Free Trade Agreement between the Government of the Republic of Peru and the Government of the Republic of Chile

Amending and replaces the ECA No. 38, its annexes and appendices, protocols and other instruments that have been concluded thereunder

Preamble

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

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

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

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

The active participation of Chile and Peru in the Latin American Integration Association (ALADI), as well as in the Asia-Pacific Economic Cooperation (APEC);

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

The revitalization efforts of integration in the Americas, showing the need for complementarity económicacomercial aimed at enhancing open regionalism, inserting efficiently in a globalized world and initiatives of regionalisation elsewhere;

The need to achieve a better balance in their trade relationship;

The overlap of economic and trade liberalization of both countries, both tariff matters as the elimination of restrictions no-arancelarias and in the guidelines of their economic policies;

The advantages of giving operators clear and predictable rules for the development of trade in goods and services, as to the flow of investments;

The importance for the economic development of both parties have adequate cooperation in the areas of production of goods and services; the desirability of achieving a more active participation of economic operators in the two countries;

The creation of new employment opportunities, the improvement of working conditions and living standards in their respective territories;

The foregoing engage in a manner consistent with the protection and conservation of the environment;

Agree to conclude the following agreement,

Chapter 1. Initial Provisions

Article 1.1. Establishment of a Free Trade Area

1. The Parties to this Agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 article V of the General Agreement on Trade in Services and the Montevideo Treaty 1980 establishing a free trade area.

2. To this end, amended and replace the ECA No. 38, its annexes and appendices, protocols and other instruments that have been concluded thereunder, by the following text of the Free Trade Agreement.

Article 1.2. Objectives

1. The objectives of this agreement, developed more specifically through its Principles and Rules, including the national treatment and most favoured nation treatment and transparency, are the following:

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

(b) Intensify economic and trade relations between the parties, and encourage the expansion and diversification of trade between them;

(c) Encourage coordinated action in international economic forums, as well as in relation to the industrialized designed to improve the access of goods of parties to world markets;

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

(e) Promote conditions of fair competition in the Free Trade Area;

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

(g) Promote investments aimed at an intensive use of the markets of the Parties and strengthen their competitiveness in the global exchanges;

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

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

(j) To prevent distortions in their reciprocal trade; and

(k) Promoting economic cooperation and complementarity.

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

Chapter 2. General Definitions

Article 2.1. Definitions of General Application

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

ACE 38 means the economic complementarity agreement signed between the Republic of Chile and the Republic of Peru on 22 June 1998;

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

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

WTO Agreement means the Marrakesh Agreement Establishing the World Trade Organization, dated 15 April 1994; Safeguards Agreement means the Agreement on Safeguards, which is part of the WTO agreement;

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

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

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

ALADI means the Latin American Integration Association established by the Montevideo Treaty 1980;

Chapter refers to the first two digits of the Harmonized System for the description and coding or the naladisa nomenclature.

Commission manager means that established in accordance with article 15.1 (commission administering);

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

Calendar days means calendar days, or schedule;

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

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

State Enterprise means an enterprise that is owned by a party or under the control of the same ownership rights; through existing means in effect on the date of Entry into Force Agreement;

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

Covered investment means a Party with respect to an investment in its territory of an investor of the other Party on the date of Entry into Force Agreement, or acquired established or expanded thereafter;

Measure includes any law, regulation, procedural requirement or practice;

Goods or goods, article means any material, goods or product;

Goods of a Party means domestic products as these are understood in GATT 1994 or goods such as the parties may agree, and includes originating goods of that Party. A good of a Party may include materials of non- Party

Goods originating means goods that complies with the established in Chapter 4 (rules of origin);

National means a natural person who has the nationality of a Party according to its Constitution or a permanent resident of a party;

NALADISA identifies the tariff nomenclature of the Latin American Integration Association, based on the Harmonized System for the description and coding;

WTO means the World Trade Organization;

Heading refers to the first four digits in the nomenclature of the Harmonized System naladisa; or

Means any State Party for which this Agreement has entered into force;

Person means a natural person or an enterprise;

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

Release programme means the programme laid down in article 3.2 (release programme);

Section means a section of the Harmonized System nomenclature NALADISA; or

Harmonized System (HS) means the Harmonized Commodity Description and Coding System of goods, including its general rules of interpretation, and notes to section notes chapter, in the form in which the parties have adopted and implemented in their respective laws of tariffs;

Subheading means the first six digits in the nomenclature of the Harmonized System naladisa; or

1980 Montevideo treaty means the Agreement Establishing the Latin American Integration Association (ALADI); and

Preferential tariff treatment means the tariff relief under the programme of trade liberalization an applicable to goods originating in accordance with this Agreement.

Article 2.2. Country-specific Definition

Territory means:

(a) Peru with respect to the mainland, islands and the surrounding maritime and air space under its sovereignty or sovereign rights and jurisdiction in accordance with international law and its domestic law; and

(b) With regard to Chile, the Land, Sea and Air Space under its sovereignty and the exclusive economic zone and the continental shelf over which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law.

Chapter 3. Trade In Goods (1)

(1) For greater certainty, this Chapter is subject to the obligations and rights arising from the provisions of the other Chapters, which are applicable to it.

Article 3.1. National Treatment

Each Party shall, in its territory to the National Treatment goods of the other Party in accordance with article III of the GATT 1994, including its interpretative notes. In this context, they shall be accorded treatment no less favourable than that applicable to goods in respect of similar national taxes, fees or other charges, as well as other domestic laws, regulations and rules relating to the sale, purchase, distribution and use of them in the domestic market.

Article 3.1. Programme of Release (2)

(2) For greater certainty, the text of Chapter II of ECA No. 38, its annexes and additional protocols, in the matters referred to the Trade Liberalization Program, has not been subject to modification, except for formal adjustments.

1. No Party shall maintain or apply new non-tariff restrictions on the importation or exportation of goods from its territory to the territory of the other party, either through licences, or through other measures, without prejudice to Article 50 of the Montevideo Treaty 1980 and Articles XX and XXI of the GATT 1994.

2. For the purpose of this agreement the term "restrictions" any measure of administrative, financial, exchange or of any kind, through which prevents or hinders a party, by unilateral decision, its imports.

3. The parties agree to free of charge their reciprocal trade according to the following schedule of tariff relief:

a) A total of drawback import charges for the reciprocal trade from 1 July 1998 to goods in NALADISA nomenclature contained in Annex 3.2-a., marked D-0.

b) Goods in the NALADIDA nomenclature included in Annex 3.2-a marked D-5, shall be subject to the following schedule of relief:

[Tax deduction tables have been omitted.]

4. The concessions provided for in this article shall be applied on the CIF value or the customs value, as appropriate, in accordance with the agreement on customs valuation.

5. If a Party at any moment reduces its tariff charges to third countries for one or more goods under this Agreement, shall adjust the charge applicable to the reciprocal trade in accordance with the established margin of preference proporcionalidades (reference) identified in subparagraphs in paragraph 3, as appropriate.

6. The Parties shall, at the time of signature of this agreement existing tariffs and shall be kept informed by the competent bodies, on the subsequent amendments.

7. The goods used does not benefit from the scheme established in this Agreement, including those that are specific to the nomenclature naladisa subheading.

8. The Parties shall, within the framework of the administrative commission may accelerate the schedule of tariff relief for those groups of goods or goods as mutually agreed.

9. For the purpose of this agreement the term "taxes" customs duties and other charges of equivalent effect, fiscal, monetary, exchange-rate or of any nature that focus on imports are not included in this concept fees and similar charges commensurate with the cost of when the actual services rendered.

10. The Parties shall not adopt or maintain taxes and charges of equivalent effect other than Customs duties affecting the bilateral trade under this Agreement. However, it may maintain existing taxes and charges at the date of signature of the Agreement and which are reflected in additional notes to this Agreement, but not to increase the incidence. The said notes are found in Annex 3.2-C.

Fees and charges of equivalent effect identified in the above-mentioned additional notes shall not be subject to the programme.

11. In the use of the price band system established in Chile, or specific rights variables in force in Peru, relating to the importation of goods, the parties undertake within the scope of this agreement not to include new goods or to modify the mechanisms or applied in a manner that would mean a deterioration of conditions for access to their respective territories.

The agenda for the release of this Agreement shall not apply on specific rights derived from the above-mentioned mechanisms.

The Parties included in Annex 3.2-D of this agreement the list of goods which are incorporated in the aforementioned systems.

12. Without prejudice to the WTO Agreement, the Parties shall not apply to trade reciprocal charges on exports.

Article 3.3. Customs Valuation

The Customs Valuation Agreement shall govern the customs valuation rules applied to trade between the parties.

Article 3.4. Free Zones

The goods produced or from a free zone or companies who enjoy the benefits of user of free zone, in accordance with the national legislation of the Parties, shall be excluded from the agenda for release of this Agreement. Such goods shall be duly identified.

Chapter 4. Rules of Origin

Article 4.1. Scope

1. This law lays down the rules of origin applicable to trade in goods between the parties for the purposes of:

(a) Qualification and determining the originating goods;

(b) The issuing of the certificate of origin; and

(c) Verification process, supervision and sanctions.

2. The Parties shall apply to the goods subject to the programme of trade liberalization of this agreement the rules of origin, without prejudice to the same may be amended by a decision of the Commission.

3. Access to the programme of the goods release must demonstrate compliance with the provisions of this Law. This requirement shall only for goods that require preferential treatment.

Article 4.2. Qualification of Origin

Except as otherwise provided in this chapter shall be considered as originating:

(a) The goods produced entirely in the territory of the Parties when it would be used solely and exclusively from materials originating from one or both parties;

(b) United goods obtained from the mineral extracted in the territory of a party;

(c) The vegetable products harvested or gathered in the territory of a party;

(d) The goods animal born and raised in the territory of a party;

(e) Goods obtained from hunting or fishing in the territory of a party;

(f) The goods obtained from the sea outside the territory of a Party of vessels by their flags, leased or leased by a company

established in the territory of any of the Parties, provided that such vessels or registered in accordance with their respective national legislation;

(g) Factory produced goods on board ships from the goods referred to in subparagraph (f), of vessels by their flags, leased or leased by a company established in the territory of any of the Parties, provided that such vessels or registered in accordance with their respective national legislation;

(h) Goods obtained by a natural or juridical person of a party or of a Party from the seabed or marine subsoil outside their territorial waters provided that such a natural or legal person or a party has rights to exploit such or marine seabed and subsoil;

(i) The goods using non-originating materials provided that may result from a process of production or processing carried out in the parties that gives rise to a new individuality. This principle is present in the fact that the goods are classified in a heading other than those materials as naladisa nomenclature.

Notwithstanding the preceding paragraph shall not be regarded as originating goods that despite being classified in different headings materials, as a result of the operations provided for in Article 4.3 carried out by the parties, by the acquiring the final form in which they are marketed, where such operations using non-originating materials. Nothing in this paragraph shall not constitute a process of production or processing.

(j) Goods which do not satisfy the applicable change in tariff classification because the process of production or processing does not change in the heading to nomenclature naladisa provided that the CIF value destination port or CIF seaport non-originating materials does not exceed 50 per cent of the FOB value of the goods.

(k) Goods resulting from assembling or assembly operations carried out within the territory of the Parties, using non-originating materials, having or not to change heading, provided that the CIF value destination port or CIF seaport non-originating materials does not exceed 50 per cent of the FOB value of the goods.

(l) The games or sets of goods, provided that each of the goods contained therein comply with the rules set out in this chapter.

(m) The goods meet the requirements specified in accordance with Article 4.5.

Article 4.3. Minimal Operations

The following operations alone do not confer origin:

(a) Operations to ensure the preservation of goods such as: aeración, ventilation, refrigeration, freezing or addition of substances; removal of damaged parts;

(b) dusting, shaking, shelling, shelling, shelling, shelling, maceration, drying, thinning, sorting, grading, grading, sorting, fractioning, washing or cleaning, painting and trimming

(c) The formation of sets or sets of goods;

(d) Packaging, wrapping reenvase; or

(e) The Division or assembly of packages or parcels;

(f) The implementation of labels or marks, like other goods or distinguishing signs on their packaging;

(g) Mixtures of materials; dilution in water or other substances, dosage, provided that the characteristics of the goods obtained are not essentially different from the characteristics of the materials which have been mixed;

(h) The meeting or assembly of parts, assembled to constitute a complete product;

(i) The mere slaughter of animals; and

(j) The combination of two or more operations.

Article 4.4. Packing and Packaging

1. Packings, containers, cases, crates, packages, wrappings and the like, presented containing the respective goods, shall be considered originating if the principal merchandise meets the origin criteria of this Chapter.

2. This provision shall not apply in respect of cases, packaging, boxes, packaging and similar, when they are presented separately to him or the goods containing its essential character.

Article 4.5. Specific Requirements of Origin

1. The parties may agree on the establishment of specific requirements of origin in cases where the general rules are not appropriate to qualify the origin of a product or group of goods. The specific requirements of origin shall prevail over the general criteria.

2. The goods with specific requirements are included in Annex 4.5.

Article 4.6. Cumulation

1. In determining the origin of the goods shall be considered as originating in a Party, materials originating from the other party, incorporated in the production or transformation of such goods.

2. This approach shall apply to both the general rules of origin and the specific requirements of origin.

Article 4.7. Shipment, Transportation and Transit of Goods

1. For goods benefiting from preferential treatment, they shall have been consigned directly from the exporting Party to the importing Party. To this end, it considers direct consignment:

(a) The goods are transported without passing through the territory of a country that is not a party;

(b) Goods in transit through one or more non- parties with or without trans-shipment or temporary storage under the surveillance of the customs authorities of the country, provided that transited

(i) The transit is justified for reasons or geographical considerations transport requirements,

(ii) They are not designed to use or trade, employment in the country of transit; and

(iii) Not undergo during transportation or storage, any operation other than unloading cargo handling or to keep them in good condition or to ensure its preservation.

In the event that the goods are deposited, may be stored for a period not exceeding six months after the entry of the goods in the country of transit no party.

2. For the purposes of paragraph 1 (b), the importer of the goods at the request of the customs authority of the importing Party shall deliver a copy of any document of customs control, to the satisfaction of the customs authority, indicating that the good remained under customs supervision of the country transited, in the territory of the country that is not a party.

Article 4.8. Billing by a Non-Party Operator

1. When the goods that are the subject of trade is invoiced by an operator of a non- party, the producer or exporter of the country of origin shall draw on the certificate of origin in the respective area concerning "" comments that the goods subject to its statement shall be invoiced from a third country no Party, identifying the name, the name and address of the operator shall ultimately invoiced the operation of destination.

2. In the situation referred to in the preceding paragraph and, exceptionally, if at the time of the certificate of origin is not known, the number of the commercial invoice issued by an operator of a non- party, it shall use the mechanism under Article 4.9.11.

Article 4.9. Certificates of Origin

1. The certificate of origin is document that serve to certify that a good being exported from the territory of a party into the territory of the other party qualifies as originating Under the terms and provisions of this chapter so that the good qualifies for preferential treatment under this Agreement.

2. For the declaration and certification of origin of the goods, using the form in annex 4.9, which shall have an affidavit of final producer or exporter of the good to the full implementation of the provisions of this chapter concerning the origin and the accuracy of the data and information contained in the certificate.

3. The application for the certificate of origin shall be accompanied by the commercial invoice and an affidavit of the producer with the necessary records to demonstrate in documentary form the goods that meet the requirements such as:

(a) A company or business name;

(b) Legal domicile;

(c) Description of the goods to be exported and naladisa code;

(d) FOB value of the goods;

(e) The materials used in the production process or processing indicating:

(i) Materials from the exporting Party;

(ii) Materials of the importing Party;

(iii) Non-originating materials indicating:

NALADISA Codes, CIF value in United States dollars and percentage of participation in the FOB value of the goods.

4. The declaration shall be provided with adequate advance for each application for certification. In the case of goods that are exported regularly, and provided that the process materials and components were not altered, the declaration shall be valid until two years from the date of its issuance.

5. Where the exporter is not the producer of the goods, the producer shall provide the declaration of origin to the exporter, so that it may submit to the certification authority.

6. The issuing of the certificate of origin shall be in charge of official departments, to be nominated by each party, which may delegate the issue of the same in other public or private entities, acting under national jurisdiction.

7. The parties shall maintain current official departments and public or private entities empowered to issue certificates of origin, with the registration of the handwritten signatures of the officials accredited for this purpose, duly registered in the General Secretariat of ALADI.

8. The amendments shall operate in such records will enter into force within 30 days from the date of communication to the General Secretariat of ALADI.

9. The certificate of origin shall be issued within 7 days of the submission of the request and shall be valid for one year from the date of its issuance. The certificate shall be issued only in the form attached to annex 4.9, null and void if it is duly completed in the fields concerned.

10. The certificate of origin must be issued after the date of issuance of the commercial invoice for the operation concerned.

11. Notwithstanding paragraphs 3 and 10, in the event that the modalities for the marketing of a particular goods shall issue an invoice temporary before a final, shall accept a Certificate of Origin issued by the First, shall be entered in box

"comments" such circumstances and why no account at that time on the commercial invoice. However, at the time of importation of the commercial invoice shall be final.

Article 4.10. Background of the Certificate and Deadlines

1. Certification authorities shall number correlatively certificates issued and storing a copy for a minimum period of five years from the date of its issuance. Such record will include all the material that formed the basis for the issuance of the certificate.

2. Furthermore, these entities shall maintain a permanent register of all the Certificates of Origin issued, which shall contain at least the number of the licence, the applicant and the date of its issuance.

3. The exporter applying for a certificate of origin and producers to issue a sworn declaration of origin pursuant to Article 4.9 shall keep, for a minimum period of five years from the date of issuance of the Certificate of Origin documents necessary to demonstrate the origin of the goods, particularly those relating to the acquisition and cost of goods and materials referred to in subparagraphs (d) and (e) of Article 4.9.3 respectively and those connected with the production of the good in the form in which it was exported.

4. Each Party shall provide that an importer claiming preferential tariff treatment maintained in its territory for a minimum

period of five years from the date of importation, the documentation required by the party in connection with the importation of goods including a copy of the certificate of origin.

Article 4.11. Request for Preferential Tariff Treatment

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

(a) Declare in the importation document establishes that its legislation, based on a valid certificate of origin, that the goods qualify as originating;

(b) The certificate of origin in its possession at the time the statement referred to in subparagraph (a);

(c) In possession of the document certifying that they comply with the requirements of issuance, transport and transit of goods established in Article 4.7, where appropriate; and

(d) Provide the documents referred to in subparagraphs (b) and (c) to the customs authorities of the importing Party, upon request.

Article 4.12. Customs Duty Drawback

1. Each Party shall provide that in cases where it has not been requested preferential tariff treatment for a good imported into the territory of the other party that would have qualified as originating, the importer of the goods within a period not exceeding one year after the date of importation, may request the repayment of overpaid tariffs for not having been granted preferential tariff treatment to the good if the application is accompanied by:

(a) A written declaration stating that the good complies with the provisions of this chapter at the time of importation;

(b) The certificate of origin; and

(c) Any additional documentation relating to the importation of the goods, as required by the customs authority.

2. In the event that doubts regarding the implementation of the provisions of this chapter, it may initiate a verification process under Article 4.13.

Article 4.13. Processes for Control and Verification of the Origin Regime

1. Notwithstanding the presentation of a certificate of origin under the conditions laid down in this chapter and the Commission may establish, in case where there are doubts as to the authenticity of the certificate of origin or the accuracy of the information contained in the document or compliance with the rules set out in this chapter, will not stop the importation of goods and the customs authority of the importing Party shall take the necessary measures to ensure the ISMs mecan interest, through national legislation in force.

2. Without prejudice to paragraph 1, the investigating authority of the importing Party may initiate a verification process to verify compliance with the provisions of this chapter in accordance with the following provisions.

3. The initiation of the verification of origin shall be immediately notified to the importer and the competent authority of the exporting Party.

4. During the process of verification, the investigating authority of the importing Party, with notice of its competent authority may:

(a) To seek the information necessary to verify the authenticity of the certificate of origin or the accuracy of the information contained therein, as well as information demonstrating compliance with the criterion of origin specified in the certificate of origin, including the material that accompanied the application of preferential treatment in accordance with this chapter. This information shall be required to the certification authority through the competent authority of the exporting party and shall be provided within 45 days after the date of receipt of the request by the competent authority of the exporting Party;

(b) Send through the competent authority of the exporting party a written questionnaire to the exporter or producer, indicating the Certificate of Origin verification, which shall be answered within a period not exceeding 60 days after the date of receipt of questionnaire;

(c) To request, through the competent authority of the exporting Party shall conduct verification visits to the premises of the

producer with a view to reviewing the information and documentation justifying the origin of goods and consider the productive processes and the facilities used in the production of the good subject to the verification. The application of the visit shall be answered within a period not exceeding 20 days after the date of receipt of the request.

The certification authority and the competent authority of the exporting Party may participate as observers in the respective visit, which shall be made within a period not exceeding 60 days from the date of the request to conduct the visit; and

(d) Carrying out other procedures, leading to verify the origin of the goods as agreed by the parties.

5. Once exhausted the stage of the process of verification referred to in paragraph 4, the investigating authority of the importing Party shall inform the competent authority of the exporting Party if the information is sufficient or insufficient within a maximum of 30 days.

6. In the event that the information is insufficient, the competent authority of the exporting Party shall complete information within a further maximum and only 30 days after the date of receipt of the communication referred to above.

7. The investigating authority of the importing Party shall issue the determination on the origin of the goods, stating the reasons that led to a decision within a period not exceeding 90 days from the date of receipt of the adequacy of the communication referred to in paragraph 5. The period shall be 120 days in the event that the term additional established in paragraph 6. This decision shall be communicated to the importer and the competent authorities of the importing Party and the exporting Party.

8. The duration of the process of verification and the customs authority of the importing Party may provide preventively, the suspension of preferential tariff treatment identical goods to new operations relating to the same producer.

9. If as a result of the verification process:

(a) It concludes that the good qualifies as originating goods shall be eligible for preferential tariff treatment and shall be reimbursed duties collected in excess or refer the lodged security, as appropriate; or

(b) It finds that the certificate contains false information or that the goods do not qualifies as originating, the importing party fees or charges shall be effective for the security lodged, as appropriate and apply the penalties provided for in the legislation of each party.

10. In the case of subparagraph 9 (b), the competent authority of the importing party may suspend the preferential tariff treatment for imports for further identical good from the same producer or exporter, until it is demonstrated that the production conditions were modified so as to comply with the rules of this chapter.

11. Without prejudice to the previous paragraphs, the investigating authority of the importing Party may request the importer in its territory, and background information about the origin of goods or to release the requested as to the authenticity of the certificate of origin.

12. The process of verification and monitoring referred to in this article may be carried out before the release of the goods during the release or on a later, according to the legislation of each party.

13. The verification process, if the conclusion is not satisfactory to the parties, the parties shall bilateral consultations. If the results of such consultations are not satisfactory to the Party concerned, may have recourse to the dispute settlement provisions of this Agreement.

Article 4.14. Denial of Preferential Tariff Treatment

The preferential tariff treatment may be denied if:

(a) The goods do not comply with the requirements of this chapter;

(b) The information and documentation required under article 4.13.4 is not provided, be provided in inappropriately or if the reply is insufficient, after the additional period referred to in article 4.13.6;

(c) No of conformity, refuses or did not reply to the request to conduct the visit, within the prescribed period;

(d) It shall comply with the requirements of Article 4.7, however be originating goods.

Article 4.15. Confidentiality

1. Each Party shall maintain, in accordance with its laws, the confidentiality of the information obtained pursuant to this chapter and shall protect from any disclosure that would prejudice the competitive position of the persons providing. Where a Party providing information to another Party in accordance with this Chapter and the designated as confidential by the other Party shall maintain the confidentiality of the information and will not be disclosed without the prior consent of the party which provided.

2. The confidential information collected pursuant to this chapter may be disclosed only to those and judicial authorities responsible for the administration and enforcement of determinations of origin and of tax or customs, as appropriate.

Article 4.16. Sanctions and Responsibilities

1. Where it is found that the certificate of origin does not correspond to the provisions contained in this chapter or dysfunction, or in their records or other documents related to the origin of the goods, counterfeiting, forgery or any other circumstance giving rise to fiscal or economic damage, the Parties may adopt appropriate sanctions in accordance with its legislation.

2. Each Party shall provide that an exporter or producer provided false information to the entity to issue the certificate of origin in the sense that the good qualifies as originating, shall be subject to penalties equivalent to those that would apply to an importer in its territory that makes a false declarations or statements in connection with an importation, with such modifications as circumstances require.

3. If before initiating a verification, an importer has reason to believe that the certificate of origin which was based on a declaration contains incorrect information, may make a declaration and the corresponding corrected pay customs duties and taxes and under the legislation of the importing party in relation to the reduction or elimination of sanctions.

Article 4.17. Definitions

For the purposes of this chapter:

Competent authority means

(a) In the case of Chile, the General Directorate of International Economic Relations; and

(b) In the case of Peru, the Directorate of Integration and International Trade Negotiations of the Ministry of Foreign Trade and T urismo investigating authority means;

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

(b) In the case of Peru, the Directorate of Integration and International Trade Negotiations of the Ministry of Foreign Trade and Tourism; exchange of chapter means a change in tariff classification at the two-digit level of the Harmonized System naladisa; or

Change to heading means a change in tariff classification at the 4-digit level of the NALADISA Harmonized System; or

Change to subheading means a change in tariff classification at the level of six-digit NALADISAA Harmonized System; or

A good means material that is used in the transformation of production or another includes goods and raw materials, inputs, components or parts and components;

Non-originating materials means materials imported from outside the party and materials procured locally or imported from when the other party does not comply with the rules of origin under this chapter;

Identical goods means "identical goods" as defined in the agreement on customs valuation;

value is the value of a good or material, under the Rules of the Customs Valuation Agreement;

CIF value destination port or seaport is the CIF value of materials, including the cost of transport to the port or place of entry into the country of importation; and

FOB value of export corresponds to the value of the good free on board regardless of the means of transport to final site or the port of shipment abroad.

Chapter 5. Trade Facilitation and Customs Procedures

Article 5.1. Publication

1. Each Party, in accordance with the provisions of its national legislation, shall publish its laws, regulations and administrative procedures customs on the Internet or a comparable computer telecommunications network.

2. Each Party shall designate one or more contact points to those interested persons may conduct consultations concerning customs matters and shall make available on the Internet information concerning procedures for making such enquiries.

3. To the extent possible, each Party shall publish in advance any regulations of general application relating to customs matters that intends to adopt and shall provide the opportunity to comment on such regulations prior to their adoption.

Article 5.2. Release of Goods

1. The Parties shall adopt or maintain simplified customs procedures for the efficient and expeditious clearance mechanism.

2. To this end, the parties undertake to the release of the goods is carried out:

(a) To the extent possible, within 48 hours of arrival of goods;

(b) Upon arrival and without necessarily be transferred and temporarily stored in warehouses or other facilities; and

(c) Before the submission of the goods to Customs.

Article 5.3. Automation

1. The parties shall work for the adoption of the use of information technology to procedures for the expeditious clearance of goods. The installation of computer applications to the Parties shall take into account international standards or standards.

2. The Parties shall adopt or maintain computer systems accessible to authorized users to transmit its customs declarations to Customs.

3. The Parties shall endeavour to implement electronic automated systems for the registration of the information with the aim of improving the technical assessment of risk analyses.

Article 5.4. Risk Assessment

Each party shall endeavor to adopt or maintain risk management systems in its verification activities that will enable its customs authority its inspection activities focusing on high-risk goods and facilitate the clearance of goods low-risk, respecting the confidential nature of the information obtained through such activities.

Article 5.5. Customs Cooperation

1. Each Party shall endeavour to provide in advance to the other party of any significant change with regard to its administrative policy regarding the implementation of its customs laws that would significantly affect the operation of this Agreement.

