, the value determined in accordance with Articles 2 through 7 of the Customs Valuation Agreement; and

used means used or consumed in the production of goods.

Chapter V. Customs Procedures

Section I. Certification of Origin

Article V.1. Certificate of Origin

1. The Parties shall establish, by the date of entry into force of this Agreement, a Certificate of Origin for the purpose of certifying that a good being exported from the territory of a Party into the territory of the other Party qualifies as an originating good, and may thereafter revise the Certificate of Origin by agreement.

2. Each Party may require that a Certificate of Origin for a good imported into its territory be completed in the language required under its law.

3. Each Party shall:

(a) require an exporter in its territory to complete and sign a Certificate of Origin for any exportation of a good for which an importer may claim preferential tariff treatment upon importation of the good into the territory of the other Party; and

(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate of Origin on the basis of:

(i) its knowledge of whether the good qualifies as an originating good;

(ii) its reasonable reliance on the producer's written declaration that the good qualifies as an originating good; or

(iii) acompleted and signed Certificate of Origin for the good voluntarily provided to the exporter by the producer.

4. Nothing in paragraph 3 shall be construed to require a producer to provide a Certificate of Origin to an exporter.

5. Each Party shall provide that a Certificate of Origin that has been completed and signed by an exporter or a producer in the territory of the other Party that is applicable to:

(a) a single importation of one or more goods into the Party's territory; or

(b) multiple importations of identical goods into the Party's territory to be made by the same importer, that occur within a specified period, not exceeding 12 months, set out therein by the exporter or producer;

shall be accepted by its customs administration for 4 years after the date on which the Certificate of Origin was signed.

6. For any originating good that is imported into the territory of a Party on or after the date of entry into force of this Agreement, each Party shall accept a Certificate of Origin that has been completed and signed prior to that date by the exporter or producer of that good.

Article V.2. Obligations Regarding Importations

1. Except as otherwise provided in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment for a good imported into its territory from the territory of the other Party to:

(a) make a written declaration, based on a valid Certificate of Origin, that the good qualifies as an originating good;

(b) have the Certificate of Origin in its possession at the time the declaration is made;

(c) provide, on the request of that Party's customs administration, a copy of the Certificate of Origin; and

(d) promptly make a corrected declaration in a manner required by the customs administration of the importing Party and pay any duties owing where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct.

2. Each Party shall provide that, where an importer in its territory claims preferential tariff treatment for a good imported into its territory from the territory of the other Party:

(a) the Party may deny preferential tariff treatment to the good if the importer fails to comply with any requirement under this Chapter; and

(b) the importer shall not be subject to penalties for the making of an incorrect declaration, if it voluntarily makes a corrected declaration pursuant to paragraph 1(d).

3. Each Party shall provide that, where a good would have qualified as an originating good when it was imported into the territory of that Party but no claim for preferential tariff treatment was made at that time, the importer of the good may, no later than 4 years after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment, on presentation of:

(a) a written declaration that the good qualified as an originating good at the time of importation;

(b) a copy of the Certificate of Origin; and

(c) such other documentation relating to the importation of the good as that Party may require.

Article V.3. Exceptions

Each Party shall provide that a certificate of origin shall not be required for:

(a) a commercial importation of a good whose value does not exceed US$1,000 or its equivalent amount in the Party's currency, or such higher amount as it may establish, except that it may require that the invoice accompanying the importation include a statement certifying that the good qualifies as an originating good;

(b) a non-commercial importation of a good whose value does not exceed US$1,000 or its equivalent amount in the Party's currency, or such higher amount as it may establish; or

(c) an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a Certificate of Origin;

provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of Articles V.1 and V.2.

Article V.4. Obligations Regarding Exportations

1. Each Party shall provide that:

(a) an exporter in its territory, or a producer in its territory that has provided a copy of a Certificate of Origin to that exporter pursuant to Article V.1.3(b)(ii), shall provide a copy of the Certificate of Origin to its customs administration on request; and

(b) an exporter or a producer in its territory that has completed and signed a Certificate of Origin, and that has reason to believe that the Certificate of Origin contains information that is not correct, shall promptly notify in writing all persons to whom the Certificate of Origin was given by the exporter or producer of any change that could affect the accuracy or validity of the Certificate of Origin.

2. Each Party:

(a) shall provide that a false certification by an exporter or a producer in its territory that a good to be exported to the territory of the other Party qualifies as an originating good shall have the same legal consequences, with appropriate modifications, as would apply to an importer in its territory for a contravention of its customs laws and regulations regarding the making of a false statement or representation; and

(b) may apply such measures as the circumstances may warrant where an exporter or a producer in its territory fails to comply with any requirement of this Chapter.

3. Neither Party may impose penalties on an exporter or a producer in its territory that voluntarily provides written

notification pursuant to paragraph (1)(b) with respect to the making of an incorrect certification.

Section II. Administration and Enforcement

Article V.5. Records

Each Party shall provide that:

(a) an exporter or a producer in its territory that completes and signs a Certificate of Origin shall maintain in its territory, for 5 years after the date on which the Certificate of Origin was signed or for such longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with:

(i) the purchase of, cost of, value of, and payment for, the good that is exported from its territory;

(ii) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory; and

(iii) the production of the good in the form in which the good is exported from its territory; and

(b) an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for 5 years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the Certificate of Origin, as the Party may require relating to the importation of the good.

Article V.6. Origin Verifications

1. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may, through its customs administration, conduct a verification solely by means of:

(a) written questionnaires to an exporter or a producer in the territory of the other Party;

(b) visits to the premises of an exporter or a producer in the territory of the other Party to review the records referred to in Article V.5(a) and observe the facilities used in the production of the good; or

(c) such other procedures as the Parties may agree.

2. An exporter or producer who receives a questionnaire pursuant to paragraph 1(a) shall be given not less than 30 days from the date of receipt to provide responses and return the form. During that period, the exporter or producer may submit a written request to the importing Party, asking for a single extension of this deadline for a period not to exceed an additional 30 days.

3. Where an exporter or producer fails to return a duly completed questionnaire within the above-mentioned period or extension, the importing Party may deny preferential tariff treatment to the good in question.

4. Prior to conducting a verification visit pursuant to Paragraph (1)(b), a Party shall, through its customs administration:

(a) deliver a written notification of its intention to conduct the visit to: @) the exporter or producer whose premises are to be visited;

(ii) the customs administration of the other Party at least 5 working days prior to notifying the exporter or producer referred to in 4(a)(i); and

iii) if requested by the other Party, the embassy of the other Party in the territory of the Party proposing to conduct the visit; and

(b) obtain the written consent of the exporter or producer whose premises are to be visited.

5. The notification referred to in paragraph 4 shall include:

(a) the identity of the customs administration issuing the notification;

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

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

(d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification;

(e) the names and titles of the officials performing the verification visit; and (f) the legal authority for the verification visit.

6. Where an exporter or producer has not given its written consent to a proposed verification visit within 30 days of notification pursuant to paragraph 4, the notifying Party may deny preferential tariff treatment to the good that would have been the subject of the visit.

7. Each Party shall provide that, where its customs administration receives notification pursuant to paragraph 4, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as the Parties may agree.

8. Each Party shall provide that, when the exporter or producer receives notification pursuant to paragraph 4, the exporter or producer may, on a single occasion, within 15 days of receipt of the notification, request the postponement of the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as agreed to by the notifying Party.

9. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraph 7.

10. Each Party shall permit an exporter or a producer whose good is the subject of a verification visit by the other Party to designate 2 observers to be present during the visit, provided that:

(a) the observers do not participate in a manner other than as observers; and

(b) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit.

11. Each Party shall, through its customs administration, where conducting a verification of origin involving a regional value content, de minimis calculation or any other provision in Chapter IV (Rules of Origin) to which Generally Accepted Accounting Principles may be relevant, apply such principles as are applicable in the territory of the Party from which the good was exported.

12. The Party conducting a verification shall, through its customs administration and within 120 days after it has received all the necessary information, provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination. Notwithstanding the foregoing, the customs administration may extend such period for up to 90 days, after notifying the producer or exporter of the good.

13. Where verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by such person until that person establishes compliance with Chapter IV (Rules of Origin).

14. Each Party shall provide that where it determines that a certain good imported into its territory does not qualify as an originating good based on a tariff classification or a value applied by the Party to one or more materials used in the production of the good, which differs from the tariff classification or value applied to the materials by the other Party, the Party's determination shall not become effective until it notifies in writing both the importer of the good and the person that completed and signed the Certificate of Origin for the good of its determination.

15. A Party shall not apply a determination made under paragraph 14 to an importation made before the effective date of the determination where:

(a) the customs administration of the other Party has issued an advance ruling under Article V.9 or any other ruling on the tariff classification or on the value of such materials, or has given consistent treatment to the entry of the materials under the tariff classification or value at issue, on which a person is entitled to rely; and

(b) the advance ruling, other ruling or consistent treatment was given prior to notification of the determination.

16. Ifa Party denies preferential tariff treatment to a good pursuant to a determination made under paragraph 14, it shall postpone the effective date of the denial for a period not exceeding 90 days where the importer of the good, or the person who completed and signed the Certificate of Origin for the good, demonstrates that it has relied in good faith to its detriment on the tariff classification or value applied to such materials by the customs administration of the other Party.

17. The Parties may also agree to develop other verification procedures under this Article.

Article V.7. Confidentiality

1. Each Party shall maintain, in accordance with its law, the confidentiality ofthe business information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the person providing the information.

2. The confidential business information collected pursuant to this Chapter may only be disclosed to those authorities responsible for the administration and enforcement of determinations of origin, and of customs and revenue matters.

