NEW ZEALAND – UNITED ARAB EMIRATES
COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT

PREAMBLE

The Governments of New Zealand (hereinafter referred to as "New Zealand") and the United Arab Emirates (hereinafter referred to as the "UAE");

hereinafter being referred to individually as a "Party" and collectively as "the Parties";

RECOGNISING the strong economic and political ties between New Zealand and the UAE, and wishing to strengthen these links through the creation of a free trade area, thus establishing close and lasting relations;

DETERMINED to build on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994, and other multilateral and bilateral agreements relating to matters covered by the New Zealand – UAE Comprehensive Economic Partnership Agreement to which both Parties are a Party;

CONSCIOUS of the dynamic and rapidly changing global environment brought about by globalisation and technological progress that presents various economic and strategic challenges and opportunities to the Parties;

ACKNOWLEDGING that Te Tiriti o Waitangi/The Treaty of Waitangi is a foundational document of constitutional importance to New Zealand;

SEEKING to establish clear and mutually advantageous rules governing their trade in goods and services, to promote a predictable business environment and open and fair competition, and eliminate barriers between them;

RESOLVING to promote transparency in international trade and investment;

DETERMINED to develop and strengthen their economic and trade relations through the liberalisation and expansion of trade in goods and services in their common interest and for their mutual benefit;

AIMING to promote the development, transfer and use of technology to expand trade;

CONVINCED that the establishment of a free trade area will provide a more favorable climate for the promotion and development of economic and trade relations between the Parties;

AIMING to facilitate trade by promoting efficient and transparent customs procedures that reduce costs and ensure predictability for their importers and exporters;

SEEKING to emphasise the importance of sustainable development in promoting inclusive economic growth;

DETERMINED to support the growth and development of micro, small and medium-sized enterprises by enhancing their ability to participate in and benefit from the opportunities created by the New Zealand – UAE Comprehensive Economic Partnership Agreement;

RECOGNISING the importance of trade and environmental policies and of taking urgent action to protect the environment, reaffirming each Party's commitments under multilateral environment agreements including the *United Nations Framework Convention on Climate Change* (UNFCCC) and the *Paris Agreement*;

AIMING to establish a clear, transparent, and predictable legal and commercial framework for business planning, that supports further expansion of trade and investment;

RECOGNISING their inherent right to regulate and resolved to preserve the flexibility of the Parties to set legislative and regulatory priorities, and protect legitimate public policy objectives, such as health, safety, environmental protection, conservation of living or non-living exhaustible natural resources, integrity and stability of the financial system, public morals, and in the case of New Zealand, the promotion or protection of the rights, interests, duties and responsibilities of Māori, in accordance with the rights and obligations provided in the New Zealand – UAE Comprehensive Economic Partnership Agreement;

RECOGNISING the positive momentum that trade agreements and arrangements can have in accelerating global trade liberalisation, and their role as building blocks for the multilateral trading system;

HAVE AGREED, in pursuit of the above, to conclude the following Agreement (hereinafter referred to as "this Agreement"):

CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

ARTICLE 1.1
Establishment of a Free Trade Area

The Parties hereby establish a free trade area, in conformity with Article XXIV of the General Agreement on Tariffs (GATT) and Article V of General Agreement on Trade in Services (GATS).

ARTICLE 1.2
General Definitions

For the purposes of this Agreement:

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

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

customs authority means:

(a) with respect to New Zealand, the New Zealand Customs Service or its successor;

(b) with respect to the United Arab Emirates, the Federal Authority of Identity, Citizenship, Customs and Port Security or its successor;

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

(a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;

(b) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of the GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement; or

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

Customs Valuation Agreement means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

days means calendar days, including weekends and holidays;

DSU means the Understanding on Rules and Procedures Governing the Settlement of Disputes in Annex 2 to the WTO Agreement;

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

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

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

Import Licensing Agreement means the Agreement on Import Licensing Procedures in Annex 1A to the WTO Agreement;

Joint Committee means the Joint Committee established pursuant to Article 19.1 (Establishment of the Joint Committee) of this Agreement;

measure means any measure, whether in the form of a law, regulation, rule, procedure, decision, practice, administrative action, or any other form;

person means a natural person or a juridical person;

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

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

SME means small and medium-sized enterprise;

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

TBT Agreement means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement;

territory means:

(a) for the UAE, its land territories, internal waters, including its Free Zones, territorial sea, including, the seabed, and subsoil thereof, and airspace over such territories and waters, as well as the contiguous zone, the continental shelf and exclusive economic zone, over which UAE has sovereignty, sovereign rights or jurisdiction as defined in its laws, and in accordance with international law.

(b) for New Zealand, the territory of New Zealand and the exclusive economic zone, seabed and subsoil over which it exercises sovereign rights with respect to natural resources in accordance with international law, but does not include Tokelau.

trade administration documents means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods;

TRIPS Agreement means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement;

WCO means World Customs Organization;

WTO means the World Trade Organization; and

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

ARTICLE 1.3
Relation to Other Agreements

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which both Parties are party.

2. In the event of any inconsistency between this Agreement and other agreements to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.

ARTICLE 1.4
Regional and Local Government

1. Each Party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities and by non-governmental bodies in the exercise of governmental powers delegated by central, regional and local governments and authorities within its territories.

2. This provision is to be interpreted and applied in accordance with the principles set out in paragraph 12 of Article XXIV of the GATT 1994 and paragraph 3 of Article I of the GATS.

ARTICLE 1.5
Confidential Information

Where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified and shall not be otherwise disclosed without the specific written permission of the Party providing the information, except to the extent that the Party receiving the information is required under its law to provide the information, including for the purpose of judicial proceedings.

ARTICLE 1.6
Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to information, the disclosure of which would be contrary to its law or would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

CHAPTER 2

TRADE IN GOODS

ARTICLE 2.1
Definitions

For the purposes of this Chapter:

duty-free means free of customs duty; and

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

ARTICLE 2.2
Scope and Coverage

Unless otherwise provided in this Agreement, this Chapter applies to trade in goods between the Parties.

ARTICE 2.3
National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994, including its interpretative notes. To this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis.*

ARTICLE 2.4
Elimination of Customs Duties

1. Unless otherwise provided in this Agreement, including as explicitly set out in each Party's schedule included in Annex 2A (Schedule of Tariff Commitments for Goods), neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party.

2. Each Party shall eliminate customs duties on originating goods of the other Party in accordance with the tariff elimination Schedules and the staging categories in Annex 2A (Schedule of Tariff Commitments for Goods).

3. Where a Party reduces its most-favoured nation (hereinafter "MFN") applied rate of customs duty, that duty rate shall apply to an originating good of the other Party if, and for as long as, it is lower than the customs duty rate on the same good calculated in accordance with its schedule in Annex 2A (Schedule of Tariff Commitments for Goods).

ARTICLE 2.5
Acceleration or Improvement of Tariff Commitments

1. Upon the request of a Party, the other Party shall consult with the requesting Party to consider accelerating, or improving the scope of, the elimination of customs duties on originating goods as set out in Annex 2A (Schedule of Tariff Commitments for Goods).

2. An agreement between the Parties to accelerate, or improve the scope of, the elimination of a customs duty on an originating good (or to include a good in in Annex 2A (Schedule of Tariff Commitments for Goods) shall supersede any duty rate or staging category determined pursuant to Annex 2A (Schedule of Tariff Commitments for Goods) for that good once approved by each Party in accordance with its applicable domestic procedures.