2. The Parties shall promote and facilitate cooperation between their respective customs administrations and particularly in relation to the processing and simplification of customs procedures, without prejudice to their powers of control.

3. Without prejudice to further cooperation agreements, the parties undertake to cooperate in compliance with its laws and regulations relating to:

(a) The implementation and application of the provisions of this Agreement relating to the importation of goods, including the provisions relating to national treatment and access of goods to the market, as well as the procedures and rules of origin;

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

(c) The simplification of formalities and requirements regarding the release of goods;

(d) Where possible, the adoption of measures to reduce, simplify and harmonize the data contained in documents required by the customs, in particular customs documents of entry and exit of goods;

(e) The provision of technical assistance, including in the organization of seminars and training courses;

(f) Technical advice and assistance for the purpose of improving risk assessment techniques in pursuit of mechanisms to prevent and control illegal activities, in particular, the illicit trade of goods originating of a party or of a non- Party;

(g) Enhancing the use of technologies; and

(h) This chapter and any other customs matters as the parties may agree.

4. The Parties shall exchange in a prompt and timely information concerning the prevention, investigation and suppression of customs offences in respect of matters concerning origin, subject to any confidentiality rules provided for in the legislation of each party.

5. Each party shall endeavor to provide the other party with any other information that would assist in determining whether imports or exports from the other party or to comply with its laws and regulations governing importation, in particular those related to the prevention of unlawful activities.

6. The Parties shall develop and implement common agreement, technical cooperation programmes and projects to create and develop a level of interconnection between customs administrations in areas previously identified by them.

7. Without prejudice to the bilateral Agreement on Cooperation and Mutual Assistance in Customs Matters, signed on 16 September 2004 and the provisions of this chapter, the Parties may conclude agreements in customs matters.

Article 5.6. Confidentiality

1. Each Party shall maintain, in accordance with its laws, the confidentiality of confidential information collected pursuant to this chapter and shall protect from any disclosure that would prejudice the competitive position of the persons providing.

When a party provides information to the other Party in accordance with this Chapter and the designated as confidential by the other Party shall maintain the confidentiality of the information and will not be disclosed without the prior consent of the party which provided.

2. The confidential information collected pursuant to this chapter may be disclosed only to those and judicial authorities responsible for the administration and enforcement of determinations of origin of tax and customs matters or as appropriate.

Article 5.7. Consignments of Express Delivery

1. Each Party shall adopt or maintain separate and expedited procedures for customs express delivery and allow the selection and while maintaining appropriate customs control. These procedures shall allow:

(a) The information necessary for the release of shipment may be submitted and processed by the customs authority of the Party, prior to the arrival of the shipment;

(b) Where a cargo manifest or a single document covering all goods contained in a shipment transported by an express delivery services, if possible through electronic means;

(c) To the extent possible, reduce the documentation required for the release of shipment; and

(d) Under normal circumstances, the release of shipment occurs within a period not exceeding six hours after the submission of all the documentation required by the Customs Office for the release of goods.

Article 5.8. Review and Challenge

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

(a) A level of independent administrative review of the official or office that issued the administrative act subject to review; and

(b) To a level of judicial review of the administrative act issued in the final level of administrative review.

Article 5.9. Sanctions

Each Party shall adopt or maintain measures to impose administrative sanctions, civil and penal, where appropriate, for breach of its customs laws and regulations, including those governing the tariff classification and customs valuation and rules of origin requirements for preferential tariff treatment under this Agreement.

Article 5.10. Advance Rulings

1. Each Party shall, prior to the importation of a good into its territory, shall deliver a written advance ruling at the written request of an importer in its territory or an exporter or producer in the territory of the other party with respect to:

(a) Tariff classification;

(b) Whether a good qualifies as goods originating in accordance with chapter 4 (rules of origin); or

(c) Other matters as the parties agree.

2. Each Party shall issue an advance ruling within 150 days of the request, provided that the requester has submitted all information that requires the party, including, if requested, a sample of the goods to which the applicant is a request for an advance ruling. To issue an advance ruling, the Party shall take into account the facts and circumstances presented by the applicant.

3. Each Party shall provide that advance rulings will enter into force from the date of its issuance or such other date specified in the resolution, up to a maximum period of three years, provided that the facts or circumstances on which the ruling is based have not changed.

4. The Party issuing may modify or revoke an advance after the ruling party notifies the applicant when facts or circumstances, such as where the information on which the ruling is based is false or inaccurate.

5. When an importer requesting the treatment accorded to an advance ruling pursuant to the goods, the Customs Authority may evaluate whether the facts and circumstances of the importation are consistent with the facts or circumstances on which the advance ruling was based.

6. Each Party shall make its advance rulings publicly available, subject to any confidentiality requirements in its legislation in order to promote the consistent application of advance rulings to other goods.

7. If a requester provides false information or enforced relevant circumstances or facts in its request for an advance ruling, or has not acted in accordance with the terms and conditions of the resolution, the importing party may apply appropriate measures, including civil, criminal and administrative penalties or other sanctions.

Article 5.11. Committee on Tariff Classification

1. The Committee of tariff classification shall be responsible for advising on differences that arise in respect of the tariff classification between the parties.

2. The Committee shall be established by administering the Commission at the request of the Parties and shall act in accordance with the rules of procedure adopted by the latter.

3. For the purposes of issuing its recommendation, the Committee may consult in ALADI or to the direction of nomenclature and Trade of the World Customs Organization.

4. The Committee shall transmit to the Commission The administering its recommendation within a period of 30 days unless the Committee decides otherwise, for administering its adoption, if deemed appropriate.

Article 5.12. Implementation

1. For the purposes of the implementation of the obligations relating to:

(a) 5.1.1 publication articles and 5.1.2: 2 years;

(b) Articles 5.2 release, (b) and 5.2 (c): 1 year;

(c) Article 5.7 express shipments; (d): 2 years; and

(d) - Article 5.10 advance rulings (b): 3 years.

2. The time limits specified in paragraph 1 (b), (c) and (d) shall be counted from the Entry into Force of the Agreement on the promotion of trade between Peru and the United States of America, on 12 April 2006.

Chapter 6. Procedure for the Application of Safeguards (1)

(1) For greater certainty, the text of Chapter V (Safeguard Clauses) of ECA No. 38 and its Annex 4 (Regime for the Application of Safeguards) has not been modified, except for formal adjustments.

Article 6.1. Bilateral Safeguard

1. A Party may apply a bilateral safeguard measures, if under procedures established under this scheme, as a result of unforeseen circumstances and particularly the effect of tariff concessions agreed, increases the importation of goods originating into its territory of the other party in absolute terms or relative to domestic production and under such conditions that the imports of such goods, constitute a substantial cause of serious injury or threat thereof to a domestic industry producing a like or directly competing goods. The party into whose territory the good is being imported may to the minimum extent necessary to remedy or prevent the injury:

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

(b) Partially reduce the margin of preference achieved by the programme of relief;

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

(i) The tariff rate applied to the most favoured nation at the time the measure is taken; or

(ii) The tariff rate applied to the most favoured nation on the day immediately preceding the Entry into Force Agreement.

2. The proceeding that may result in the application of a safeguard measure under paragraph 1 are subject to the following conditions:

(a) The Parties shall promptly notify in writing the other party of the initiation of a proceeding that could result in the application of a safeguard measure against a good originating in the territory of the other party seeking to conduct consultations;

(b) Any such action shall be initiated no later than one year from the date of initiation of the proceeding; and

(c) The safeguard measures shall be applied for a period of up to two years, including the time at which would have been in effect provisional measures.

If the grounds on which the safeguard measure may be extended by one year for which will be provided to the other party the corresponding justification, 30 days in advance.

During the period of extension of the measure is lower than the original. The Parties shall consult, prior to the adoption of the extension, to review the effectiveness of the relaxation of the measure extended. The party applying the extension shall provide evidence that the industry concerned is adjusting;

(d) A Party that has applied to goods originating safeguard measures of the other party, may not be applied again to the import of those goods, unless it has elapsed non-application equal to the period of validity of the measure and which in any case shall not be less than 24 months;

(e) At the end of the period of application of the measure, the tariff shall apply to the goods covered by the same State, shall have effect as if the measure has not been applied, in accordance with the scheme set out in the Agreement;

(f) The safeguard measures applied in accordance with the provisions of this chapter shall not affect trade transactions.

3. The imposition of a safeguard measure not reduce the imports in question below the average of imports during the last three years for which statistics are available, unless there is a clear justification of the need for a different level to prevent or remedy the serious damage.

Article 6.2. Provisional Safeguard

1. In critical circumstances where any delay involves a damage which it would be difficult to repair, the party applying a

measure in accordance with article 6.1, may take a provisional safeguard measure pursuant to a preliminary determination but objective of the existence of a clear evidence that increased imports have caused or threatened to cause serious injury to a domestic industry. Immediately after the provisional safeguard measure shall be notification and its justification, the affected party may request consultations pursuant to Article 6.1.2 (a).

2. The duration of a provisional safeguard measure shall not exceed 180 days and shall take any of the forms set out in article 6.1.1.

3. No provisional safeguard measures shall be applied to products whose imports have been subject to such a measure during the 24 months immediately preceding.

4. In the case of goods covered in 3.2-a 3.2-b in schedules and annexes of relief to 10, 15 and 18, exceptionally, a party may apply temporary special measures for a period of 60 days, when a reduction of export prices of such magnitude of goods originating on the other party to demonstrate objectively within that period, a threat of serious injury to a domestic industry producing a like or directly competing goods of the importing Party. In order to proceed with the implementation of a provisional measure up to a total maximum 180 days, the Parties shall apply and fulfil the requirements set out in this article.

The party applying a special safeguard, may not invoke it back up to 360 days have elapsed since the adoption of the measure.

5. If the subsequent investigation determines that the reasons invoked for the application of the measure, not have caused or threatened to cause serious injury to a domestic industry, shall be promptly refunded as of the provisional measures shall be released or security established by this concept, as appropriate.

6. During the period of application of the provisional measures shall comply with the relevant provisions of Articles 6.1 6.4, 6.5, 6.6 and 6.7.

Article 6.3. Global Safeguards

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

2. Any exception in the application of measures taken pursuant to Article XIX of GATT 1994 and the Agreement on Safeguards, which are afforded by a party to a non- Party shall, in the circumstances and conditions to be granted automatically exception to the other party.

3. A Party shall promptly notify in writing the other party of the initiation of a proceeding that could result in the application of a safeguard measure. In this regard, neither party may apply a measure referred to in paragraph 1 to impose restrictions on a good benefit from the agreement without prior written notification to the Commission.

Article 6.4. Procedures Concerning Safeguarding Measures

1. The Parties shall not apply in their mutual trade; safeguards article 6.1 and 6.3 simultaneously.

2. The parties may only apply a tariff of safeguard measures in their reciprocal trade.

3. Each Party shall establish or maintain procedures equitable, timely, transparent and effective for the application of safeguard measures in accordance with the requirements set out in Article 6.7.

4. For the adoption of safeguard measures, each Party shall entrust determinations of serious injury or threat thereof to a competent investigating authority.

Article 6.5. Settlement of Disputes Concerning Safeguarding Measures

Neither party may have recourse to the dispute settlement procedure under chapter 16 (Dispute Settlement), before the safeguards are effectively implemented.

Article 6.6. Definitions

For purposes of this chapter:

The threat of serious injury means clearly imminent serious injury which shall be based on facts and not merely on

Pleadings, conjecture or remote possibility;

The competent investigating authority means investigating a competent authority of a party, which shall be notified to the Commission by the administering;

Critical circumstances mean circumstances where delay would cause difficult to repair damage, in the area of domestic production; serious injury means a significant overall impairment of a branch of domestic production;

Absolute increase means a significant increase in imports over the trend over recent representative a base period;

Increase in relation to domestic production means an increase of the participation of preferential imports with regard to national production; and

Branch of the domestic industry means the producers as a whole of the like or directly competing goods operating in the territory of one of the Parties.

Article 6.7. Procedures Concerning the Administration of Safeguard Measures

Initiation of proceedings

1. The procedures for the adoption of safeguard measures may be initiated by request of an entity or entities shall be representative, in terms which constitutes a major proportion of the total domestic production of the prod ucción that produces like or directly competing goods imported goods.

2. A Party may initiate proceedings ex officio requesting the competent investigating authority is carried out.

Content of the application

3. If the investigation is conducted at the request of an entity representative of a branch of domestic production, at the request of the applicant shall provide the following information to the extent that such information is publicly available and can be obtained from governmental sources or other, and in the event that is not available, shall provide the best estimates that may carry out on such information as well as the foundations underpinning these estimates:

(a) Description of goods: the name and description of the imported goods in question, the tariff subheading which is classified and the current tariff treatment and the name and description of the like or directly competing national goods;

(b) Representativeness

(i) The names and addresses the request of the submitting entities, as well as the locations of the establishments in which they produce the domestic goods in question,

(ii) The percentage of domestic production of the like or directly competing goods that such entities account for and the basis for claiming that they are representative of an industry; and

(iii) The names and locations of all other establishments in which the domestic like or directly competing goods;

(c) Figures on Importation: import data for not less than 3 and not more than five years later;

(d) Figures on domestic production: data on total domestic production of the like or directly competing goods, for the period referred to in subparagraph (c);

(e) Data showing injury - quantitative and objective indicators denoting the nature and extent of injury to an industry in question, such as the showing changes in the level of sales, productivity, prices, production capacity utilisation, market share, profits or losses, and employment;

(f) A cause of injury - an enumeration and description of the alleged causes of injury or threat thereof, and a summary of the basis for the claim that the increased imports of such goods, either in absolute terms or relative to domestic production, is the cause of serious injury or threat thereof, supported by relevant information; and

(g) Criteria for inclusion - quantitative and objective data indicating the share of imports from the territory of the other party as well as the considerations of the applicant on the extent to which such imports are contributing importantly to the serious injury or threat thereof.

Notification requirement

4. To initiate a procedure for the adoption of safeguard measures, the competent investigating authority shall publish notice

of the initiation of the same in the Official Journal of the party. The notification shall contain the following information: the name of the applicant; the indication of the imported goods subject to the proceeding and its tariff subheading; the nature and timing of the determination to be institutionalized; the time limits for the submission of reports, statements and other documents to the competent investigating authority; where the application and other documents submitted during the proceeding may be inspected; and the name, address and telephone number of the office where additional information is available.

5. Where a procedure for the adoption of safeguard measures shall be instituted by a petition filed by an entity alleging be representative of a branch of domestic production, the competent investigating authority shall not publish the notice required in paragraph 4 if the application without carefully evaluating complies with the requirements established in paragraph 3, including representativeness.

Confidential information

6. Once submitted applications, they shall be made public. The competent investigating authority shall not disclose any information in its report has been provided on a confidential or that is committed to maintain such during the proceeding.

The competent investigating authority shall adopt or maintain procedures for the management of information provided to it as confidential and that is protected by the national legislation, which is provided in the course of the proceedings and shall require the interested parties to provide such information by delivery of written non-confidential summaries thereof.

The non-confidential summaries shall allow a reasonable understanding of the information provided on a confidential basis. If the parties concerned are unable to summarize this information, explain the reasons preventing it.

Evidence of injury and causation

7. In conducting its proceeding the competent investigating authority shall obtain all relevant information for the relevant resolution. Evaluate relevant factors of an objective and quantifiable nature affecting the status of that branch of domestic production, including the amount and rate of the increase in imports of the good concerned in absolute and relative terms as appropriate; the share of imports covered by the domestic market; and changes in the level of production, sales, productivity, utilisation of capacity, profits or losses, and employment. For its decision, the competent investigating authority may also consider other economic factors such as changes in prices and inventories and the ability of firms in the industry to generate capital.

8. The competent investigating authority shall not make an affirmative injury unless its investigation'proving based on objective evidence, the existence of a clear causal link between increased imports of the good concerned and serious injury or threat thereof. Except as provided in Article 2.4, factors other than when increased imports are causing the injury to a domestic industry, such injury shall not be attributed to the increased.

Deliberation and report

9. In accordance with the laws and practices of each party, the competent investigating authority shall make available to any interested party and the general public a report containing background and rationale non-confidential taken into consideration the findings and to achieve reasoned conclusions on all pertinent issues of law and fact. Furthermore, a summary thereof, in conjunction with that resolution provides for the application of the measure adopted, shall be published in the Official Journal of the party applying the measure.

Chapter 7. Anti-dumping and Countervailing Duties

Article 7.1.

1. The parties condemn any unfair trade practice and undertake to eliminate the measures that may cause to bilateral trade distortion.

2. In this regard, undertake not to grant new export subsidies affecting trade between the parties and not later than 31 December 2002, do not apply to the reciprocal trade under the release of this Agreement, incentives programmes or that constitute export subsidies. The programme shall not apply to products which after the liberation, 31.12.2002 enjoy export subsidies.

Article 7.2.

1. If in the reciprocal trade distortions arising from the application of export subsidies or grants actionable according to the

WTO and other unfair trading practices, the affected country may apply the measures provided for in its national legislation. Without prejudice to the foregoing be conducted simultaneously, an exchange of information through the competent national authorities referred to in annex 15.1.1.

2. The Parties shall apply their rules and procedures in these fields, in accordance with the GATT 1994 and the WTO Agreement.

Chapter 8. Competition Policy

Article 8.1. Objectives

1. Recognizing that conduct subject to this chapter have the potential to restrict trade, the Parties consider that such anti-competitive conduct by proscribing, implementing policies of free competition and cooperation, will help ensure the benefits of this Agreement.

2. In this regard, the parties undertake to apply their respective competition laws in a manner consistent with this chapter so as to avoid that the benefits of the liberalisation of trade in goods, services and investment may be reduced or cancelled by anti-competitive practices. To this end, the parties agree to establish cooperation and coordination between their competition authorities under the provisions of this chapter.

3. To prevent distortions or restrictions of competition that may affect trade in goods or services between them, the Parties shall pay special attention to anti-competitive agreements, concerted practices and the abusive behaviour arising out of dominant positions individually or jointly.

4. The parties agree to cooperate and coordinate its proceedings for the enforcement of its laws on competition. This cooperation shall include the notification, consultation, the exchange of information and technical assistance.

Article 8.2. Competition Authorities and Legislation

1. Each Party shall adopt or maintain national legislation on competition to promote economic efficiency and general well-being, proscribing anti-competitive business practices, whether undertaken by public or private enterprises, and shall take appropriate action with respect to such practices.

2. Each Party shall maintain an authority or authorities responsible for the enforcement of its national competition laws. The enforcement policy of the Parties national authorities shall not discriminate against persons on the basis of nationality, in their procedures.

3. The Parties recognize the value of transparency of free competition policies.

4. Each Party shall ensure the application of due process in investigations pertaining to its legislation on competition.

5. Each Party shall maintain autonomy to develop and implement its competition laws.

6. If any exception or exclusion coverage of the rules of competition nationals, each Party shall ensure that they are not engaged in a discriminatory manner and that they do not create anticompetitive effects, directly or indirectly, in the territory of the other party.

7. In case of absence of export cartels, the Parties shall ensure that they are under the coverage of their respective laws of free competition, while developing anti-competitive business practices which generate effects in the territory of the other party.

Article 8.3. Anti-competitive Business Practices with Cross-border Effects

1. The Parties shall have the power to prosecute anti-competitive business practices that arise in its territory, whose effects manifested in the territory of the other party.

2. If a Party finds evidence of anti-competitive business practices generated in the territory of the other party that produce effects in its territory, it may request the other party of the initiation of an investigation.

3. The requested Party shall conduct the investigation in accordance with the procedures laid down in its legislation of free competition.

Article 8.4. Cooperation

1. The parties agree to cooperate in the area of competition policy. The Parties recognise the importance of cooperation and coordination between their respective authorities to ensure the effective application of their laws of fair competition in the Free Trade Area.

2. Effective cooperation for the parties through their competition authorities shall conclude agreements or arrangements for cooperation.

3. With the objective of ensuring the implementation and the implementation of the provisions of this chapter, particularly with regard to the development of mechanisms for cooperation between the competition authorities of the Parties shall establish a working group comprising representatives of each party.

4. The group of T rabajo shall make a report on the status of its work to the Commission by the administering no later than three years following Entry into Force and shall make such recommendations as appropriate for the implementation of future actions.

Article 8.5. Coordination between Competition Authorities

1. In cases involving anticompetitive conduct originating in the territory of a party, in whole or in part, produce or may produce effects, in the territory of the other party, the competition authorities of the Parties may conduct its activities in the application of its laws in close coordination. This cooperation shall not prevent the parties from taking autonomous decisions.

2. "their law enforcement activity means any application of competition laws by investigations or proceedings conducted by the competition authority of a party, that may result in the imposition of penalties or remedies.

Article 8.6. Notifications

1. Each competition authority shall notify the competition authority of the other party of an enforcement activity of its laws that may affect important interests of the other party specifically when such activity:

(a) Concerns anticompetitive conduct that originate in the territory of the other party; or

(b) Concerns anti-competitive acts which produce or may produce effects, in the territory of the other party.

2. Provided that it is not contrary to the free competition legislation of the parties not affect any ongoing investigation, the notification shall take place at an early stage of the procedure. The competition authority of the party who carry out the activity of its implementation of legislation may take into account any comments received from the other party in its decision-making.

3. The notifications provided for in paragraph 1 should be detailed enough to permit an evaluation in the light of the interests of the other party, and shall include, inter alia, the identification of entities or localities involved, specifying the market goods and individuals concerned, and any indication practices which may restrict trade between the parties.

Article 8.7. Consultations

1. To foster understanding between the parties, or to address specific matters that may arise in accordance with this Chapter, each Party shall, at the request of the other party initiate consultations concerning any request to the other party.

2. In its request the Party shall indicate whether it is relevant, how the matter affects bilateral trade. The Party in question shall give consideration to the concerns of the other party without prejudice to its full autonomy to develop and implement its competition laws.

Article 8.8. Information Exchange and Confidentiality

1. With a view to facilitating the effective application of their Competition Laws, the competent authorities of the Parties shall exchange information on any ongoing research on anti-competitive business practices that may affect trade between the parties, including the preliminary phase of the same.

2. The information exchanged only be used as a means of evidence for the effective enforcement of competition laws of the Parties and with respect for the purpose for which it was collected by the sender authority.

3. The Parties may exchange of confidential information. In any case shall not disclose such information without the consent of the party which provided.

4. In particular, when required by the law of a Party may provide confidential information on their respective courts of justice, provided that they maintain confidentiality.

5. In addition to the provisions in chapter 14 (transparency), the parties undertake to exchange information regarding sanctions and remedies applied in cases where anti-competitive acts originate, produce or may produce effects in the territory of the other party. To this end, shall as soon as possible a summary of the case and the text of the resolution.

Article 8.9. Technical Assistance

The Parties may provide each other with mutual assistance in order to benefit from their experiences and strengthen the application of their competition laws and policies.

Article 8.10. State-Owned Enterprises and Enterprises Holding Special or Exclusive Rights, Including Designated Monopolies

1. Nothing in this chapter shall prevent a Party designates or maintaining public or private monopolies according to its legislation. In any case, the effects of economic activity in the territory of the other party, it shall without limitations on the scope of competition law.

2. With regard to public enterprises and enterprises to which they have granted special or exclusive rights, including designated monopolies from the date of Entry into Force shall not adopt or maintain measures that distorts trade in goods or services between the parties that are contrary to the interests of the other party.

3. Furthermore, the Parties shall ensure that such enterprises are subject to the rules of competition insofar as the application of such rules does not obstruct the performance, in law or in fact, the objectives of public interest or obvious desirability national which specifically allocated.

4. The action of public undertakings are conducted in equal conditions with private actors to participate in economic activity.

5. Public enterprises and enterprises holders of special or exclusive rights, including designated monopolies, shall accord non-discriminatory treatment to covered investments, to the goods of the other party and to service suppliers of the other party.

6. This article does not apply to procurements.

Article 8.12. Settlement of Disputes

Neither party may have recourse to the dispute settlement procedure under chapter 16 (Dispute Settlement) for any matter arising under this chapter.

Article 8.13. Final Provisions

Nothing in this chapter shall be construed so as to alter the rights and obligations provided for in any other chapter of this Agreement.

Chapter 9. Sanitary and Phytosanitary Measures

Article 9.1. Objectives

1. This chapter is intended to facilitate trade in animals and animal products and by-products; plants and plant products and by-products between the parties while protecting human life and health, animal and plant.

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

Article 9.2. General Provisions

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

phytosanitary measures that directly or indirectly affect the trade of animals and products and by-products of animal and plant products and by-products of plant origin between the parties.

1. It shall be governed by the provisions of the Agreement on cooperation and coordination in the field of animal health signed between the Servicio Nacional de Sanidad Agraria (SENASA) of the Ministry of Agriculture of the Republic of Peru and the service Agriculture and Livestock (SAG) of the Ministry of Agriculture of the Republic of Chile. In the event of any inconsistency or inconsistency between 9.2.2 Annex and the provisions of this Agreement, the latter shall prevail to the extent of the inconsistency or inconsistency.

3. This chapter shall apply to the definitions in annex A of the SPS Agreement, as well as those set out in the harmonized glossaries of terms of the relevant international organizations: the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC), the Codex Alimentarius Commission (Codex).

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

Article 9.3. Rights and Obligations

1. The Parties shall use international standards, guidelines and recommendations as the basis for the adoption or application of their sanitary and phytosanitary measures.

2. The Parties may establish or maintain sanitary and phytosanitary measures which provide a higher level of protection than that which would be achieved by a measure based on international standards, guidelines or recommendations, provided that there is scientific basis.

Article 9.4. Equivalence

A Party shall accept as equivalent Sanitary and Phytosanitary Measures of the other Party, provided that the latter'proving achieve at least the appropriate level of protection of the other party. To this end, the Parties may request the assessment of systems and structures of the competent authority.

Article 9.5. Recognition of Pest or Disease Free or Low Prevalence Areas

1. For the recognition of areas free or low prevalence of pests or diseases, shall be in accordance with article 6 of the SPS Agreement and relevant international standards.

2. Time limits and procedures of the respective recognition shall be agreed between the competent authorities in sanitary and phytosanitary of each party. The importing Party shall decide on the application for recognition of free zone or low prevalence of pests or diseases, taking into account the time frames and procedures for recognition agreed.

3. Each Party shall, within the agreed time frames and expeditiously applications for recognition of disease-free or areas of disease or pest low prevalence of the other party that have been identified as such by the relevant international organizations.

Article 9.6. Risk Assessment and Appropriate Level of Protection

1. The parties to undertake their sanitary and phytosanitary measures are based on an appropriate evaluation to the circumstances of the existing risk to the life and health of humans, animals and plants, taking into account the guidelines elaborated the competent international organizations.

2. In establishing its appropriate level of protection, the Parties shall take into account the risk assessment techniques developed by the relevant international organizations and the objective of minimizing the negative effects on trade and shall avoid arbitrary or unjustifiable distinctions at the levels it considers appropriate in different situations, if such distinctions result in discrimination or disguised restriction on trade.

Article 9.7. Agreements between Competent Authorities

1. For the purpose of avoiding the standards of animal and plant health and food safety become obstacles to trade, the competent authorities in sanitary and phytosanitary matters the Parties may conclude agreements for cooperation and coordination in order to facilitate the exchange of goods without presenting a health risk for both countries.

2. Such agreements may establish mechanisms and instruments necessary to ensure transparency and fluidity, deadlines for assessment procedures for recognition of equivalence, disease-free or areas of low or pest disease prevalence, granting licences and certificates, among others.

Article 9.8. Committee on Sanitary and Phytosanitary Measures

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

2. The Committee shall be composed of representatives of the competent authorities in trade, sanitary and phytosanitary and identified in Annex 9.10.