Article V.8. Penalties

1. Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its laws and regulations relating to this Chapter.

2. Nothing in Article V.2.2, V.4.3 or V.6.9 shall be construed to prevent a Party from applying such measures as may be warranted by the circumstances in accordance with its legislation.

Section III. Advance Rulings

Article V.9. Advance Rulings

1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of the other Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning:

(a) whether materials imported from a non-Party country used in the production of a good undergo an applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin) as a result of production occurring entirely in the territory of one or both of the Parties;

(b) whether a good satisfies a regional value-content requirement set out in Chapter IV (Rules of Origin);

(c) forthe purpose of determining whether a good satisfies a regional value-content requirement under Chapter IV (Rules of Origin), the appropriate basis or method for value to be applied by an exporter or a producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Agreement, for calculating the transaction value of the good or of the materials used in production of the good;

(d) whether a good qualifies as an originating good under Chapter IV (Rules of Origin);

(e) whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment in accordance with Article III.6 (Goods Re- Entered after Repair or Alteration); or

(f) such other matters as the Parties may agree.

2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.

3. Each Party shall provide that its customs administration:

(a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;

(b) shall, after it has obtained all necessary information from the person requesting an advance ruling, issue the ruling within 120 days; and

(c) shall provide to the person requesting the ruling a full explanation of the reasons for the ruling.

4. Subject to paragraph 6, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or such later date as may be specified in the ruling.

5. Each Party shall provide to any person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter IV (Rules of Origin) regarding a determination of origin, as it provided

to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.

6. The issuing Party may modify or revoke an advance ruling:

(a) if the ruling is based on an error:

(i) of fact;

(ii) in the tariff classification of a good or a material that is the subject of the ruling;

(iii) in the application of a regional value-content requirement under Chapter IV (Rules of Origin); or

(iv) in the application of the rules for determining whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty- free treatment under Article III.6 (Goods Re-Entered after Repair or Alteration);

(b) if the ruling is not in accordance with an interpretation agreed upon by the Parties regarding Chapter III (National Treatment and Market Access of Goods) or Chapter IV (Rules of Origin);

(c) if there is a change in the material facts or circumstances on which the ruling is based;

(d) to conform with a modification of Chapter III (National Treatment and Market Access of Goods), Chapter IV (Rules of Origin), this Chapter or any Uniform Regulations; or

(e) to conform with a judicial decision or a change in its domestic law.

7. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

8. Notwithstanding paragraph 7, the issuing Party shall postpone the effective date of such modification or revocation for a period not exceeding 90 days where the person to whom the advance ruling was issued demonstrates that it has relied in good faith to its detriment on that ruling.

9. Each Party shall provide that where its customs administration examines the regional value content of a good for which it has issued an advance ruling pursuant to subparagraph 1(b), (c), (d) and (e), it shall evaluate whether:

(a) the exporter or producer has complied with the terms and conditions of the advance ruling;

(b) the exporter's or producer's operations are consistent with the material facts and circumstances on which the advance ruling is based; and

(c) the supporting data and computations used in applying the basis or method for calculating value or allocating cost were correct in all material respects.

10. Each Party shall provide that where its customs administration determines that any requirement in paragraph 9 has not been satisfied, it may modify or revoke the advance ruling as the circumstances may warrant.

11. Each Party shall provide that, where the person to whom an advance ruling was issued demonstrates that it used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based, and where the customs administration of a Party determines that the ruling was based on incorrect information, the person to whom the ruling was issued shall not be subject to penalties.

12. Each Party shall provide that where it issues an advance ruling to a person that has misrepresented or omitted material facts or circumstances on which the ruling is based, or has failed to act in accordance with the terms and conditions of the ruling, the Party may apply such measures as may be warranted by the circumstances in accordance with its laws.

13. The Parties shall provide that an advance ruling will remain in effect and will be honoured if there is no change in the material facts or circumstances on which it is based.

14. Each Party may provide that, where application for an advance ruling is made to its customs administration that involves an issue that is the subject of:

(a) a verification of origin;

(b) areview by or appeal to the customs administration; or

(c) judicial or quasi-judicial review in its territory;

the customs administration may decline or postpone the issuance of the ruling.

Section IV. Review and Appeal of Advance Rulings and Origin Determinations

Article V.10. Review and Appeal

1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings issued by its customs administration as it provides to importers in its territory, to any person:

(a) who completes and signs a Certificate of Origin for a good that has been the subject of a determination of origin; or

(b) who has received an advance ruling pursuant to Article V.9.1.

2. Further to Articles XII.4 (Administrative Proceedings) and XII.5 (Review and Appeal), each Party shall provide that the rights of review and appeal referred to in Paragraph 1 shall include access to:

(a) at least one level of administrative review independent of the official or office responsible for the determination under review; and

(b) in accordance with its domestic law, judicial or quasi-judicial review of the determination or decision taken at the final level of administrative review.

Section V. Uniform Regulations

Article V.11. Uniform Regulations

1. The Parties shall establish, and implement, through their respective laws, regulations or administrative policies, by the date of entry into force of this Agreement, and at any time thereafter, upon agreement of the Parties, Uniform Regulations regarding the interpretation, application and administration of this Chapter and other matters as may be agreed by the Parties.

2. Each Party shall implement any modification of or addition to the Uniform Regulations no later than 180 days after the Parties agree on such modification or addition, or such other period as the Parties may agree.

Section VI. Cooperation

Article V.12. Cooperation

1. Each Party shall notify the other Party of the following determinations, measures and rulings, including, to the greatest extent practicable, those that are prospective in application:

(a) a determination of origin issued as the result of a verification conducted pursuant to Article V.6.1;

(b) a determination of origin that the Party is aware is contrary to:

(i) a ruling issued by the customs administration of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is subject of a determination of origin; or

(ii) consistent treatment given by the customs administration of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin;

(c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin; and

(d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article V.9.

2. The Parties shall cooperate:

(a) in the enforcement of their respective customs-related laws or regulations implementing this Agreement, and under any customs mutual assistance agreement or other customs-related agreement to which they are party;

(b) to the extent practicable and for purposes of facilitating the flow of trade between them, in such customs-related matters as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade, the standardization of data elements, the acceptance of an international data syntax and the exchange of information;

(c) to the extent practicable, in the harmonization of customs laboratories methods and exchange of information and personnel between the customs laboratories; and

(d) to the extent practicable, in jointly organizing training programs on customs- related issues, which include training for the officials and users who participate directly in customs procedures.

3. For purposes of this Article, the Parties shall enter into a Customs Mutual Assistance Agreement between their customs administrations.

Article V. 13. The Customs Sub-Committee

1. The Parties hereby establish a Customs Sub-Committee, comprising representatives of each Party's customs administration. The Sub-Committee shall meet as required and at any other time on the request of either Party and shall:

(a) endeavor to agree on:

(i) the uniform interpretation, application and administration of Article I1.4 (Temporary Admission of Goods), III.5 (Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials) and I1.6 (Goods Re-Entered after Repair or Alteration), Chapter IV (Rules of Origin), this Chapter, and any Uniform Regulations;

(ii) tariff classification and valuation matters relating to determinations of origin;

(iii) equivalent procedures and criteria for the request, approval, modification, revocation and implementation of advance rulings;

(iv) revision to the Certificate of Origin;

(v) any other matter referred to it by a Party or the Committee on Trade in Goods and Rules of Origin established under Article 1.14.1 (Consultations and Committee on Trade in Goods and Rules of Origin); and

(vi) any other customs-related matter arising under this Agreement;

(b) consider:

(i) the harmonization of customs-related automation requirements and documentation; and

(ii) proposed customs-related administrative or operational changes that may affect the flow of trade between the Parties' territories;

(c) report periodically to the Committee on Trade in Goods and Rules of Origin and notify it of any agreement reached under this paragraph; and

(d) refer to the Committee on Trade in Goods and Rules of Origin any matter on which it has been unable to reach agreement within 60 days of referral of the matter to it pursuant to subparagraph (a)(v).

2. Nothing in this Chapter shall be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to any matter under consideration by the Customs Sub-Committee or from taking such other action as it considers necessary, pending a resolution of the matter under this Agreement.

Article V.14. Definitions

For purposes of this Chapter:

commercial importation means the importation of a good into the territory of a Party for the purpose of sale, or any commercial, industrial or other like use;

customs administration means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

determination of origin means a determination as to whether a good qualifies as an originating good in accordance with Chapter IV (Rules of Origin);

exporter in the territory of a Party means an exporter located in the territory of a Party and an exporter required under this Chapter to maintain records in the territory of that Party regarding exportations of a good;

identical goods means goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods under Chapter IV (Rules of Origin);

importer in the territory of a Party means an importer located in the territory of a Party and an importer required under this Chapter to maintain records in the territory of that Party regarding importations of a good;

indirect material means "indirect material" as defined in Article 1V.15 (Definitions);

material means "material" as defined in Article IV.15 (Definitions);

net cost of a good means "net cost of a good" as defined in Article IV.15 (Definitions);

preferential tariff treatment means the duty rate applicable to an originating good;

producer means "producer" as defined in Article 1V.15 (Definitions);

production means "production" as defined in Article IV.15 (Definitions);

transaction value means "transaction value" as defined in Article IV.15 (Definitions);

Uniform Regulations means "Uniform Regulations" established under Article V.11 (Uniform Regulations);

used means "used" as defined in Article IV.15 (Definitions); and

value means value of a good or material in accordance with the Customs Valuation Agreement.

Chapter VI. Emergency Action

Article VI.1. Article XIX of the GATT 1994 and the Agreement on Safeguards of the WTO.

Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Agreement on Safeguards of the WTO Agreement and any successor agreements.