3. Nothing in this Agreement shall prohibit a Party, at any time, from unilaterally accelerating, or improving the scope of, the elimination of customs duties on originating goods as set out in Annex 2A (Schedule of Tariff Commitments for Goods). A Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

4. If a Party accelerates, or improves the scope of, elimination of custom duties in accordance with paragraph 3 of this Article, that Party may raise the customs duties concerned to the level set out in Annex 2A (Schedule of Tariff Commitments for Goods) for the respective year following such unilateral acceleration or improvement to the scope.

ARTICLE 2.6
Classification of Goods

For the purposes of this Agreement, the classification of goods in trade between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the Harmonized System and its amendments.

ARTICLE 2.7
Transposition of Schedules of Tariff Commitments

1. Each Party shall ensure that the transposition of its schedule in Annex 2A (Schedule of Tariff Commitments for Goods), undertaken in order to implement Annex 2A (Schedule of Tariff Commitments for Goods) in the nomenclature of the revised HS following periodic amendments to the HS, is carried out without impairing existing tariff concessions, and does not afford less favourable treatment to an originating good of the other Party, as set out in its schedule in Annex 2A (Schedule of Tariff Commitments for Goods).

2. The transposition of the schedules of tariff commitments shall be carried out in accordance with the methodologies and procedures adopted by the Sub-Committee on Trade in Goods.

3. The Parties shall ensure the timely circulation of the transposed schedules of tariff commitments in the nomenclature of the revised HS.

ARTICLE 2.8
Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 including its interpretative notes. To this end Article XI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis.*

2. Where a Party proposes to adopt an export prohibition or restriction on foodstuffs in accordance with paragraph 2(a) of Article XI of GATT 1994, the Party shall:

(a) seek to limit such proposed prohibition or restriction to the extent necessary, giving due consideration to its possible effects on the other Party's foodstuff security;

(b) provide information in writing, as soon as practicable, to the other Party of such proposed prohibition or restriction and its reasons together with its nature and expected duration; and

(c) on request, provide the other Party with a reasonable opportunity for consultation with respect to any matter related to the proposed prohibition or restriction.

ARTICLE 2.9
Import Licensing Procedures

1. Each Party shall ensure that its automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Import Licensing Agreement. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement[1], which is hereby incorporated into and made part of this Agreement, *mutatis mutandis.*

2. Each Party shall notify the other Party of any new import licensing procedures and any modification to its import licensing procedures. A Party shall do so 60 days before the new procedure or modification takes effect, whenever practicable. In no case shall a Party provide the notification later than 60 days after the date of its publication.

3. A Party shall be deemed to be in compliance with paragraph 2 with respect to a new or modified import licensing procedure if it notifies that procedure to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5.2 of the Import Licensing Agreement.

4. A Party shall publish on an official government website any new or modified import licensing procedure, including any information that it is required to publish under paragraph (a) of Article 1.4 of the Import Licensing Agreement. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.

5. Each Party shall respond within 60 days to enquiries and the request of relevant information from the other Party with regard to any import licensing procedures that it has adopted or changed. A response shall include, where requested, an explanation of the reason for the denial of an import licensing application with respect to a good of the other Party.

ARTICLE 2.10
Customs Valuation

For the purposes of determining the customs value of goods traded among the Parties, Article VII of the GATT 1994 and the Customs Valuation Agreement, including its interpretative notes, shall apply, *mutatis mutandis.*

[1] For the purposes of paragraph 1 and for greater certainty, in determining whether a measure is inconsistent with the Import Licensing Agreement, the Parties shall apply the definition of "import licensing" contained in this Agreement.

ARTICLE 2.11
Export Subsidies

Neither Party shall maintain, introduce or reintroduce export subsidies, or other measures with equivalent effect, on any good destined for the territory of the other Party, including agricultural products.

ARTICLE 2.13
Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 and its interpretive notes, that all fees and charges of whatever character (other than import and export duties charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT 1994, and anti-dumping and countervailing duties) imposed on, or in connection with, importation or exportation shall be limited in amount to the approximate cost of services rendered, shall not be on an *ad valorem* basis and shall not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

2. Each party shall promptly publish, and update as appropriate, details of the fees and charges that it imposes in connection with importation or exportation and shall make such information available on the Internet.

ARTICLE 2.14
Technical Consultations

1. Neither Party shall adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party except in accordance with its rights and obligations under the WTO Agreement or this Agreement.

2. A Party may request technical consultations with the other Party to discuss any measure within the scope of this Chapter if it considers the measure was prepared, adopted or applied with a view to, or with the effect of, creating an unnecessary obstacle to trade and adversely affecting trade between the Parties. The request shall be in writing and shall clearly identify the measure, explain the reasons for the request and how the measure adversely affects trade between the Parties, indicate any provisions of the Chapter to which the concerns relate and, if possible, provide suggested solutions.

3. Where a non-tariff measure of the type described in paragraph 2 is covered by another Chapter which provides for a consultation mechanism with the other Party, that consultation mechanism shall be used.

4. Within 30 days of receipt of a request under paragraph 2, the responding Party shall provide a written reply to the requesting Party.

5. Unless the Parties agree otherwise, within 30 days of the requesting Party's receipt of the reply, the Parties shall enter into consultations with a view to reaching a mutually satisfactory solution.

6. If the requesting Party considers that the subject of the request under paragraph 2 is urgent or involves perishable goods, the responding Party shall give prompt and reasonable consideration to any request to hold consultations within a shorter timeframe than that provided for under paragraph 5.

7. If consultations under paragraph 5 or 6 failed to reach a mutually satisfactory solution, the matter shall be immediately reviewed by the Sub-Committee on Trade in Goods with the view to securing a mutually satisfactory solution.

8. Any consultations undertaken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 20 (Dispute Settlement) or under the Understanding on Rules and Procedures Governing the Settlement of Disputes in Annex 2 to the WTO Agreement.

ARTICLE 2.15
State Trading Enterprises

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994.

ARTICLE 2.16
Temporary Admission of Goods

1. Each Party shall grant temporary admission, free of customs duties, for the following goods imported from the other Party, regardless of their origin:

(a) professional and scientific equipment, including their spare parts, and including equipment for the press or television, software, and broadcasting and cinematographic equipment, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;

(b) goods intended for display, demonstration, or use at theaters, exhibitions, fairs, or other similar events;

(c) commercial samples and advertising films and recordings;[2]

(d) goods admitted for sports purposes; and

(e) containers and pallets that are used for the transportation of equipment or used for refilling.

2. Each Party shall, at the request of the importer and for reasons deemed valid by its Customs Authority, extend the time limit for temporary admission beyond the period initially fixed.

3. No Party shall condition the temporary admission of a good referred to in paragraph 1, other than to require that the good:

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

(b) be accompanied by a security in an amount no greater than the customs duties and any other tax or charge imposed on imports that would otherwise be owed on entry or final importation, releasable on exportation of the good;

(c) be capable of identification when exported;

(d) be exported in accordance with the time period granted for temporary admission, or within such other period or extension in accordance with its domestic law related to the purpose of the temporary admission;

(e) not be admitted in a quantity greater than is reasonable for its intended use; or

(f) be otherwise admissible into the importing Party's territory under its law.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, that Party may apply the customs duty, and any other tax or charge that would normally be owed on the importation of the good and any other charges or penalties provided for under its law.

[2] Advertising films and recordings means recorded visual media or audio materials, consisting essentially of images or sound, showing the nature or operation of goods or services offered for sale or lease by a person of a Party, provided that those materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public.