3. The Committee shall meet not later than 1 year after Entry into Force and at least once a year or as agreed by the parties. The Committee shall meet in person or via teleconferencing, videoconferencing, or through other means. At its first meeting the Committee shall establish its rules of procedure and programme of work, which shall be updated according to the matters of interest proposed by the parties.

4. The functions of the Committee shall be:

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

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

(c) To provide a forum for technical consultations where a party so notifies the Committee, which will facilitate such consultations;

(d) Establishing working groups or ad hoc technical working groups, as required;

(e) Consultations on matters, positions and agendas for meetings of the Committee on Sanitary and Phytosanitary Measures of the WTO, of which shall be carried out in the framework of the Codex Alimentarius Commission), the International Plant Protection Convention (IPPC), the World Organisation for Animal Health and other international fora which are members of both parties;

(f) Promotion and monitoring of the technical cooperation programs on sanitary and phytosanitary matters between the competent authorities;

(g) Modify, where appropriate, the annex 9.10 referred to the competent authorities and contact points; and

(h) Other functions mutually agreed by the parties.

Article 9.9. Consultations and Dispute Settlement

1. In the event that a Party considers that a sanitary or phytosanitary measure affecting its trade with the other party may request the competent authority coordinator of the Committee on Sanitary and Phytosanitary Measures of the other party that technical consultations. Such consultations shall take place within 45 days of receiving the request, unless the parties agree otherwise, and may be conducted via teleconference video-conference or any other means mutually agreed by the parties.

2. Where the parties have had recourse to consultations under paragraph 1, such consultations shall replace those provided for in article 16.4 (consultations).

Article 9.10. Competent Authorities

The competent authorities of the Parties are those mentioned in this chapter, in the manner provided for in annex 9.10.

Chapter 10. Technical Barriers to Trade

General provisions

Article 10.1.

1. This chapter shall apply to technical regulations, standards and conformity assessment procedures (1) of the parties, both

national and local levels, that may directly or indirectly affect the reciprocal trade in goods.

2. The provisions of this chapter does not apply to sanitary and phytosanitary measures which are covered by Chapter 7 (sanitary and phytosanitary measures).

3. This chapter does not apply to procurement specifications prescribed by governmental institutions.

(1) The Conformity Assessment Procedures include metrology.

Article 10.2.

The Parties shall use as a basis for the development, adoption and application of standards and technical regulations and conformity assessment procedures, guidelines and recommendations on the terms established in the TBT Agreement, as well as the provisions set out in this chapter.

Article 10.3.

1. The Parties shall ensure that are not develop, adopt or apply technical regulations, standards and conformity assessment procedures with a view to or with the effect of creating unnecessary obstacles to trade.

2. Each Party shall take the necessary measures to ensure compliance with the provisions of this chapter, both at national and local levels, as well as measures within its scope in duly recognized non-governmental bodies in its territory.

Trade facilitation

Article 10.4.

1. The Parties shall intensify their joint work in the field of standards and technical regulations and conformity assessment procedures with a view to facilitating access to their respective markets. In particular, the parties shall seek to identify bilateral initiatives that are appropriate for particular issues or sectors.

2. Such initiatives may include cooperation on regulatory issues, such as convergence or equivalence of technical regulations and standards; alignment with international standards; reliance on a supplier declaration of conformity, the recognition and acceptance of the results of the conformity assessment, and the use of accreditation of agencies to qualify the conformity assessment, as well as cooperation through the mutual recognition.

Article 10.5.

1. The Parties shall establish the necessary tools and mechanisms to ensure transparency and fluidity, time limits on the procedures for granting authorisations, certificates and inscriptions or health records.

2. The parties undertake to issuing respective alerts sanitary or records or other procedures concerning the scope for marketing, import or export, within the time limits set out in annex 10.5 so as to ensure access and trade in goods covered by these Regulations.

3. There shall be regarded as a breach as the observance of the time limits set by the parties, contained in the same annex 10.5.

4. In the event that the limits of Annex A 10.5 modification for duly substantiated reasons, these shall be submitted through the authorities designated by the Committee on Technical Barriers to Trade. The Parties shall endeavour not to extend the time.

Technical regulations

Article 10.6.

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

processing technology; or intended end uses of goods.

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

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

Article 10.7.

Provided that it is satisfied that the technical regulations in fulfilling the legitimate objectives, each Party shall accept as equivalent technical regulations of the other Contracting Party, even if they differ from those. In reaching a mutually satisfactory agreement in this regard, the parties may undertake prior consultations.

Conformity assessment

Article 10.8.

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

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

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

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

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

(d) Accreditation procedures for qualifying conformity assessment bodies;

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

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

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

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

5. Each Party shall, shall, or otherwise, shall recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those accorded to conformity assessment bodies in its territory. If a party, accredits, approves or otherwise authorised recognises a body assessing conformity with a particular technical regulation or standard in its territory and refuses to accredit, adopt, authorise or otherwise recognize a body that assessing conformity with technical regulation or standard in the territory of the other Party shall, upon request, explain the reasons for its refusal to take remedial action if necessary.

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

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

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

Article 10.9.

The parties undertake to adopt, for the purpose of trade, the international system of units.

Article 10.10. Transparency

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

2. Each Party shall grant a period of at least 60 days from the transmission of the notification referred to in paragraph 1, so that they may submit and comment and consultations on such measures, so that the notifying party may absolverlas and taken into account. To the extent possible, the notifying party shall give favourable consideration to the requests of the other party for an extension of the deadline for comments.

3. In case arising or threatening planteársele urgent problems relating to legitimate objectives to one of the Parties and adopt a technical regulation or conformity assessment procedure shall notify the other party to electronically through the contact point referred, at the same time as it notifies the other members of the WTO.

4. The Parties shall notify to the extent possible, including those technical regulations that are consistent with the technical content of the relevant international standards.

5. Each Party shall publish or in print, electronically or otherwise make available to the public its responses to significant comments at the same time as the publication of the technical regulation or conformity assessment procedure.

6. Each Party shall, at the request of the other Party shall provide information regarding the objectives and the reasons of a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

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

8. With regard to the exchange of information, in accordance with article 10 of the TBT Agreement, the Parties shall implement the recommendations contained in document decisions and recommendations adopted by the Committee since 1 January 1995, G / TBT / Rev. 1 /

8, 23 May 2002, section IV, paragraphs 3 and 4 (procedure for the exchange of information) issued by the Committee on Technical Barriers to Trade.

9. With the exception of paragraphs 7 and 8, each Party shall implement this article as soon as is practicable and in no event later than 2 years from the Entry into Force Agreement.

Article 10.11. Committee on Technical Barriers to Trade

1. The parties establish a Committee on Technical Barriers to Trade composed of representatives appointed by each Party in accordance with annex 10.11.

2. The functions of the Committee shall include:

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

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

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

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

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

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

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

(h) Reviewing this chapter in light of developments within the Committee on Technical Barriers to Trade and develop recommendations for amendments to this chapter if necessary;

(i) If appropriate, to administering the Commission on the implementation of this chapter; and

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

2. The Parties shall make every effort to reach a mutually satisfactory solution, on the consultations referred to in paragraph 1 (f), within a period of 30 days.

3. Where the parties have had recourse to consultations in accordance with paragraph 1 (f), such consultations shall replace those provided for in article 16.4 (consultations).

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

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

Article 10.12. Technical Cooperation

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

2. Each Party shall encourage standardizing bodies and conformity assessment in its territory to cooperate with the other party in its territory, as appropriate, in the development of its activities, such as through membership in international standardisation and conformity assessment bodies.

Article 10.13. Exchange of Information

Any information or explanation is provided that at the request of a Party in accordance with the provisions of this chapter shall be provided in print or electronically within a period of 30 days, which may be extended prior justification for the reporting Party.

Article 10.14. Definitions

For purposes of this chapter shall apply the terms contained in annex 1 of the TBT Agreement, in addition to the following:

International Standard means a standard adopted by the International Organisation for Standardisation and made available to the public;

International standardisation bodies concerning standardisation bodies open to the relevant bodies of at least every member of the TBT Agreement, including the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), the Codex Alimentarius Commission), the International Telecommunication Union (ITU), the International Organization of Legal Metrology (OIML), or any other body designated by the parties.

Chapter 11. Investment

Section A. Investment

Article 11.1. Scope (1)

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

(a) Investors of the other party;

(b) Covered investments; and

(c) As regards articles and 11.6 11.13, all investments in the territory of the party.

2. A requirement by a party that a service provider of the other party constitute a bond or other form of financial security as a condition of providing a service into its territory does not make this chapter applicable to the provision of cross-border that service. This chapter applies to measures adopted or maintained by the Party relating to the bond or financial security if the bond or financial security is a covered investment.

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

4. This chapter does not apply to:

(a) Measures adopted or maintained by a Party to investors of the other party and to investments of investors in such financial institutions in the territory of the Party;

(b) Any act or fact that took place or any situation created before the date of Entry into Force Agreement, except as provided in Annex 2 11-E; (2) and

(c) Public procurement.

5. The obligations of a Party under this section shall apply to a State enterprise or other person designated monopoly, when they carry out any regulatory authority, administrative or other governmental authority has been delegated to it by that Party, such as the authority to expropriate, licensing, whether these import or export, approve or commercial transactions, fees impose quotas or other charges.

(1) For greater certainty, this Chapter is subject to and shall be interpreted in accordance with Annexes 11-A through 11-H.

(2) This subparagraph (b) should be understood in accordance with the provisions of Annex 11-E.

Article 11.2. National Treatment

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

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

Article 11.3. Most Favoured Nation Treatment

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

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

Article 11.4. Minimum Level of Treatment (3)

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

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

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

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

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

(3) For greater certainty, Article 11.4 shall be interpreted in accordance with Annex 11-A.

Article 11.5. Treatment In Case of Strife

1. Without prejudice to article 11.8.4, each Party shall accord to investors of the other party and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

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

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

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

The latter Party shall grant the investor restitution or compensation which in either case shall be prompt, adequate and effective and with respect to compensation shall be in accordance with article 11.10.2 to 11.10.4.

3. Paragraph 1 does not apply to existing measures relating to subsidies or grants that would be inconsistent with article 11.2, except for article 11.8.4.

Article 11.6. Performance Requirements

Mandatory performance requirements

1. Neither party may impose or enforce any of the following requirements or enforce any obligation or compromise (4), in relation to the establishment, expansion and acquisition, administration, management, operation or sale or other disposition of an investment in its territory by an investor of a party or of a non- party to:

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

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

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

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

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

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

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

Advantages subject to performance requirements

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

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

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

territory;

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

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

Derogations and exemptions

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

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

(i) When a Party authorizes use of an intellectual property right in accordance with article 31 (5) of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information within the scope of application, and are consistent with article 39 of the TRIPS Agreement; or

(ii) When the requirement is imposed or the commitment or enforced by a judicial or administrative tribunal or competition authority to remedy a practice determined after it has been a judicial or administrative procedure as anti-competitive according to the legislation of the party (6).

(c) Nothing in paragraphs 1 (b), (c), (f) and paragraphs 2 (a) and (b) shall be construed to prevent a Party from adopting or maintaining measures including environmental nature:

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

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

(iii) Related to the conservation of exhaustible natural resources, whether or not living

Provided that such measures are not applied in an arbitrary or unjustifiable and provided that such measures do not constitute a disguised restriction on international trade or investment.

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

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

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

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

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

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

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

Article 11.7. Senior Management and Boards

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

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

Article 11.8. Dissenting Measures (7)

1. Articles 11.2 11.3, 11.6 and 11.7 do not apply to:

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

(i) The Government or authorities of national or regional level of a Party as set out in annex I to its schedule; and

(ii) A local government of a party;

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

(c) The modification of any Non-Conforming Measure referred to in subparagraph (a), provided that the amendment does not decrease the conformity of the measure as currently in force immediately before the amendment with articles 11.2 11.3, 11.6 and 11.7.

2. Articles 11.2 11.3, 11.6 and 11.7 do not apply to any measure that adopts or maintains a Party with respect to the sectors or sub-sectors or activities as set out in annex II to its schedule.

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

4. Articles 11.2 and 11.3 11.7 shall not apply to subsidies or grants provided by a party, including loans and guarantees government-supported insurance.

(7) For greater certainty, article 11.8 is subject to Annex 11-B.

Article 11.9. Transfers (8)

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

(a) Contributions of capital;

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

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

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

(e) Payments made pursuant to article 11.5.1 and 11.5.2 and with article 11.10; and

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

2. Each Party shall permit transfers of returns in kind relating to a covered investment to be implemented or authorized as specified in a written agreement between the Party and a (9) covered an investor or investment of the other party.

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

4. No party may require its investors to transfers carried out their income, profits, or other amounts derived profits from or attributable to investments in the territory of the other party, nor shall not make the transfer.

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

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

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

(c) Criminal offences;

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

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

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

(8) For greater certainty, Article 11.9 is subject to Annex 11-C.

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

Article 11.10. Expropriation and Compensation (10)

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

(a) For reasons of public purpose or (11) public purpose;

(b) In a non-discriminatory manner;

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

(d) In accordance with the principle of due process of law and to article 11.4.1 11.4.3.

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

(a) Be paid without delay;

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

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

(d) Be realized fully and freely transferable.

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

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

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

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

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

(10) For greater certainty, Article 11.10 shall be interpreted in accordance with Annex 11-D.

(11) For the purposes of this article, the term "public purpose" refers, in the case of the Peruvian Party, to a concept of customary international

law. Domestic legislation may express this or a similar concept using different terms, such as "public utility", "public necessity" or "public interest".

Article 11.11. Special Formalities and Information Requirements

1. Nothing in Article 11.2 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities related to a covered investment, such as a requirement that investors be residents of the party or that covered investments be constituted in accordance with the laws and regulations of the Party provided that such formalities do not materially impair the protections afforded by a party to an investor of covered investments and the other party pursuant to this chapter.

2. Notwithstanding articles 11.2 and 11.3, a Party may require an investor of the other party or a covered investment to provide information concerning that investment or informational solely for statistical purposes. The Party shall protect any confidential information the disclosure of which could prejudice the competitive position of the covered the investor or investment. Nothing in this paragraph shall be construed as preventing a party from obtaining or disclosing information in connection with the good faith and equitable application of its domestic legislation.

Article 11.12. Denial of Benefits

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

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

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

Article 11.13. Investment and Environment

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

Article 11.14. Implementation

The Parties shall consult annually, or otherwise agreed, to review the implementation of this chapter and consider investment matters of mutual interest, including consideration of the development of procedures that could contribute to greater transparency of measures referred to in article 11.8.1 (c).

Section B. Investor-state Dispute Settlement

Article 11.15. Consultation and Negotiation

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

Article 11.16. Submission of a Claim to Arbitration

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

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

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

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

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

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

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

2. For greater certainty, no claim may be submitted to arbitration under this section alleging a violation of any provision of this Agreement other than an obligation under section A.

3. At least 90 days before submitting any claim to arbitration under this section, the claimant to the respondent shall deliver a written notice of its intention to submit the claim to arbitration (notice of intent). The notice shall specify:

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

(b) Each claim for the provision of this Agreement alleged to have been breached and any other relevant provisions;

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

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

4. Provided that six months have elapsed since the events giving rise to the claim. a claimant may submit a claim referred to in paragraph 1:

(a) In accordance with the ICSID Convention provided that both the party and the respondent parties are litigant thereof;

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

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

(d) If the parties involved so agree to arbitration, any other institution or under any other arbitration rules.

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

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

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

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

(d) Referred to under any other arbitral institution or arbitral rules selected under paragraph 3 (d) is received by the respondent.

A claim extended by the applicant for the first time after having been submitted the notice of arbitration shall be deemed submitted to arbitration under this section on the date of its receipt in accordance with the applicable arbitration rules.

6. The arbitration rules applicable under paragraph 4, and which are in effect on the date the claim or claims that have been submitted to arbitration under this section shall govern the arbitration except to the extent modified by this Agreement.

7. The claimant shall provide with the notice of arbitration referred to in paragraph 5:

(a) The name of the arbitrator it has appointed; or

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

Article 11.17. Consent of Each Party to Arbitration

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

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

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

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

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

Article 11.18. Conditions and Limitations on Consent of the Parties

1. No claim may be submitted to arbitration under this section if more than three years have elapsed from the date on which the claimant knew or should have had knowledge of the alleged breach under article 11.16.1 and knowledge that the claimant (for claims brought under article 11.16.1 (a)) or the enterprise (for claims brought under article 11.16.1 (b)) has suffered losses or damages.

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

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

(b) The notice of arbitration referred to in article 11.16.5 accompanied,

(i) The written waiver of the applicant for claims submitted to arbitration under article 11.16.1 (a),

(ii) Written on waivers of the claimant and the enterprise for claims submitted to arbitration under article 11.16.1 (b),

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

3. No claim may be submitted to arbitration, if the claimant (for claims brought under article 11.16.1 (a)) and the claimant or the enterprise (for claims brought under article 11.16.1 (b)) has previously submitted the same alleged breach before a judicial or administrative tribunal of the defendant, or to any other binding dispute settlement procedure. For greater certainty, if an investor elects to submit a claim of the type described above before a judicial or administrative tribunal of the defendant, that election shall be definitive and the investor may not thereafter submit the claim to arbitration under this section.

4. Without prejudice to paragraph 2 (b), the claimant (for claims brought under article 11.16.1 (a)) and the claimant or the enterprise (for claims brought under article 11.16.1 (b)) may continue or initiate an action that seeks an application for protective measures of suspensive effect, declaratory or special and that does not involve the payment of monetary damages before a judicial or administrative tribunal of the defendant, provided that the action is brought for the sole purpose of preserving its rights and interests of the claimant or the enterprise during the period of waiting of arbitration.

Article 11.19. Selection of Arbitrators

1. Unless the parties agree otherwise, the T ribunal shall be composed of three arbitrators, one arbitrator desig Nado by each of the warring parties and the third, who shall be the presiding arbitrator shall be appointed by agreement of the parties involved.

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

3. Where a tribunal shall not be integrated within 75 days from the date that the claim is submitted to arbitration under this section, the Secretary-General, at the request of a party, designate litigants, at its discretion, the arbitrator or arbitrators not yet appointed.

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

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

(b) The claimant referred to in article 11.16.1 (a) may submit a claim to arbitration under this section, or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only on condition that the claimant's consent in writing to the appointment of each member of the Tribunal; and

(c) The claimant referred to in article 11.16.1 (b) may submit a claim to arbitration under this section, or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only on condition that the claimant and the enterprise consent in writing to the appointment of each member of the Tribunal.

Article 11.20. Conduct of the Arbitration

1. The parties may agree on the legal place of any arbitration held under the applicable arbitral rules under article 11.16.4 11.16.4 (b), (c) or (d) 11.16.4. In the absence of agreement between the warring parties, the tribunal shall determine the place in accordance with the applicable arbitral rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

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

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

4. Without prejudice to the powers of the T ribunal a preliminary objections as to other issues, such as an objection that the dispute is not within the competence of the T A T ribunal ribunal, known as a preliminary question and decide any objection by the respondent that as a matter of law, a claim is not submitted a claim for which an award in favour of could be issued to the applicant under article 11.26.

(a) Such objection shall be submitted to the T ribunal as soon as possible after the Constitution of the T ribunal, and in no event later than the tribunal fixes the date for the respondent to submit its response to the demand; or in the case of an amendment to the notice of arbitration referred to in article 11.16.5, fixes the date the Tribunal for the respondent to submit its response to the amendment.

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

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

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

5. In the event that the respondent so requests within 45 days after the Constitution of the Tribunal, the Tribunal shall decide on an expedited basis, on an objection under paragraph 4 or any objection that the dispute is not within the competence of the Tribunal. The Tribunal shall suspend any proceedings on the merits and issue no later than 150 days after the date of the request, a decision or award, stating the objection on the basis. However, if a Party requests a litigant the Tribunal hearing may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, the Tribunal shall show a special reason, delay issuing its decision or award by an additional brief period of time, which may not exceed 30 days.

6. When the T ribunal decides on the objection of the respondent in accordance with paragraphs 4 or 5, may, if warranted, awarded to the winner litigants party reasonable costs and fees incurred in submitting or opposing the objection. In determining whether such an award is justified, the tribunal shall determine whether the claim of the claimant or the objection of the respondent was frivolous and shall accord to the warring parties a reasonable opportunity to present their comments.

7. The respondent shall as a defence, counterclaim or countervailing duty or for any other reason that pursuant to an insurance contract, or guarantee that the claimant has received or will receive indemnification or other compensation for all or part of the alleged damage.

8. A tribunal may order an interim measure of protection to preserve the rights of a combatant or with the aim of ensuring the full exercise of the competence of the Tribunal, including an order to preserve evidence in the possession or control of combatant or a party to protect the competence of the Tribunal. The Tribunal or attachment order may not prevent the application of a measure that is deemed to be a breach referred to in article 11.16.

9..(a) At the request of any of the Parties to the conflict, the Tribunal before the award on the responsibility, transmit its proposed award to the parties to the conflict and the Party not litigants. Within 60 days after such proposed award only warring parties may submit written comments to the Tribunal concerning any aspect of its proposed award. The Tribunal deemed such comments and issue its award not later than 45 days after the expiration of the 60-day comment.

(b) Subparagraph (a) shall not apply in any arbitration for which an appeal has been made available pursuant to paragraph 10 or anexo11 -g.

10. If the parties are put in place a separate multilateral treaty that establishes an appellate body for purposes of reviewing awards rendered by tribunals constituted pursuant to international trade or investment treaties to hear investment disputes, the parties will explore the possibility to reach an agreement that would have such appellate body review under Article 10.26 awards rendered in arbitrations commenced after that have been established the Appellate Body.

Article 11.21. Transparency of the Arbitral Proceedings

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

(a) The notice of intent referred to in article 11.16.3;

(b) The notice of arbitration referred to in article 11.16.5;

(c) Written pleadings, demand and other documents to be submitted to the Tribunal by a Party combatant and any written communication submitted in accordance with article and article 11.20.2 11.20.3 and 11.25;

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

(e) Orders or judgments and decisions of the Tribunal.

2. The Tribunal shall conduct hearings open to the public and shall, in consultation with the parties - the appropriate logistical arrangements. However, any opposing side in a hearing to use information designated as protected information shall inform the court. The tribunal shall make appropriate arrangements to protect the information from disclosure.

3. Nothing in this section requires a respondent to provide or furnish or protected information to allow access to information that it may withhold in accordance with article 17.2 Essential (Security) or Article 19.5 (disclosure of information).

4. The protected information shall, if such information is submitted to the Tribunal shall be protected from disclosure in accordance with the following procedures:

(a) Subject to subparagraph (d), neither warring parties nor the T ribunal litigants not disclose to the party or to the public any information protected where the opposing side that provided the information clearly designates it in accordance with subparagraph (b);

(b) Any litigant party claiming that certain information constitutes protected information shall clearly designate the time to be submitted to the Tribunal;

(c) A combatant Party shall, at the same time that it submits a document containing information claimed as protected information, submit a redacted version of the document that does not contain the information. Only the redacted version shall be provided to the Party not combatants and shall be made public in accordance with paragraph 1; and

(d) The Tribunal shall decide on any objection regarding the designation of Information claimed as protected information. If the Tribunal determines that such information was not properly designated the opposing side that submitted the information may:

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

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

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

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

Article 11.22. Applicable Law

1. Subject to paragraph 2, when a claim is submitted under article 11.16.1 (a) (i) or article 11.16.1 (b) (ii), the Tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

2. Administering a decision of the Commission declaring its interpretation of a provision of this Agreement under article 15.1 (commission administering) shall be binding on a tribunal established under this section and any award must be consistent with that decision.

Article 11.23. Interpretation of Annexes I and II

1. If the respondent raise as a defence that the measure is alleged to be a breach within the scope of a Non-Conforming Measure contained in Annex I or Annex II, at the request of the defendant, the T ribunal shall request the administering a commission interpretation on the matter. Within 60 days of the delivery of the request the Commission to the Court Administrator shall submit in writing any decision declaring its interpretation.

2. The Administrator decision issued by the Commission under paragraph 1 shall be binding on the T ribunal and any award issued by the Tribunal must be consistent with that decision. If the Commission fails to issue such a decision within 60 days, administering the tribunal shall decide on the matter.

Article 11.24. Expert Reports

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

Article 11.25. Cumulation of Procedures

1. In cases in which they have been submitted to arbitration two or more claims under article 11.16.1 and separately the claims raised in a common question of fact or law and arise out of the same events or circumstances litigants, any Party may seek a consolidation order in accordance with the agreement of all parties involved in respect of which the order is sought cumulation or with the terms of paragraphs 2 through 10.

2. The opposing side seeking a consolidation order under this article shall provide in writing to the Secretary-General and to all the warring parties against which the order is sought cumulation and in the request shall specify:

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

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

(c) The rationale underlying the request.

3. Unless the Secretary-General determines within 30 days of receipt of a request under paragraph 2 that the request is manifestly unfounded, a Tribunal shall be established under this article.

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

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

(b) One arbitrator appointed by the respondent; and

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

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

6. In the event that the Tribunal established under this article is satisfied that have been submitted to arbitration two or more claims under article 11.16.1 which arise in a common question of fact or law, and arising out of the same events or circumstances the T ribunal may, in the interest of fair and efficient resolution of the claims and after hearing the parties -

by order:

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

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

(c) Instruct a tribunal established under article 11.19 to assume jurisdiction to hear and determine together on all or part of the claims, provided that:

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

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

7. Where a tribunal has been established under this article, that a claimant has submitted a claim to arbitration under article 11.16.1 and whose name is not mentioned in a request made under paragraph 2 may make a written request to the Tribunal that it be included in any applicant order is made under paragraph 6 and in the request shall specify:

(a) The name and address of the claimant;

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

(c) The reasons for the request.

The claimant shall deliver a copy of its request to the Secretary-General.

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

9. A tribunal established under article 11.19 shall not have jurisdiction to decide a claim. or a part thereof, which has assumed jurisdiction instructed or a tribunal established under this article.

10. At the request of a party litigants, the Tribunal established under this article may, pending its decision under paragraph 6, provided that the proceedings of a tribunal established under article 11.19 be postponed, unless the latter Tribunal has suspended its procedures.

Article 11.26. Awards

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

(a) Monetary damages and interest as appropriate; and

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

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

2. Subject to paragraph 1, when a claim is submitted to arbitration under article 11.16.1 (b):

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

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

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

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

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

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

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

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

(i) 120 days have elapsed from the date the award was rendered litigant and no party has requested revision or annulment of the same, or

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

(b) In the case of a final award made under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules or the rules selected pursuant to article 11.16.4 (D)

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

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

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

8. If the respondent fails to abide by or comply with a final award, on delivery of a request by the Party not litigants bunal Tri shall establish an arbitral tribunal pursuant to Article 16.6 (establishment of an arbitral tribunal). The requesting party may invoke the procedures for:

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

(b) In accordance with the procedures laid down in article 16.11 (preliminary report), a decision that abide by the respondent or comply with the final award.

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

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

Article 11.27. Service of Documents

Delivery of notice and other documents on a party shall be done in the place designated by it in Annex 11 - H.