Article VI.2. Bilateral Actions

1. Subject to paragraphs 2 through 4, and during the transition period only, if a good originating in the territory of a Party, as a result of the reduction or elimination of a duty provided for in this Agreement, is being imported into the territory of the other Party in such increased quantities and under such conditions that the imports of the good from that Party alone constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the Party into whose territory the good is being imported may, to the minimum extent necessary to remedy or prevent the injury:

a. suspend the further reduction of any rate of duty provided for under this Agreement on the good;

b. increase the rate of duty on the good to a level not to exceed the lesser of: i. the most-favoured-nation (MFN) applied rate of duty in effect at the time the action is taken; and ii. the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement; or

c. in the case of a duty applied to a good on a seasonal basis, increase the rate of duty to a level not to exceed the MFN applied rate of duty that was in effect on the good for the corresponding season immediately preceding the date of entry into force of this Agreement.

2. The following conditions and limitations shall apply to a proceeding that may result in emergency action under paragraph 1:

a. a Party shall, without delay, deliver to the other Party written notice of, and a request for consultations regarding, the institution of a proceeding that could result in the application of emergency action against a good originating in the territory of the other Party;

b. any such action shall be initiated no later than 1 year after the date of institution of the proceeding;

c. no action may be maintained:

i. for a period exceeding 3 years; or

ii. beyond the expiration of the transition period, except with the consent of the Party against whose good the action is taken;

d. during the transition period, the Parties may apply emergency actions to the same good no more than 2 times;

e. on the termination of a first action, the rate of duty shall be the rate that, according to the Party's Schedule to Annex III.3.1 (Tariff Elimination) for the staged elimination of the tariff, would have been in effect 1 year after the initiation of the action, and beginning January 1 of the year following the termination of the action, at the option of the Party that has taken the action:

i. the rate of duty shall conform to the applicable rate set out in its Schedule to Annex III.3.1 (Tariff Elimination); or

ii. the tariff shall be eliminated in equal annual stages ending on the date set out in its Schedule to Annex III.3.1 (Tariff Elimination) for the elimination of the tariff; and

f. a safeguard action may be applied a second time for up to three years, provided:

i. the period of time that has elapsed since the initial application of the measure ended is equal to at least one half the initial period of application;

ii. the rate of duty for the first year of the second action shall not be greater than the rate that would be in effect in accordance with that Party's Schedule to Annex III.3.1 (Tariff Elimination) at the time the first action was imposed; and

iii. the rate of duty applicable to any subsequent year shall be reduced in equal steps such that the duty rate in the final year of the action is equivalent to the rate provided for in that Party's Schedule to Annex III.3.1 (Tariff Elimination) for that year.

3. A Party may take a bilateral emergency action after the expiration of the transition period to deal with cases of serious injury, or threat thereof, to a domestic industry arising from the operation of this Agreement only with the consent of the other Party.

4. The Party taking an action under this Article shall provide to the other Party mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties are unable to agree on compensation, the Party against whose good the action is taken may take tariff action having trade effects substantially equivalent to the action taken under this Article. The Party taking the tariff action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects.

5. This Article does not apply to emergency actions respecting goods covered byAnnex III.1 (Textile and Apparel Goods).

Article VI.3. Administration of Emergency Action Proceedings

1. Each Party shall ensure the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing all emergency action proceedings.

2. Each Party shall entrust determinations of serious injury, or threat thereof, in emergency action proceedings to a competent investigating authority, subject to review by judicial or administrative tribunals, to the extent provided by domestic law. Negative injury determinations shall not be subject to modification, except by such review. The competent investigating authority empowered under domestic law to conduct such proceedings should be provided with the necessary resources to enable it to fulfill its duties.

3. Each Party shall adopt or maintain equitable, timely, transparent and effective procedures for emergency action proceedings, in accordance with the requirements set out in Annex VI.3 (Administration of Emergency Action Proceedings).

4. This Article does not apply to emergency actions taken under Annex III.1 (Textile and Apparel Goods).

Article VI.4. Dispute Settlement In Emergency Action Matters

Neither Party may request the establishment of an arbitral panel under Article XIII.8 (Establishment of an Arbitral Panel) regarding any proposed emergency action.

Article VI.5. Definitions

For purposes of this Chapter:

competent investigating authority means the "competent investigating authority" of a Party as defined in Annex VI.5;

contribute importantly means an important cause, but not necessarily the most important cause;

domestic industry means the producers as a whole of the like or directly competitive good operating in the territory of a Party or those whose collective output of the like or directly competitive good constitutes a major proportion of the total domestic production of those goods;

emergency action does not include any emergency action pursuant to a proceeding instituted prior to the entry into force of this Agreement;

good originating in the territory of a Party means an originating good; serious injury means a significant overall impairment of a domestic industry;

threat of serious injury means Serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent; and

transition period means the 7 year period beginning on the entry into force of this Agreement, except where, in the case of Costa Rica, the tariff elimination for the good against which the action is taken occurs over a longer period of time, in which case the transition period shall be the period of the staged tariff elimination for that good.

Chapter VII. Antidumping Measures

Article VII.1. Antidumping Measures

1. Except as otherwise provided in this Chapter, the WTO Agreement shall govern the rights and obligations of the Parties in respect of the application of antidumping duties.

2. In the interest of promoting improvements to, and clarifications of, the relevant provisions of the WTO Agreement the Parties recognise the desirability of:

(a) establishing a domestic process whereby the investigating authorities can consider, in appropriate circumstances, broader issues of public interest, including the impact of antidumping duties on other sectors of the domestic economy and on competition;

(b) providing for the possibility of imposing antidumping duties that are less than the full margin of dumping in appropriate circumstances;

(c) having a transparent and predictable method for the imposition and collection of antidumping duty that provides for the expeditious assessment of definitive antidumping duties; and

(d) assessing the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product pursuant to Article 3.3 of the WTO Agreement on the Interpretation of Article VI of the General Agreement on Tariffs and Trade 1994,

3. In the interest of ensuring procedural fairness and transparency in anti-dumping investigations, the Parties reaffirm their full adherence to their obligations under the relevant provisions of the WTO Agreement including in respect of:

(a) notification to the government of the exporting country upon receipt of a properly documented application for the initiation of an investigation;

(b) public notice and notification to all interested parties of the initiation of an investigation;

(c) notification to all interested parties of the information required by the investigating authorities in the investigation, and

the provision of ample opportunity to present evidence in respect of the investigation;

(d) making available the application for the initiation of an investigation to all interested parties and the government of the exporting country upon the initiation of an investigation;

(e) making available to interested parties all evidence submitted by other parties, subject to the requirements to protect confidential information;

(f) the provision of a reasonable opportunity for interested parties to defend their interests, including in the context of a public hearing, by presenting their views, commenting on evidence and views of others, and offering rebuttal evidence and arguments;

(g) the provision of a reasonable opportunity for interested parties to see all information that is relevant to the presentation of their case, subject to the requirements to protect information designated as confidential by the provider;

(h) the provision to interested parties of an explanation of the methodologies used in determining the margin of dumping, and the provision of opportunities to comment on the preliminary determination;

(i) procedures for the submission, treatment and protection of confidential information submitted by parties, procedures to ensure that confidential treatment is warranted and procedures to ensure that adequate public summaries of confidential information are available;

(j) public notice and notice to all interested parties of preliminary and final determinations, which include sufficiently detailed explanations of the determinations of dumping and injury including in respect of all relevant matters of fact and law;

(k) public notice and notice to interested parties of the imposition of any provisional or final measures; and

(l) the provision of procedures for the judicial review of administrative actions relating to final determinations and reviews of determinations.

4. In an investigation, each Party shall provide the other Party with information concerning the point of contact in the investigating authority for that investigation.

5. All disputes between Parties arising in respect of the application of antidumping measures by either Party shall be settled in accordance with the WTO Agreement.

Part Three. SERVICES AND INVESTMENT

Chapter VIII. Services and Investment

Article VII.1. General Provisions

1. The Parties recognise the increasing importance of trade in services and investment in their economies. In their efforts to gradually develop and broaden their relations, the Parties will co-operate in the WTO and plurilateral fora, with the aim of creating the most favourable conditions for achieving further liberalisation and additional mutual opening of markets for trade in services and investment.

2. With a view to developing and deepening their relations under this Agreement, the Parties agree that within 3 years of the date of entry into force, they will review developments related to trade in services and investment, and consider the need for further disciplines in these areas.

3. Upon request of either Party, the other Party shall endeavour to provide information on measures that may have an impact on trade in services and investment.

Article VII.2. Investment

The Parties note the existence of the Agreement between the Government of Canada and the Government of Costa Rica for the Promotion and Protection of Investments, signed in San José, Costa Rica, on March 18, 1998 (APPI).

Article VII.3. Services

1. The Parties herein recognize the importance of their rights and obligations assumed in the General Agreement on Trade in Services (GATS).

2. (a) The Parties to this Agreement shall encourage bodies responsible for the regulation of professional services in their respective territories to:

(i) ensure that measures relating to the licensing or certification of nationals of the other Party are based on objective and transparent criteria, such as competence and the ability to provide a service; and

(ii) cooperate with the view to developing mutually acceptable standards and criteria for licensing and certification of professional service providers.

(b) The following elements may be examined with regard to the standards and criteria referred to in subparagraph (a)(ii):

(i) education - accreditation of schools or academic programs;

(ii) examinations - qualifying examinations for licensing, including alternative methods of assessment such as oral examinations and interviews;

(iii) experience - length and nature of experience required for licensing;

(iv) conduct and ethics - standards of professional conduct and the nature of disciplinary action for non-conformity with those standards;

(v) professional development and re-certification - continuing education and ongoing requirements to maintain professional certification;

(vi) scope of practice - extent of, or limitations on, permissible activities;

(vii) local knowledge - requirements for knowledge of such matters as local laws, regulations, language, geography or climate; and

(vii) consumer protection - alternatives to residency requirements, including bonding, professional liability insurance and client restitution funds, to provide for the protection of consumers.