5. Each Party, through its Customs Authority, shall adopt or maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.

6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted in accordance with its customs procedures.

7. Each Party shall provide that the importer or other person responsible for the goods admitted in accordance with this Article shall not be liable for failure to export the goods within the period fixed for temporary admission, including any lawful extension, on presentation of satisfactory proof to the importing Party that the goods were totally destroyed. In certain cases, a Party may condition relief of liability under this paragraph by requiring the importer to receive prior approval from the Customs Authority of the importing Party before the good can be totally destroyed.

ARTICLE 2.17
Goods Re-Entered After Repair or Alteration

1. Neither Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration, except that a customs duty or other taxes or charges may be applied, in accordance with each Party's laws and procedures, to the addition resulting from the repair or alteration that was performed in the territory of the other Party.

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

3. For purposes of this Article, "repair" or "alteration" does not include an operation or process that:

(a) destroys a good's essential characteristics or creates a new or commercially different good;

(b) transforms an unfinished good into a finished good;

(c) results in a change of the classification at a six-digit level of the Harmonized System (HS); or

(d) substantially changes the function of a good.

ARTICLE 2.18
Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials[3]

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

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

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

ARTICLE 2.19
Exchange of Data

1. The Parties recognise the value of trade data to accurately analyse the implementation of this Agreement. The Parties shall cooperate with a view to conducting periodic exchanges of available data relating to trade in goods between the Parties, including data on tariff preference utilisation.

2. The exchange of trade data in accordance with paragraph 1 of this Article, shall take place between the Parties in advance of the meeting of the Trade in Goods Sub-Committee, unless otherwise agreed by the Parties.

ARTICLE 2.20
Sub-Committee on Trade in Goods

1. The Sub-Committee on Trade in Goods established pursuant to Article 19.4 (Establishment of Sub-Committees) shall comprise of representatives of each Party.

2. The Sub-Committee shall meet once a year or meet on the request of the other Party at a mutually agreed time, venue, and means, to consider any matter arising under this

[3] For the purpose of this Article, the terms "commercial samples of negligible value" and "printed advertising materials" are applied in accordance with each Party's laws and regulations.

Chapter. The Sub-Committee may carry out its work through whatever means that are appropriate, which may include electronic mail, videoconferencing, or other means.

3. The functions of the Sub-Committee shall include:

(a) monitoring and reviewing the implementation and administration of this Chapter, and making a report and recommendations, if appropriate;

(b) promoting trade in goods between the Parties, including through consultations on accelerating or improving the scope of preferential treatment or tariff elimination under this Agreement and other issues as appropriate;

(c) promptly addressing barriers to trade in goods between the Parties including those related to the application of non-tariff measures which may restrict trade in goods between the Parties and, if appropriate, referring such matters to the Joint Committee for its consideration;

(d) providing advice and recommendations to the Joint Committee on cooperation needs regarding trade in goods matters;

(e) reviewing the amendments to the Harmonized System (HS) to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any conflicts between such amendments to the Harmonized System (HS) and Annex 2A (Schedule of Tariff Commitments for Goods) and national nomenclatures;

(f) consulting on and endeavoring to resolve any difference that may arise among the Parties on matters related to the classification of goods under the Harmonized System (HS), including adoption and review of transposition methodologies and guidelines;

(g) reviewing data on trade in goods in relation to the implementation of this chapter;

(h) assessing matters that relate to trade in goods and undertaking any additional work that the Joint Committee may assign to it; and

(i) reviewing and monitoring any other matter related to the implementation of this chapter.

CHAPTER 3

RULES OF ORIGIN

ARTICLE 3.1
Definitions

For the purposes of this Chapter:

aquaculture means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants, from seed stock, including seed stock imported from non-parties, such as eggs, fry, fingerlings and larvae, parr, smolts, or other immature fish at a post-larval stage, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

customs value means the value as determined in accordance with the Customs Valuation Agreement;

change in tariff classification means a change at the two-digit, four-digit, or six-digit level of the Harmonized System;

competent authority refers to:

(a) for New Zealand, the government authority or other authorities designated by New Zealand or any other successor notified from time to time; and

(b) for UAE, to the Ministry of Economy or any other successor notified from time to time;

issuing authority refers to:

(a) for New Zealand, the government authority or other authorities designated by New Zealand or any other successor notified from time to time; and

(b) for UAE, to the Ministry of Economy or any other successor notified from time to time;

consignment means goods which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

Generally Accepted Accounting Principles means those principles recognised by consensus or with substantial authoritative support in the territory of a Party with respect to the recording of revenues, expenses, costs, assets, and liabilities; the disclosure of information; and the preparation of financial statements. These principles

may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures;

good means any merchandise, product, article, or material;

manufacture means any kind of working or processing, including assembly or specific operations;

material means a good that is used in the production of another good including any ingredient, raw material, component or part;

non-originating good or **non-originating material** means a good or material that does not qualify as originating in accordance with this Chapter;

originating good or **originating material** means a good or material that qualifies as originating in accordance with this Chapter;

production means operations, including growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, collecting, breeding, extracting, gathering, manufacturing or assembling a good, or aquaculture;

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

SECTION A
ORIGIN DETERMINATION

ARTICLE 3.2
Originating Goods

Except as otherwise provided in this Chapter, each Party shall provide that a good is originating if it is:

(a) wholly obtained or produced entirely in the territory of either of the Parties;

(b) produced entirely in the territory of a Party, exclusively from originating materials of either of the Parties; or

(c) produced entirely in the territory of a Party using non-originating materials, provided the good satisfies all applicable requirements of Annex 3A (Product Specific Rules of Origin),

in each case, provided the good satisfies all other applicable requirements of this Chapter.

ARTICLE 3.3
Wholly Obtained or Produced Goods

For the purposes of paragraph (a) of Article 3.2 (Originating Goods), the following goods shall be deemed to be wholly obtained or produced in the territory of a Party:

(a) plants, fungi, and plant goods grown, collected, or harvested there;

(b) live animals born and raised there;

(c) goods obtained from live animals there;

(d) mineral goods or natural resources extracted or taken from that Party's soil, subsoil, waters, seabed, or beneath the seabed;

(e) goods obtained by hunting, trapping, collecting, capturing, fishing, or aquaculture conducted there;

(f) fish, shellfish, and other marine life taken from the sea, seabed, or subsoil, in accordance with international law, outside the territorial sea of the Parties and outside the territorial sea of non-parties by vessels that are registered, listed, or recorded with a Party and entitled to fly the flag of that Party, and any good produced from these goods on a factory ship that is registered, listed, or recorded with a Party and entitled to fly the flag of that Party;

(g) minerals, mineral products, and other non-living natural resources, taken or extracted from the seabed, subsoil, or ocean floor of the Parties' exclusive economic zone or continental shelf, provided that that Party or person of the Party has rights to exploit that seabed, subsoil, or ocean floor;

(h) a good that is:

  (i) waste or scrap derived from production there; or

  (ii) waste or scrap derived from used goods collected there, provided that those goods are fit only for the recovery of raw materials; and

(i) goods produced or obtained there exclusively from goods referred to in subparagraphs (a) through (i) of this Article, or from their derivatives, at any stage of production.