Section C. Definitions

Article 11.28. Definitions

For the purposes of this chapter:

Written agreement means a written agreement, signed and enacted by a Party and an investor of the other party or its representative that establishes an exchange of rights and obligations with monetary value. A unilateral act of an administrative or judicial authority, such as an order or judgment judicial order, nor a record of transaction, shall be considered as a written agreement;

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

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

Inter-American Convention means the Inter-American Convention on International Commercial Arbitration, held in Panama de1975; 30 January

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

Means the respondent party that is a party to a dispute concerning an investment;

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

Enterprise of a party constituted means an enterprise or organized under the law of a Party and a branch located in the

territory of a party and carrying out business activities there;

Existing means in effect on the date of signature of this Agreement;

Protected information means confidential business information or information that is privileged or otherwise protected from disclosure is located in accordance with the laws of a party;

Financial institution means any financial intermediary or other enterprise that is authorized to do business or supervised and regulated as a financial institution under the law of the Party in whose territory it is located;

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

(a) An enterprise;

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

(c) Bonds, debentures and other debt instruments of an enterprise loans and (12), (13)

(d) Futures, options and other derivatives;

(e) Turnkey contractual rights or under construction, management, production of participation in the granting of earnings and other contracts;

(f) Intellectual Property Rights;

(g) Rights conferred pursuant to domestic law, including concessions, licences and permits and authorizations (14);

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

But investment does not mean an order or judgment entered in a judicial or administrative proceedings;

investor of a non-Party means, with respect to a Party, an investor that intends to make (15), is making or has made an investment in the territory of that Party, that is not an investor of any Party;

An investor of a Party means a Party or a state enterprise thereof, or a national of that Party or an enterprise that seeks to perform (16), is making or has made an investment in the territory of the other party; whereas, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the state of his or her dominant and effective nationality;

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

Designated monopoly means an entity, including those controlled directly or indirectly through ownership, national interest by the Government of a Party or an agency of a consortium that Government, in any relevant market in the territory of a Party is designated or is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an intellectual property right solely by virtue of such award (17);

Disputing party means either the claimant or the respondent;

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

Parties means the claimant and the respondent;

Negotiated restructuring means for purposes of Annex 11 - (b), the restructuring or rescheduling of a debt instrument that has been effected through:

(a) A modification of such debt instrument, as provided for under the terms of this instrument; or

(b) A comprehensive debt exchange or other similar process in which creditors that are not less than 75% of the capital of existing under such debt instrument have consented to such debt exchange or other similar process.

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

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

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

A tribunal means an arbitration tribunal established under article 11.19 or 11.25.

(12) Some forms of debt, such as bonds, debentures and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims for immediate maturity that result from the sale of goods and services, are less likely to have these characteristics.

(13) Loans granted by one Party to the other Party are not considered investments.

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

(15) For greater certainty, it is understood that an investor has the purpose of making an investment when it has carried out the essential acts necessary to materialize such investment, such as channeling resources for the constitution of the capital of an enterprise, obtaining permits or licenses, among others.

(16) For greater certainty, it is understood that an investor has the purpose of making an investment when it has carried out the essential acts necessary to make such investment, such as channeling resources for the incorporation of the capital of an enterprise, obtaining permits or licenses, among others.

(17) In relation to privately owned monopolies, this definition applies exclusively to monopolies that are designated as of the date of entry into force of this Agreement.

Annex 11-A. Customary International Law

The Parties confirm their common understanding that the "customary international law" referred to in Article 11.4 results from a general and consistent practice of States, followed by them in the sense of a legal obligation. The customary international law minimum standard of treatment of aliens refers to all principles of customary international law that protect the rights and economic interests of aliens.

Annex 11-B. Public Debt

1. The Parties recognize that the purchase of debt issued or incurred by a Party or its relevant institutions involves commercial risk. For greater certainty, no award may be made in favor of the claimant for a claim under Article 11.16.1(a)(i) or Article 11.16.1(b)(i) with respect to a default on debt issued or incurred by a Party or its relevant institutions, unless the claimant proves that such default constitutes an uncompensated expropriation for purposes of Article 11.10.1 or a breach of any other obligation in Section A.

2. No claim that a debt restructuring issued or entered into by a Party or its relevant institutions violates an obligation under Section A may be submitted to arbitration under Section B, or if already submitted, continued in arbitration, if the restructuring has been negotiated at the time of submission, or becomes a negotiated restructuring after such submission, except in the case of a claim that the negotiated restructuring violates Article 11.2 or 11.3.

3. Notwithstanding Article 11.16.4, and subject to paragraph 2 of this Annex, an investor of the other Party may not submit a claim to arbitration under Section B alleging that a debt restructuring issued or undertaken by a Party or its relevant institutions violates an obligation under Section A (other than Article 11.2 or 11.3) unless 270 days have elapsed since the events giving rise to the claim occurred.

Annex 11-C. Payments and Transfers

With respect to the obligations contained in Article 11.9, each Party, through the competent authority or authorities, reserves the right to maintain or adopt measures in accordance with its applicable legislation or other legal norms to ensure the stability of the currency and the normal operation of internal and external payments, granting it as powers for these purposes, the regulation of the amount of money and credit in circulation, the execution of credit operations and international exchanges, as well as the issuance of norms in monetary matters, credit, financial and international exchange.

Part of these measures, among others, is the establishment of requirements that restrict or limit current payments and transfers (capital movements) from or to each Party, as well as the operations that are related to them, such as establishing that the deposits, investments or credits that come from or are destined abroad are subject to the obligation to maintain a reserve. In applying the measures under this Annex, the Parties may not discriminate between the other Party and a non-Party with respect to operations of the same nature.

Annex 11-D. Expropriation

The Parties confirm their common understanding that:

1. an act or series of acts of a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or with the essential attributes or powers of ownership of an investment.

2. Article 11.10.1 addresses two situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through the formal transfer of title or right of ownership.

3. The second situation addressed by Article 11.10.1 is indirect expropriation, where an act or series of acts by a Party has an effect equivalent to a direct expropriation without the formal transfer of title or right of ownership.

(a) The determination of whether or not an act or series of acts of a Party, in a specific factual situation, constitutes an indirect expropriation requires a factual, case-by-case inquiry that considers among other factors:

(i) the economic impact of the governmental act, although the fact that an act or series of acts of a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(ii) the extent to which the government action interferes with unambiguous and reasonable expectations in the investment; and

(iii) the character of the government action.

(b) Except in exceptional circumstances, non-discriminatory regulatory acts of a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety and the environment, do not constitute indirect expropriations.

Annex 11-E. Termination of the Bilateral Investment Treaty

Without prejudice to the provisions of paragraph 2, the Parties agree that the "Agreement between the Government of the Republic of Chile and the Government of the Republic of Peru for the Promotion and Reciprocal Protection of Investments" and its Protocol, hereinafter the "BIT", signed in Lima on February 2, 2002, shall terminate on the date of entry into force of this Agreement, as well as all rights and obligations arising from the BIT.

Any investment made in accordance with the provisions of the APPI, in a period prior to the entry into force of this Agreement, shall be governed by the rules of that agreement with respect to any act, fact or situation originated during the validity of the same. An investor may only submit a claim to arbitration in accordance with Article 8 of the BITPA, for acts, facts or situations arising during the term of that agreement, in accordance with the rules and procedures set forth in the BITPA and provided that no more than 3 years have elapsed from the date of entry into force of this Agreement.

Annex 11-F. Decree-Law 600 - Chile (18)

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

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

3. The obligations and commitments contained in this Chapter do not apply to Decree Law 600, Foreign Investment Statute and Law 18.657, Foreign Capital Investment Funds Law, to the continuation or prompt renewal of such laws and to the amendments thereto.

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

5. Once an application for foreign investment submitted by an investor from Peru under Decree Law 600, its amendments, continuation or prompt renewal, has been accepted by the Foreign Investment Committee of Chile through the execution of a foreign investment contract, the disciplines set forth in Articles 11.2, 11.3 and 11.10 shall apply to the investment made under the respective contract.

6. Notwithstanding any other provision of this Agreement, Chile may prohibit an investor of Peru or a covered investment from transferring from Chile the proceeds from the sale of all or part, or from the total or partial liquidation of the investment made pursuant to an investment contract in accordance with Decree Law 600, for a period of up to 1 year from the time of the transfer and 5 years in the case of Law 18.657 counted in the same manner.

7. For greater certainty, nothing in this Annex shall be claimable under the provisions of Section B.

(18) The Parties agree that nothing in this Agreement shall be construed to limit the power of either Party to create new special and/or voluntary investment regimes that may be adopted in the future.

Annex 11-G. Possible Bilateral Appellate Body or Mechanism

For a period of 3 years from the date of entry into force of the Agreement, the Parties shall consider establishing an appellate body or similar mechanism to review awards rendered by Tribunals pursuant to Article 11.26, in arbitrations commenced after the establishment of the appellate body or similar mechanism.

Annex 11-H. Service of Documents on a Party Pursuant to Section B

Chile

The place of service of notices and other documents pursuant to Section B in Chile is pursuant to Section B, in Chile is:

Dirección de Asuntos Jurídicos

Ministry of Foreign Affairs of the Republic of Chile

Teatinos 180, 16th floor

Santiago, Chile

Peru

The place of service of notices and other documents pursuant to Section B, in Peru, is: Peru Section B, in Peru is:

Dirección General de Asuntos de Economía Internacional

Competition and Private Investment

Ministry of Economy and Finance of Peru

Jirón Lampa 277, 5th floor

Lima, Peru

Chapter 12. Cross-border Trade In Services

Article 12.1. Scope

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

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

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

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

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

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

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

(a) Governments and authorities of national, regional or local level; and

(b) Non-governmental bodies in the exercise of powers delegated by governments or authorities of national, regional or local level.

3. This chapter does not apply to:

(a) Measures adopted or maintained by a Party relating to financial services as defined in article 12.13;

(b) Air Services (1) including domestic and international air transportation scheduled and non-scheduled and related services in support of air services except:

(i) Maintenance and repair of aircraft services while the aircraft is outside service;

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

(iii) Services computer reservation system (CRS)

(c) Public procurement; or

(d) Subsidies or grants provided by a party or a state enterprise, including loans and guarantees government-supported insurance, except as provided in article 12.2.

4. Articles 12.5, 12.8 and 12.9 shall apply to measures by a party affecting the supply of a service in its territory by a covered investment (2).

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

6. This chapter does not apply to services supplied in the exercise of governmental authority. A service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers.

(1) For greater certainty, the term "air services" includes traffic rights.

(2) The Parties understand that nothing in this Chapter, including this paragraph, is subject to Section B, Investor-State Dispute Settlement of Chapter 11 (Investment).

Article 12.2. Subsidies

1. The Parties shall exchange information on all distorting subsidies or grants cross-border trade in services, such as loans, guarantees and insurance supported by the Government. The first exchange shall be made within a period of one year from the Entry into Force of this Agreement.

2. If the results of the negotiations related to Article xv.1 of GATS (or the results of any similar negotiations undertaken in other multilateral fora in which both parties participate) enter into force for those Parties, this article should be amended after consultation between them, so that they are incorporated into this Agreement. The Parties shall coordinate negotiations on such as appropriate.

Article 12.3. National Treatment

Each Party shall accord to service suppliers of the other party (3) treatment no less favourable than that accorded in like circumstances to service providers.

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

Article 12.4. Most Favoured Nation Treatment

Each Party shall accord to service suppliers of the other party (4) treatment no less favourable than that accorded to service providers in like circumstances of a non-party country.

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

Article 12.5. Non-discriminatory Quantitative Restrictions

No Party may, on the basis of a regional subdivision or on the entire territory, adopt or maintain measures that:

(a) Impose limitations on:

(i) The number of service suppliers (5), whether in the form of numerical quotas, monopolies and exclusive service suppliers or the requirement of an economic needs test;

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

(iii) The total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; (6)

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

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

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

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

Article 12.6. Local Presence

No party may require a service provider of the other party to establish or maintain a representative office or other form of undertaking, or who resides in its territory as a condition for the cross-border supply of a service.

Article 12.7. Dissenting Measures

1. Articles 12.3 and 12.4 and 12.5 and 12.6 do not apply to:

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

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

(ii) A local government of a party;

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

(c) The modification of any Non-Conforming Measure referred to in subparagraph (a), provided that the amendment does

not decrease the conformity of the measure as currently in force immediately before the amendment with Articles 12.3 and 12.4 and 12.5 and 12.6.

2. Articles 12.3 and 12.4 and 12.5 and 12.6 do not apply to any measure that adopts or maintains a Party with respect to the sectors or sub-sectors or activities as set out in annex II to its schedule.

3. The Parties shall meet within six months after the Entry into Force agreement to negotiate additional commitments in respect of quantitative restrictions on a non-discriminatory, mutually advantageous basis for the purpose of maintaining an overall balance of rights and obligations.

Article 12.8. Transparency In the Development and Implementation of Regulations (7)

1. Further to chapter 13 (transparency), each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding its regulations relating to the subject matter of this chapter.

2. The implementation of the obligation to establish appropriate mechanisms for small administrative agencies, may require that shall take into account the budgetary constraints and resources.

(7) For greater certainty, "regulations" includes regulations that establish or apply licensing criteria or authorizations.

Article 12.9. Domestic Regulation

1. Where a party requires authorization for the supply of a service, the competent authorities of that Party in a reasonable period of time after the submission of an application is considered complete under its laws and regulations, shall inform the applicant of the decision concerning the application. At the request of the applicant the competent authorities of the party without undue delay shall provide information concerning the status of the application. This obligation shall not apply to authorization requirements that are within the scope of Article 12.7.2

2. With a view to ensuring that measures relating to licensing requirements and procedures for licensing and qualification procedures do not constitute unnecessary barriers to trade in services, each Party shall endeavour to ensure that the measures it adopts or maintains:

(a) They are based on objective and transparent criteria, such as competition, the quality of the Service and the ability to supply the service;

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

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

3. With a view to ensuring that measures relating to technical standards do not constitute unnecessary barriers to trade in services, each Party shall seek to ensure, as appropriate for each specific sector, that the measures it adopts or maintains:

(a) They are based on objective and transparent criteria, such as competition, the quality of the Service and the ability to supply the service;

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

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

4. If the results of the negotiations related to GATS Article VI.4 of (or the results of any similar negotiations undertaken in other multilateral fora in which both parties participate) enter into force for those Parties, this article should be amended after consultation between them, so that they are incorporated into this Agreement. The parties agree on such negotiations to coordinate as appropriate.

Article 12.10. Mutual Recognition

1. For the purposes of the fulfilment in whole or in part of its standards or criteria for the licensing or service suppliers of certification or licensing and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met or licenses or certifications granted in a particular country. Such recognition which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the country concerned or may be accorded autonomously.

2. When a party, recognize autonomously or by agreement or arrangement, the education or experience obtained requirements met or licenses or certifications granted in the territory of a country that is not a party, nothing in Article 12.4 shall be construed to require the party to accord such recognition to the education or experience obtained, requirements met or licenses or certifications granted in the territory of the other party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, existing or future, shall afford adequate opportunity to the other party, if the other party is concerned, to negotiate its accession to such an agreement or arrangement to negotiate or comparable agreements. Where a Party grants recognition autonomously, the other party will afford an adequate opportunity to demonstrate that the education or experience obtained licenses or certifications or requirements met in that other party territory should be recognized.

4. No party shall accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the licensing or certification or licensing of service suppliers, or a disguised restriction on trade in services.

5. Annex 12.10.5 applies to measures adopted or maintained by a Party relating to the licensing or certification of professional service suppliers as set out in the provisions of this annex.

6. The Parties shall meet within six months after the Entry into Force agreement to negotiate, on a mutually advantageous basis, a chapter on mutual recognition of diplomas and degrees.

Article 12.11. Implementation

The Parties shall consult annually, or otherwise agreed, to review the implementation of this Chapter other trade in services and consider issues of mutual interest. Among other matters, the Parties shall consult with a view to determining the feasibility of removing any requirement to maintain citizenship or permanent residence for the licensing or certification of service providers of each party. Such consultations shall also include the consideration of the development of procedures that could contribute to greater transparency of measures described in articles 12.7.1 (c) and 12.7.2.

Article 12.12. Denial of Benefits

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

(a) Service suppliers of the other party if the service supplier is an enterprise owned or controlled by persons of a non- party and the enterprise has no substantial business activities in the territory of the other party; or

(b) Service suppliers of the other party if the service supplier is an enterprise owned or controlled by persons of denying the party and the enterprise has no substantial business activities in the territory of the other party.

Article 12.13. Definitions

For the purposes of this chapter:

Cross-border trade in services or cross-border supply of services supply the means of a serncio:

(a) The territory of a party into the territory of the other party (mode 1);

(b) In the territory of a party by a person of that party to a person of the other party (Mode 2); or

(c) By a national of a Party in the territory of the other party (mode 4);

But does not include the supply of a service in the territory of a party by a covered investment as defined in article 2.1 (definitions of general application) or by an investor of the other party;

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

Existing means in effect on the date of signature of this Agreement;

Service supplier of a Party means a person of a Party that seeks to supply a service or supplies (8);

(8) The Parties understand that for purposes of Articles 12.3 and 12.4, "service suppliers" has the same meaning as "services and service suppliers" as used in GATS Articles II and XVII.

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

Insurance and insurance-related

(a) Direct insurance (including co-insurance):

(i) Life insurance;

(ii) Non-life;

(b) Reinsurance and retrocession;

(c) Insurance intermediation, such as brokerage and agency;

(d) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

(e) Acceptance of deposits and other repayable funds from the public;

(f) Lending of all types, including personal loans, mortgages, factoring and financing of commercial transactions;

(g) Financial leasing;

(h) All payment and money transmission services, including credit cards, and similar, travellers cheques and bankers drafts;

(i) Guarantees and commitments;

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

(i) Money market instruments (including cheques, bills, certificates of deposit);

(ii) Foreign exchange;

(iii) Derivative products including futures and options;

(IV) Exchange rate and interest rate of monetary instruments, such as swaps, forward rate agreements;

(v) Transferable securities;

(VI) Financial assets and other negotiable instruments, including bullion;

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

(l) Money brokering.

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

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

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

(p) Advisory and Other Financial Intermediation Services the activities listed in subparagraphs (e) through (o), including credit reference and investment and portfolio analysis, research and advice, advice on acquisitions and on corporate restructuring and strategy;

Professional services means services for its provision requiring specialized post-secondary (9) or equivalent training or experience and which is granted or restricted by a party but does not include services provided by persons engaged in a profession or crew members of merchant ships and aircraft.

(9) For greater certainty, "specialized higher education" includes post-secondary education that is related to a specific area of knowledge.

Chapter 13. Temporary Entry of Business Persons

Article 13.1. General Principles

1. Further to article 1.2 (objectives), this chapter reflects the preferential trading relationship between the parties; facilitate the mutual goal of the temporary entry of business persons under the provisions of annex 13.3, on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry. It also reflects the need to ensure border security and to protect the domestic labour force and permanent employment in their respective territories.

2. This chapter does not apply to measures regarding nationality, citizenship or permanent residence or employment on a permanent basis.

Article 13.2. General Obligations

1. Each Party shall apply its measures relating to the provisions of this chapter in accordance with article 13.1.1 and in particular the apply expeditiously so as to avoid unduly prejudice or delay trade in goods or services or the conduct of investment activities under this Agreement.

2. For greater certainty, nothing in this chapter shall be construed to prevent a party from applying measures to regulate the temporary entry of natural persons or their temporary stay in their territories, including those measures necessary to protect the integrity of and to ensure the orderly movement of natural persons across the same, provided that such measures are not applied in a manner as to impair or unduly delay trade in goods or services or the conduct of investment activities under this Agreement. The sole fact of requiring a visa for natural persons shall not be regarded as unduly impairing or impairment of trade in goods or services or investment activities under this Agreement.

Article 13.3. Authorisation for Temporary Entry

1. Each Party shall grant temporary entry to business persons in accordance with this chapter, including the provisions contained in annex 13.3-a 13.3-b and annex, and that it is qualified for entry under applicable measures relating to public health and safety and national security.

2. Each Party shall limit the value of fees for processing applications for temporary entry of business persons in a manner consistent with Article 13.2.1.

Article 13.4. Provision of Information

1. Further to article 14.2 (publication), each Party shall:

(a) The other party to provide materials such as will enable it to know measures relating to this chapter; and

(b) No later than three months after the date of Entry into Force Agreement; prepare and publish and make available in its own territory and the other party a consolidated document with materials explaining the requirements for temporary entry, including references to applicable laws and regulations regulations, subject to the provisions of this chapter so that the business persons of the other party may know.

2. Each Party shall collect and maintain and make available to the other party, upon request, in accordance with their national legislation, information concerning the granting of temporary entry of authorisations under this chapter to the other party of business persons who have been issued immigration documentation to include specific information regarding each occupation, profession or activity.

Article 13.5. Committee on Temporary Entry

1. The parties establish a committee of temporary entry, comprising representatives of each party, including migration officials.

2. The Committee shall:

(a) Establish a schedule for its meetings shall take place at least once a year;

(b) Establish procedures to exchange information on measures that affect the temporary entry of business persons under this chapter;

(c) Consider the development of measures to facilitate the temporary entry of business persons in accordance with the provisions of annex 13.3 based on the principle of reciprocity.

(d) Consider the implementation and administration of this chapter; and

(e) Consider the development of common interpretations and criteria for the implementation of this chapter.

Article 13.6. Settlement of Disputes

1. A Party may not initiate proceedings under article 16.5 (intervention of administering the Commission) regarding a refusal of authorisation of temporary entry in accordance with this chapter or a particular case arising under article 13.2 unless:

(a) The case concerns a recurrent practice; and

(b) The person affected business have exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph 1 (b) shall be deemed to be exhausted if the competent authority has issued a final decision within 1 year after the initiation of an administrative procedure and resolution has been delayed for reasons that are not attributable to the business person affected.

Article 13.7. Relationship to other Chapters

1. Except as provided in this chapter and initial provisions) (chapters 1, 2 (General definitions), 15 (Administration of the Agreement), 16 (Dispute Settlement) (General provisions), 19 and 20 (Final provisions), and articles 14.1 contact points (14), (publication), article 14.3 (notification and provision of information) and Administrative Proceedings (14.4), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

2. Nothing in this chapter shall be construed to impose obligations or commitments with respect to other chapters of this Agreement.

Article 13.8. Transparency In the Development and Implementation of Regulations (1)

1. Further to chapter 13 (transparency), each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding its regulations relating to the temporary entry of business persons.

2. Each Party shall, within a reasonable period not exceeding 45 days after considering the application of temporary entry is complete under its domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the Party shall provide without undue delay information concerning the status of the application.

(1) For greater certainty, "regulations" includes regulations that establish or apply licensing criteria or authorizations.

Article 13.9. Definitions

For the purposes of this chapter:

Temporary entry means business entry by a person of one party to the territory of the other party without the intent to establish permanent residence;

Immigration measure means any law, regulation or procedure affecting the Entry and Sojourn of aliens;

National has the same meaning as the term "natural person having the nationality of a Party" as defined in Article 2.1 (Definitions of General Application);

The business person means a national of a party who is engaged in trade in goods or services or investment activities in the other party;

Professional means a national of a party who engages in a specialised occupation requiring:

(a) The theoretical and practical application of a specialized body of knowledge; and

(b) A post secondary degree, requiring four years, or the equivalent of such a degree) as a minimum for entry into the occupation; and

technician: means the national of a Party who carries out a specialized occupation that requires:

(a) The theoretical and practical application of a specialized body of knowledge; and

(b) A post secondary degree or technical requiring two years, or the equivalent of such a degree) as a minimum for entry into the occupation.

Chapter 14. Transparency

Article 14.1. Contact Points

1. Each Party shall designate a contact point to facilitate communications between the parties on any matter covered by this Agreement.

2. At the request of the other party, the contact point shall indicate the office or official responsible for the matter and provide the required support to facilitate communication with the requesting party.

Article 14.2. Publicity

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

2. To the extent possible, each Party shall:

(a) It shall publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and

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

Article 14.3. Notification and Provision of Information

1. Each Party shall notify the other party to the extent possible, any existing or proposed measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other party interests under this Agreement.

2. A Party, at the request of the other Party shall promptly provide information and respond to questions pertaining to any existing or proposed measure, whether or not there has been notified to the other Party on Prior that measure.

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

Article 14.4. Administrative Procedures

With a view to administering in a manner consistent and impartial manner and all reasonable measures of general application affecting matters covered by this agreement, each Party shall ensure that in its Administrative Proceedings applying measures referred to in article 14.2 With respect to persons, in particular goods or services of the other party in specific cases that:

(a) Wherever possible, the persons of the other party that are directly affected by a proceeding are in accordance with domestic law, reasonable notice of the initiation of the same, including a description of the nature, the statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;

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

(c) Its procedures are in accordance with the national legislation of that Party.

Article 14.5. Review and Challenge

1. Each Party shall establish or maintain judicial tribunals or procedures or administrative nature for the purpose of the prompt review and, where warranted, the correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be

Fair and not linked with the office or authority entrusted with administrative and enforcement shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, before such tribunals or procedures the parties have the right to:

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

(b) A decision based on the evidence and submissions, or in cases where required by its domestic law, on the record compiled by the administrative authority.

3. Each Party shall ensure subject to further appeal or review as provided in its domestic legislation, that such decisions are implemented by delivery and govern the practice of the office or authority with respect to the administrative action that is the subject of the decision.

Article 14.6. Definition

For the purposes of this chapter:

Administrative Ruling of general application means an administrative ruling or interpretation that applies to all persons and that fact generally fall within its scope and establishing a standard of conduct, but does not include:

(a) A determination or ruling made in an administrative proceeding that applies to persons, in particular goods or services of the other party in a specific case; or

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

Chapter 15. Administration of the Agreement

Article 15.1. The Administrative Commission

1. The Parties shall establish the Committee, composed of representatives referred to in annex 15.1.1, or persons designated by them.

2. The Management Committee shall have the following functions:

(a) To ensure the fulfillment and correct application of the provisions of this Agreement;

(b) To monitor the implementation of the Agreement and evaluate the results obtained in its application;

(c) Seek to resolve disputes that may arise regarding the interpretation or application of this Agreement;

(d) Supervise the work of all committees and working groups established under this Agreement and recommend appropriate actions;

(e) Determining the amount of remuneration and expenses that will be paid to the arbitrators.

(f) Take note of the reports of the Joint Committee for Cooperation and labour migration, set out in the memorandum of understanding on labour migration and cooperation between the Republic of Chile and the Republic of Peru;

(g) Consider any other matter that may affect the operation of this Agreement;

(h) Follow-up of policies and practices of prices in specific sectors to detect cases that would lead to significant distortions in bilateral trade; (i)

(i) Monitoring mechanisms to exports applied by the parties in order to detect possible distortions to competition arising from their application and Promote harmonisation of the same, as the release of reciprocal trade; and

(j) Establishing mechanisms and bodies that ensure the active participation of representatives of business sectors.

3. The Commission may: administering

(a) Establish and delegate responsibilities to committees and working groups;

(b) Progress in the implementation of the objectives of this Agreement through the adoption of any change in accordance with annex 15.1.3:

(i) The schedule of tariff relief in accordance with Article 3.2;

(ii) The rules of origin;

(iii) Revise, amend and update the additional notes of the present Agreement, contribute to trade liberalization.

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

(d) To approve and modify the model rules of procedure referred to in article 16.10 (model rules of procedure); and

(e) If the parties so agree, take any other action in the exercise of its functions.

4. The Management Committee shall establish its rules and procedures. All decisions of the administrative commission shall be taken by mutual agreement.

5. The Management Committee shall meet at least once a year in regular session. The regular meetings of the administrative commission shall be chaired successively by each party.

Article 15.2. Coordinators of the Free Trade Agreement

Each Party shall designate a coordinator who will work together in preparations for Commission meetings and shall administering appropriate follow-up to decisions of the Commission.

Chapter 16. Settlement of Disputes

Article 16.1. General Provision

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

Article 16.2. Scope

Unless this agreement provides otherwise, the dispute settlement provisions of this chapter shall apply:

(a) For the avoidance or the settlement of disputes between the parties concerning the interpretation or application of this Agreement and protocols and instruments entered into under the same;

(b) Where 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 that the other party has breached otherwise in respect of the obligations under this agreement; or

(c) Where a Party considers that an actual or proposed measure of another party does not contravene the provisions of this Agreement, nullifies or impairs benefits that could reasonably have expected to receive under chapter 3 (trade in goods), chapter 4 (rules of origin), chapter 5 (customs procedures and trade facilitation); Chapter 10 (Technical Barriers to Trade); and chapter 12 (cross-border trade in services).