(b) These bodies should report on the result of their discussions related to the development of mutually acceptable standards mentioned in subparagraph (a)(ii) and, as appropriate, provide any recommendations to the Coordinators.

(c) With respect to the recognition of qualification and licensing requirements, the Parties note the existence of rights and obligations with respect to each other under Article VII of the GATS.

(d) For the purpose of this paragraph, professional services means services, the provision of which requires specialized post-secondary education, or equivalent training or experience, and for which the right to practice is granted or restricted by a Party, but does not include services provided by trades- persons or vessel and aircraft crew members.

Part Four. TRADE FACILITATION

Chapter IX. Trade Facilitation and Additional Provisions

Section I. Trade Facilitation

Article IX.1. Objectives and Principles

1. With the objectives of facilitating trade under this Agreement and cooperating in pursuing trade facilitation initiatives on a multilateral and hemispheric basis, Canada and Costa Rica agree to administer their import and export processes for goods traded under this Agreement on the basis that:

(a) procedures be efficient to reduce costs for importers and exporters and simplified where appropriate to achieve such efficiencies;

(b) procedures be based on any international trade instruments or standards to which the Parties have agreed;

(c) entry procedures be transparent to ensure predictability for importers and exporters;

(d) measures to facilitate trade also support mechanisms to protect persons through effective enforcement of and

compliance with national requirements;

(e) the personnel and procedures involved in those processes reflect high standards of integrity;

(f) the development of significant modifications to procedures of a Party include, in advance of implementation, consultations with the representatives of the trading community of that Party;

(g) procedures be based on risk assessment principles to focus compliance efforts on transactions that merit attention, thereby promoting effective use of resources and providing incentives for voluntary compliance with the obligations to importers and exporters; and

(h) the Parties encourage cooperation, technical assistance and the exchange of information, including information on best practices, for the purpose of promoting the application of and compliance with the trade facilitation measures agreed upon under this Agreement.

Article IX.2. Specific Obligations

1. The Parties confirm their rights and obligations under Article VII (Fees and Formalities Connected with Importation and Exportation) and Article X (Publication and Administration of Trade Regulations) of the GATT 1994 and any successor agreements.

2. The Parties shall release goods promptly, particularly those which are unrestricted or uncontrolled. Subject to Article IX.2.3, they shall provide a basic option of:

(a) releasing the goods at the time of entry based on the submission of only the documentation required before the goods arrive or at the time of arrival. This shall not prevent customs from requiring the submission of more extensive documentation through post-entry accounting and verifications, as appropriate; or

(b) releasing the goods based on the submission, before or at the time of arrival of the goods, of all the information necessary to obtain a final accounting of the goods.

3. The Parties recognize that, for certain goods or under certain circumstances, such as goods subject to quota or to health-related or public safety requirements, releasing the goods may require the submission of more extensive information, before or at the time of arrival of the goods, to allow the authorities to examine the goods for release.

4. The Parties shall facilitate and simplify the process and procedures for the release of low-risk merchandise, and shall improve controls on the release of high-risk merchandise. For these purposes, the Parties shall base their examination and release procedures and their post-entry verification procedures on risk assessment principles, rather than examining each and every shipment offered for entry in a comprehensive manner for compliance with all import requirements. This shall not preclude the Parties from conducting quality control and compliance reviews which may require more extensive examinations.

5. The Parties shall ensure that the procedures and activities of various agencies whose requirements on the import or export of goods are maintained, either by themselves or on their behalf by customs, are coordinated to facilitate trade. In this connection, each Party shall take steps to harmonize the data requirements of such agencies with the objective of allowing importers and exporters to present all required data to only one border agency.

6. In their procedures for the clearance of express consignments, the Parties shall apply the World Customs Organization Principles on Express Consignment.

7. The Parties shall introduce or maintain simplified clearance procedures for the entry of goods which are low in value and for which the revenue associated with such imports is not considered significant by the Party maintaining such expedited procedures.

8. The Parties shall work to achieve common processes and simplification of the information necessary for the release of goods, applying, when appropriate, existing international standards. With this objective, the Parties shall establish a means of providing for the electronic exchange of information between customs administrations and the trading community for the purpose of encouraging rapid release procedures. For purposes of this Article, the Parties shall use formats based on international standards for the electronic exchange of information, and shall also take into account the World Customs Organization Recommendations "Concerning the Use of UN/EDIFACT Rules for Electronic Data Interchange" and "Concerning the Use of Codes for the Representation of Data Elements". This shall not preclude the use of additional electronic data transmission standards.

9. The Parties, through their customs administrations, shall establish formal consultation mechanisms with their trade and business communities to promote greater cooperation and the exchange of electronic information.

10. The Parties shall issue written rulings in advance of an importation in response to a written request by an importer, exporter or its representative. Rulings shall be issued for tariff classification, applicable rate of duty, any tax applicable upon importation, or whether goods are considered to be originating goods and entitled to tariff preferences under this Agreement. The rulings shall be as detailed as the nature of the request and the details provided by the person requesting the ruling permits. When a Party determines that a request for an advance ruling is incomplete, it may request additional information, including, where appropriate, a sample of the goods or materials in question from the person requesting the ruling. The advance ruling shall be binding upon the customs administration that issued the ruling at the time the goods are actually imported provided that the facts and circumstances that were the basis for the issuance of the advance ruling remain in effect. The customs administration of a Party may modify or revoke such a ruling at any time but only after notification to the person that requested the ruling and without retroactive application. The Parties may modify or revoke such rulings without notification and with retroactive application in circumstances where inaccurate or false information has been provided.

11. The Parties shall ensure that any administrative action or official decision taken in respect of the import or export of goods is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the decision, which has the competence to maintain, modify or reverse the determination, in accordance with the law of each Party. The Parties shall provide for an administrative level of appeal or review, independent of the official or, where applicable, the office responsible for the original action or decision, before requiring a person to seek redress at a more formal or judicial level.

12. The Parties shall promptly publish or otherwise make available, including through electronic means, all their laws, regulations, judicial decisions and administrative rulings or policies of general application relating to their requirements for imported or exported goods. They shall also make available notices of an administrative nature, such as general agency requirements and entry procedures, hours of operation and points of contacts for information enquiries.

13. Each Party shall, in accordance with their laws, treat as strictly confidential all business information that is by its nature confidential or that is provided on a confidential basis.

Article IX.3. Cooperation

1. The Parties recognize that technical cooperation is fundamental to facilitating compliance with the obligations set forth in this Agreement and for reaching a better degree of trade facilitation.

2. The Parties, through their customs administrations, agree to develop a technical cooperation program under such mutually agreed terms as the scope, timing and cost of cooperative measures, in customs-related areas such as, inter alia:

(a) training;

(b) risk assessment;

(c) prevention and detection of contraband and illegal activities, in collaboration with other authorities;

(d) implementation of the Customs Valuation Agreement;

(e) audit and verification frameworks;

(f) customs laboratories; and

(g) electronic exchange of information.

3. The Parties shall cooperate in the development of effective mechanisms for communicating with the trade and business communities.

Article IX.4. Future Work Program

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties establish the following work program:

(a) to develop the Cooperation Program referred to in Article IX.3 for the purpose of facilitating compliance with the obligations set forth in this Agreement; and

(b) as appropriate, to identify and submit for the consideration of the Commission new measures aimed at facilitating trade between the Parties, taking as a basis the objectives and principles set forth in Article IX.1 of this Chapter, including, inter alia:

(i) common processes;

(ii) general measures to facilitate trade;

(iii) official controls;

(iv) transportation;

(v) the promotion and use of standards;

(vi) the use of automated systems and Electronic Data Interchange (EDI);

(vii) the availability of information;

(viii) customs and other official procedures concerning the means of transportation and transportation equipment, including containers;

(ix) official requirements for imported goods;

(x) simplification of the information necessary for the release of goods;

(xi) customs clearance of exports;

(xii) transshipment of goods;

(xiii) goods in international transit;

(xiv) commercial trade practices; and

(xv) payment procedures.

2. The Parties may periodically review the work program referred to in this Article for the purpose of agreeing upon new cooperation actions that might be needed to promote application of the trade facilitation obligations and principles, including new measures that might be agreed upon by the Parties.

3. Through the Parties' respective customs administrations and other border-related authorities as appropriate, the Parties will review relevant international initiatives on trade facilitation, including the Compendium of Trade Facilitation Recommendations, developed by the United Nations Conference on Trade and Development and the United Nations Economic Commission for Europe, to identify areas where further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

Section II. Additional Provisions

Article IX.5. Sanitary and Phytosanitary Measures

1. The Parties reaffirm their rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

2. The Parties agree to use the WTO dispute settlement procedures for any formal disputes regarding sanitary and phytosanitary (SPS) measures.

3. Recognizing the benefits from a bilateral program of technical and institutional cooperation, a Committee on Sanitary and Phytosanitary Measures, comprising representatives of each Party who have responsibilities for sanitary and phytosanitary matters, is hereby established. This Committee would provide a regular forum for consultations and co-operation to:

(a) enhance the effectiveness of Parties' regulations in this area in a manner which is fully consistent with, and supportive of, relevant WTO rights and obligations, with a view to improving food safety and sanitary and phytosanitary conditions; and

(b) facilitate discussions on bilateral issues with a view to avoiding disputes between Parties.