ARTICLE 3.4
Regional Value Content

Where Annex 3A (Product Specific Rules of Origin) specifies a regional value content test to determine whether a good is originating, each Party shall provide that the regional value content (RVC) shall be calculated using either of the following two formula:

(a) $RVC = \frac{ExWorks\ Price - V.N.M}{ExWorks\ Price} * 100$

(b) $RVC = \frac{FOB\ Price - V.N.M}{FOB\ Price} * 100$

where Ex-Works Price is used, the RVC requirement shall be five percentage points lower than the RVC requirement which is calculated on the basis of FOB Price.

where:

RVC is the regional value content of a good expressed as a percentage;

FOB Price is the price of the good free on board, inclusive of the cost of transportation to the port or site of final shipment abroad, regardless of the mode of transportation;

Ex-Works Price is the price paid or payable for the good ex-works to the manufacturer in the Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the good obtained is exported;

V.N.M is:

(a) the customs value at the time of importation of the non-originating materials used including freight and insurance costs incurred in transporting the material to the importation port in the territory of the Party where the producer of the good is located or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the exporting Party;

(b) where the producer of a good acquires non-originating materials in the territory of the Party where the producer is located, the value of such materials shall not include freight, insurance, packing costs and any other costs incurred in transporting the material from the supplier's warehouse to the producer's location; or

(c) in the case of a self-produced material or where the relationship between the producer of the good and the seller of the material influences the price actually paid or payable for the material, the sum of all costs incurred in the production of the material, including general expenses. Additionally, it will

be possible to add an amount for profit equivalent to the profit added in the normal course of trade.

ARTICLE 3.5
Intermediate Goods

If a good which has obtained originating status in a Party is used as a material in the manufacture of another good, no account shall be taken of the non-originating materials which may have been used in its manufacture.

ARTICLE 3.6
Accumulation

1. An originating good of a Party which is used in the processing or production in the territory of the other Party as material for finished goods shall be deemed as a material originating in the territory of the latter Party where the working or processing of the finished goods has taken place.

2. Notwithstanding paragraph 1, an originating good of a Party that does not undergo processing beyond the insufficient working or processing operations listed in Article 3.8 (Insufficient Working or Processing) in the other Party shall retain its originating status of the former Party.

3. The Parties will review this Article within five years of entry into force of this Agreement. This review will consider the extension of the application of cumulation in paragraph 1 to:

(a) all production undertaken and value added to a good within the Parties;

(b) accumulation between the Parties and a non-party should there be a free trade agreement between each of the Parties and the non-party; and

(c) other forms of accumulation that the Parties may deem fit.

ARTICLE 3.7
Tolerance

Each Party shall provide that a good containing non-originating materials that do not satisfy the applicable change in tariff classification requirement specified in Annex 3A (Product Specific Rules of Origin) for the good is nonetheless an originating good if:

(a) the value of those non-originating materials that do not satisfy the applicable change does not exceed 15 percent of the value of the good[1]; and

[1] The value of goods means the relevant Ex-works price or FOB price of goods.

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

However, the value of such non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement.

ARTICLE 3.8
Insufficient Working or Processing

1. Notwithstanding any provisions of this Chapter, the following operations, when undertaken on non-originating materials to produce a good, shall be considered as insufficient working or processing to confer on that good the status of an originating good:

(a) slaughter of animals;

(b) operations to ensure the preservation of products in good condition during transport and storage such as drying, freezing, ventilation, chilling and like operations;

(c) sifting, washing, cutting, slitting, bending, coiling or uncoiling, sharpening, simple grinding, slicing;

(d) cleaning, including removal of oxide, oil, paint or other coverings;

(e) simple painting and polishing operations;

(f) testing or calibration;

(g) placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and packaging operations;

(h) simple mixing of goods, whether or not of different kinds;

(i) simple assembly of parts of products to constitute a complete good or disassembly of products into parts;

(j) changes of packing, unpacking or repacking operations, and breaking up and assembly of consignments;

(k) affixing or printing marks, labels, logos and other like distinguishing signs on goods or their packaging;

(l) husking, partial or total bleaching, polishing and glazing of cereals and rice; and

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

2. For the purposes of paragraph 1, the terms “simple” and “simple mixing” mean:

(a) “Simple” generally describes an activity which does not need special skills, machines, apparatus, or equipment especially produced or installed for carrying out the activity.

(b) “Simple mixing” generally describes an activity which does not need special skills, machine, apparatus, or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction.

ARTICLE 3.9
Indirect Materials

In determining whether a good is an originating good, any of the following materials used in its production shall be treated as originating material irrespective of their true origin:

(a) fuel, energy, catalysts, and solvents;

(b) equipment, devices, and supplies used to test or inspect the good;

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

(d) tools, dies, and moulds;

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

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

(g) any other material that is not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

ARTICLE 3.10
Accessories, Spare Parts, Tools

1. Accessories, spare parts, tools, and instructional or other information materials delivered with a good that form part of the good's standard accessories, spare parts, tools, and instructional or other information materials shall be regarded as a part of the good, and shall be disregarded in determining whether or not all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification provided that:

(a) the accessories, spare parts, tools, and instructional or other information materials are classified with and not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts, tools, and instructional or other information materials presented with the good are customary for the good.

2. Notwithstanding paragraph 1, if the good is subject to RVC requirement, the value of the accessories, spare parts, tools and instructional or other information materials shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.11
Packaging Materials and Containers for Retail Sale

Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good according to Rule 5 of the General Rules for the Interpretation of the Harmonized System, are:

(a) disregarded in determining whether the non-originating materials used in the production of the good have satisfied the applicable process or change in tariff classification required by this chapter, or whether the good is wholly obtained or produced; and

(b) taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.12
Unit of Qualification

For the purposes of this chapter, the unit of qualification shall be the particular product which is considered as the basic unit when determining classification under the Harmonized System. Accordingly, the Parties agree:

(a) when a product composed of a group or assembly of articles is classified under a single heading, the whole constitutes the unit of qualification; and

(b) when a consignment consists of a number of identical products classified under the same heading, each product shall be taken individually into account when in determining whether it qualifies as an originating good.

ARTICLE 3.13
Packaging Materials and Containers for Transportation and Shipment

Each Party shall provide that packing materials and containers for transportation and shipment are disregarded in determining whether a good is originating.

ARTICLE 3.14
Fungible Goods and Materials

1. Each Party shall provide that the determination of whether fungible goods or materials are originating shall be made through physical segregation of each good or material. If physical segregation is not practicable, the deterimination shall be made through the use of any inventory management method recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

2. Each Party shall provide that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the Party that selected the inventory management method.

ARTICLE 3.15
Sets of Goods

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component goods are originating. However, when a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the value of non-originating goods does not exceed 15 percent of the Ex-works price or FOB price of the set.

SECTION B
TERRITORIALITY AND TRANSIT

ARTICLE 3.16
Principle of Territoriality

1. The conditions for acquiring originating status set out in Article 3.2 must be fulfilled without interruption in the territory of the Party concerned.

Where an originating good exported from the territory of a Party to a non-party returns to the exporting Party it shall be considered as non-originating unless it can be demonstrated, to the satisfaction of the customs authorities, that:

(a) the returning good is the same as that exported; and

(b) it has not undergone any operation beyond that necessary to preserve it in good condition while in that non-party or while being exported.

2. The acquisition of originating status set out in Article 3.2 shall not be affected by working or processing done outside a Party on materials exported from that Party and subsequently re-imported, provided:

(a) those materials are wholly obtained in the exporting Party or have undergone working or processing beyond the operations referred to in Article 3.8 prior to being exported; and

(b) it can be demonstrated to the satisfaction of the customs authorities that:

(i) the re-imported goods have been obtained by working or processing the exported materials; and

(ii) the total added value acquired outside a Party by applying this Article does not exceed 15 percent of the ex-works price of the end good for which originating status is claimed.