Article 16.3. Choice of Forum

1. Disputes regarding the same matter under this Agreement and under the WTO Agreement and in another trade agreement to which both parties are party, shall be subject to the dispute settlement mechanisms of one of these forums, at the choice of the complaining party.

2. Once the complaining party has initiated a dispute settlement procedure under article 16.6 under the WTO agreement or another trade agreement to which both parties are a party (1), the Forum selected shall be exclusive of the other.

(1) For the purposes of this Article, dispute settlement proceedings under the WTO Agreement or another trade agreement are deemed to be initiated when the establishment of a panel or arbitral tribunal has been requested by a Party.

Article 16.4. Consultations

1. Any Party may request in writing to the other party for consultations regarding any existing or proposed measure to be inconsistent with this Agreement.

2. Any request for consultations shall indicate the reasons for the request including identification of the actual or proposed measure and noting the legal basis of the complaint.

3. The Party to which it was addressed to the request for consultations shall respond in writing within 7 days after the date of its receipt.

4. The parties shall enter into consultations within 30 days after the date of receipt of the request or within 15 days following the date of receipt of the request in cases of urgency including those which concern perishable agricultural goods.

5. During the consultations, the Parties shall make every effort to reach a mutually satisfactory resolution of the matter subject to consultations. To this end, the Parties shall:

(a) Provide sufficient information to enable a full examination of how the actual or proposed measure, might affect the operation and application of this Agreement; and

(b) They shall treat any confidential information exchanged in the consultations.

6. With a view to seeking a mutually agreed solution of the matter, the party that sought consultations may make representations or proposals to the other party, who give due consideration to the representations or proposals made.

Article 16.5. The Intervention of the Administrative Commission

1. A Party may request in writing a meeting of the Commission, if the parties fail to resolve a matter pursuant to article 16.4 within:

(a) 40 days following the receipt of a request for consultations;

(b) 15 days of receipt of a request for consultations in matters relating to cases of urgency including those which concern perishable agricultural goods; or

(c) Any period which may agree.

2. A Party may also request in writing a meeting of the Commission where administering consultations have been held in accordance with Chapter 9 (sanitary and phytosanitary measures) and Chapter 10 (Technical Barriers to Trade), to replace consultations under Article 16.4.

3. The State in the requesting party shall request the measure or other matter complained of and shall deliver the request to the other party.

4. Unless otherwise decided by the administering the Commission shall convene within 10 days of delivery of the request and shall endeavour to resolve the dispute promptly. The Commission may: administering

(a) To hold technical advisers or create such working groups or expert groups as it deems necessary;

(b) Recourse to conciliation, mediation or such other dispute resolution procedures; or

(c) Recommendations

To assist the parties to reach a mutually satisfactory resolution of the dispute.

Article 16.6. Establishment of an Arbitral Tribunal

1. If the parties fail to meet to resolve the matter within:

(a) 25 days from the date of the meeting of the Administrative Committee convened under Article 16.5;

(b) 50 days from the date of receipt of the request for consultations, when administering the Commission has not convened pursuant to article 16.5.4;

(c) 30 days from the date of receipt of the request for consultations in cases of urgency including those which concern

perishable agricultural goods, when administering the Commission has not convened pursuant to article 16.5.4; or

(d) Any period that the parties agree,

Any Party may request the establishment of an arbitral tribunal.

2. The request for the establishment of an arbitral tribunal shall be in writing and identify:

(a) The specific measure subject to their knowledge;

(b) The legal basis for the claim including the provisions of this Agreement that may be breached and any other relevant provisions; and

(c) The factual basis of the request.

3. Unless the parties agree otherwise, the arbitral tribunal shall be established and perform its functions in accordance with the provisions of this chapter.

4. Without prejudice to paragraphs 1, 2 and 3, an arbitral tribunal may not be established to review a proposed measure.

Article 16.7. Composition of Arbitral Tribunals

1. The arbitral tribunal shall consist of three members.

2. In the written notification pursuant to Article 16.6, the complaining party shall designate one member of that arbitral tribunal.

3. Within 15 days from the receipt of the request for the establishment of an arbitral tribunal, the responding party shall appoint one member of the arbitral tribunal.

4. The Parties shall agree on the appointment of the third arbitrator within 15 days of the appointment of the second arbitrator. The member thus appointed shall act as Chairman of the arbitral tribunal.

5. If it has not been possible to compose the arbitral tribunal within 30 days after the date of receipt of the request for the establishment of the arbitral tribunal, the necessary appointments shall be made at the request of either party by the Secretary-General of ALADI within 30 days.

6. The Chairman of the arbitral tribunal shall not be a national of any of the Parties or permanent residence in the territory of any of them, nor be employed by any of the parties or have had any involvement in the case in any capacity.

7. All arbitrators shall:

(a) Have expertise or experience in law and international trade or other matters covered by this Agreement or the resolution of disputes arising under international trade agreements;

(b) Strictly be chosen on the basis of its reliability and objectivity, sound judgment;

(c) Be independent, not be linked with one of the Parties and not receive instructions from the same; and

(d) Comply with the standards of conduct for the implementation of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO document WT / (the DSB / RC / 1).

8. No arbitrator may be in a dispute individuals who have participated in the procedures described in article 16.5.

9. If any of the arbitrators appointed in accordance with this article abandoned or is unable to serve as a replacement arbitrator shall be appointed within 15 days of the event, according to the procedure for the election used to select the original arbitrator and the replacement shall have all the powers and duties of the original arbitrator. If it has not been possible within that period, the appointment shall be made at the request of either party by the Secretary-General of ALADI within 30 days.

10. The date of establishment of the arbitral tribunal shall be the date on which the Chair is appointed.

Article 16.8. Functions of Arbitral Tribunals

1. The function of an arbitral tribunal is to make an objective assessment of the dispute referred to it, including an objective assessment of the facts of the case and the applicability of and conformity with this Agreement, as well as any other findings

necessary for the resolution of the dispute submitted to them.

2. The arbitral tribunal shall establish, in consultation with the parties, its own procedures in relation to the rights of parties to be heard and its deliberations as well as those matters covered by article 16.9.

Article 16.9. Model Rules of Procedure

1. Unless the parties to the dispute otherwise agree, the proceedings of the arbitral tribunal shall be governed by the Model Rules of Procedure, which shall be established by the Commission upon the administering Entry into Force Agreement.

2. Unless within 20 days of the date of delivery of the request for the establishment of an arbitral tribunal the parties agree otherwise, the terms of reference of arbitral tribunal shall:

"Examine, in the light of the relevant provisions of the Agreement, the matter indicated in the request for the establishment of an arbitral tribunal as provided in Article 16.6 and make findings, determinations and decisions as provided in Article 16.11.3 and submit the reports referred to in Articles 16.11 and 16.12."

3. If the complaining party wishes to the arbitral tribunal shall decide the nullification and impairment caused or to make findings as to the degree of adverse effects that trade has generated by that party non-compliance with the obligations of this Agreement, the terms of reference shall so indicate.

4. At the request of a party or on its own initiative, the arbitral panel may seek scientific information and technical advice from experts as it deems appropriate. Any information obtained in this way must be delivered to the parties to the dispute to its comments.

5. The arbitral tribunal shall take its decisions by consensus. If the arbitral tribunal is unable to reach consensus it may take its decisions by a majority of its members.

6. The costs associated with the process, including the expenses of the arbitral tribunal shall be borne in equal parts by the parties, unless the arbitral tribunal determines otherwise given the particular circumstances of the case.

Article 16.10. Suspension or Termination of Proceedings

1. The parties may agree that the arbitral tribunal suspend its work at any time for a period not exceeding 12 months following the date of such agreement. If the work of the arbitral tribunal has been suspended for more than 12 months, shall be without effect on the establishment of the arbitral tribunal, unless the parties to the dispute agree otherwise.

2. The parties may agree to terminate the proceedings as a result of a mutually satisfactory solution to the dispute. Without prejudice to the foregoing, the complaining party may at any time withdraw the request for the establishment of the arbitral tribunal shall terminate immediately.

Article 16.11. Preliminary Report

1. The report of the arbitral tribunal shall be drafted without the presence of the Parties and shall be based on the relevant provisions of this Agreement and the submissions and arguments of the Parties.

2. Unless the parties otherwise agree, within 90 days from its establishment, or 60 days in cases of urgency including those which concern perishable agricultural goods, the arbitral tribunal shall present to the parties an initial report.

3. The initial report shall contain:

(a) The findings of fact;

(b) The determination of the arbitral tribunal as to whether a party has breached its obligations under this Agreement or whether the measure of that party cause nullification or impairment in the sense of article 16.2 (c) or any other determination requested in the terms of reference; and

(c) The decision of the arbitral tribunal.

4. In exceptional cases, when the arbitral tribunal considers that it cannot issue its initial report within 90 days or within 60 days in cases of urgency, it shall inform the Parties in writing of the reasons for the delay and shall include an estimate of the period within which will issue its report. In no case should the period of delay shall not exceed a further period of 30 days unless the parties otherwise.

5. Arbitrators may make dissenting opinions on matters for which there is no decision by consensus.

6. An arbitral tribunal may either in its initial report or its final report disclose which arbitrators voted with the majority or minority.

7. A Party may submit written comments to the arbitral tribunal on the preliminary report, including the request referred to in article 16.13.3, within 15 days following the submission of such report unless the parties agree otherwise.

8. After considering any written comments on the initial report the arbitral tribunal shall respond to such comments and may reconsider its report and make any further examination that it considers appropriate.

Article 16.12. Final Report

1. The arbitral tribunal shall present to the Parties a final report including dissenting opinions, if any, within 30 days of presentation of the initial report unless the parties agree otherwise. The Parties shall publicly disclose the final report within 15 days, subject to the protection of confidential information.

2. In its final report if the arbitral tribunal finds that the responding party has not complied with the obligations contained in this Agreement or that a measure of that party cause nullification or impairment in the sense of article 16.2 (c), the decision shall, whenever possible, to eliminate the non-conformity or the nullification or impairment.

Article 16.13. Implementation of the Final Report

1. The final report of the arbitral tribunal shall be final and binding on the parties and shall not be subject to appeal.

2. Unless the parties agree otherwise, they shall immediately implement the decision of the arbitral tribunal contained in the final report.

3. If the respondent fails to comply immediately the decision of the arbitral tribunal shall do so within a reasonable period of time. The reasonable period of time shall be agreed upon by the parties in a period not exceeding 20 days of the notification of the final report and, in the absence of agreement, shall be fixed by the arbitral tribunal at the request of either party, taking into account the comments referred to in article 16.11.7 within 30 days following the date on which the request was made. Such determination shall be made in consultation with the parties.

Article 16.14. Disagreement on Compliance

1. In case of disagreement as to the implementation of measures to comply with the ruling or to the consistency with this agreement of the measures taken within reasonable period of time, the dispute shall be settled under the dispute settlement procedure in this chapter.

With intervention, whenever possible, the arbitral tribunal to which the matter is not required, initially known in no case exhaust stages of consultation and involvement of the Commission.

2. The arbitral tribunal shall circulate its report to the parties within 60 days after the date on which the matter was referred to it. When the arbitral tribunal considers that it cannot provide its report within this period, it shall inform the Parties in writing of the reasons for the delay and shall include an estimate of the period within which it will issue its report, which shall not exceed a further period of 30 days.

Article 16.15. Suspension of Benefits and Compensation

1. If:

(a) The expiry of the reasonable period of time and the respondent party notifies that has not fulfilled; or

(b) The arbitral tribunal, in accordance with article 16.14 concludes that there are no measures to comply with the ruling or such measures are incompatible with this Agreement,

The complaining party may suspend the respondent Party, concessions or other obligations under this Agreement, equivalent to the level of nullification or impairment. The notice shall specify the level of suspension and shall be extended with a notice of at least 30 days after the entry into force of the measures.

2. Without prejudice to paragraph 1, the complaining party may at any time after the issuance of the final report of the

arbitral tribunal shall require the defendant to enter into negotiations with a view to finding a mutually acceptable compensation. Unless the parties agree otherwise, such negotiations shall suspend the proceedings already initiated, in particular those referred to in articles and 16.16 16.15.6 16.14, nor shall prevent the complaining party to exercise the rights referred to in paragraph 1.

3. Compensation and suspension of concessions or other obligations are temporary measures and in no case preferable to the full implementation of the decision of the arbitral tribunal to bring the measure into conformity with this Agreement. Compensation and suspension of benefits shall only be applied until it has eliminated the measure found to be inconsistent with this agreement, or until the parties have reached a mutually satisfactory solution.

4. If the complaining party decides to suspend benefits in the same sector or sectors affected by the measure that the arbitral tribunal has found to be inconsistent with this Agreement or causing nullification or impairment in accordance with article 16.2 (c), and only if this is not possible, will be ineffective or in another sector or area covered by the Agreement. The communication in which it announces such a decision shall indicate the reasons on which it is based.

5. Upon written request of the defendant, within 30 days of the notification referred to in paragraph 1, the arbitral tribunal to which the matter is known initially shall determine whether the level of concessions or other obligations suspended by the complaining party is not equivalent to the level of nullification and impairment caused by the measure under the dispute in accordance with paragraph 1, or if procedures have been followed and principles of paragraph 4.

6. The arbitral tribunal shall circulate its report to the parties within 30 days after the date on which the matter was referred in accordance with paragraph 5. The decision of the arbitral tribunal, which shall be made available to the public, shall be final and binding and the parties shall not seek a second arbitration.

Article 16.16. The Compliance Review

1. If the responding party considers that it has eliminated the non-conformity or the nullification or impairment found by the arbitral tribunal shall notify the other party of the measure adopted compliance. In case of disagreement based on the compatibility of the measure with this Agreement, the respondent party may refer the matter to the procedure established in article 16.14.

2. The complaining party, without delay, it shall reinstate any concessions or other obligations which has been suspended pursuant to Article 16.15, if there is disagreement on compliance with the action taken by the responding party within 15 days from the receipt of the notification under paragraph 1, or if it contests without establish, or if the tribunal decides that the responding party has eliminated the non-conformity.

Article 16.17. Other Provisions

Any time period mentioned in this chapter may be modified by mutual agreement between the parties.

Article 16.18. The Right of Individuals

No Party may grant 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

Chapter 17. Exceptions

Article 17.1. General Exceptions

1. For the purposes of chapters 3 to 10 (Trade in Goods and rules of origin and customs procedures and trade facilitation, sanitary and phytosanitary measures and technical barriers to trade), article XX of GATT 1994 and its interpretative notes are incorporated into this Agreement and form an integral part thereof, mutatis mutandis. The parties understand that the measures referred to in article XX (b) of GATT 1994 include environmental measures necessary to protect the life and health of humans or animals, plant and that article XX (g) of GATT 1994 applies to measures relating to the conservation of natural resources whether living or non-living exhaustible.

2. For the purposes of twelve chapters (cross-border trade in services), article XIV of GATS (including its footnotes) is incorporated into and form part of this Agreement. The parties understand that the measures referred to in article XIV (b) of GATS include environmental measures necessary to protect the life and health of humans, animals or plant.

Article 17.2. Essential Security

Nothing in this Agreement shall be construed as:

(a) To require a party to furnish or allow access to information the disclosure of which it considers contrary to its essential security interests; or

(b) Prevent a party from applying any measure which it considers necessary for the fulfillment of its obligations under the United Nations Charter with respect to the maintenance or restoration of international peace and security, or for the protection of its essential security interests.

Article 17.3. Taxation

1. Except as provided in this article nothing in this Agreement shall apply to Taxation Measures.

2. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. In the event of any inconsistency between this Agreement and any such conventions, the Convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the parties, the competent authorities under that Convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that Convention.

3. Notwithstanding paragraph 2:

(a) Article 3.1 (National Treatment), and such other provisions of this Agreement as are necessary to give effect to that article shall apply to taxation measures to the same extent as article III of the GATT 1994; and

(b) Article 3.2.12 (release programme - export taxes) shall apply to taxation measures.

4. Subject to paragraph 2:

(a) Article 12.3 (National Treatment) shall apply to measures taxation on income or capital gains on the capital tributable undertakings relating to the purchase or consumption of particular services except that nothing in this subparagraph shall prevent a party from conditioning the receipt of an advantage or which shall continue to receive the same relating to the purchase or consumption of particular services on the service requirements to provide in its territory; and

(b) Articles 11.2 and 11.3 (National Treatment) (most-favoured-nation treatment), Articles 12.3 and 12.4 (National Treatment) (most-favoured-nation treatment) apply to all taxation measures other than those on income or capital gains on the capital tributable companies, property tax, inheritance, gifts and transfers to jump generations (generation-skipping transfers),

None of the articles referred to in subparagraphs (a) and (b) apply:

(c) Any most-favored-nation obligation with respect to the benefits accorded by a Party pursuant to a tax convention;

(d) No dissenting A provision of any existing taxation measure;

(e) The continuation or prompt renewal of a provision of any dissenting existing taxation measure;

(f) To an amendment to A provision of any existing taxation measure dissenting, both in the amendment does not decrease, at the time of his grade in accordance with any of those articles;

(g) To the adoption or enforcement of any taxation measure aimed at ensuring the imposition or collection of taxes in a fair and effective (as permitted by article XIV (d) of GATS);

(h) A provision that the conditions to benefit or continues to obtain the same, with respect to the contributions to or income of pension plans and funds, provided that the Party maintain continuous jurisdiction over the pension plan or funds.

5. Subject to paragraph 2 and without prejudice to the rights and obligations of the Parties under paragraph 3. paragraphs 2, 3 and 4 of article 11.6 (performance requirements) shall apply to taxation measures.

6. 11.10 (Articles expropriation and compensation) and article 11.16 (submission of a claim to arbitration) shall apply to a taxation measure expropiatoria as alleged. However, no investor may invoke article 11.10 (expropriation and compensation) as the basis of a claim where it has been determined pursuant to this paragraph that the measure is not an expropriation. An investor that seeks to invoke article 11.10 (expropriation and compensation) with respect to a taxation measure must first refer the matter to the Competent Authorities identified in annex 17.3, when giving notice of intent under article 11.16.3 (submission of a claim to arbitration), so that such authorities determine whether the measure constitutes an expropriation. If the competent authorities do not agree to consider the issue or having agreed to consider it fail to agree on the ground that the measure is not an expropriation within a period of 6

Months after they have been subjected the matter, the investor may submit its claim to arbitration in accordance with article 11.16 (submission of a claim to arbitration).

Article 17.4. Difficulties In the Balance of Payments

1. If a party experiences serious difficulties in their balance of payments and external financial or threat thereof, or the risk of them live, may adopt or maintain restrictive measures with regard to trade in goods and services and with regard to payments and capital movements, including those related to direct investment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Restrictive measures adopted or maintained under this article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial. They shall be in accordance with the conditions established in the WTO Agreements and consistent with the Articles of Agreement or articles of agreement of the International Monetary Fund, as appropriate.

4. The party maintaining or having adopted restrictive measures or any changes thereto, shall forthwith inform the other party and shall, as soon as possible a time schedule for their removal.

5. The party applying restrictive measures shall consult promptly within the framework of the Commission. In such consultations shall assess the balance of payments situation of the Party and the restrictions adopted or maintained under this Article, taking into account, inter alia, factors such as:

(a) The nature and scope of the external financial difficulties and balance of payments;

(b) The external economic and trading environment of the consulting Party;

(c) Alternative corrective measures which may be used.

The consultations shall examine the conformity of any restrictive measure with paragraphs 3 and 4. It shall accept all findings of statistical and other to submit to the International Monetary Fund on issues of change, monetary reserves and balance of payments and the conclusions shall be based on the assessment by the Fund of the financial position and external balance of payments of a Party in the consultations.

Article 17.5. Definitions

For the purposes of this chapter:

Tax convention means a convention for the avoidance of double taxation or other international agreement or arrangement; taxation and taxes and Taxation Measures do not include:

(a) Charges;

(b) Anti-dumping or countervailing duties; or

(c) Fee or other charge in connection with importation commensurate with the bear D services.

Chapter 18. Cooperation and Trade Promotion (1)

(1) For greater certainty, the text of Chapter XIV (Cooperation) of ECA No. 38 has not been modified, except for formal adjustments.

Article 18.1. Cooperation

1. The Parties shall promote cooperation in areas such as economic policies and techniques; trade, monetary and financial policies of public finances; customs matters; and phytosanitary rules Zoo and qualitative; fuel and energy; transport and communications; modern services, such as technology, engineering, and consult other.

2. To undertake specific actions of the Economic Cooperation, relevant entities of the respective areas may enter into agreements within its competence.

3. The parties, with the participation of their respective private sectors; encourage the development of economic

complementarity of actions in the areas of goods and services.

Article 18.2. Trade Promotion

The Parties shall establish joint programmes for trade promotion covering, inter alia, exhibitions, fairs and exhibitions, as well as meetings and reciprocal visits entrepreneurs and information on supply and demand and market studies.

Chapter 19. General Provisions

Article 19.1. Annexes and Appendices and the Footnotes

The annexes and appendices and the footnotes to this Agreement constitute an integral part of it.

Article 19.2. Relation to other International Agreements

1. The Parties confirm their rights and obligations existing between them in accordance with the WTO Agreement, the Montevideo t ratado 1980, other international agreements to which both parties are party, and regional or subregional integration arrangements involving the parties.

2. In the event of any inconsistency between the provisions of the treaties and agreements referred to in paragraph 1 and the provisions of this Agreement, the latter shall prevail to the extent of the inconsistency.

3. The Lima Treaty 1929 and its supplementary Protocol, the record of implementation of 13 November 1999 and its implementing regulations as well as the agreement between the enterprise and the enterprise Arica Port S.A. 1999 national ports and the Interinstitutional Agreement of 1999 on dispute settlement, prevail over the provisions of this Agreement.

Article 19.3. Succession of Agreements

Any reference to another international agreement shall be made on the same terms for a successor agreement to which the parties are party.

Article 19.4. Scope of Obligations

The Parties shall take all necessary measures to implement the provisions of this Agreement in their respective territories.

Article 19.5. Dissemination of Information

Nothing in this Agreement shall be construed as requiring a party to disclose or allow access to information the disclosure of which would be:

(a) Contrary to the public interest in accordance with its legislation;

(b) Contrary to its laws, including but not limited to the protection of privacy or the accounts and financial affairs of individual customers of financial institutions;

(c) Would impede law enforcement; or

(d) That might prejudice the legitimate commercial interests of particular public or private enterprises.

Article 19.6. Confidentiality

Where a Party providing information to another Party in accordance with the provisions of this Agreement and indicate that the information is confidential, the other Party shall maintain the confidentiality of that information. This information shall be used only for the purposes specified above, and will not be disclosed without the specific permission of the party providing the information, unless such information is to be disclosed in the context of judicial proceedings.

Article 19.7. Intellectual Property

The parties undertake to accord adequate protection to intellectual property, within their national legislation, undertaking to which the defence of such rights do not constitute unjustified barriers to bilateral trade.

Article 19.8. Public Policies

The Parties recognize that public pricing policies may have distortive effects on bilateral trade. Accordingly, agree not to resort to public pricing practices and policies mean that directly or indirectly a nullification or impairment of benefits arising from this Agreement.

Article 19.9. Coordination

The Parties shall encourage coordinated action in international economic forums and in connection with industrialized countries aimed at improving access for their products to the major international markets.

Article 20. Final Provisions

Article 20.1. Amendments Amendments and Additions

1. The parties may agree on any amendment or modification of or addition to this Agreement.

2. The amendments and additions and amendments, agreed previously approved in accordance with the applicable legal procedures of each Party, shall constitute an integral part of this Agreement.

Article 20.2. Amendment of the Wto Agreement

If any provision of the WTO agreement that the parties have incorporated into this Agreement is amended, the Parties shall consult on whether to amend this Agreement.

Article 20.3. Accession

1. In accordance with the Montevideo Treaty 1980, this Agreement shall be open for accession by negotiation prior to the other member countries of ALADI.

2. Accession shall be formalized once negotiated terms between the parties and the acceding country, through the conclusion of an additional protocol to this Agreement shall enter into force 30 days after being deposited with the General Secretariat of ALADI.

Article 20.4. Convergence

The Parties shall promote alignment of this Agreement integration agreements with other Latin American countries, in accordance with the mechanisms established in the Montevideo Treaty 1980.

Article 20.5. Future Negotiations

Public procurement

1. The Commission shall consider and propose administering during the first year of Entry into Force, the terms governing the negotiation of the Parties in the field of public procurement.

Financial Services

2. The Parties shall meet one year after the Entry into Force agreement to negotiate a chapter on Financial Services on a mutually advantageous basis. To this end, the competent authorities shall carry out the necessary coordination previously.

Free zones

3. For the purpose of assessing the possibility to confer any special treatment to goods produced or from a free zone under cover of the Agreement, the Commission within one year after administering Entry into Force will be the analysis of such special regimes in force in both countries.

Tourism

4. The parties agree to conclude an agreement for cooperation between their respective competent organs of the tourism sector to ensure, inter alia, the joint promotion of integrated circuits tourism from third countries and technical assistance.

Article 20.6. Entry Into Force

1. The entry Entry into Force of this Agreement is subject to the completion of necessary domestic legal procedures by each party.

2. This Agreement shall enter into force 60 days after the date of the last note in which a Party notifies the other that it has completed the procedures outlined above or within such other period as the parties agree.

Article 20.7. Denunciation

1. The party wishing to denounce this Agreement shall communicate its decision to the other party 180 days on notice of the deposit of instrument of the complaint before the General Secretary of ALADI.

2. After the conclusion of the complaint to the complaining party automatically cease the rights and obligations arising from this Agreement, except as regards the treatment received and granted for the import of products traded, which shall remain in force for a period of one year following the date of deposit of the instrument of denunciation, unless the complaint, the parties agree on a different period.

In WITNESS WHEREOF, the infraescritos, being duly authorized by their respective Governments, have signed this Agreement in duplicate equally authentic.

Done at Lima twenty-two days of August 2006.

The Government of the Republic of Peru:

José García Belaúnde, Minister of Foreign Affairs

Mercedes Aráoz Fernández, Minister for Trade and Tourism

The Government of the Republic of Chile:

Alejandro Foxley, Minister of Foreign Affairs

Carlos Furche, the Director General of International Economic Relations

Annex I

1. A Party's Schedule indicates, in accordance with Articles 11.8 (Non-Conforming Measures) and 12.7 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Articles 11.2 or 12.3 (National Treatment);

(b) Articles 11.3 or 12.4 (Most-Favored-Nation Treatment);

(c) Article 12.5 (Non-Discriminatory Quantitative Restrictions);

(d) Article 12.6 (Local Presence)

(e) Article 11.6 (Performance Requirements);

(f) Article 11.7 (Senior Executives and Boards of Directors).

2. Each tab in the Annex sets out the following elements:

(a) Sector refers to the sector in general for which the record has been made;

(b) Sub-sector refers to the specific sector for which the record has been made;

(c) Obligations affected specifies the obligation(s), referred to in paragraph 1 that, by virtue of Articles 11.8.1(a) and 12.7.1(a), do not apply to the listed measure(s);

(d) Measures identifies the laws, regulations or other measures for which the record has been made. A measure cited in the Measures element:

(i) means the measure as modified, continued, or renewed, as of the date of entry into force of this Agreement, and

(ii) includes any action subordinate to, adopted or maintained under the authority of, and consistent with, such action;

(e) Description provides a general description of the Measures.

3. In interpreting a card, all elements of the card shall be considered. A fiche shall be interpreted in the light of the relevant provisions of the Chapter against which the fiche is taken. The Measures element shall prevail over all other elements, unless any discrepancy between the Measures element and the other elements, considered as a whole, is so substantial and significant that it would be unreasonable to conclude that the Measures element should prevail; in this case, the other elements shall prevail to the extent of that discrepancy.