4. The Committee may consider the following:

(a) the design, implementation and review of technical and institutional co- operation programs;

(b) the development of operational guidelines to facilitate implementation of, inter alia, mutual recognition and equivalence agreements, and product control, inspection and approval procedures;

(c) the promotion of enhanced transparency of SPS measures;

(d) the identification and resolution of SPS-related problems;

(e) the recognition of pest- or disease-free areas; and

(f) the promotion of bilateral consultation on sanitary and phytosanitary issues under discussion in multilateral and international fora.

5. The Committee will meet as required, normally on an annual basis, and report on its activities and work plans to the Coordinators.

Article IX.6. Standards Including Metrology

1. The Parties affirm their rights and obligations under the WTO Agreement on Technical Barriers to Trade (TBT Agreement), part of Annex 1A of the WTO Agreement.

2. The Parties shall use the relevant dispute settlement provisions of the WTO Agreement for any formal disputes related to their rights and obligations under the WTO TBT Agreement.

3. The Parties shall develop programs for technical cooperation aimed at achieving full and effective compliance with the obligations set forth in the WTO TBT Agreement. To this end, the Parties shall encourage their competent authorities in the area of standards, including metrology, to undertake the following activities for the purpose of strengthening processes and systems in this field:

(a) the promotion of bilateral institutional and regulatory information exchange and technical cooperation; and

(b) the promotion of bilateral coordination by appropriate agencies in multilateral and international fora on standards, including metrology.

4. The Parties shall include bilateral cooperation and coordination issues related to standards, including metrology, on the agenda of the Coordinators on a regular basis.

Article IX.7. Government Procurement

1. The Parties agree to cooperate with the aim of achieving further liberalisation of public procurement markets and greater transparency in public procurement.

2. The Parties recognize that technical cooperation can contribute to achieving these aims and agree to cooperate in exploring potential approaches to such technical cooperation through existing mechanisms, particularly with respect to the application of information technology to government procurement.

3. The Parties shall, within 3 years after the entry into force of this Agreement, meet to review this Article.

Chapter X. Temporary Entry

Article X.1. Temporary Entry

1. The Parties recognize that there is a growing importance of investment and services related to trade in goods. In accordance with their applicable laws and regulations, they shall facilitate the temporary entry of:

(a) nationals who are intra-company transferees (managers, executives, specialists) and business visitors;

(b) nationals who are providing after-sales services directly related to the exportation of goods by an exporter of that same Party into the territory of the other Party; or

(c) spouses or common-law partners and children of nationals described in (a) above.

2. With a view to developing and deepening their relations under this Agreement, the Parties agree that within 3 years of the

date of entry into force, they will review developments related to temporary entry, and consider the need for further disciplines in this area.

3. No later than 1 year after the date of entry into force of this Agreement, the Parties shall make available explanatory material regarding the requirements for temporary entry under this Article in such a manner as to enable citizens of the other Party to become acquainted with them.

4. For the purposes of this Chapter:

after-sales services include those provided by persons repairing and servicing, supervising installers, and setting up and testing commercial or industrial (including computer software) equipment, provided the services are being performed as part of an original or extended sales or lease agreement, warranty, or service contract. "Setting up" does not include hands-on installation generally performed by construction or building trades. After-sales services also includes persons providing familiarization or training sessions to potential users;

business visitors are short-term visitors who do not intend to enter the labour market of the Parties, but seek entry to engage in activities such as buying or selling of goods or services, negotiating contracts, conferring with colleagues, or attending conferences;

national means a natural person who is a citizen of a Party; and

temporary entry means the right to enter and remain for the period authorized.

Part Five. COMPETITION POLICY

Chapter XI. Competition Policy

Article XI.1. Purpose

The purposes of this Chapter are to ensure that the benefits of trade liberalization are not undermined by anticompetitive activities and to promote cooperation and coordination between the competition authorities of the Parties.

Article XI.2. General Principles

1. Each Party shall adopt or maintain measures to proscribe anticompetitive activities and shall take appropriate enforcement action pursuant to those measures, recognizing that such measures will enhance the fulfillment of the objectives of this Agreement.

2. Each Party shall ensure that the measures referred to in paragraph 1, and the enforcement actions pursuant to those measures, are applicable on a non-discriminatory basis.

3. For the purpose of this Chapter, anticompetitive activities include, but are not limited to, the following:

(a) anticompetitive agreements, anticompetitive concerted practices or anticompetitive arrangements by competitors to fix prices, make rigged bids (collusive tenders), establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories or lines of commerce;

(b) anticompetitive practices by an enterprise or group of enterprises that has market power in a relevant market or group of markets; and

(c) mergers or acquisitions with substantial anticompetitive effects;

unless such activities are excluded, directly or indirectly, from the coverage of a Party's own laws or authorized in accordance with those laws. All such exclusions and authorizations shall be transparent and should be periodically assessed by each Party to determine whether they are necessary to achieve their overriding policy objectives.

4. Each Party shall ensure that:

(a) the measures it adopts or maintains to proscribe anticompetitive activities, which implement the obligations set out in this Chapter, whether occurring before or after the coming into force of the Agreement, are published or otherwise publicly available; and

(b) any modifications to any such measures occurring after the coming into force of this Agreement are notified to the other

Party within 60 days, with advance notification to be provided where possible.

5. Each Party shall establish or maintain an impartial competition authority that is:

(a) authorized to advocate pro-competitive solutions in the design, development and implementation of government policy and legislation; and

(b) independent from political interference in carrying out enforcement actions and advocacy activities.

6. Each Party shall ensure that its judicial and quasi-judicial proceedings to address anticompetitive activities are fair and equitable, and that in such proceedings, persons that are directly affected:

(a) are provided with written notice when a proceeding is initiated;

(b) are afforded an opportunity, prior to any final action in the proceeding, to have access to relevant information, to be represented, to make submissions, including any comments on the submissions of other persons, and to identify and protect confidential information; and

(c) are provided with a written decision on the merits of the case.

7. Each Party shall ensure that, where there are any judicial or quasi-judicial proceedings to address anticompetitive activities, an independent domestic judicial or quasi-judicial appeal or review process is available to persons subject to any final decision arising out of those proceedings.

Article XI.3. Cooperation

1. The Parties recognize the importance of cooperation and coordination of enforcement actions including notification, consultation and exchange of information.

2. Subject to Article X14, and unless providing notice would harm its important interests, each Party shall notify the other Party with respect to its enforcement actions that may affect that other Party's important interests, and shall give full and sympathetic consideration to possible ways of fulfilling its enforcement needs without harming those interests.

3. For the purpose of this Chapter, enforcement actions that may affect the important interests of the other Party and therefore will ordinarily require notification include those that:

(a) are relevant to enforcement actions of the other Party;

(b) involve anticompetitive activities, other than mergers or acquisitions, carried out in whole or in part in the territory of the other Party and that may be significant for that Party;

(c) involve mergers or acquisitions in which one or more of the enterprises involved in the transaction, or an enterprise controlling one or more of the enterprises to the transaction, is incorporated or organized under the laws of the other Party or one of its provinces;

(d) involve remedies that expressly require or prohibit conduct in the territory of the other Party or are otherwise directed at conduct in that territory; or

(e) involve the seeking of information located in the territory of the other Party, whether by personal visit by officials of a Party or otherwise, except with respect to telephone contacts with a person in the territory of the other Party where that person is not the subject of enforcement action and the contact seeks only an oral response on a voluntary basis.

4. Notification will ordinarily be given as soon as the competition authority of a Party becomes aware that the notifiable circumstances pursuant to paragraphs 2 and 3 are present.

5. In accordance with their laws, the Parties may enter into additional cooperation and mutual legal assistance agreements, arrangements, or both in order to further the objectives of this Chapter.

Article XI.4. Confidentiality

Nothing in this Chapter shall require the provision of information by a Party or its competition authority contrary to its laws. The Parties shall, to the fullest extent possible, maintain the confidentiality of any information communicated to it in confidence by the other Party. Any information communicated shall only be used for the purpose of the enforcement action for which it was communicated.

Article XI.5. Technical Assistance

In order to achieve the objectives of this Chapter, the Parties agree that it is in their common interest to work together in technical assistance initiatives related to competition policy, measures to proscribe anticompetitive activities and enforcement actions.

Article XI.6. Consultations

1. The Parties shall consult either at least once every two years, or pursuant to Article XIIL.4 (Cooperation) on the written request of a Party, to consider matters regarding the operation, implementation, application or interpretation of this Chapter and to review the Parties' measures to proscribe anti-competitive activities and the effectiveness of enforcement actions. Each Party shall designate one or more officials, including an official from each competition authority, to be responsible for ensuring that consultations, when required, occur in a timely manner.

2. If the Parties do not arrive at a mutually satisfactory resolution of a matter arising from the written request of a Party made under paragraph 1, they shall refer the matter to the Commission for consideration under Article XIII. 1.2(c) (The Free Trade Commission).

3. Except as provided in paragraph 1, neither Party may have recourse to dispute settlement under this Agreement or to any kind of arbitration for any matter arising under this Chapter.

Article XI.7. Definitions

For purposes of this Chapter, these terms shall have the following definitions:

anticompetitive activities means any conduct or transaction that may be subject to penalties or other relief under:

(a) for Canada, the Competition Act, R.S.C. 1985, c. C-34;

(b) for Costa Rica the "Ley de Promoción de la Competencia y Defensa Efectiva del Consumidor" (Act for the Promotion of Competition and Effective Defense of the Consumer) Act No.7472 of 20 December 1994;

as well as any amendments thereto, and such other laws or regulations as the Parties may jointly agree to be applicable for purpose of this Chapter.

competition authority(ies) means:

(a) for Canada, the Commissioner of Competition.