3. For the purposes of paragraph 3, the conditions for obtaining originating status set out in Section A shall not apply to working or processing done outside the exporting Party. However, where a RVC rule is applied in determining the originating status of the end good, the total added value acquired in the territory of the exporting Party shall not be less than the stated RVC percentage for the end good.

4. Paragraphs 3 and 4 of this Article shall not apply to goods which do not fulfil the conditions set out in Article 3.8 or which can be considered sufficiently worked or processed only if the general tolerance of Article 3.7 is applied.

5. For the purposes of applying paragraph 3(b)(ii), 'total added value' shall be taken to mean all costs arising outside the exporting Party, including the value of the materials incorporated there.

6. Any working or processing of the kind covered by this Article and done outside the exporting Party shall be done under the outward processing arrangements, or similar arrangements.

ARTICLE 3.17
Non-alteration

1. An originating good shall retain its originating status if the good has been transported to the importing Party without passing through the territory of a non-party.

2. An originating good transported through the territory of one or more non-parties shall retain its originating status provided that the good:

(a) does not undergo further production or any other operation outside the territories of the Parties, other than unloading, reloading, separation from a bulk shipment or splitting of a consignment, storing, repacking, labelling, bottling, or marking required by the importing Party, or any other operation necessary to preserve it in good condition or to transport the good to the territory of the importing Party; and

(b) is not released to free circulation in the territory of any non-party.

3. In the case of doubt as to whether the requirements provided for in paragraphs 1 or 2 are complied with, the importing Party may, at any time, request the importer, or its representative, to submit all relevant documents that provide evidence of compliance with this Article, which may be given by any means. Such relevant documents may include:

(a) contractual transport documents such as bills of lading;

(b) factual or concrete evidence based on marking or numbering of packages;

(c) a certificate of non-manipulation provided by the customs authorities of any country of transit or splitting, or any other documents demonstrating that the goods remained under customs supervision in any country of transit or splitting; or

(d) any evidence related to the goods themselves.

ARTICLE 3.18
Free Economic Zones or Free Zones

Goods manufactured in a free zone situated within the territory of a Party shall be considered as goods originating in that Party and eligible for the preferential treatment under this Agreement when exported to the other Party, provided that the treatment or processing undergone in the free zone is in conformity with the provisions of this Chapter.

ARTICLE 3.19
Third Party Invoicing

1. The customs authority in the importing Party shall not deny a claim for preferential tariff treatment only because the invoice was not issued by the exporter or producer of a good, or because the invoice was issued in a third country, provided that the good meets the requirements in this Chapter.

2. The exporter of the goods shall indicate "third party invoicing" and include such information as the name and country of the company issuing the invoice in the appropriate field in the Certificate of Origin as detailed in Annex 3-B (Certificate of Origin) or, in the case of origin declaration, the approved exporter may make out the origin declaration on any other appropriate document as per Article 3.23.

SECTION C
ORIGIN CERTIFICATION

ARTICLE 3.20
Proof of Origin

1. Goods originating in a Party shall, on importation into the other Party, benefit from preferential tariff treatment under this Agreement on the basis of a valid Proof of Origin.

2. Any of the following shall be considered as a valid Proof of Origin:

   (a) a "paper format"[2] Certificate of Origin issued by a competent authority pursuant to Article 3.21 (Certificate of Origin in Paper Format);

   (b) an Electronic Certificate of Origin (E-Certificate) issued by a competent authority and exchanged by a mutually developed electronic system pursuant to Article 3.22 (Electronic Data Origin Exchange System);

[2] "paper format" means a Certificate of Origin manually or electronically signed, stamped, and issued in the exporting Party directly from the competent authority's system and printed by the competent authority, producer or exporter, or his authorized representative

(c) an origin declaration made out by an approved exporter pursuant to Article 3.23 (Origin Declaration)

3. Each Party shall provide that a Proof of Origin shall be completed in the English language and shall remain valid for one year from the date on which it is issued.

ARTICLE 3.21
Certificate of Origin in Paper Format

1. A Certificate of Origin in paper format shall:

(a) be in standard A4 white paper as per the attached Form set out in Annex 3-B (Certificate of Origin);

(b) be forwarded by the producer or exporter to the importer for submission to the customs authority of the importing Party; and

(c) apply to single importation of one or multiple goods provided that each good qualifies as an originating good separately in its own right.

2. A Certificate of Origin in paper format can also be provided as an electronic document (for example, as a PDF version of a paper document).

3. Each Certificate of Origin shall bear a unique serial reference number separately given by each place or office of issuance.

4. A Certificate of Origin shall bear an official seal of a competent authority. The official seal may be applied electronically.

5. Where the official seal is applied electronically, an authentication mechanism, such as quick response (QR) code or a secured website, shall be included in the certificate in order for the certificate to be deemed as an original copy.

ARTICLE 3.22
Electronic Data Origin Exchange System

1. For the purposes of Article 3.20(2)(b), the Parties shall develop an electronic system for the exchange of origin information to ensure the effective and efficient implementation of this Chapter, particularly transmission of electronic certificate of origin[3].

[3] Electronic certificate of origin means certificate of origin data that is transmitted electronically

2. Development of an Electronic Data Origin Exchange System, in accordance with Paragraph 1, shall not be implemented until both Parties have confirmed readiness, through the contact points established in Article 3.36.

ARTICLE 3.23
Origin Declaration by Approved Exporter

1. The competent authority of a Party may authorise any exporter, (hereinafter referred to as a "approved exporter"), who exports goods under this Agreement, to complete Origin Declarations, the template of which appears in Annex 3-C, irrespective of the value of the goods concerned.

2. An exporter of a Party seeking such authorisation must offer to the satisfaction of the competent authority of that Party all appropriate documents proving the originating status of the goods and the fulfilment of the other requirements of this Chapter.

3. The competent authority of a Party may subject an authorisation of an approved exporter to any conditions which it considers appropriate.

4. The competent authority of a Party shall share with the other Party, or publish, the list of approved exporters, including their authorisation numbers, and periodically update it.

5. An Origin Declaration (the text of which appears in Annex 3-C) shall be completed by the approved exporter by typing, stamping or printing the declaration on the invoice, the delivery note or another commercial document which describes the goods concerned in sufficient detail to enable them to be identified. The declaration may also be hand-written. If the declaration is hand-written, it shall be written in permanent ink in legible printed characters.

6. The approved exporter of a Party making out an Origin Declaration shall be prepared to submit at any time, at the request of the competent authority of that Party, all appropriate documents proving the originating status of the goods for which they have issued an origin declaration and the fulfilment of the other requirements of this Chapter.

7. The competent authority shall grant to the approved exporter an authorisation number which shall appear on the origin declaration.

8. The competent authority shall verify the proper use of an authorisation and may withdraw the authorisation if the approved exporter makes improper use of it and shall do so if the approved exporter no longer offers the guarantees referred to in paragraph 6.

9. An origin declaration may be issued by an approved exporter when the products to which it relates are exported, or after exportation, with a validity no longer than 1

year from the date of shipment. When the the origin declaration is issued after export, the approved exporter shall indicate “issued retroactively” on the origin declaration.