4. In accordance with Article 11.8.1(a) and 12.7.1(a), the articles of this Agreement specified in the Obligations Affected element of a tab do not apply to the law, regulation or other measure identified in the Measures element of that tab.

5. Where a Party maintains a measure requiring a service supplier to be a national, permanent resident, or resident in its territory as a condition for the supply of a service in its territory, an Annex tab made for that measure under Article 12.3, 12.4, or 12.6 shall operate as an Annex tab under Article 11.2, 11.3, or 11.6 with respect to that measure.

6. For the purposes of this Agreement, it shall be understood that formalities enabling the conduct of a business, such as measures requiring: registration under national law, an address, a legal representation, a license or operating permit, need not be listed in Annexes I and II with respect to Articles 11.2 and 12.3 (National Treatment) or 12.6 (Local Presence) of the Agreement, provided that the measure does not impose a requirement to establish an operating office or other ongoing business presence as a condition for the provision of the service in the country.

Annex I. List of Chile

Sector: All Sectors

Subsector:

Obligations affected: National Treatment (Article 11.2)

Measures: Decree Law 1939, Official Gazette, November 10, 1977, Rules on acquisition, administration and disposition of State property, Title I.

Decree with Force of Law 4 of the Ministry of Foreign Affairs, Official Gazette, November 10, 1967.

Description: Investment

Ownership or any other type of right over "State lands" may only be obtained by Chilean natural or juridical persons, unless the corresponding legal exceptions apply, such as Decree Law 1939. State lands for these purposes comprise State-owned lands up to a distance of 10 kilometers from the border and up to a distance of 5 kilometers from the coast.

Real estate located in areas declared "border zone" by virtue of Decree with Force of Law 4, of 1967, of the Ministry of Foreign Affairs, may not be acquired by ownership or any other title by (1) natural persons with nationality of border countries, (2) legal persons with their principal place of business in a border country, (3) legal persons with 40 percent or more of their capital belonging to natural persons with nationality of border countries, or (4) legal persons whose effective control is exercised by such natural persons. Notwithstanding the foregoing, the following may be exempted from such limitation, by Supreme Decree of the President of the Republic based on national interest reasons.

Sector: All Sectors

Subsector:

Obligations affected: National Treatment (Article 12.3) Local Presence (Article 12.6)

Measures: Decree with Force of Law 1 of the Ministry of Labor and Social Security, Official Gazette, January 24, 1994, Labor Code, Preliminary Title, Book I, Chapter III.

Decree with Force of Law 2 of the Ministry of Labor and Social Security, Official Gazette, October 29, 1967, article 5 letter c).

Civil Code, article 16, paragraph 3º.

Description: Cross-Border Trade in Services

At least 85 percent of the workers of the same employer must be Chilean individuals. This rule applies to employers with more than 25 workers with an employment contract. Expert technical personnel, who cannot be replaced by national personnel, will not be subject to this provision, as determined by the Directorate General of Labor.

A worker shall be understood as any natural person who renders intellectual or material services, under dependence or subordination, by virtue of an employment contract.

Whoever plays the role of employer must establish a representative or agent in the country, with residence and domicile within its territory, with sufficient powers and faculties to respond for the obligations imposed by the labor and social security legislation for such contract, as well as for the penalties that may be applied.

This same agent will be in charge of keeping and maintaining the usual labor and social security documentation concerning an employee, which would allow compliance with the legal control, as well as withholding and declaring or paying contributions for the same worker.

Sector: Services provided to companies

Subsector: Research services

Obligations affected: National Treatment (Article 12.3)

Measures: Supreme Decree 711 of the Ministry of Defense, Diario Oficial, October 15, 1975.

Description: Cross-border trade in services

Foreign natural and legal persons wishing to conduct research in the 200-mile maritime zone under national jurisdiction must submit a request 6 months in advance to the Hydrographic Institute of the Chilean Navy, and shall comply with the requirements established by the respective regulation. For such purpose, they shall submit a request at least 6 months prior to the date on which the research is intended to be initiated.

Sector: Services provided to companies

Subsector: Research services

Obligations affected: National Treatment (Article 12.3)

Measures: Decree with Force of Law 11 of the Ministry of Foreign Affairs, Official Gazette, December 5, 1968.

Decree 559 of the Ministry of Foreign Affairs, Official Gazette, January 24, 1968.

Decree with Force of Law 83 of the Ministry of Foreign Affairs, Official Gazette, March 27, 1979.

Description: Cross-border trade in services

Natural persons representing foreign juridical persons or natural persons domiciled abroad who wish to carry out explorations for scientific, technical or mountaineering work in border areas, shall request the corresponding authorization through a Chilean consul in the country of domicile of the natural person, who shall immediately and directly forward it to the Directorate of Borders and Limits of the State. The Directorate of State Borders and Limits may arrange for the expedition to include one or more representatives of the relevant Chilean activities, in order to participate in and become acquainted with the studies to be carried out.

The Operations Department of the Directorate of State Borders and Limits must decide and inform whether it authorizes or rejects geographic or scientific explorations planned to be carried out by foreign persons or organizations in Chile. The National Directorate of Frontiers and Boundaries of the State must authorize and control any exploration for scientific, technical or mountaineering purposes that foreign legal entities or foreign organizations, or natural persons domiciled abroad wish to carry out in border areas.

Sector: Services provided to companies

Subsector: Social science research services

Obligations affected: National Treatment (Article 12.3)

Measures: Law 17.288, Official Gazette, February 4, 1970, Title V.

Supreme Decree 484 of the Ministry of Education, Official Gazette, April 2, 1991.

Description: Cross-border trade in services

Foreign natural or legal persons wishing to carry out anthropological, archeological or paleontological excavations, surveys, soundings or collections must request the corresponding permit from the Council of National Monuments. It is a precondition for the permit to be granted that the person in charge of the research belongs to a reliable foreign scientific institution and that he/she works in collaboration with a Chilean state or university scientific institution.

Permits may be granted to (1) Chilean researchers with scientific archaeological, anthropological or paleontological training, as appropriate, duly accredited, who have a research project and proper institutional sponsorship; and (2) foreign researchers, provided they belong to a reliable scientific institution and work in collaboration with a Chilean state or university scientific institution. Curators and directors of museums recognized by the Consejo de Monumentos Nacionales, professional archaeologists, anthropologists or paleontologists, as appropriate, and members of the Sociedad Chilena de Arqueología shall be authorized to carry out salvage operations. Salvage operations are the urgent recovery of threatened archaeological, anthropological or paleontological data or species of imminent loss.

Sector: Printing, publishing and associated industries

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Law 19.733, Official Gazette, June 4, 2001, Law on Freedom of Opinion and Information and the Practice of Journalism, Titles I and III.

Description: Investment and cross-border trade in services

The owner of a means of social communication, such as newspapers, magazines, or texts published on a regular basis with editorial direction in Chile, or a national news agency, in the case of a natural person, must have a duly established domicile in Chile and, in the case of a legal entity, must be incorporated with domicile in Chile or have an agency authorized to operate within the national territory. Only Chileans may be presidents, administrators or legal representatives of the legal entity. The legally responsible director and the person who replaces him must be Chilean with domicile and residence in Chile.

Sector: Communications

Subsector: Basic domestic or international long distance telecommunications services and intermediate services; telecommunications services; complementary telecommunications services; and limited telecommunications services.

Obligations affected: National Treatment (Article 11.2)

Most-Favored-Nation Treatment (11.3)

Measures: Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II and III.

Description: Investment

A concession granted by Supreme Decree of the Ministry of Transportation and Telecommunications is required for the installation, operation and exploitation of public and intermediate telecommunications services in Chilean territory. Only legal entities incorporated under Chilean law may obtain such concessions.

A pronouncement from the Undersecretary of Telecommunications is required for the provision of complementary telecommunications services consisting of additional services provided through the connection of equipment to public networks. Said pronouncement refers to compliance with the technical regulations established by the Undersecretary of Telecommunications and the non-alteration of the essential technical characteristics of the networks, nor the use that they technologically allow, nor the modalities of the basic service provided with them.

A permit from the Undersecretary of Telecommunications is required for the installation, operation and development of limited telecommunications services.

International traffic must be routed through the facilities of a company holding a concession granted by the Ministry of Transportation and Telecommunications.

Sector: Communications

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Performance Requirements (Article 11.6) Senior Executives and Boards of Directors (Article 11.7)

Measures: Law 18.838, Official Gazette, September 30, 1989, National Television Council, Titles I, II and III.

Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II and III.

Law 19.733, Official Gazette, June 4, 2001, Law on Freedom of Opinion and Information and the Practice of Journalism, Titles I and III.

Description: Investment and cross-border trade in services

The owner of a means of social communication, such as image and sound transmissions or a national news agency, in the case of a natural person, must have a duly established domicile in Chile, and, in the case of a juridical person, must be incorporated with domicile in Chile or have an agency authorized to operate within the national territory. Only Chileans may be presidents, managers, administrators or representatives of the legal entity. In the case of free-to-air radio broadcasting services, the majority of the members of the board of directors must be Chilean. The legally responsible director and the person who replaces him must be Chilean with domicile and residence in Chile.

Applications for a free reception sound broadcasting concession, filed by a legal entity in which more than 10 percent of its capital stock is held by foreigners, shall be granted only if it is previously proven that Chilean nationals are granted similar rights and obligations in the applicant's country of origin as those that the applicant will enjoy in Chile.

The National Television Council may establish a general requirement of up to 40% of Chilean production in the programs broadcast by free-to-air television transmission service channels.

Only legal entities of public or private law, incorporated in Chile and domiciled in the country, may hold or make use of limited radio broadcasting telecommunication services permits, in any capacity, and only legal entities of public or private law, incorporated in Chile and domiciled in the country, may hold or make use of such permits in the country. Presidents, managers or legal representatives must be Chilean.

Only legal entities of public or private law, incorporated in Chile and domiciled in the country, may hold or make use of permits for limited cable or microwave television services in any capacity. The presidents, directors, managers, administrators and legal representatives of the juridical person shall be Chilean.

Sector: Energy

Subsector:

Obligations affected: National Treatment (Article 11.2)

Performance Requirements (Article 11.6)

Measures: Political Constitution of the Republic of Chile, Chapter III.

Law 18,097, Official Gazette, January 21, 1982, Constitutional Organic Law on Mining Concessions, Titles I, II and III.

Law 18.248, Official Gazette, October 14, 1983, Mining Code, Titles I, II and III.

Law 16.319, Official Gazette, October 23, 1965, creates the Chilean Nuclear Energy Commission, Titles I, II and III.

Description: Investment

The exploration, exploitation and benefit of liquid or gaseous hydrocarbons, deposits of any kind existing in maritime waters subject to national jurisdiction and those located totally or partially in determined areas of importance for national security with mining effects, whose qualification shall be made exclusively by law, may be the object of administrative concessions or special operating contracts, with the requirements and under the conditions that the President of the Republic shall

establish, for each case, by Supreme Decree. For greater certainty, it is understood that the term benefit does not include the storage, transportation or refining of the energetic material referred to in this paragraph.

The production of nuclear energy for peaceful purposes may only be carried out by the Chilean Nuclear Energy Commission or, with its authorization, jointly with third parties. If the Commission determines that it is advisable

The conditions for granting such authorization shall be determined.

Sector: Fishing

Subsector: Aquaculture

Obligations affected: National Treatment (Article 11.2)

Measures: Law 18.892, Official Gazette, January 21, 1992, General Law on Fisheries and Aquaculture, Titles I and VI.

Description: Investment

A concession or authorization is required for the use of beaches, beach lands, portions of water and seabed to carry out aquaculture activities.

Only Chilean natural persons or legal entities incorporated under Chilean law and foreigners with a permanent residence permit may hold an authorization or concession to carry out activities in the following areas: aquaculture.

Sector: Fishing

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Law 18.892, Official Gazette, January 21, 1992, General Law of Fisheries and Aquaculture, Titles I, III, IV and IX.

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I and II.

Description: Investment and cross-border trade in services

To harvest and capture hydrobiological species in Chile's inland waters, territorial sea and Exclusive Economic Zone, a permit granted by the Undersecretariat of Fisheries is required.

Only Chilean natural persons or legal entities constituted under Chilean law and foreigners with permanent residence may hold a permit to harvest and capture hydrobiological species.

Only Chilean vessels may carry out fishing in internal waters, territorial sea or in Chile's Exclusive Economic Zone. Chilean vessels are those defined as such in the Navigation Law. Access to industrial extractive fishing activities is subject to prior registration of the vessel in Chile.

Only a Chilean natural or juridical person may register a vessel in Chile. A juridical person must be incorporated with its principal domicile and real and effective seat in Chile. The president, manager and the majority of the directors or administrators must be Chilean natural persons. In addition, more than 50 percent of its capital stock must be held by Chilean natural or juridical persons. For these purposes, a juridical person that has an interest in another juridical person that owns a vessel must comply with all the aforementioned requirements.

A community may register a vessel if (1) the majority of the co-owners are Chileans with domicile and residence in Chile; (2) the administrators must be Chilean; and (3) the majority of the rights in the community must belong to Chilean individuals or legal entities. For these purposes, a legal entity that is a joint owner of a vessel must comply with all the aforementioned requirements.

An owner (natural or juridical person) of a fishing vessel registered prior to June 30, 1991 shall not be subject to the nationality requirement mentioned above.

Fishing vessels so authorized by the maritime authorities, pursuant to powers conferred by law in case of reciprocity granted to Chilean vessels by other States, may be exempted from the above requirements, under conditions equivalent to those granted to Chilean vessels by that State.

Access to artisanal fishing will be subject to registration in the Artisanal Fishing Registry. Only Chilean natural persons, foreign natural persons with permanent residence in Chile or a legal entity constituted by the aforementioned natural persons may register to carry out artisanal fishing.

Sector: Mining

Subsector:

Obligations affected: National Treatment (Article 11.2)

Performance Requirements (Article 11.6)

Measures: Political Constitution of the Republic of Chile, Chapter III.

Law 18,097, Official Gazette, January 21, 1982, Constitutional Organic Law on Mining Concessions, Titles I, II and III.

Law 18.248, Official Gazette, October 14, 1983, Mining Code, Titles I and III.

Law 16.319, Official Gazette, October 23, 1965, creates the Chilean Nuclear Energy Commission, Titles I, II and III.

Description: Investment

The exploration, exploitation and benefit of lithium, deposits of any kind existing in maritime waters subject to national jurisdiction and deposits of any kind located totally or partially in determined areas of importance for national security with mining effects, whose qualification will be made exclusively by law, may be the object of administrative concessions or special operating contracts, with the requirements and under the conditions that the President of the Republic establishes, for each case, by supreme decree.

For greater certainty, Chile has, at the usual market price and terms, the right of first option to purchase mining products originating from operations developed in the country in which thorium or uranium have a significant presence.

For greater certainty, Chile may require producers to separate from mineral products the portion of:

(1) liquid or gaseous hydrocarbons;

(2) lithium;

(3) deposits of any species existing in maritime waters under national jurisdiction; and

(4) deposits of any type located totally or partially in areas determined to be important for national security with mining effects, whose qualification will be made exclusively by law,

that are present in significant quantities in such products and that can be economically and technically segregated for delivery or sale on behalf of the State. For these purposes, the economic and technical separation implies that the costs incurred for the recovery of the four substances.

The value of the products indicated above, through an adequate technical procedure, and in their commercialization and delivery, must be less than their commercial value.

Natural atomic materials and extracted lithium, as well as concentrates, derivatives and compounds thereof, may not be the object of any legal act, except when executed or entered into by the Chilean Nuclear Energy Commission, with the latter or with its prior authorization. If the Commission determines that it is advisable to grant such authorization, it shall determine its conditions.

Sector: Professional Services

Subsector: Professional, technical and specialized services

Obligations affected: National Treatment (Article 12.3) Local Presence (Article 12.6)

Measures: Law 18.046, Official Gazette, October 22, 1981, Corporations Law, Title V.

Supreme Decree 587 of the Ministry of Finance, Official Gazette,

November 13, 1982, Regulation of Corporations

Decree Law 1.097, Official Gazette, July 25, 1975, Titles I, II, III and IV.

Decree Law 3,538, Official Gazette, December 23, 1980, Titles I, II, III and IV.

Circular 2,714, October 6, 1992; Circular 1, January 17, 1989; Chapter 19 of the Updated Compilation of Rules of the Superintendency of Banks and Financial Institutions on external auditors.

Circulars 327, June 29, 1983, and 350, October 21, 1983, issued by the Superintendency of Securities and Insurance.

Description: Cross-border trade in services

External auditors of financial institutions must be registered in the Register of External Auditors of the Superintendency of Banks and Financial Institutions and the Superintendency of Securities and Insurance. Only legal entities legally constituted in Chile as partnerships or associations and whose main line of business are audit services may be registered in the Register.

Sector: Professional Services

Subsector: Legal Services

Obligations affected: National Treatment (Article 12.3)

Most-Favored-Nation Treatment (Article 12.4)

Measures: Organic Code of Courts, Title XV

Decree 110 of the Ministry of Justice, Official Gazette, March 20, 1979.

Law 18.120, Official Gazette, May 18, 1982.

Convenio sobre Mutuo Reconocimiento de Exámenes y de Títulos Profesionales entre Chile y el Ecuador, Diario Oficial, July 16, 1937.

Description: Cross-border trade in services

Only Chilean natural persons may practice law.

Only lawyers may provide services such as sponsorship in matters before the courts of the Republic, and this translates into the obligation that the first presentation of each party must be sponsored by a lawyer authorized to practice the profession; the drafting of deeds of incorporation, modification, rescission or liquidation of corporations, liquidation of conjugal partnerships, partition of assets, deeds of incorporation of legal personality, of associations of canalists, cooperatives, contracts of transactions and contracts of issuance of bonds of corporations; and the sponsorship of the application for the granting of legal personality for corporations and foundations.

Chile has a bilateral agreement with Ecuador, whereby Ecuadorians holding a law degree from an Ecuadorian University are admitted to practice law in Chile.

None of these measures apply to foreign legal consultants practicing or advising on the law of the country of origin or any country in which such consultant is licensed to practice law.

Sector: Professional Services

Subsector: Professional, technical and specialized services Services auxiliary to the administration of justice

Obligations affected: National Treatment (Article 12.3) Local Presence (Article 12.6)

Measures: Organic Code of the Courts, Titles XI and XII

Regulations of the Real Estate Registry Registry, Titles I, II and III

Law 18.118, Official Gazette, May 22, 1982, Title I.

Decree 197 of the Ministry of Economy, Official Gazette, August 8, 1985.

Law 18.175, Official Gazette, October 28, 1982, Title III.

Description: Cross-border trade in services

Auxiliaries in the administration of justice must reside in the same place or city where the court where they will render their services is located.

Public defenders, notaries public and conservators must be Chilean and meet the same requirements as for judges.

Archivists and arbitrators at law must be attorneys at law, therefore, they must be Chilean natural persons. Peruvian lawyers may participate in an arbitration when Peruvian law is involved and the parties to the arbitration so request.

Only Chilean natural persons with the right to vote and foreigners with permanent residence and the right to vote may act as judicial receivers and as procurators of the number.

Only Chilean natural persons and foreigners with definitive residence in Chile or Chilean legal entities may be public auctioneers.

To be a bankruptcy trustee, it is necessary to have a technical or professional degree from a university, a professional institute or a technical training center recognized by Chile. Bankruptcy trustees must have at least three years of experience in commercial, economic or legal areas and be duly authorized by the Minister of Justice and may only work in the place of their residence.

Sector: Specialized Services

Subsector: Customs Agents and Brokers

Obligations affected: National Treatment (Article 12.3) Local Presence (Article 12.6)

Measures: Decree with Force of Law 30 of the Ministry of Finance, Official Gazette, April 13, 1983, Book IV.

Decree with Force of Law 2 of the Ministry of Finance, 1998.

Description: Cross-Border Trade in Services

Only Chilean natural persons may provide services as customs agents and customs brokers. These functions must be performed personally and diligently.

Sector: Investigation and security services

Subsector: Specialized services Armed security guards

Obligations affected: National Treatment (Article 12.3)

Measures: Decree 1.773 of the Ministry of the Interior, Official Gazette, November 14, 1994.

Description: Cross-border trade in services

Only Chileans can provide services as armed private guards.

Sector: Sporting, industrial fishing and hunting, and recreational services

Subsector:

Obligations affected: Local Presence (Article 12.6)

Measures: Law 17.798, Official Gazette, October 21, 1972, Title I.

Supreme Decree 77 of the Ministry of Defense, Official Gazette, August 14, 1982.

Description: Cross-border trade in services

Persons who have weapons, explosives or analogous substances must request their registration before the control authority corresponding to their domicile, for which purpose an application must be submitted to the General Directorate of National Mobilization of the Ministry of Defense.

Any natural or legal person who is registered as an importer of fireworks may request authorization for the importation and internment to Chile of Group No. 3 to the General Directorate of National Mobilization, and may even maintain stocks of these elements for their commercialization to persons authorized to carry out pyrotechnic shows.

The Supervisory Authority may only authorize a pyrotechnic show if there is a report for its installation, development and safety measures, signed and approved by a calculating programmer registered in the national registers of the General Directorate of National Mobilization or by a professional, accredited before said General Directorate.

For the assembly and execution of the pyrotechnical show, it must have at least one fireworks handler registered in the

records of the General Directorate.

Sector: Transportation

Subsector: Air transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Law 18.916, Official Gazette, February 8, 1990, Aeronautical Code, Titles, Preliminary, II and III.

Decree Law 2.564, Official Gazette, June 22, 1979, Commercial Aviation Regulations.

Supreme Decree 624 of the Ministry of Defense, Official Gazette, January 5, 1995.

Law 16.752, Official Gazette, February 17, 1968, Title II.

Decree 34 of the Ministry of Defense, Official Gazette, February 10, 1968.

Decree Supreme Decree 102 of Ministry of Transportes and Telecommunications, Official Gazette, June 17, 1981.

Supreme Decree 172 of the Ministry of Defense, Official Gazette, March 5, 1974.

Supreme Decree 37 of the Ministry of Defense, Official Gazette, December 10, 1991.

Decree 234 of the Ministry of Defense, Official Gazette, June 19, 1971.

Description: Investment and cross-border trade in services

Only a Chilean natural or juridical person may register an aircraft in Chile. A legal person must be incorporated in Chile with its main domicile and real and effectiveseat andin Chile. In addition, the majority of its ownership must belong to Chilean individuals or legal entities, which in turn must meet the above requirements

The president, manager and the majority of the directors or administrators of the legal entity must be Chilean.

Foreign-registered private aircraft engaged in non-commercial activities may not remain in Chile without authorization from the Directorate General of Civil Aeronautics for more than 30 days from the date of their entry into the country.

In order to work as a crew member of aircraft operated by a Chilean airline, foreign aeronautical personnel must first obtain a national license with the respective authorizations that allow them to perform their functions.

Foreign aeronautical personnel may exercise their activities in Chile only if the license or rating granted in another country is recognized by the Chilean civil aeronautical authority as valid. In the absence of an international agreement regulating such recognition, it shall be made under reciprocity conditions. In such case, it shall be demonstrated that the licenses and ratings were issued or validated by the competent authority in the State of registration of the aircraft, that they are in force and that the requirements to extend or validate them are equal or superior to those established in Chile for similar cases.

Air transport services may be carried out by Chilean or foreign air navigation companies provided that, on the routes they operate, the other States grant similar conditions for Chilean air companies, when they so request. The Civil Aeronautics Board, by founded resolution, may terminate, suspend or limit cabotage services or other kinds of commercial air navigation services, which are performed exclusively within the national territory by foreign companies or aircraft, if their country of origin does not effectively grant or recognize the right to equal treatment to Chilean companies or aircraft.

In order for foreign civil aircraft not engaged in commercial transport activities and those engaged in commercial air transport activities on a non-scheduled basis to have the right to enter Chilean territory, including its jurisdictional waters, to fly over it and to make stopovers therein for non-commercial purposes, they must inform the Civil Aeronautics Board at least twenty-four hours in advance. Aircraft engaged in non-scheduled commercial air transportation may not take or leave passengers, cargo or mail in Chilean territory without prior authorization granted by the Civil Aeronautics Board.

Sector: Transportation

Subsector: Land transportation by road

Obligations affected: National Treatment (Article 12.3)

Most-Favored-Nation Treatment (Article 12.4) Local Presence (Article 12.6)

Measures: Decree Supreme Decree 212 of Ministry of Transportes and Telecommunications, Official Gazette, November 21, 1992.

Decree 163 from Ministry of Transportation and Telecommunications, Official Gazette, January 4, 1985.

Supreme Decree 257 of the Ministry of Foreign Affairs, Official Gazette, October 17, 1991.

Description: Cross-border trade in services

Providers of land transportation services must register in the National Registry by means of an application to be submitted to the Regional Ministerial Secretary of Transportation and Telecommunications. In the case of urban services, the interested parties must submit the application to the Regional Secretary with jurisdiction in the locality where the service will be provided and, in the case of rural and interurban services, in the region corresponding to the domicile of the interested party. The application for registration must specify the information required by law and attach, among other information, a photocopy of the national identity card, duly legalized, and in the case of legal entities, the public instruments evidencing their incorporation, name and domicile of the legal representative in the case of legal entities and the document evidencing such representative. Foreign natural or juridical persons authorized to provide international transportation in the territory of Chile may not perform local transportation services or participate, in any way, in such activities within the national territory.

Sector: Transportation

Subsector: Water transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Decree Law 3.059, Official Gazette, December 22, 1979, Merchant Marine Development Law, Titles I and II.

Supreme Decree 24, Diario Oficial, March 10, 1986, Regulation of Decree Law 3.059, Titles I and II.

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V.

Supreme Decree 153, Official Gazette, March 11, 1966, Approves the General Regulations for the Registration of Seafarers, River and Lake Personnel.

Code of Commerce, Book III, Titles I, IV and V.

Law 19,420, Official Gazette, October 23, 1995, Establishes incentives for the economic development of the provinces of Arica and Parinacota and amends the legal bodies indicated therein, Title Miscellaneous Provisions.

Description: Investment and cross-border trade in services

Only a Chilean natural or juridical person may register a vessel in Chile. A juridical person must be incorporated with its principal domicile and real and effective seat in Chile. The president, manager and the majority of the directors or administrators must be Chilean natural persons. In addition, more than 50 percent of its capital stock must be held by Chilean natural or juridical persons. For these purposes, a juridical person that has an interest in another juridical person that owns a vessel must comply with all the aforementioned requirements.

A community may register a vessel if (1) the majority of the co-owners are Chilean with domicile and residence in Chile; (2) the administrators are Chilean; and (3) the majority of the rights in the community belong to Chilean individuals or legal entities. For these purposes, a legal entity that is a co-owner of a vessel must comply with all the above mentioned requirements to be considered Chilean.

Special vessels owned by foreign natural or juridical persons domiciled in Chile may, under certain conditions, be registered in the country. For these purposes, a special vessel does not include a fishing vessel. The conditions required to register special vessels owned by foreign natural or juridical persons are the following: (1) domicile in Chile; (2) principal place of business in the country; or (3) permanently exercising a profession or industry in Chile. The maritime authority may, for reasons of national security, impose special rules restricting their operations.

The maritime authority may grant better treatment based on the principle of reciprocity.

Foreign vessels must use pilotage, anchoring and port pilotage services when required by the maritime authorities. Only Chilean flag tugboats may be used for towing or other maneuvers in Chilean ports.

To be a captain, it is necessary to be a Chilean national and hold the title of captain conferred by the corresponding authority. To be an officer of Chilean vessels, it is necessary to be a Chilean natural person and to be registered in the Register of Officers. To be a crew member of Chilean vessels, it is necessary to be Chilean, have a registration or permit granted by the Maritime Authority and be registered in the respective Registry. Professional degrees and licenses granted in a foreign country shall be valid to serve as officer in national vessels when the Director so provides by a founded resolution.