(b) for Costa Rica, the "Comisión para promover la competencia" (Commission for the Promotion of Competition) established under the Act No.7472 of 20 December 1994, or its successor.

enforcement action(s) means any application of measures referred to in paragraph 1 of Article XI .2 by way of investigation or proceeding.

measures means laws, regulations, procedures, practices or administrative rulings of general application.

Part Six. ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Chapter XII. Publication, Notification and Administration of Laws

Article XII.1. Contact Points

Each Party shall designate, within 60 days of the entry into force of the Agreement, a contact point to facilitate communications between the Parties on any matter covered by this Agreement. On the request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

Article XII.2. Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent possible, each Party shall:

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

(b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.

Article XII.3. Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any proposed or actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.

2. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure, whether or not the other Party has been previously notified of that measure.

3. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Article XII.4. Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that in its administrative proceedings applying measures referred to in Article XII.2 to particular persons, goods or services of the other Party in specific cases:

(a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;

(b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when permitted by time, the nature of the proceeding, and the public interest; and

(c) its procedures are in accordance with domestic law.

Article XII.5. Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

(a) areasonable opportunity to support or defend their respective positions; and

(b) adecision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article XII.6. Definitions

For purposes of this Chapter: administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

(a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good

or service of the other Party in a specific case; or

(b) a ruling that adjudicates with respect to a particular act or practice.

Chapter XIII. Institutional Arrangements and Dispute Settlement Procedures

Section I. Institutions

Article XIII.1. The Free Trade Commission

1. The Parties hereby establish the Free Trade Commission, comprising cabinet-level representatives of the Parties or their designees,

2, The Commission shall:

(a) supervise the implementation of this Agreement;

(b) oversee its further elaboration; and

(c) consider any other matter that may affect the operation of this Agreement.

3. The Commission may:

(a) adopt binding interpretations of this Agreement;

(b) seek the advice of non-governmental persons or groups;

(c) take such other action in the exercise of its functions as the Parties may agree; and

(d) modify in fulfillment of the objectives of this Agreement:

(i) the schedule of a Party contained in Annex III.3.2 (Tariff Elimination), with the purpose of adding one or more goods excluded in the Tariff Elimination Schedule;

(ii) the phase-out periods established in Annex III.3.2 (Tariff Elimination), with the purpose of accelerating the tariff reduction;

(iii) the rules of origin established in Annex III.1 (Textiles and Apparel Goods) and Annex IV.1 (Specific Rules of Origin);

(iv) the Uniform Regulations on Customs Procedures,

4. The modification referred to in paragraph 3(d) will be implemented by the Parties in conformity with Annex XIII. 1.4 (Implementation of the Modifications Approved by the Commission).

5. The Commission may establish committees, subcommittees or working groups taking into consideration any recommendation of the Coordinators, Except where specifically provided for in this Agreement, the committees, subcommittees and working groups shall work under a mandate recommended by the Coordinators and approved by the Commission,

6. The Commission will establish its rules and procedures. All decisions of the Commission shall be taken by mutual agreement.

7. The Commission shall normally convene once a year in regular session. Regular sessions of the Commission shall be chaired alternately by each Party.

Article XIII.2. The Free Trade Coordinators

1. Each Party shall appoint a Free Trade Coordinator.

2. The Free Trade Coordinators shall:

(a) supervise the work of all committee, subcommittees and working groups established under this Agreement;

(6) recommend to the Commission the establishment of such committees, subcommittees and working groups as they

consider necessary to assist the Commission;

(c) follow up with any decisions taken by the Commission, as appropriate;

(d) receive notifications pursuant to this Agreement; and

(e) consider any other matter that may affect the operation of this Agreement as mandated by the Commission.

3. The Coordinators shall meet as often as required.

4. Each Party may request in writing at any time that a special meeting of the Coordinators be held, Such a meeting shall take place within 30 days of receipt of the request,

Article XIII.3. The Secretariat

1, The Commission shall establish and oversee a Secretariat comprising national Sections.

2. Each Party shall:

(a) establish a permanent office of its Section;

(b) be responsible for:

(i) the operation and costs of its Section; and

(ii) the remuneration and payment of expenses of panelists and members of committees, subcommittees and working groups established under this Agreement, as set out in Annex XIII.3.2 (Remuneration and Payment of Expenses);

(c) designate an individual to serve as Secretary for its Section, who shall be responsible for its administration and management; and

(d) notify the Commission of the location of its Section's office.

3. The Secretariat shall:

(a) provide administrative assistance to panels established under this Chapter, in accordance with procedures established pursuant to Article XIII.12; and

(b) as the Commission may direct:

(i) support the work of other committees, subcommittees and working groups established under this Agreement; and

(ii) otherwise facilitate the operation of this Agreement,

Section II. Dispute Settlement

Article XIII.4. Cooperation

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Article XIII.5. Recourse to Dispute Settlement Procedures

Except as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that an actual or proposed measure of the other Party is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex XIII.5 (Nullification and Impairment).

Article XIII.6. WTO Dispute Settlement

1. Subject to paragraph 2, Article VI.4 (Dispute Settlement in Emergency Action Matters), Article VII.1.5 (Antidumping Measures), Article IX.5.1.2 (Sanitary and Phytosanitary Measures) and Article XI.6.3 (Consultations), disputes regarding any

matter arising under both this Agreement and the WTO Agreement, any agreement negotiated thereunder, or any successor agreement, may be settled in either forum at the discretion of the complaining Party.

2. In any dispute referred to in paragraph 1 where the Party complained against claims that its action is subject to Article 14 (Relation to Environmental and Conservation Agreements) and requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

3. The Party complained against shall deliver a copy of a request made pursuant to paragraph 2 to its Section of the Secretariat and the other Party. Where the complaining Party has initiated dispute settlement proceedings regarding any matter subject to paragraph 2, the Party complained against shall deliver its request no later than 15 days thereafter. On receipt of such request, the complaining Party shall promptly withdraw from participation in those proceedings and may initiate dispute settlement procedures under Article XIIL8.

4. Once dispute settlement procedures have been initiated under Article XTIL8 or dispute settlement proceedings have been initiated under the WTO Agreement, the forum selected shall be used to the exclusion of the other unless a Party makes a request pursuant to paragraph 2.

5. For purposes of this Article, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for a panel, such as under Article 6 of the DSU.

Article XIII.7. Consultations

1. A Party may request in writing consultations with the other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement.

2. The requesting Party shall deliver the request to its Section of the Secretariat and the other Party.

3. In cases of urgency, including those which concern perishable goods, consultations shall commence within 15 days of the date of delivery of the request.

4. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement. To this end, the Parties shall:

(a) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation of this Agreement; and

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

Article XIII.8. Establishment of an Arbitral Panel

1. Unless the Parties agree to have recourse to alternative methods of dispute resolution, such as, for example, good offices, conciliation or mediation, the Parties agree to establish an arbitral panel to examine any matter they fail to resolve through consultations pursuant to Article XIII.7.

2. The complaining Party may request in writing the establishment of an arbitral panel if the Parties fail to resolve a matter pursuant to Article XIII.7 within:

(a) 30 days after the delivery date of the request for consultations; or

(b) 15 days after the delivery date of the request for consultations for matters referred to in paragraph 3 of Article XIII.7.

3. The complaining Party shall state in the request the measure or other matter complained of and indicate the provisions of this Agreement that it considers relevant, and shall deliver the request to its Section of the Secretariat and to the other Party.

4, The Parties may consolidate two or more proceedings regarding other matters that they determine are appropriate to be considered jointly.

5. The arbitral panel shall be deemed established, by consent of both Parties, on the date the request for the establishment of the arbitral panel is delivered to the Party complained against.

6. Unless otherwise agreed by the Parties, the arbitral panel shall be established and perform its functions in a manner

consistent with the provisions of this Chapter.

Article XIII.9. Roster

1. No later than 3 months after the entry into force of the Agreement, the Parties shall establish and maintain a roster of up to 20 individuals, at least 5 of whom must not be citizens of either of the Parties, who are willing and able to serve as panelists, The roster members shall be appointed by agreement of the Parties for terms of 3 years. Unless either of the Parties disagrees, a roster member shall be considered reappointed for a further period of three years.

2. Roster members shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements and shall be chosen strictly on the basis of objectivity, reliability and sound judgment;

(b) be independent of, and not be affiliated with or take instructions from, any Party; and

(c) comply with a code of conduct to be established by the Commission.

Article XIII.10. Qualifications of Panelists

1. All panelists shall meet the qualifications set out in Article XIII.9.2.

2. Individuals who might have been involved in any of the possible alternative dispute settlement proceedings referred to in Article XIII.8.1 may not serve as members of an arbitral panel on the same dispute.

Article XIII.11. Panel Selection

1. The following procedures shall apply to panel selection:

(a) the panel shall comprise 3 members;

(b) the Parties shall endeavour to agree on the chair and on the other 2 panelists within 15 days of the delivery of the request for the establishment of the panel, If the Parties are unable to agree on the chair within this period, within 5 days the Party chosen by lot shall select an individual as chair who must not be citizen of the Parties;

(c) within 15 days of selection of the chair, each Party shall select a panelist who tmust not be a citizen of that Party; and

(d) if a Party fails to select its panelist within such period, the Parties shall choose by lot the panelist from among the roster members who are not citizens of that Party.

2. Panelists shall normally be selected from the roster. A Party may exercise a peremptory challenge against any individual not on the roster who is proposed as a panelist by the other Party within 15 days after the individual has been proposed.