ARTICLE 3.24
Application and Examination of Application for a Certificate of Origin

1. Certificates of Origin shall be issued by a competent authority of a Party, either upon an electronic application or an application in paper form, having been made by the exporter or producer of the good or under the exporter or producer’s responsibility by his or her authorised representative, in accordance with the domestic law of the exporting Party.

2. An exporter or producer applying for a Certificate of Origin shall be prepared to submit at any time, at the request of the competent authority of that Party, all appropriate documents proving the originating status of the goods concerned and the fulfillment of the other requirements of this Chapter.

3. In assessing the application and the supporting documents provided by the exporter pursuant to paragraphs 1 and 2, the competent authority shall, to the best of its competence and ability, carry out proper examination to ensure that:

(a) the application and the Certificate of Origin are duly completed and signed by the exporter or producer or their authorised representative;

(b) the origin of the good is in conformity with the provisions of this Chapter;

(c) the description, gross weight or other relevant measurement, marks and number of packages, as specified, conform to the good to be exported; and

(d) the other statements of the Certificate of Origin correspond to supporting documentary evidence submitted.

ARTICLE 3.25
Certificate of Origin Issued Retrospectively

1. The Certificate of Origin shall be issued by a competent authority of a Party prior to, or at the time of, shipment.

2. In exceptional cases where a Certificate of Origin has not been issued prior to, or at the time of, shipment, due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retrospectively but with a validity no longer than 1 year from the date of shipment, in which case it is necessary to indicate “ISSUED RETROSPECTIVELY in the appropriate field as detailed in Annex 3-B.

3. The provisions of this Article shall be applied to goods which comply with the provisions of this Agreement, and which, on entry into force, are either in transit or are in the territory of either of the Parties in temporary storage under customs control. This treatment shall be subject to the submission of:

(a) a Certificate of Origin issued retrospectively by a competent authority of the exporting Party; and

(b) documents showing that the goods have been transported directly in accordance with the provisions of Article 3.17 to the customs authorities of the importing Party, within six months of entry into force.

ARTICLE 3.26
Loss of the Certificate of Origin

1. In the event of theft, loss, or destruction of an original Certificate of Origin, the exporter, producer, or their authorised representative may apply to the competent authority of the exporting Party for a certified true copy made on the basis of the export documents in their possession. The certified true copy shall:

(a) be issued within the validity period of the original Certificate of Origin;

(b) bear the words "CERTIFIED TRUE COPY" and the date of issuance of the original Certificate of Origin in the appropriate field as detailed in Annex 3-B;

(c) be valid within the same validity period of the original Certificate of Origin.

2. In the event of theft, loss, or destruction of an origin declaration provided by an approved exporter to an importer, an importer or approved exporter may seek a copy of the origin declaration from the importer or approved exporter as the case may be.

ARTICLE 3.27
Importation by Installments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled goods, within the meaning of General Rule 2(a) of the Harmonized System, are imported in installments, a single Proof of Origin for such goods shall be submitted to the customs authorities upon importation of the first installment.

ARTICLE 3.28
Treatment of Erroneous Declaration in the Certificate of Origin

Neither erasures nor superimposition shall be allowed on the Certificate of Origin. Any alterations shall be made by issuing a new Certificate of Origin. The reference number of the corrected Certificate of Origin should be indicated in the appropriate field on the newly issued Certificate of Origin as detailed in Annex 3-B. The validity of the newly issued certificate will be the same as the former.

ARTICLE 3.29
Minor Errors and Discrepancies

1. A Party shall not reject a Proof of Origin due to minor discrepancies or errors such as slight discrepancies between documents, omissions of information, or typing errors, provided these minor discrepancies or errors do not create doubt as to the originating status of the good.

2. Each Party shall provide that if its customs authority determines that the Proof of Origin in respect of goods imported into its territory is illegible or defective on its face, the importer shall be granted a period of no less than 30 days after the date the customs authority of the importing Party advises the importer that the Proof of Origin is illegible or defective to provide the customs authority of the importing Party with a copy of a corrected proof of origin. Nothwithstanding the determination of an illegible or defective Proof of Origin, the customs authority of the importing Party may release the goods and subject that release to an administrative measure or financial security it deems necessary.

SECTION D
COOPERATION AND ORIGIN VERIFICATION

ARTICLE 3.30
Claims for Preferential Tariff Treatment

1. Except as otherwise provided in Article 3.31 (Denial of Preferential Tariff Treatment), each Party shall grant preferential tariff treatment to an originating good of other Party on the basis of a Proof of Origin.

2. In providing the preferential tariff treatment pursuant to paragraph 1, the importing Party shall provide that an importer:

(a) makes a declaration that the good being imported qualifies as an originating good and that they have a valid Proof of Origin in their possession;

(b) if required by an importing Party, provide the Proof of Origin to the importing Party; and

(c) if required by an importing Party, demonstrate that the requirements in Article 3.17 have been satisfied.

3. An importing Party may require that an importer who claims preferential tariff treatment shall provide documents and other information to support the claim.

ARTICLE 3.31
Denial of Preferential Tariff Treatment

1. Except as otherwise provided in this Chapter, the customs authority of the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, in accordance with its laws and regulations, where:

(a) the good does not meet the requirements of this Chapter;

(b) the importer, exporter or producer of the good failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment; or

(c) the competent authority or customs authority of the exporting Party does not comply with the requirements of verification in accordance with Article 3.32 (Verification of Origin).

2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

3. Upon being advised of the decision to deny preferential tariff treatment, the importer may, within the period provided for in the custom laws of the importing Party, file an appeal against such decision with the appropriate authority under the customs laws and regulations of the importing Party.

ARTICLE 3.32
Verification of Origin

1. For the purposes of determining whether a good imported into one Party from the other Party qualifies as an originating good, the importing Party may carry out a verification process.

2. A verification process may be initiated on the basis of risk assessment methods, including random selection for audit purposes, or when the importing Party has reasonable doubt as to the authenticity of the origin of the goods.

3. A verification process may include:

(a) a written request for additional information[4] from the importer;

(b) a written request for additional information from the exporter or producer;[5]

(c) a written request for additional information from the competent authority of the exporting Party; or

(d) a verification visit to the premises of the exporter or producer in the exporting Party to observe the facilities and the production processes of the good and to review the records referring to origin, including accounting files.

4. The importing Party initiating a verification process shall:

(a) for the purposes of subparagraph 3(a), send a written request, with a copy of the Proof of Origin and the reasons for the request, to the importer of the good;

(b) for the purposes of subparagraph 3(b), send a written request, with a copy of the Proof of Origin and the reasons for the request, to the exporter or producer of the good in the exporting Party;

(c) for the purposes of subparagraph 3(c), send a written request with a copy of the Proof of Origin and the reasons for the request, to the competent authority in the exporting Party; and

(d) for the purposes of subparagraph 3(d), request the customs authority or the competent authority of the importing Party, as the case may be, to seek consent from the exporter or producer of the goods to visit their premises.

5. The importing Party may suspend the provision of preferential treatment to the goods in question while awaiting the result of verification. Nothwithstanding the suspension of preferential treatment, the importing Party may release the goods to the importer and subject that release to any administrative measures or financial security it deems necessary.

[4] For greater certainty, for the purpose of Article 3.32, "additional information" shall be limited to information directly related to the determination of the origin status of the goods subject to the verification process.

[5] A request made under Article 3.32(3)(b) shall also be provided to the relevant competent authority in the exporting Party. In addition, the competent authority or custom authority in importing party shall provide a reminder to the exporter ten days prior the expiry of the period in paragraph 6. For greater certainty, failure to provide a reminder does not remove the requirement to provide the requested information within the prescribed time period.