The ship's master must be Chilean. The ship's master is the natural person who, in possession of the title granted by the Director, is qualified to command smaller vessels and certain special larger vessels.

Only Chileans or foreigners domiciled in Chile may work as fishing skippers, mechanics-motorists, motorists, seamen-fishermen, fishermen, fishermen, employees or technical workers of maritime industries or commerce and as crew members of industrial and general services of factory or fishing vessels when requested by the shipowners because they are indispensable for the initial organization of the work.

In order to fly the national flag, the captain or master of the vessel, its officers and crew must be Chilean. Notwithstanding, the General Directorate of Maritime Territory and Merchant Marine, by means of a well-founded resolution and on a transitory basis, may authorize the hiring of foreign personnel when indispensable, except for the captain, who shall always be Chilean.

To work as a multimodal operator in Chile, it is necessary to be a Chilean natural or legal person.

Cabotage is reserved for Chilean vessels. It shall mean the maritime, fluvial or lake transportation of passengers and cargo between different points of the national territory and between these and naval artifacts installed in the territorial sea or in the Exclusive Economic Zone.

Foreign merchant vessels may participate in cabotage in the case of cargo volumes of more than 900 tons, after a public bidding process carried out by the user and called with due notice. In the case of cargo volumes equal to or less than 900 tons and there is no availability of vessels under the Chilean flag, the Maritime Authority shall authorize the loading of such cargo on foreign merchant vessels. The cabotage reservation for Chilean vessels shall not apply in the case of cargo coming from or bound for ports in the province of Arica.

In the event that Chile adopts, for reasons of reciprocity, a measure of cargo reservation in the international transportation of cargo between Chile and another non-Party country, the cargo that is reserved shall be carried on vessels flying the Chilean flag or reputed as such.

Sector: Transportation

Subsector: Water transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures:

Commercial Code, Book III, Titles I, IV and V

Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II and IV.

Decree 90 of the Ministry of Labor and Social Security, Official Gazette January 21, 2000.

Decree 49 of the Ministry of Labor and Social Security, Official Gazette July 16, 1999.

Labor Code, Book I, Title II, Chapter III, paragraph 2.

Description:

Investment and cross-border trade in services

Ship agents or representatives of ship operators, owners or captains, whether natural or juridical persons, must be Chilean nationals.

Port stevedoring and wharfage work performed by natural persons is reserved to Chileans who are duly accredited before

the corresponding authority to perform the port work indicated in the law and have an office established in Chile.

When the activities are carried out by legal entities, they must be legally incorporated in the country and have their main domicile in Chile. The president, administrators, managers or directors must be Chilean. At least 50 percent of the capital stock must belong to Chilean individuals or legal entities. Such companies must appoint one or more attorneys-in-fact to act on their behalf, who must be Chilean.

Port workers must pass a basic port safety course at a Technical Execution Agency authorized by the National Training and Employment Service, in accordance with the rules established in the respective regulations.

All those who disembark, transship and, in general, must also be Chilean individuals or legal entities,

make use of Chilean continental or insular ports, especially for fishing catches or fishing catches processed on board.

Annex I. List of Peru

Sector: All sectors

Subsector:

Obligations Affected: National Treatment (Article 11.2)

Measures: Peruvian Constitution of 1993, Article 71

Legislative Decree No. 757, Official Gazette "El Peruano", November 13, 1991, Framework Law for the Growth of Private Investment, Article 13.

Description: Investment

Within fifty kilometers of the frontiers, foreigners may not acquire or possess by any title whatsoever, mines, lands, forests, waters, fuels or energy sources, directly or indirectly, individually or in partnership, under penalty of forfeiting, for the benefit of the State, the right thus acquired. An exception is made in the case of public necessity expressly declared by supreme decree approved by the Council of Ministers, in accordance with the law.

For each case of acquisition or possession in the referred area, the investor must submit the corresponding request to the competent Ministry in accordance with the legal regulations in force. For example, it has been given this type of authorization in the mining sector.

Sector: Fishing and fishing-related services

Subsector:

Obligations affected: National Treatment (Article 12.3)

Measures: Supreme Decree N° 012-2001-PE, Diario Oficial "El Peruano" of March 14, 2001, Regulation of the General Fisheries Law, articles 67, 68, 69 and 70.

Description: Cross-Border Trade in Services

The owners of foreign flag fishing vessels, prior to the start of their operations, shall submit a joint and several, irrevocable, unconditional and automatic performance bond, valid for no more than 30 calendar days after the date of the termination of the fishing permit, issued in favor and to the satisfaction of the Ministry of Production, by a banking, financial or insurance institution, duly recognized by the Superintendence of Banking and Insurance. Said letter shall be issued for a value equivalent to 25) of the amount due for payment of fishing rights.

Owners of foreign-flagged fishing vessels, other than those of larger scale, operating in Peruvian jurisdictional waters are required to have the Satellite Tracking System on their vessels, unless a Ministerial Resolution exempts owners of highly migratory fisheries from this obligation.

Foreign-flagged fishing vessels with a fishing permit must carry on board a scientific technical observer designated by the Peruvian Sea Institute (IMARPE). The shipowners, in addition to providing accommodation on board for said representative, must pay an allowance per day of boarding, which will be deposited in a special account managed by IMARPE for this purpose.

Owners of foreign-flagged fishing vessels operating in Peruvian jurisdictional waters must hire a minimum of 30% Peruvian

crew members, subject to applicable national legislation.

Sector: Broadcasting services

Subsector:

Obligations affected: National Treatment (Article 11.2) Local Presence (Article 12.6)

Measures: Law No. 28278, Official Gazette "El Peruano" of July 16, 2004, Radio and Television Law, Article 24.

Description: Investment and Cross-Border Trade in Services

Only natural persons of Peruvian nationality or legal entities incorporated under Peruvian law and domiciled in Peru may be holders of authorizations and licenses for broadcasting services.

The participation of foreigners in such legal entities may not exceed 40% of the total participations or shares of the capital stock, and they must also be owners or have participation or shares in broadcasting companies in their countries of origin.

The foreigner, neither directly nor through a sole proprietorship, may be the holder of an authorization or license.

Sector: Audiovisual services

Subsector:

Obligations affected: National Treatment (Article 12.3)

Performance Requirements (Article 11.6)

Measures: Law No. 28278, Official Gazette "El Peruano" of July 16, 2004, Radio and Television Law, Eighth Complementary and Final Provision.

Description: Investment and Cross-Border Trade in Services

The owners of broadcasting services (open signal) must establish a minimum national production of 30% of their programming, between 5:00 a.m. and midnight, on a weekly average.

Sector: Broadcasting services

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Measures: Supreme Decree No. 005-2005-MTC, Official Gazette "El Peruano" of February 15, 2005, Regulation of the Radio and Television Law, Article 20.

Description: Investment and Cross-Border Trade in Services

If a foreigner is, directly or indirectly, a shareholder, partner or associate of a juridical person, such juridical person may not hold authorizations to provide the broadcasting service within the localities bordering the country of origin of such foreigner, except in the case of public necessity authorized by the Council of Ministers.

This restriction does not apply to legal entities with foreign participation that have two or more authorizations in force, provided that they are in the same frequency band.

Sector: All sectors

Subsector:

Obligations affected: National Treatment (Article 12.3)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Legislative Decree No. 689, Official Gazette "El Peruano", November 5, 1991, Law for the Hiring of Foreign Workers, articles 1, 3, 4, 5 (as amended by Law No. 26196) and 6.

Description: Investment and Cross-Border Trade in Services

Employers, whatever their activity or nationality, shall give preference to hiring national workers.

Foreign natural persons providing services and employed by companies providing services may render services in Peru through an employment contract, which must be entered into in writing and for a specific term, for a maximum period of 3 years, which may be extended successively for equal periods, and must also include the commitment to train national personnel in the same occupation.

Foreign natural persons may not represent more than 20% of the total number of servers, employees and workers of a company, and their remunerations may not exceed 30% of the total payroll. These percentages shall not apply in the following cases:

(1) When the foreign service provider is a spouse, ascendant, descendant or sibling of a Peruvian.

(2) In the case of personnel of foreign companies engaged in international land, air or water transportation services with foreign flag and registration.

(3) In the case of foreign personnel working in multinational service companies or multinational banks, subject to legal regulations dictated for specific cases.

(4) In the case of a foreign investor, provided that his investment has permanently a minimum amount of 5 tax units during the term of his contract. (1).

(5) In the case of artists, sportsmen and women, or those who are service providers performing in public shows in Peruvian territory, for a maximum of three months per year.

(6) In the case of a foreigner with an immigrant visa

(7) In the case of a foreigner with whose country of origin there is a labor reciprocity or dual nationality agreement.

(8) In the case of foreign personnel who, by virtue of bilateral or multilateral agreements entered into by the Government of Peru, render their services in the country.

Employers may request exemptions from the limiting percentages related to the number of foreign workers and the percentage that their remunerations represent in the total amount of the company's payroll, when:

(1) professional or specialized technical personnel are involved.

(2) if they are management or managerial personnel of a new business activity or business conversion.

(3) teachers hired for higher education, or for basic or secondary education in private foreign schools, or for language teaching in private national schools, or in specialized language teaching centers.

(4) whether they are personnel of public or private sector companies under contract with public sector agencies, institutions or companies.

(5) in any other case established by Supreme Decree following the criteria of specialization, qualification or experience.

(1) The Unidad Impositiva Tributaria (UIT) is a reference amount used in tax regulations in order to maintain constant values of taxable bases, deductions, allocation limits and other aspects of the taxes considered convenient by the legislator.

Sector: Professional Services

Subsector: Legal Services

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Measures: Decree Law No. 26002, Official Gazette El Peruano of December 27, 1992, Notary Law, articles 5 (amended by Law No. 26741) and 10 (amended by Law No. 27094).

Description: Investment and Cross-Border Trade in Services

Only natural persons of Peruvian nationality by birth may provide notarial services.

Sector: Professional Services

Subsector: Architectural services

Obligations affected: National Treatment (Article 12.3)

Measures: Law No. 14085, Official Gazette "El Peruano" of June 30, 1962, Law for the Creation of the College of Architects of Peru.

Law No. 16053, Official Gazette "El Peruano" of February 14, 1966, Law of Professional Practice, Authorizes the Colleges of Architects and Engineers of Peru to supervise the Engineering and Architecture professionals of the Republic, Article 1.

Agreement of the Board of Architects, October 6, 1987.

Description: Cross-Border Trade in Services

To practice as an architect in Peru, a person must register with the Colegio de Arquitectos and pay a registration fee according to the following list:

(1) Peruvian graduates from Peruvian universities $ (1) Peruvian graduates from Peruvian universities $ (1) Peruvian graduates from Peruvian universities $250.00 U.S. dollars;

(2) Peruvian graduates from foreign universities $ (2) Peruvian graduates from foreign universities $ (2) Peruvian graduates from foreign universities US400.00; and

(3) foreigners graduated from foreign universities $ 3,000.00 U.S. dollars.

In addition, for temporary registration, non-resident foreign architects require a contract of association with a Peruvian resident architect.

Sector: Security Services

Subsector:

Obligations affected: National Treatment (Article 12.3)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Supreme Decree N° 005-94-IN, Official Gazette "El Peruano" of May 12, 1994, Regulation of Private Security Services, articles 81 and 83.

Description: Investment and Cross-Border Trade in Services

Persons hired as security guards must be Peruvian by birth.

Senior executives of the security services companies must be Peruvian by birth and must be residents in the country.

Sector: Recreational, cultural and sports services

Subsector: National artistic audiovisual production services

Obligations affected: National Treatment (Article 12.3)

Measures: Law No. 28131, Official Gazette "El Peruano" of December 18, 2003, Law of the Artist, Performer and Executor, articles 23 and 25.

Description: Cross-Border Trade in Services

All national artistic audiovisual productions must be made up of at least 80% national artists.

All national artistic performances presented directly to the public must be made up of at least 80% national artists.

National artists shall receive no less than 60% of the total artist salary and wage schedule.

The same percentages established in the preceding paragraphs apply to the technical worker linked to the artistic activity.

Sector: Recreational, cultural and sports services

Subsector: Circus show services

Obligations affected: National Treatment (Article 12.3)

Measures: Law No. 28131, Official Gazette "El Peruano" of December 18, 2003, Law of the Artist, Performer and Executor,

article 26.

Description: Cross-Border Trade in Services

Every foreign circus show shall enter the country with its original cast, for a maximum term of 90 days, which may be extended for the same period. In the latter case, at least 30% of national artists and 15% of national technicians shall be incorporated to the artistic cast. These same percentages should be reflected in the wage and salary schedules.

Sector: Commercial advertising services

Subsector:

Obligations affected: National Treatment (Article 12.3)

Measures: Law No. 28131, Official Gazette "El Peruano" of December 18, 2003, Law of the Artist, Performer and Executor, articles 25 and 27.2.

Description: Cross-Border Trade in Services

Commercial advertising in Peru must include at least 80% of national artists.

National artists must receive no less than 60 percent of the total artist payroll.

The same percentages established in the preceding paragraphs apply to technical workers engaged in commercial advertising.

Sector: Entertainment and recreation services

Subsector: Bullfighting shows

Obligations affected: National Treatment (Article 12.3)

Measures: Law No. 28131, Official Gazette "El Peruano" of December 18, 2003, Law of the Artist, Performer and Executor, article 28.

Description: Cross-Border Trade in Services

At least one national matador must participate in every bullfighting fair. In novilladas, calf bullfights and mixed bullfights, at least one national novillero must participate.

Sector: Broadcasting services

Subsector:

Obligations affected: National Treatment (Article 12.3)

Performance Requirements (Article 11.6)

Measures: Law No. 28131, Official Gazette "El Peruano" of December 18, 2003, Law of the Artist, Performer and Executor, articles 25 and 45.

Description Investment and Cross-Border Trade in Services

Open signal broadcasting companies must allocate no less than 10% of their daily programming to the broadcasting of folklore, national music and series or programs produced in Peru related to Peruvian history, literature, culture or Peruvian national reality, made with contracted artists in the following percentages:

(1) a minimum of 80% of national artists,

(2) national artists shall receive no less than 60% of the total artists' salary and wage schedule.

(3) the same percentages established in the

The preceding paragraphs apply to the technical worker linked to the artistic activity.

Sector: Bonded warehouse services

Subsector:

Obligations affected: Local Presence (Article 12.6)

Measures: Supreme Decree No. 08-95-EF, Official Gazette "El Peruano" of February 5, 1995, Customs Warehouse Regulations, Article 7.

Description: Cross-Border Trade in Services

Only individuals or legal entities domiciled in Peru can can request authorization for operate bonded warehouses.

Sector: Telecommunications

Subsector:

Obligations affected: National Treatment (Article 12.3)

Measures: Supreme Decree No. 027-2004-MTC, Official Gazette "El Peruano" of July 15, 2004, Sole Ordered Text of the General Regulations of the Telecommunications Law, Article 269.

Description: Cross-Border Trade in Services

Call-back is prohibited, understood as the offering of telephone services for the making of attempted telephone calls originating in the country, with the purpose of obtaining a return call with an invitation to dial tone, coming from a basic telecommunications network located outside the national territory.

Sector: Transportation

Subsector: Air transportation

Obligations affected: National Treatment (Article 11.2 and 12.3) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Law No. 27261, Official Gazette "El Peruano" of May 10, 2000, Civil Aeronautics Law, articles 75 and 79.

Supreme Decree N° 050-2001-MTC, Official Gazette "El Peruano" of December 26, 2001, Regulation of the Civil Aeronautics Law, articles 147, 159, 160 and VI Complementary Provision.

Description: Investment and Cross-Border Trade in Services

National Commercial Aviation is reserved to Peruvian individuals and legal entities.

For the purposes of this entry, a Peruvian legal entity is considered to be one that complies with:

(1) It must be incorporated under Peruvian law, indicate in its corporate purpose the commercial aviation activity to which it will be dedicated and be domiciled in Peru, for which it must develop its main activities and install its administration in Peru;

(2) At least half plus one of the directors, managers and persons in charge of the control and management of the company must be of Peruvian nationality or have permanent domicile or habitual residence in Peru; and,

(3) At least 51% of the capital stock of the company must be Peruvian owned and under the real and effective control of shareholders or partners of Peruvian nationality with permanent domicile in Peru. (This limitation shall not apply to companies incorporated under Law No. 24882, which may maintain the percentages of ownership within the margins established therein). 6 months after the granting of the company's operating permit to provide commercial air transportation services, the percentage of capital stock owned by foreigners may be up to 70%.

In operations carried out by national operators, the personnel performing aeronautical functions on board must be Peruvian. The Directorate General de Aeronáutica Civil may, for technical reasons, authorize these functions to foreign personnel for a period not to exceed 6 months from the date of authorization, which may be extended if there is a proven lack of such trained personnel.

The General Directorate of Civil Aeronautics, after verifying the lack of Peruvian aeronautical personnel, may authorize the hiring of non-resident foreign personnel for the technical management of the aircraft and for the training of Peruvian aeronautical personnel for a term of up to 6 months, extendable according to the proven lack of Peruvian personnel.

Sector: Transportation

Subsector: Water transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3) Local Presence (Article 12.6)

Senior Executives and Boards of Directors (Article 11.7)

Measures: Law No. 28583, Law for the Reactivation and Promotion of the National Merchant Marine, Official Gazette "El Peruano" of July 22, 2005, articles 4.1, 6.1, 7.1, 7.2, 7.4 and 13.6.

Supreme Decree No. 028 DE/MGP, Official Gazette "El Peruano" of May 25, 2001, Regulation of Law No. 26620, Article I-010106, paragraph a).

Description: Investment and Cross-Border Trade in Services

National Shipping Company or National Shipping Company means the natural person of Peruvian nationality or legal entity incorporated in Peru, with main domicile, real and effective headquarters in the country, which is engaged in the service of water transportation in national traffic or cabotage or international traffic and is owner or lessee under the modalities of financial lease or bareboat lease, with mandatory purchase option, of at least one merchant vessel of Peruvian flag and has obtained the corresponding Operating Permit from the General Directorate of Aquatic Transportation.

At least 51% of the capital stock of the legal entity, subscribed and paid, must be owned by Peruvian citizens.

The Chairman of the Board of Directors, the majority of the Directors and the Chief Executive Officer must be Peruvian nationals and reside in Peru.

National flag vessels must have a Peruvian captain and at least 80% Peruvian crew, authorized by the General Directorate of Coast Guard and Coast Guard. In exceptional cases and after verifying the unavailability of a Peruvian captain duly qualified and experienced in the type of vessel in question, the hiring of the services of a foreign captain may be authorized.

To obtain the license of Práctico you must be a Peruvian citizen.

Commercial water transportation in national traffic or cabotage is reserved exclusively for Peruvian flag merchant vessels owned by the National Shipping Company or National Shipping Company or under the Financial Lease or Bareboat Lease modalities, with mandatory purchase option; except for the following exceptions:

(1) The transportation of hydrocarbons in national waters is reserved up to 25% for vessels of the Peruvian Navy; and

(2) For water transportation between Peruvian ports only and, in cases of non-existence of own or leased vessels under the above mentioned modalities, the chartering of foreign flag vessels will be allowed to be operated, only by National Shipping Companies or National Shipping Companies, for a period not exceeding 6 months.

Sector: Transportation

Subsector: Water transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3) Local Presence (Article 12.6)

Measures: Supreme Decree No. 056-2000-MTC, Official Gazette "El Peruano" of December 31, 2000, provides that maritime and related transport services performed in bays and port areas must be provided by authorized natural and legal persons, with national flag vessels and artifacts, Article 1.

Ministerial Resolution No. 259-2003-MTC/02, Official Gazette "El Peruano" of April 4, 2003, Approving the Regulation of Water Transportation and Related Services Provided in Bay Traffic and Port Areas, articles 5 and 7.

Description: Investment and Cross-Border Trade in Services

The following Water Transportation and Related Services that are performed in the bay traffic and port areas, must be rendered by natural persons domiciled in Peru and legal persons incorporated and domiciled in Peru, duly authorized with vessels and naval artifacts of Peruvian flag:

(1) Fuel supply services.

(2) Mooring and unmooring service.

(3) Diver Service.

(4) Ship provisioning service.

(5) Dredging Service.

(6) Pilotage service.

(7) Waste collection service.

(8) Towing service.

(9) Personal transportation service

Sector: Transportation

Subsector: Water transportation

Obligations affected: Local Presence (Article 12.6)

Measures: Supreme Resolution Nº 011-78-TC-DS of February 6, 1978, Regulation of Tourist Transportation Companies.

Description: Cross-Border Trade in Services

Tourist water transportation must be carried out by natural persons domiciled in Peru or legal persons incorporated and domiciled in Peru.

Sector: Transportation

Subsector: Water transportation

Obligations affected: National Treatment (Article 12.3)

Measures: Law No. 27866, Official Gazette "El Peruano" of November 16, 2002, Port Labor Law, articles 3 and 7.

Description: Cross-Border Trade in Services

Only Peruvian citizens may register in the Port Workers Registry.

The port worker is the natural person who, under a relationship of subordination to the port employer, performs a specific service aimed at the execution of tasks inherent to port work, such as stevedore, targer, winchman, crane operator, port gatekeeper, ship's side lifter or other specialties that according to the

The Regulations of this Law shall establish the particularities of each port.

Sector Transportation:

Subsector: Ground transportation

Obligations affected Local Presence (Article 12.6)

Measures Supreme Decree No. 009-2004-MTC, Official Gazette "El Peruano" of February 27, 2004, National Transportation Administration Regulations, Articles 47 and 48.

Description Cross-Border Trade in Services

The carrier must provide documentary evidence that it has land terminals, route stations, stops and administrative offices in the territory of Peru, as applicable to the transportation service.

The carrier is obliged to have its own facilities or those of third parties, duly equipped for the administrative management of the company, whose address will constitute its legal domicile, where the inspections and verifications that the competent authority may deemed necessary.

Sector: Research and development services

Subsector: Archaeological research services

Obligations affected National Treatment (Article 12.3)

Measures Supreme Resolution No. 004-2000-ED, Diario Oficial "El Peruano" of January 25, 2000, Reglamento de Investigaciones Arqueológicas, article 30.

Description Cross-Border Trade in Services

Archaeological research projects directed by a foreign archaeologist must have an archaeologist with accredited experience

of Peruvian nationality and registered in the National Register of Archaeologists as co-director or scientific sub-director of the project. The co-director or sub-director will necessarily participate in the integral execution of the project (field and office work).

Sector Energy-related services

Subsector:

Obligations affected National Treatment (Article 12.3) Local Presence (Article 12.6)

Measures Law No. 26221, Official Gazette "El Peruano" of August 19, 1993, General Hydrocarbons Law, Article 15.

Description Cross-Border Trade in Services

In order to enter into exploration contracts, foreign companies must establish a branch or incorporate a company in accordance with the General Companies Law, establish domicile in the capital of the Republic of Peru and appoint an agent of Peruvian nationality. Foreign natural persons must be registered in the Peruvian Registry of Companies.

Public and appoint an attorney-in-fact of Peruvian nationality, with domicile in the capital of the Republic of Peru.

Sector: Professional Services

Subsector: Audit services

Obligations affected: National Treatment (Article 12.3) Local Presence (Article 12.6)

Measures: Internal Regulations of the Lima Association of Public Accountants, articles 145 and 146.

Description: Cross-Border Trade in Services

The auditing companies shall be constituted solely and exclusively by certified public accountants resident in the country and duly qualified by the Association. No partner may be an integral member of another audit firm in Peru.

Sector: Aircraft leasing or rental services

Subsector: Air transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Measures: Law No. 28525, Official Gazette "El Peruano" of May 25, 2005, Law for the Promotion of Air Transportation Services, Article 5.

Law No. 27261, Official Gazette "El Peruano" of May 10, 2000, Civil Aeronautics Law, Article 67 (amended by Article 5 of Law No. 28525).

Description: Investment and Cross-Border Trade in Services

Civil aviation performed under the charter modality has a complementary character. In the case of operations carried out by national air operators that provide international scheduled air transport service of passengers, cargo and mail (mixed), using aircraft under charter contracts with foreign companies, shall be authorized under the following grounds:

(1) When air operations are being initiated on a new route, in which case it will be authorized for a maximum of 90 calendar days, extendable for 90 additional calendar days, subject to the air operator's support.

(2) When there is a legal restriction that prevents a Peruvian company's aircraft from operating by its own means in another State, the charter will be approved exclusively for the routes and for the term of the restriction.

(3) When there is a technical impediment of an aircraft that may imply a paralyzation of regular operations. The authorization period shall not exceed 90 calendar days, and may be extended after a favorable report from the Aviation Safety Directorate of the General Directorate of Civil Aeronautics.

For public necessity or national interest, domestic air transportation service operators may be authorized to enter into aircraft charter contracts with foreign companies to provide services within the national territory.

This authorization will be granted by supreme decree, at the proposal of the sector.

Sector: Transportation

Subsector: Land transportation by road

Obligations affected: National Treatment (Article 12.2)

Measures: Agreement on International Land Transportation, subscribed between the Governments of the Republic of Chile, the Republic of Argentina, the Republic of Bolivia, the Federative Republic of Brazil, the Republic of Paraguay, the Republic of Peru and the Oriental Republic of Uruguay - ATIT, signed in Montevideo on January 1, 1990.

Description: Cross-Border Trade in Services

Chilean vehicles, authorized by Peru in accordance with the ATIT, that carry out international road transportation, may not carry out local transportation (cabotage) in Peruvian territory.

Annex II

1. A Party's Schedule indicates, in accordance with Articles 10.8 (Investment - Nonconforming Measures) and 11.7 (Cross-Border Trade in Services - Nonconforming Measures), the sectors, subsectors, or specific activities for which it may maintain or adopt new or more restrictive measures that are inconsistent with the obligations imposed by:

(a) Articles 10.2 or 11.3 (National Treatment);

(b) Articles 10.3 or 11.4 (Most favored nation treatment);

(c) Article 11.5 (Non-discriminatory quantitative restrictions);

(c) Article 11.6 (Local presence);

(d) Article 10.6 (Performance Requirements);

(e) Article 10.7 (Senior Management and Boards of Directors).

2. Each tab in the annex sets out the following elements:

(a) Sector refers to the sector for which the record has been made;

(b) Sub-sector refers to the specific sector for which the record has been made;

(c) Obligations concerned specifies the obligation(s) referred to in paragraph 1 that, by virtue of Articles 10.8(2) and 11.7(2), do not apply to the sectors, subsectors or activities listed in the fiche;

(d) Description describes the coverage of the sectors, subsectors, or activities covered by the fiche; and

(e) Measures in force identifies, for transparency purposes, the measures in force that apply to the sectors, subsectors or activities covered by the fact sheet.

3. In the interpretation of a reservation all its elements will be considered. The Description element shall prevail over the other elements.

4. In accordance with Articles 10.8(2) and 11.7(2), the Articles of this Treaty specified in the Obligations Concerned element of a schedule do not apply to the sectors, subsectors and activities mentioned in the Description element of that schedule.

5. For the purposes of this Agreement, it shall be understood that formalities enabling the conduct of a business, such as measures requiring: registration under domestic law, an address, a legal representation, a license or operating permit, need not be reserved in Annexes I and II with respect to Articles 10.2 and 11.3 (National Treatment) or 11.6 (Local Presence) of the Agreement, provided that the measure does not impose a requirement to establish an operating office or other ongoing business presence as a condition for the provision of the service in the country.

Annex II. List of Chile

Sector: All Sectors

Subsector:

Obligations affected: National Treatment (Article 11.2)

Most-Favored-Nation Treatment (Article 11.3)

Description: Investment

Chile reserves the right to adopt or maintain any measure relating to residency requirements for the ownership, by investors of the other Party or their investments, of coastal lands.