3. If a Party believes that a panelist is in violation of the code of conduct, the Parties shall consult and if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

Article XIII.12. Rules of Procedure

1, The Commission shall establish, by the date of entry into force of this Agreement, Model Rules of Procedure, in accordance with the following principles:

(a) the procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide initial and rebuttal written submissions; and

(b) the panel's hearings, deliberations and initial report, and all written submissions to and communications with the panel shall be confidential.

2. The Commission may amend from time to time the Model Rules of Procedure referred to in paragraph 1.

3. Unless the Parties otherwise agree, the panel shall conduct its proceedings in accordance with the Model Rules of Procedure,

4. Unless the Parties otherwise agree within 20 days from the date of the delivery of the request for the establishment of the

panel, the terms of reference shall be:

"To examine, in the light of the relevant provisions of the Agreement the matter referred by the complaining Party (in terms of the request for establishment of the panel) and to make findings, determinations and recommendations as provided in Article XIIL14.2."

5. If the complaining Party wishes to argue that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

6. Ifa Party wishes the panel to make findings as to the degree of adverse trade effects on a Party of any measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Annex XIIL5, the terms of reference shall so indicate,

Article XIII.13. Role of Experts

On request of a Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties so agree and subject to such terms and conditions as the Parties may agree.

Article XIII.14. Initial Report

1. Unless the Parties otherwise agree, the panel shall base its report on the submissions and arguments of the Parties and on any information before it pursuant to Article XIII.13.

2. Unless the Parties otherwise agree, the panel shall, within 90 days after the last panelist is selected or such other period as the Model Rules of Procedure established pursuant to Article XIII.12.1 may provide, present to the Parties an initial report containing:

(a) findings of fact, including any findings pursuant to a request under Article XIII.12.6;

(b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex XIII.5, or any other determination requested in the terms of reference; and

(c) its recommendations, if any, for resolution of the dispute.

3. Panelists may furnish separate opinions on matters not unanimously agreed.

4. A Party may submit written comments to the panel on its initial report within 14 days of presentation of the report.

5. In such an event, and after considering such written comments, the panel, on its own initiative or on the request of a Party, may:

(a) request the views of a Party;

(b) reconsider its report; and

(c) make any further examination that it considers appropriate.

Article XIII.15. Final Report

1. Unless the Parties otherwise agree, the panel shall present to the Parties a final report within 30 days of presentation of the initial report, including any separate opinions on matters not unanimously agreed.

2. No panel may, either in its initial report or its final report, disclose which panelists are associated with majority or minority opinions.

3. Unless the Parties decide otherwise the final report of the panel shall be published 15 days after it is transmitted to the Parties,

Article XIII.16. Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the panel is essential in order to ensure effective resolution of

disputes to the benefit of both Parties.

2. Within 30 days after the date on which a panel has issued its final report, the Party complained against shall notify the other Party of its intentions in respect of implementation of the recommendations and rulings of the panel. If it is impracticable to comply immediately with the recommendations and rulings, the Party complained against shall have a reasonable period of time in which to do so. The reasonable period of time shall be:

(a) a period of time mutually agreed by the Parties within 45 days after the date the final report is issued by the panel; or

(b) a period of time determined through binding arbitration within 90 days after the final report is issued. (1) In such arbitration a guideline for the arbitrator should be that the reasonable period of time to implement a panel report should not exceed 15 months from the date of the issuance of a final report. However, that time may be shorter or longer depending upon the particular circumstances,

3. During the reasonable period of time, each Party shall accord sympathetic consideration to any request from the other Party for consultations with a view to reaching a mutually satisfactory solution regarding the implementation of the recommendations or rulings of the panel.

4. (a) The issue of implementation of the recommendations or rulings may be raised by the complaining Party at any time following the issuance of the final report,

(b) The Party complained against shall report on the status of its implementation of the recommendations of the rulings at the request of the other Party (2), beginning 6 months after the date the final report is issued, until the Parties have mutually agreed that the issue is resolved or until a panel finds pursuant to Article XIII.17 that the Party complained against has complied.

(c) (i) Upon compliance with the recommendations or rulings of the panel, the Party complained against shall provide the other Party a written notification on compliance.

(ii) Ifthe Party complained against has not provided a notification under paragraph (c)(i) by the date that is 20 days before the date of expiry of the reasonable period of time, then not later than that date the Party complained against shall provide to the other Party a written notification on compliance, including the measures that it has taken, or the measures that it expects to have taken by the expiry of the reasonable period of time, Where the notification refers to measures that the Party complained against expects to have taken, the Party complained against shall provide to the other Party a supplementary written notification no later than the expiry of the reasonable period of time, stating that it has, or has not, taken such measures, and indicating any changes to them.

(iii) Each notification under this subparagraph shall include a detailed description as well as the text of the relevant measures the Party complained against has taken. The notification requirement of this subparagraph shall not be construed to reduce the reasonable period of time establish pursuant to paragraph 2 of this Article.

(1) If the Parties cannot agree on an arbitrator within 10 days after referring the matter to arbitration, the arbitrator shall be chosen by lot from among the panelists.

(2) The Party complained against shall provide a detailed written status report concerning its progress in the implementation of the recommendations or rulings. 3 A compliance panel may also be established pursuant to paragraph 9 of Article XII1.18.

Article XIII.17. Determination of Compliance

1. Where there is disagreement between the complaining Party and the Party complained against as to the existence or consistency with this Agreement of measures taken to comply with the recommendations or rulings of a panel, such disagreement shall be resolved through recourse to the dispute settlement procedures provided for in this Article,

2. The complaining Party may request the establishment of a compliance panel referred to in paragraph 6 of this Article at any time after (3)

(i) the Party complained against states that it does not need a reasonable period of time for compliance pursuant to paragraph 2 of Article XIII.16;

(ii) the Party complained against has submitted a notification pursuant to paragraph 4(c) of Article XII.16 that it has complied with the recommendations or rulings of the panel; or

(iii) 10 days before the date of expiry of the reasonable period of time; whichever is the earlier. Such request shall be made in writing.

3. While consultations between the Party complained against and the complaining Party are desirable, they are not required prior to a request for a compliance panel under paragraph 2.

4. When requesting the establishment of a compliance panel, the complaining Party shall identify the specific measures at issue and provide a brief summary of the legal basis of the complaint, sufficient to present the problem clearly. Unless the Parties agree on special terms of reference within 5 days from the establishment of the compliance panel, standard terms of reference in accordance with Article XIII.12 shall apply to the compliance panel,

5. The compliance panel shall be established on the date of the delivery of the request to establish such a panel,

6. The compliance panel shall consist of the members of the original panel. If any member of the original panel is not available, a new member shall be appointed in accordance with the procedure established under Article XIII.11.1(b).

7. The compliance panel shall provide its report to the Parties within 90 days of the date of its establishment.

8. The complaining Party shall not suspend concessions or other obligations under paragraph 9 of this Article until the compliance panel has provided its report to the Parties and the complaining Party has notified the Party complained against which particular concessions or obligations the Party intends to suspend.

9. If the compliance panel report finds that the Party complained against has failed to bring the measure found to be inconsistent with this Agreement into compliance therewith or otherwise comply with the recommendations or rulings of the panel in the dispute within the reasonable period of time, then:

(a) the Party complained against shall not be entitled to any further period of time for implementation; and

(b) after the compliance panel report has been provided to the Parties, the complaining Party may suspend the application to the Party complained against of concessions or other obligations under this Agreement pursuant to Article XIII.18.

10. The compliance panel shall establish its own working procedures. The provisions of Articles XIII.4, XIII.13, XIII.14, XIII.15.2, XIII.15.3, and XIII.16.1 shall apply to compliance panel proceedings except to the extent that:

(a) such provisions are incompatible with the time frame provided in this Article; or

(b) this Article provides more specific provisions.

(3) A compliance panel may also be established pursuant to paragraph 9 of Article XIII.18

Article XIII.18. Compensation and Suspension of Concessions

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the recommendations and rulings are not implemented within a reasonable period of time. However, neither compensation nor the suspension of concessions or other obligations is preferred to full implementation of a recommendation to bring a measure into conformity with the Agreement. Compensation is voluntary and, if granted, shall be consistent with a Party's obligations under this Agreement.

2. If

(a) the Party complained against does not provide notice pursuant to paragraph 2 of Article XTII.16 that it intends to implement the recommendations or rulings of the panel;

(b) the Party complained against does not submit within the required time period a notification pursuant to paragraph 4(c) of Article XIII.16 stating that the Party complained against has complied; or

(c) the compliance panel report pursuant Article XIII.17 finds that the Party complained against has failed to bring the measures found to be inconsistent with this Agreement into compliance therewith or otherwise comply with the recommendations or rulings of the panel;

then a complaining Party may suspend the application to the Party complained against of concessions or other obligations under this Agreement. The Parties are encouraged to consult before concessions or other obligations are suspended to discuss a mutually satisfactory solution.

3. The complaining Party shall not implement any suspension of concessions or other obligations until 10 days after it has notified the Party complained against which particular concessions or obligations the Party intends to suspend.

4. The level of the suspension of concessions or other obligations shall be equivalent to the level of nullification or impairment.

5. (a) When the complaining Party has provided notice that it intends to suspend concessions or other obligations pursuant to paragraph 8 of Article XIII.17 or paragraph 3 of this Article and the Party complained against objects to the level of suspension proposed within 10 days after the receipt of such notice, the matter shall be referred to arbitration.

(b) Such arbitration shall be carried out by the original panel if its members are available, In such case, the Panel will be deemed to be established by consent of both Parties on the date the Party complained against files the document with the objections referred to in subparagraph (a) above. If any member of the original panel is not available, a new member shall be appointed in accordance with the procedure established under Article XIII.11 and the date the new Panel is complete shall be deemed to be the date the matter was referred,

(c) the arbitration shall be completed and the decision of the arbitral panel shall be provided to the Parties within 45 days after the referral of the matter. The complaining Party shall not suspend concessions or other obligations during the course of the arbitration.