6. Pursuant to paragraphs 4(a) and (b), the recipient of the request shall reply to a request for information by e-mail, or any means that ensures receipt, no later than 30 days after the receipt of the request.

7. Pursuant to paragraph 4(c), the customs or the competent authority of the exporting Party shall reply to a request for information by e-mail, or any means that ensures receipt. In the case of a request to verify authenticity of the Proof of Origin, the reply shall be provided no later than 45 days after the receipt of the request and must indicate clearly whether the Proof of Origin is authentic. In the case of a verification request concerning the qualification of the goods as origining goods for the purposes of this chapter, the reply shall be provided no later than 180 days after the receipt of the request and must clearly indicate whether the goods covered by the concerned Proof of Origin are originating goods according to this chapter and the origin criteria that was met.

8. If the importing Party is not satisfied with the outcomes of the information received after completing the processes identified in paragraphs 3 (a), (b), or (c) regarding whether the goods qualify as originating goods according to this Chapter, it may request in writing to the customs authority or competent authority of the exporting party to seek agreement to undertake for a verification visit to the premises of the producer or exporter to observe the facilities used in the production of the goods concerned, including review of the exporter's or producer's accounts or records in relation to the goods concerned, or any other check considered appropriate and related to the purpose of the verification visit.

9. The written request referred to in paragraph 8 shall be as comprehensive as possible and include at a minimum:

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

(b) the goods subject to the verification process; and

(c) reasons why the outcome of the verification activity conducted under paragraph 3(a), (b) and (c) has not been satisfactory.

10. The customs authority or the competent authority of the exporting Party shall set a date for the visit upon agreement from the exporter or producer and the competent authority of the importing Party. The visit shall be conducted no later than 90 days from the receipt by the customs authority or the competent authority of the exporting Party of the written visit request. Officials from the exporting Party may accompany and assist the officials from the importing Party in their visit to the exporter's premises.

11. When the written consent of the producer or exporter for the visit is not obtained within 30 days from the date the customs or competent authority of the exporting Party receives the verification visit request, the customs authority of the importing Party may deny preferential tariff treatment to the good that would have been the subject of the verification visit.

12. The importing Party conducting the verification visit shall, within three months of the date the verification visit was completed, provide a written determination of the outcomes of the verification visit including whether the goods subject of the verification qualify as originating goods and, if the good is found not to be originating, the basis for that determination.

13. Upon the issuance of the written determination that the good qualifies as an originating good, the importing Party shall immediately restore preferential benefits and promptly refund any duties paid in excess of the preferential duty or release guarantees obtained in accordance with their domestic legislation.

14. Upon the issuance of the written determination that the good does not qualify as an originating good, the producer or exporter shall be allowed 30 days from the date of receipt of the written determination to provide written comments or additional information regarding the eligibility of the good for preferential tariff treatment. The final written determination shall be communicated to the producer or exporter within 30 days from the date of receipt of the comments or additional information.

ARTICLE 3.33
Record Keeping Requirement

1. Each Party shall provide that:

   (a) the producer or exporter retain, for a period not less than five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its domestic laws and regulations, all supporting records necessary to prove that the good for which the Proof of Origin was issued was originating; and

   (b) the importers shall retain, for a period not less than five years from the date of importation of the good, or a longer period in accordance with its domestic laws and regulations, all records to prove that the good for which preferential tariff treatment was claimed was originating; and

   (c) the competent authority retains, for a period not less than five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its domestic laws and regulations, all supporting records of the application for the Proof of Origin.

2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval including, but not limited to, digital, electronic, optical, magnetic, or written form.

ARTICLE 3.34
Confidentiality

1. All information related to the application of this Chapter communicated between the Parties shall be treated as confidential. It shall not be disclosed by the Parties' authorities without express permission of the person or authority providing it.

2. Notwithstanding paragraph 1, information may be disclosed without the specific permission of the person or government providing such information, if it is required to be disclosed under its law, including for the purpose of judicial proceedings.

ARTICLE 3.35
Contact Points

Each Party shall, within 30 days of entry into force, designate at least one contact point within its competent authority and issuing authorities for the implementation of this Chapter and notify the other Party of the contact point details. Each Party shall promptly notify the other Party of any change to those contact point details.

ARTICLE 3.36
Exchange of Official Stamps and Signatures

1. The Parties shall provide each other with:

   (a) a list of the specimen impressions of the official stamps and signatures used in their offices for the issue of the Certificate of Origin, in hard copy or soft copy format;

   (b) address of their competent authority; and

   (c) where applicable, secured web address for the QR codes and electronic certificates authentications.

2. Any change in the information provided pursuant to paragraph 1 shall be promptly provided to the other Party.

ARTICLE 3.37
Transitional Provisions for Goods in Transit

A Party shall grant preferential tariff treatment to an originating good, if on entry into force, the good was being transported to that Party in accordance with Article 3.17 and if a valid claim for preferential tariff treatment is made within 180 days of the entry into force.

SECTION E
CONSULTATION AND MODIFICATIONS

ARTICLE 3.38
Rules of Origin and Customs and Trade Facilitation Sub-Committee

1. The Rules of Origin and Customs and Trade Facilitation Sub-Committee established under Article 19.4 (Establishment of Sub-Committees) shall be responsible for the effective implementation and operation of this Chapter and Chapter 4 (Customs Procedures and Trade Facilitation), and shall report to the Joint Committee.

2. The Rules of Origin and Customs and Trade Facilitation Sub-Committee shall be composed of representatives of each Party, and may seek the advice of experts on any matter falling within the Sub-Committee's functions.

3. The Rules of Origin and Customs and Trade Facilitation Sub-Committee may:

(a) provide a forum to consider measures to facilitate trade between the Parties, including the exchange of information, enhancement of customs cooperation, and resolution of differences;

(b) monitor the operation and implementation of this Chapter;

(c) consider any other matters referred to it by the Joint Committee; and

(d) provide periodic reports to the Joint Committee regarding its activities.

4. The Rules of Origin and Customs and Trade Facilitation Sub-Committee may meet by agreement of the Parties. The Sub-Committee may meet physically or virtually as mutually agreed.

ARTICLE 3.39
Consultation and Modifications

The Parties shall consult and cooperate, as appropriate through the Sub Committee, to:

(a) ensure that this Chapter is applied in an effective and uniform manner; and

(b) discuss necessary amendments to this Chapter, taking into account developments in technology, production processes, and other related matters.

ARTICLE 3.40
Transposition of Product-Specific Rules

1. Prior to the entry into force of any amended edition of the Harmonized System done by the WCO, the Parties shall consult to prepare updates to Annex 3-A (Product-Specific Rules) to reflect the necessary amendments created by the new edition of the Harmonized System.

2. The Parties shall ensure that the transposition of Annex 3-A (Product-Specific Rules) is carried out without impairing the Product-Specific Rules and is completed in a timely manner.

3. The transposition of Annex 3-A (Product-Specific Rules) referred to in paragraph 2, shall be adopted by the Joint Committee.

4. For the purposes of this Article, "transposition" means the measures necessary to update the HS codes listed in Annex 3-A (Product-Specific Rules) to reflect the periodic updates of the Harmonized System nomenclature.