A Chilean natural person, a person resident in Chile or a Chilean juridical person may acquire or control land used for agriculture. Chile otherwise reserves the right to adopt or maintain any measure relating to the ownership or control of such land. In the case of a juridical person, a majority of each class of shares may be required to be owned by Chilean natural persons or persons resident in Chile. A person who resides in Chile 183 days a year or more is considered a resident.

Measures in force: Decree Law 1.939, Official Gazette, November 10, 1977, Rules on the acquisition, administration and disposal of government property, Title I

Sector: All Sectors

Subsector:

Obligations affected: National Treatment (Article 11.2)

Senior Executives and Boards of Directors (Article 11.7)

Description: Investment

Chile, upon the sale or other disposition of an equity interest or assets of an existing state enterprise or existing governmental entity, reserves the right to prohibit or impose limitations on the ownership of such interest or assets, and on the ability of the owners of such interest or assets to control any resulting enterprise, by investors of Peru or of a non-Party state or their investments. In connection with any such sale or other disposition, Chile may adopt or maintain any measure relating to the nationality of senior management or members of the board of directors.

For purposes of this reservation:

a) any measure maintained or adopted after the effective date of this Agreement which, at the time of sale or other disposition, prohibits or imposes limitations on participation in equity interests or assets or imposes nationality requirements described in this reservation, shall be deemed to be a measure in effect; and

b) “State enterprise" means an enterprise owned or controlled by Chile through ownership interest and includes an enterprise established after the date of entry into force of this Agreement solely for the purpose of selling or disposing of an equity interest in, or the assets of, an existing State enterprise or governmental entity.

Measures in force:

Sector: All Sectors

Subsector:

Obligations affected Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Description: Investment and cross-border trade in services

Chile reserves the right to adopt or maintain any measure that grants different treatment to countries under any bilateral or multilateral international treaty in force or entered into prior to the date of entry into force of this Agreement.

Chile reserves the right to adopt or maintain any measure that accords different treatment to countries under any international treaty in force or entered into after the date of entry into force of this Agreement with respect to:

a) aviation;

b) fishing; or

c) maritime affairs, including salvage.

Measures in force:

Sector: Minority issues

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Performance Requirements (article11.6) Senior Executives and Boards of Directors (article11.7)

Description: Investment and cross-border trade in services

Chile reserves the right to adopt or maintain any measure that grants rights or preferences to socially or economically disadvantaged minorities.

Measures in force:

Sector: Issues related to indigenous populations

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Performance Requirements (article11.6) Senior Executives and Boards of Directors (article11.7)

Description: Investment and cross-border trade in services

Chile reserves the right to adopt or maintain any measure that denies investors of Peru and their investments or service suppliers of Peru any rights or preferences granted to indigenous peoples.

Measures in force:

Sector: Communications

Subsector: Basic local telecommunications networks and services; digital telecommunications services for one-way satellite transmissions, direct-to-home television, direct broadcasting of television and direct audio services; complementary telecommunications services; and limited telecommunications services.

Obligations affected: National Treatment (Article 12.3)

Most-Favored-Nation Treatment (Article 12.4) Local Presence (Article 12.6)

Description: Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to cross-border trade in local basic telecommunications networks and services; digital telecommunications services of one-way satellite transmissions, direct-to-home television, direct broadcasting of television and direct audio services; complementary telecommunications services; and limited telecommunications services.

Measures in force: Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI.

Sector: Communications

Subsector: Basic local telecommunications networks and services; digital telecommunications services of one-way satellite transmissions whether direct-to-home television, direct broadcasting of television and direct audio services; supplementary telecommunications services and limited telecommunications services

Obligations affected: National Treatment (Article 11.2)

Most-Favored-Nation Treatment (Article 11.3) Performance Requirements (Article 11.6)

Senior Executives and Boards of Directors (Article 11.7)

Description: Investment

Chile reserves the right to adopt or maintain any measure with respect to investors or investment by investors of the other Party in local basic telecommunications networks and services; digital telecommunications services of one-way satellite broadcasting, direct-to-home television, direct broadcasting of television and direct audio services; complementary telecommunications services and limited telecommunications services.

Measures in force: Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II and III.

Sector: Education

Subsector:

Obligations affected National Treatment (Article 12.3)

Most-Favored-Nation Treatment (Article 12.4) Local Presence (Article 12.6)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure with respect to natural persons who provide educational services, including teachers and auxiliary personnel who provide educational services at the basic, pre-basic, kindergarten, differential, secondary, higher, professional, technical, university and other persons who provide services related to education, including the holders, in educational establishments of any type, schools, colleges, high schools, academies, training centers, professional and technical institutes and/or universities.

This reservation does not apply to the provision of second language training, business training, industrial and commercial training, and skills upgrading and education consulting services, including technical support and consulting, curriculum and program development.

Measures in force:

Sector: Government finances

Subsector:

Obligations affected: National Treatment (Article 11.2)

Description: Investment

Chile reserves the right to adopt or maintain any measure with respect to the acquisition, sale or other disposition by nationals of Peru of bonds, treasury securities or other debt instruments issued by the Central Bank or the Government of Chile.

Measures in force:

Sector: Fishing

Subsector: Fishing activities

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Description: Investment and cross-border trade in services

Chile reserves the right to control foreign fishing activities, including landing, first landing of processed fish at sea and access to Chilean ports (port privilege).

Chile reserves the right to control the use of beaches, beach lands, portions of water and seabed for the granting of maritime concessions. For greater certainty, "maritime concessions" does not include aquaculture.

Measures in force: Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V.

Decree with Force of Law 340, Official Gazette, April 6, 1960, on Maritime Concessions.

Supreme Decree 660, Official Gazette, November 28, 1988, Regulation of Maritime Concessions.

Supreme Decree No. 123, Ministry of Economy, Undersecretariat of Fisheries, Official Gazette, August 23, 2004, on the Use of Ports

Sector: Cultural Industries

Subsector:

Obligations affected: Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Description: Investments and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that grants different treatment to countries under any existing or future bilateral or multilateral international treaty with respect to cultural industries, such as audiovisual cooperation agreements. For greater certainty, government support programs, through subsidies, for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

Cultural industries means any person who engages in any of the following activities:

(a) the publication, distribution or sale of books, magazines, periodicals or printed or electronic newspapers, but does not include the isolated activity of printing or typesetting of any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video recordings of music;

(d) the production, distribution or sale of printed or machine-readable music; or

(e) radiocommunications in which the transmissions are intended to be received directly by the general public, as well as all activities related to radio, television and cable transmission and satellite programming services and transmission networks.

Measures in force:

Sector: Social Services

Subsector:

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Performance Requirements (Article 11.6) Senior Executives and Boards of Directors (Article 11.7)

Description: Investment and cross-border trade in services

Chile reserves the right to adopt or maintain any measure with respect to the enforcement of public law and the provision of social rehabilitation services as well as the following services, insofar as they are social services that are established or maintained in the public interest: income insurance or security, social security services, social welfare, public education, public training, health and child care.

Measures in force:

Sector: Environmental services

Subsector:

Obligations affected: National Treatment (Article 12.3)

Most-Favored-Nation Treatment (Article 12.4) Local Presence (Article 12.6)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure relating to the imposition of requirements that the production and distribution of potable water, the collection and disposal of sewage, and sanitary services such as sewage, waste disposal and sewage treatment may only be provided by Chilean legal persons or persons created in accordance with requirements established by Chilean law.

This reservation does not apply to consulting services contracted by such legal entities.

Measures in force:

Sector: Construction-related services

Subsector:

Obligations affected: National Treatment (Article 12.3) Local Presence (Article 12.6)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure relating to the supply of construction services by foreign legal persons or entities, in the sense of imposing residency requirements, registration and/or any other form of local presence, or establishing the obligation to provide financial security for the work as a condition for the supply of construction services.

Measures in force:

Sector: International Ground Transportation

Subsector: Road transportation

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Description: Investment and cross-border trade in services

Chile reserves the right to adopt or maintain any measure relating to international land transportation of cargo or passengers in border areas.

In addition, Chile reserves the right to adopt or maintain the following limitations on the supply of international land transportation services from Chile:

(1) the service provider must be a Chilean natural or legal person;

(2) have a real and effective domicile in Chile; and

(3) in the case of a legal entity, be legally incorporated in Chile and have more than 50 percent of its capital stock and effective control in the hands of Chilean nationals.

Measures in force:

Sector: Ground Transportation

Subsector: Road transportation

Obligations affected: National Treatment (Article 12.3)

Description: Cross-border trade in services

Chile reserves the right to adopt or maintain any measure authorizing only Chilean natural or juridical persons to provide land transportation services of goods or persons within the territory of the Republic of Chile (cabotage). For these purposes, the companies must use the Chilean vehicle fleet.

Measures in force:

Sector: All Sectors

Obligations affected: Non-discriminatory quantitative restrictions (Article 12.5)

Description: Investment and cross-border trade in services

Chile reserves the right to adopt or maintain any measure related to Article 12.5, except for the following sectors and subsectors subject to the limitations and conditions listed below:

Legal services: For (a) and (c): None, except in the case of bankruptcy trustees who must be duly authorized by the Ministry of Justice, and may only work in the place where they reside. For (b): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Architectural services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Engineering services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Veterinary services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Services provided by midwives, nurses, physiotherapists and paramedical personnel: For (a), (b) and (c): None. For (d): No

commitments, except as indicated in the Labor Code restriction.

Computer and related services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Real estate services: Involving real estate owned or leased or on commission or contract: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Leasing or rental services without operators, relating to ships, aircraft, any other transport equipment and other machinery and equipment: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Advertising, market research and marketing services, surveys of public opinion, management consultants, related to those of management consultants, and technical tests and analyses: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Services related to agriculture, hunting and forestry: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Services related to mining, placement and supply of personnel, and research and security: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Maintenance and repair services of equipment (excluding vessels, aircraft or other transportation equipment), building cleaning services, photographic service, packing service and services rendered on the occasion of assemblies and conventions: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Publishing and printing services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Domestic or international long-distance telecommunications services: For (a), (b), (c) and (d): Chile reserves the right to adopt or maintain any measure that is not inconsistent with Chile's obligations under Article XVI of the GATS.

Intermediate telecommunications services, complementary telecommunications services, limited telecommunications services. For (a), (b) and (c): a concession granted by means of a Supreme Decree issued by the Ministry of Transport and Telecommunications is required for the installation, operation, and exploitation of public and intermediate telecommunications services in the territory of Chile. Only legal entities incorporated under Chilean law will be eligible for such concession.

An official pronouncement issued by the Undersecretariat of Telecommunications is required to carry out Complementary Telecommunications Services, which consist of additional services provided through the connection of equipment to public networks. Said pronouncement refers to compliance with the technical standards established by the Undersecretariat of Telecommunications.

Telecommunications and the non-alteration of the essential technical characteristics of the networks and the use that they technologically allow, as well as the modalities of the basic service provided with them.

A permit issued by the Undersecretary of Telecommunications is required for the installation, operation and development of limited telecommunications services.

International traffic must be routed through the facilities of a company holding a concession granted by the Ministry of Transportation and Telecommunications.

For (d): No commitments, except as indicated in the restriction of the Labor Code.

Commission agent services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Wholesale trade services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Retail business services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Franchise services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Repair services of personal and household goods: For (a), (b) and (c): None. For (d): No commitments, except as indicated in

the restriction of the Labor Code.

Hotel and restaurant services (including contract catering services), travel agency and group travel arrangement services, tour guides: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Entertainment services (theaters, bands and orchestras, and circuses, services provided by authors, composers, sculptors, entertainers and other individual artists, amusement parks, and other similar amusement services, dance halls, discotheques and dance academies), news agencies, libraries, archives, museums and other cultural services: For (a), (b) and (c): None. For (d): No commitments, except in the cases indicated in the restriction of the Labor Code.

Sports services: For (a), (b) and (c): None, except that a specific type of legal entity is required for sports organizations engaged in professional activities. In addition, (1) no more than one team may participate in the same category of a sports competition; (2) regulations may be established to prevent concentration of ownership of sports organizations; and (3) minimum capital requirements may be imposed. Para (d): No commitments, except as indicated in the restriction of the Labor Code.

Operation services of facilities for competitive sports and leisure sports: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Recreational park services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Labor Code restriction.

Road transport services: rental of commercial vehicles with driver, maintenance and repair of road transport equipment, road, bridge and tunnel services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Labor Code restriction.

Ancillary services in connection with all means of transport: loading and unloading services, warehousing, freight forwarding agency services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Pipeline transportation services (transportation of fuels and other products): For (a), (b) and (c): None, except that the service must be supplied by a juridical person constituted under Chilean law and the supply of the service may be subject to a concession under national treatment conditions. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Air transport sales and marketing services, computerized reservation system services, air transport services, airline reservation system services, specialized aerial services (1) For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Research and development services in the natural sciences: For (a) and (c): None, except that an operations permit is required and the State Borders and Boundaries Directorate may arrange for one or more representatives of the relevant Chilean activities to join the expedition, in order to participate and learn about the studies and their scope. For (b): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Research and development services in the social sciences and humanities: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the restriction of the Labor Code.

Interdisciplinary research and development services: For (a) and (b): None. For (c): None, except that an operating permit is required. For (d): No commitments, except as indicated in the restriction of the Labor Code.

For the purposes of these non-conforming measures:

1. (a) refers to the supply of a service from the territory of one Party to the territory of the other Party;

2. (b) refers to the supply of a service in the territory of a Party by a person of that Party to a person of the other Party;

3. (c) relates to the supply of a service in the territory of a Party by an investor of the other Party or a covered investment; and

4. (d) refers to the supply of a service by a national of a Party in the territory of the other Party.

1 For greater certainty, this commitment shall be understood in accordance with the provisions of the GATS Annex on Air Transport Services.

Annex II. List of Peru

Sector: All sectors

Obligations Affected: Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that accords different treatment to countries under any bilateral or multilateral international treaty in force or entered into prior to the date of entry into force of this Agreement.

Peru reserves the right to adopt or maintain any measure that accords different treatment to countries under any international treaty in force or entered into after the date of entry into force of this Agreement with respect to:

a) aviation;

b) fishing;

c) aquatic matters, including lifeguarding.

d) The discipline of non-discriminatory quantitative restrictions in accordance with Articles 12.5 and 12.1.4 (Chapter on Cross-Border Trade in Services).

For greater certainty, aquatic matters include transportation on lakes and rivers.

Sector: All sectors

Obligations affected: National Treatment (Article 11.2)

Most-Favored-Nation Treatment (Article 11.3) Senior Executives and Boards of Directors (Article 11.7)

Description: Investment

Peru, upon the sale or other disposition of an equity interest or assets of an existing state enterprise or existing governmental entity, reserves the right to prohibit or impose limitations on the ownership of such interest or assets, and on the ability of the owners of such interest or assets to control any resulting enterprise, by investors of Chile or a non-Party state or their investments. In connection with any such sale or other disposition, Peru may adopt or maintain any measure relating to the nationality of senior management or members of the board of directors.

For purposes of this reservation:

a) any measure maintained or adopted after the effective date of this Agreement which, at the time of sale or other disposition, prohibits or imposes limitations on participation in equity interests or assets or imposes nationality requirements described in this reservation, shall be deemed to be a measure in effect; and

b) "State enterprise" means an enterprise owned or controlled by Peru through ownership interest and includes an enterprise established after the date of entry into force of this Agreement solely for the purpose of selling or disposing of the equity interest in, or the assets of, a State enterprise or existing governmental entity.

Sector: Issues Related to Indigenous, Campesino and Native Communities and Minorities

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Local Presence (Article 12.6)

Performance Requirements (Article 11.6) Senior Executives and Boards of Directors (Article 11.7)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that grants rights or preferences to socially and economically disadvantaged minorities and their ethnic groups. For the purposes of this reservation, "ethnic groups" means indigenous, native communities and communities of indigenous peoples, and peasant farmers.

Sector: Fishing and fishing-related services

Obligations affected: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4) Performance Requirements (Article 11.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure related to artisanal fishing.

Sector: Cultural industries

Obligations affected: Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Description: Investment and Cross-Border Trade in Services

For the purposes of this entry, the term "Cultural Industries" means:

(a) publication, distribution or sale of printed or electronic books, magazines, periodicals or newspapers, but does not include the isolated activity of printing or typesetting of any of the foregoing;

(b) production, distribution, sale or exhibition of film or video recordings;

(c) production, distribution, sale or exhibition of audio or video recordings of music;

(d) production and presentation of performing arts;

(e) production and exhibition of visual arts;

(f) production, distribution or sale of printed or machine-readable music;

(g) design, production, distribution and sale of handicrafts; or

(h) radio broadcasting for the general public, as well as all activities related to radio, television and cable transmission, satellite programming services and transmission networks.

Peru reserves the right to adopt or maintain any measure granting preferential treatment to persons (natural and juridical) from other countries under any existing or future bilateral or multilateral international treaty with respect to cultural industries, including audiovisual cooperation agreements.

For greater certainty, Articles 11.3, 11.4 and Chapter 12 do not apply to government support programs for the promotion of cultural activities.

For the purposes of this fact sheet, the performing arts means live shows or presentations such as theater, dance or music.

Sector: Crafts

Obligations affected: National Treatment (Article 12.3)

Performance Requirements (Article 11.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure with respect to the design, distribution, retail sale or exhibition of handicrafts that are identified as Peruvian handicrafts.

The performance requirements shall, in all cases, be consistent with the Agreement on Trade-Related Investment Measures (TRIMs) of the WTO.

Sector: Audiovisual Industry

Obligations Concerned: National Treatment (Article 12.3)

Performance Requirements (Article 11.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that establishes a specific measure that establishes a specific percentage (up to 20%) of the total of the total number of cinematographic works exhibited annually in cinemas, theaters or exhibition halls in Peru for Peruvian cinematographic works.

Among the criteria to be considered by Peru for the establishment of such a percentage include: the national

cinematographic production, the existing exhibition infrastructure in the country, and audience attendance.

Sector: Jewelry Design

Performing Arts

Visual Arts

Music Industry

Publishing Industry

Obligations Concerned: National Treatment (Article 12.3)

Performance Requirements (Article 11.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure conditioning the receipt or continuation of the conditional on the receipt or continued receipt of government receipt or continued receipt of government support for the development and production of jewelry design, performing arts, visual arts, music, and publishing, to the visual arts, music and publishing, to the achievement of a certain level or percentage of creative content.

Sector: Audio-visual industry

Publishing industry

Music industry

Obligations Concerned: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that grants to a natural or juridical person of another Party the same treatment accorded to a Peruvian natural or juridical person in the audiovisual, publishing and audiovisual, publishing, and music by that other Party.

Sector: Social services

Obligations Concerned: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Local Presence (Article 12.6)

Performance Requirements (Article 11.6)

Senior Executives and Boards of Directors (Article 11.7)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure with respect to the enforcement of laws and the provision of social readaptation services as well as the following services, to the extent that they are social services to be established or maintained by Peru, in the public interest: insurance and income security, social security services, social welfare, public education, public training, health and child care.

Sector: Public water utility

Obligations Concerned: Local Presence (Article 12.6)

Description: Cross Border Trade in Services

Peru reserves the right to adopt or maintain

Peru reserves the right to adopt or maintain any measure in relation to the public drinking water service.

Sector: Public sewerage service

Obligations Concerned: Local Presence (Article 12.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to the public sewerage service.

Sector: Communications: Telecommunications services

Obligations Concerned: Most-Favored-Nation Treatment (Article 12.4)

Local Presence (Article 12.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure with respect to the granting of a concession for the installation, operation, and concession for the installation, operation, and exploitation of public telecommunications services.

Sector: Education

Obligations Concerned: National Treatment (Article 12.3)

Most-Favored-Nation Treatment (Article 12.4)

Local Presence (Article 12.6)

Description Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure with respect to natural persons supplying education services, including teachers and auxiliary personnel providing educational services at the stages of basic and higher education, including higher education, technical-productive education, and other persons who provide education-related services, including promoters of educational institutions at any level or stage of the educational system.

Sector: Land Transportation

Subsector: Road transport

Obligations Concerned: National Treatment (Article 12.3)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that authorizes only Peruvian natural or juridical persons to supply inland land transportation of goods or persons within the territory of the Republic of Peru (cabotage).

For these purposes, the companies must use a Peruvian vehicle fleet.

Sector: International inland transportation

Subsector: Road transport

Obligations Concerned: National Treatment (Articles 11.2 and 12.3)

Most-Favored-Nation Treatment (Articles 11.3 and 12.4)

Local Presence (Article 12.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to international land transportation of cargo or passengers in border areas.

In addition, Peru reserves the right to adopt or maintain the following limitations, for the supply of international land transportation services from Peru:

1) the service supplier must be a Peruvian natural or juridical person;

2) have a real and effective domicile in Peru; and

3) in the case of a legal entity, be legally incorporated in Peru and have more than 50% of its capital stock and effective control in the hands of Peruvian nationals.

Sector: All Sectors

Obligations Concerned: Non-Discriminatory Quantitative Restrictions (Article 12.5).

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to Article 12.5 except for the following sectors and subsectors subject to the limitations and conditions listed below:

Legal services: for (a) and (c): None, except that a maximum number of places for notaries is established:

(a) 200 in the Capital of the Republic,

b) 40 in departmental capitals, and;

c) 20 in provincial capitals (including the Constitutional Province of Callao). For (b): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Architectural services: For (a), (b) and (c): None, except that for temporary registration non-resident foreign architects require a contract of association with a resident Peruvian architect. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Engineering services: For (a), (b) and (c): None. For (d): No commitments, except as provided for in the Law for the Recruitment of Foreign Workers.

Veterinary services: For (a), (b) and (c): None. For (d): No commitments, except as provided for in the Act for the Recruitment of Foreign Workers.

Services provided by midwives, nurses, physiotherapists and paramedical personnel: For (a), (b) and (c): None. For (d): No commitments, except as provided in the Law for the Recruitment of Foreign Workers.

Computer and related services: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Real estate services: Involving real estate owned or leased or on commission or contract: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Leasing or rental services without operators, relating to ships, aircraft, any other transportation equipment and other machinery and equipment: For (a), (b) and (c): None, except that: National Shipping Company or National Shipping Company means the natural person of Peruvian nationality or legal person incorporated in Peru, with main domicile, real and effective headquarters in the country, engaged in the service of water transportation in national traffic or cabotage and/or international traffic and is owner or lessee under the modalities of financial leasing or bareboat leasing, with mandatory purchase option, of at least one Peruvian flag merchant vessel and has obtained the corresponding Operating Permit from the General Directorate of Aquatic Transportation.

Commercial water transportation in national traffic or cabotage is reserved exclusively to Peruvian flag merchant vessels owned by the National Shipping Company or National Shipping Company or under the Financial Lease or Bareboat Lease modalities, with mandatory purchase option; except for the following exceptions:

(i) The transportation of hydrocarbons in national waters is reserved up to 25% for the vessels of the Peruvian Navy; and

(ii) For water transportation between Peruvian ports only and, in cases of non-existence of own or leased vessels under the aforementioned modalities, the chartering of foreign flag vessels shall be allowed to be operated, only by National Shipping Companies or National Shipping Companies, for a period not exceeding six (6) months.

For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Advertising Services: For (a), (b) and (c): None, except that: commercial advertising made in the country must have at least 80 percent of national artists. National artists shall receive no less than 60 percent of the total salary and wage payroll of artists. The same percentages established in the preceding paragraphs apply to technical workers linked to commercial advertising. For (d): No commitments, except as established in the Law for Artists, Performers and Executants and in the Law for the Hiring of Foreign Workers.

Market research and public opinion polling services, management consulting services related to those of management consultants, and technical testing and analysis: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Services related to agriculture, hunting and forestry: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Recruitment of Foreign Workers.

Services related to mining, placement and supply of personnel, and research and security: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Recruitment of Foreign Workers.

Maintenance and repair services of equipment (excluding vessels, aircraft or other transportation equipment), building cleaning services, photographic service, packing service and services rendered on the occasion of assemblies and conventions: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Publishing and printing services: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Domestic or international long-distance telecommunications services: For (a), (b), (c) and (d): Peru reserves the right to adopt or maintain any measure that is not inconsistent with Peru's obligations under Article XVI of the GATS.

Carrier telecommunications services, private telecommunications services and value-added services: For (a), (b), (c): None, except the obligation to obtain a concession, authorization or registration for the supply of such services respectively, or such other enabling title as Peru may deem appropriate to grant. Legal entities incorporated under Peruvian law may be eligible for a concession. Call-back is prohibited, understood as the offering of telephone services for the making of attempted telephone calls originating in the country, with the purpose of obtaining a return call with an invitation to dial tone, coming from a basic telecommunications network located outside the national territory. International traffic must be routed through an operator to which the Ministry of Transport and Communications has granted a concession or other enabling title. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Commission agent services (except hydrocarbons): For (a),(b) and (c): None. For (d): No commitments, except as established in the Law for the Recruitment of Foreign Workers.

Retail trade services, except alcohol and tobacco: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Recruitment of Foreign Workers.

Wholesale trade services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Recruitment of Foreign Workers.

Franchise services: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Repair services of personal and household goods: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Recruitment of Foreign Workers.

Hotel and restaurant services (including catering services from abroad under contract), travel agencies and organization of group tours, tour guides: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Entertainment services (theaters, bands and orchestras, and circuses), news agency services, libraries, archives, museums and other cultural services, and sports services. For (a), (b) and (c): None, except the following:

i. All national audiovisual artistic productions and all national artistic shows presented directly to the public must be made up of at least 80% national artists. National artists shall receive no less than 60 percent of the total of the artists' salary and wage payroll. The same percentages apply to technical workers linked to the artistic activity.

ii. Every foreign circus show shall enter the country with its original cast, for a maximum period of 90 days, which may be extended for the same period. In the latter case, a minimum of 30% of national artists and 15% of national technicians shall be incorporated to the artistic cast. These same percentages shall be reflected in the wage and salary schedules.

For (d): No commitments, except as established in the Law for Artists, Interpreters and Performers, and in the Law for the Hiring of Foreign Workers.

Services for the operation of facilities for competitive sports and recreational sports: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for the Recruitment of Foreign Workers.

Recreational park services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for the Recruitment of Foreign Workers.

Road transportation services: rental of commercial vehicles with driver, maintenance and repair of road transportation equipment, road, bridge and tunnel operation services: For (a), (b) and (c): None. For (d): No commitments, except as provided in the Law for the Recruitment of Foreign Workers.

Ancillary services in connection with all modes of transportation: loading and unloading services, warehousing, freight forwarding agency services. For (a), (b) and (c): None. For (d): No commitments, except as provided for in the Law for the Recruitment of Foreign Workers.

Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Sales and marketing services of air transport services, and Computer reservation services: For (a), (b) and (c): None. For (d): No commitments, except as established in the Law for the Contracting of Foreign Workers.

Research and development services in natural sciences: For (a), (b) and (c): None, except that an operations permit may be required and the competent authority may provide that one or more representatives of the relevant Peruvian activities be included in the expedition, in order to participate and be aware of the studies and their scope. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Research and development services in social sciences and humanities: For (a), (b) and (c) None, subject to the respective authorizations of the competent authority. For (d): No commitments, except as established in the Law for the Hiring of Foreign Workers.

Interdisciplinary research and development services: For (a), (b) and (c) None, except that an operating permit may be required. For (d): No commitments, except as provided in the Law for the Hiring of Foreign Workers.

For the purposes of these non-conforming measures:

(a) refers to the supply of a service from the territory of a Party to the territory of the other Party;

(b) refers to the supply of a service in the territory of a Party by a person of that Party to a person of the other Party;

(c) refers to the supply of a service in the territory of a Party by an investor of the other Party or a covered investment; and

(d) refers to the supply of a service by a national of a Party in the territory of the other Party.