6. The arbitral panel acting pursuant to paragraph 5 shall not examine the nature of the concessions or other obligations to be suspended, but shall determine whether the level of such suspension is equivalent to the level of nullification or impairment, The Parties shall accept the arbitral panel's decision as final and shall not seek a second arbitration. The decision shall constitute authorization to suspend concessions or other obligations consistent with the decision of the arbitral panel.

7. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the measure found to be inconsistent with the Agreement has been removed, or the Party that must implement recommendations or rulings provides a solution to the nullification or impairment of benefits, or a mutually satisfactory solution is reached. The Commission shall, unless the Parties otherwise agree, include on its agenda the implementation of adopted recommendations or rulings, including those cases where compensation has been provided or concessions or other obligations have been suspended, but the recommendations to bring a measure into conformity with the Agreement have not been implemented.

8. (a) After a Party has suspended concessions or other obligations pursuant with this Agreement, the Party complained against may request a termination of such suspension on the grounds that it has eliminated the inconsistency or the nullification or impairment of benefits under this Agreement identified in the recommendations or rulings of the panel. The Party complained against shall include with any such request a written notice describing in detail the measures it has taken, providing the text of the relevant measures. If the Parties agree that the Party complained against has eliminated the inconsistency or the nullification or impairment of benefits, the authorization to suspend concessions or other obligations shall terminate.

(b) Where there is disagreement between the Parties as to the existence or consistency with the Agreement of measures taken to comply with the recommendations or rulings of the panel in the dispute, such disagreement shall be resolved through recourse to the dispute settlement procedures provided for in Article XIII.17. If the compliance panel finds that the measures taken to comply are not inconsistent with the Agreement and comply with the recommendations or rulings of the panel in the dispute, it shall withdraw the authorization to suspend concessions or other obligations.

(c) The complaining Party shall not maintain the suspension of concessions and other obligations after the panel withdraws the authorization.

9. The dispute settlement provisions of this Agreement may be invoked in respect of measures affecting their observance taken by regional or local governments or authorities within the territory of a Party. When a compliance panel has ruled that a provision of the Agreement has not been observed, the responsible Party shall take such reasonable measures as may be available to it to ensure its observance. The provisions of this Chapter relating to compensation and suspension of concessions or other obligations apply in cases where it has not been possible to secure such observance.

Section III. Domestic Proceedings and Private Commercial Dispute Settlement

Article XIII.19. Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises, in any domestic judicial or administrative proceeding of a Party, that either Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify its Section of the Secretariat and the other Party. The Commission shall endeavour to agree on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Commission to the court or administrative body in accordance with the rules of that forum.

3. If the Commission is unable to agree, each Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Article XIII.20. Private Rights

Neither Party may provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Article XIII.21. Alternative Dispute Resolution

1. Each Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the 1975 Inter-American Convention on International Commercial Arbitration.

4. The Commission shall establish an Advisory Committee on Private Commercial Disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. The Committee shall report and provide recommendations to the Commission on general issues referred to it by the Commission respecting the availability, use and effectiveness of arbitration and other procedures for the resolution of such disputes in the free trade area.

Annex XIII.1.4. Implementation of the Modifications Approved by the Commission

The Parties shall implement the decisions of the Commission to which Article XII.1.3 (d) refers to, in accordance with the following procedures:

(a) in the case of Canada, in accordance with its internal procedures; and (b) in the case of Costa Rica, decisions of the Commission will be equivalent to

the instrument referred to in article 121.4 third paragraph of the Political Constitution of the Republic of Costa Rica.

Annex XIII.2.2. Committees

- Committee on Trade in Goods and Rules of Origin.

. Customs Subcommittee.

. Subcommittee on Agriculture.

- Committee on Sanitary and Phytosanitary Measures.

- Advisory Committee on Private Commercial Disputes.

Annex XIII.3.2. Remuneration and Payment of Expenses

1. The Commission shall establish the amounts of remuneration and expenses that will be paid to the panelists or committee, subcommittee and working group members.

2. The remuneration of panelists or committee, subcommittee and working group members and their assistants, their travel

and lodging expenses, and all general expenses, shall be borne equally by the Parties.

3. Each panelist or committee, subcommittee and working group member shall keep a record and render a final account of the person's time and expenses, and the panel or committee, subcommittee and working group member shall keep a record and render a final account of all general expenses.

Annex XIII.5. Nullification and Impairment

1, A Party may have recourse to dispute settlement under this Chapter if such Party considers that any benefit it could reasonably have expected to accrue to it under any provision of Part Two (Trade in Goods) is being nullified or impaired as a result of the application of any measure that is not inconsistent with this Agreement.

2. In any such dispute, the Panel shall take into consideration the jurisprudence interpreting Article XXIII.1.b) of the GATT 1994.

Part Seven. OTHER PROVISIONS

Chapter XIV. Exceptions

Article XIV.1. General Exceptions

For purposes of Part Two (Trade in Goods), Article XX of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor agreement to which both Parties are party, are incorporated into and made part of this Agreement, The Parties understand that the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

Article XIV.2. National Security

Nothing In this Agreement shall be construed:

(a) to require either Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests;

(b) to prevent either Party from taking any actions that it considers necessary for the protection of its essential security interests:

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

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

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

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

Article XIV.3. Taxation

1. Except as set out in this Article and in Annex XIV.3.1, 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. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

3. Notwithstanding paragraph 2:

(a) Article I.2 (National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article II of the GATT 1994; and

(b) Article I1.12 (Export Taxes) shall apply to taxation measures.

Article XIV.4. Balance of Payments

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining measures that restrict transfers where the Party experiences serious balance of payments difficulties, or the threat thereof, and such restrictions are consistent with this Article.

2. As soon as practicable after a Party imposes a measure under this Article, the Party shall:

(a) submit any current account exchange restrictions to the International Monetary Fund (IMF) for review under Article VIII of the Articles of Agreement of the IMF;

(b) enter into good faith consultations with the IMF on economic adjustment measures to address the fundamental underlying economic problems causing the difficulties; and

(c) adopt or maintain economic policies consistent with such consultations.

3. A measure adopted or maintained under this Article shall:

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

(b) not be more burdensome than necessary to deal with the balance of payments difficulties or threat thereof,

(c) be temporary and be phased out progressively as the balance of payments situation improves;

(d) be consistent with paragraph 2(c) and with the Articles of Agreement of the IMF; and

(e) be applied on a national treatment or most-favoured-nation treatment basis, whichever is better.

4. A Party may adopt or maintain a measure under this Article that gives priority to services that are essential to its economic program, provided that a Party may not impose a measure for the purpose of protecting a specific industry or sector unless the measure is consistent with paragraph 2(c) and with Article VII(3) of the Articles of Agreement of the IMF.

5. Restrictions imposed on transfers:

(a) where imposed on payments for current international transactions, shall be consistent with Article VIII(3) of the Articles of Agreement of the IMF;

(b) where imposed on international capital transactions, shall be consistent with Article VI of the Articles of Agreement of the IMF and be imposed only in conjunction with measures imposed on current international transactions under paragraph 2(a);

(c) where imposed on transfers covered by Article IX of the Agreement Between the Government of the Republic of Costa Rica and the Government of Canada for the Promotion and Protection of Investments, signed in San Jose on March 18, 1998, shall be consistent with Annex I, Section V of that Agreement;

(d) where imposed on transfers related to trade in goods, may not substantially impede transfers from being made in a freely usable currency at a market rate of exchange; and

(e) may not take the form of tariff surcharges, quotas, licences or similar measures.

Article XIV.5. Disclosure of Information

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

Article XIV.6. Cultural Industries

Measures affecting cultural industries are exempt from the provisions of this Agreement except as specifically provided for in Chapter III (National Treatment and Market Access of Goods) of this Agreement,

Article XIV.7. Definitions

For purposes of this Chapter:

cultural industries means persons engaged in any of the following activities:

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

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

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

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

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

international capital transactions means "international capital transactions" as defined under the Articles of Agreement of the IMF;

IMF means the International Monetary Fund;

payments for current international transactions means "payments for current international transactions" as defined under the Articles of Agreement of the IMF;

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement;

taxation measures do not include:

(a) a"customs duty" as defined in Article 1.17 (Definitions); or

(b) the measures listed in exceptions (b), (c) and (d) of that definition; and

transfers means international transactions and related international transfers and payments,

Annex XIV.3.1. Double Taxation

1. The Parties agree to conclude a bilateral double taxation agreement within a reasonable time after the date that this Agreement enters into force.

2. The Parties agree that upon conclusion ofa bilateral double taxation agreement, they will agree to an exchange of letters setting out the relationship between the double taxation agreement and Article XTV.3 of the Agreement.

Chapter XV. Final Provisions

Article XV.1. Annexes, Appendices and Footnotes

The Annexes, Appendices and footnotes to this Agreement constitute integral parts of this Agreement.

Article XV.2. Amendments

1. The Parties may agree on any modification of or addition to this Agreement.

2. When so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement.

Article XV.3. Reservations

This Agreement shall not be subject to unilateral reservations or unilateral interpretative declarations.

Article XV.4. Entry Into Force

This Agreement shall enter into force following an exchange of written notifications certifying the completion of necessary

legal procedures. The Parties agree on the desirability of an exchange of such notifications by January 1, 2002.

Article XV.5. Duration and Termination

This Agreement shall remain in force unless terminated by either Party on 6 monthsâ notice to the other Party.

Article XV.6. Authentic Texts

The English, French and Spanish texts of this Agreement are equally authentic.