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1
Definitions

For the purposes of this Chapter, the following definitions shall mean:

customs law means provisions implemented by legislation or regulation, administered or enforced by the customs authority of a Party, concerning the importation, exportation, and transit of goods, as well as any other customs procedure including those relating to customs duties, taxes or any other charges collected by the customs authority of a Party, or measures for prohibition, restriction, or control enforced by the customs authorities; and

customs procedure means the measures applied by the customs authority of a Party to goods and to the means of transport that are subject to its customs law.

ARTICLE 4.2
Objectives

The objectives of this Chapter are to:

(a) promote trade facilitation for goods traded between the Parties while ensuring effective customs controls, taking into account the evolution of trade practices;

(b) ensure predictability, consistency and transparency in the application of customs law and customs procedures of the Parties;

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

(d) simplify customs procedures of the Parties and harmonise them to the extent possible with relevant international standards; and

(e) promote co-operation between the customs authorities of the Parties.

ARTICLE 4.3
Scope

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

ARTICLE 4.4
General Provisions

1. Parties agree that their customs laws and customs procedures, and their application, shall be transparent, non-discriminatory, consistent and avoid unnecessary procedural obstacles to trade.

2. Customs procedures of the Parties shall conform, where possible, to the standards and recommended practices of the WCO and other relevant international agreements to which the Parties are party.

3. The customs authority of each Party shall periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

ARTICLE 4.5
Publication and Availability of Information

1. Each Party shall ensure that its relevant laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published in a non-discriminatory and easily accessible manner including, to the extent possible, on the Internet in the English language.

2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall make available publicly, through electronic means, information concerning procedures for making such inquiries.

3. Nothing in this Chapter shall require any Party to publish law enforcement procedures or internal operational guidelines, including those related to conducting risk analysis and targeting methodologies.

4. Each Party shall, to the extent practicable, and in a manner consistent with its domestic law, ensure that new or amended laws and regulations of general application related to customs matters are published, or information on them made otherwise publicly available, as early as possible before their entry into force, so that interested parties have the opportunity to become acquainted with the new or amended laws and regulations. Such information and publications shall, to the extent possible, be available in the English language.

5. Where appropriate, the following may be excluded from paragraphs 1 and 4:

(a) changes to duty rates or tariff rates;

(b) measures that have a relieving effect;

(c) measures that may be undermined as a result of compliance with paragraphs 1 and 4;

(d) measures applied in urgent circumstances; or

(e) minor changes to domestic law.

ARTICLE 4.6
Risk Management

The Parties shall adopt a risk management approach in its customs activities in order to facilitate the clearance of low-risk consignments, while focusing its inspection activities on high-risk goods.

ARTICLE 4.7
Paperless Communications

1. For the purposes of facilitating bilateral exchange of international trade data and expediting procedures for the release of goods, the Parties shall provide an electronic environment that supports business transactions between their respective customs authorities and their trading entities.

2. The Parties shall exchange views and information on realising and promoting paperless communications between their respective customs authorities and their trading entities.

3. The respective customs authorities of the Parties, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the WCO and other appropriate international fora.

4. The Parties shall cooperate bilaterally and in international fora to enhance acceptance of electronic versions of trade administration documents.

ARTICLE 4.8
Single Window

1. Each Party shall endeavour to implement and promote its single window, enabling traders to submit documentation or data requirements for importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies. The Parties shall endeavour to work on the interoperability between their single windows.

2. In cases where documentation or data requirements have already been received through the single window, the same documentation or data requirements shall not be

requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

3. Each Party shall adopt or maintain procedures to determine duties and taxes upon the submission of the customs declaration through the single window and to allow collection of payment electronically upon approval of the customs declaration.

ARTICLE 4.9
Advance Rulings

1. Each Party shall provide for the issuance of an advance ruling, prior to the importation of a good into its territory, to an importer in its territory or to an exporter or producer (the applicant) in the territory of the other Party.

2. For the purposes of paragraph 1, each Party shall issue a ruling within a reasonable time-bound manner from the date of receipt of a complete application for an advance ruling, in accordance with its domestic laws and procedures, with regard to:

(a) the tariff classification of the good;

(b) whether the good qualifies as an originating good;

(c) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts in accordance with the Customs Valuation Agreement; and

(d) other matters as agreed by the Parties.

3. A Party may request that the applicant provide additional information at any time during the course of an evaluation of an application for an advance ruling, which may include a sample of the good, necessary to evaluate the request.

4. A Party shall apply an advance ruling issued by it under paragraph 1 on the date that the ruling is issued, or on a later date specified in the ruling, and that ruling shall remain in effect for a reasonable period of time and in accordance with the domestic laws and procedures on advanced rulings unless the advance ruling is modified or revoked.

5. An advance ruling issued by the Party shall be binding only to the applicant to whom the ruling is issued, and to the Party that issued it in respect of that applicant.

6. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or an administrative or judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting out the relevant facts and circumstances and the basis for its decision.

7. The importing Party may modify or revoke an advance ruling:

(a) if the ruling was based on incomplete, incorrect, false, or misleading information, or an error of fact;

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

(c) to conform with a modification of this Agreement;

(d) to conform with a judicial decision or a change in its domestic law; or

(e) if the applicant has not acted in accordance with the rulings' terms and conditions.

8. A Party shall provide written notice to the applicant explaining its decision to revoke or modify the advance ruling issued to the applicant.

9. A Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein. A Party may only modify or revoke an advance ruling with retroactive effect if the ruling was based on incomplete, incorrect, false, or misleading information provided by the applicant, or the applicant has not acted in accordance with its terms and conditions.

10. The issuing Party may postpone the effective date of the modification or revocation of an advance ruling for a reasonable period of time, and in accordance with each Party's national procedures on advance rulings, where the person to whom the advance ruling was issued demonstrates that they have relied in good faith to their detriment on that ruling.

ARTICLE 4.10
Penalties

1. Each Party shall maintain measures that allow for the imposition of penalties for breaches of its customs law or procedure.

2. Each Party shall ensure that penalties issued for a breach of a customs law or procedure are imposed only on the person responsible for the breach under its laws.

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

4. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties. No portion of the remuneration

of a government official shall be calculated as a fixed portion or percentage of any penalties or duties assessed or collected.

5. Each Party is encouraged to require its customs authority, when imposing a penalty for a breach of its customs law or procedures, to consider as a potential mitigating factor the voluntary disclosure of the breach prior to its discovery by the customs administration.

6. Each Party shall ensure that if a penalty is imposed by its customs authority for a breach of its customs law or procedures, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the law, regulation or procedure used for determining the penalty amount.

ARTICLE 4.11
Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade.

2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:

(a) provide for the immediate release of goods upon receipt of the customs declaration and fulfillment of all applicable requirements and procedures;[1]

(b) provide for the electronic submission and processing of documentation and data, including manifests, prior to the arrival of the goods to expedite the release of goods on arrival;

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

(d) where practicable, require that the importer be informed if a Party does not promptly release goods, including, to the extent permitted by its law, the reasons why the goods are not released and which border agency, if not the customs authority, has withheld release of the goods; and

(e) allow for the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if that determination is not done prior to, or promptly upon arrival, and provided that all other regulatory requirements have been met. Before releasing the goods, a Party may require that an importer provides sufficient security in the form of a surety, a deposit, or some other appropriate instrument.

[1] For greater certainty, the immediate release of goods is to be provided within a period no greater than that required to ensure compliance with its customs laws and not exceeding 48 hours from arrival.

3. If a Party allows for the release of goods conditional on a security in accordance with subparagraph 2(e), it shall adopt or maintain procedures that:

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

(b) ensure that any security is discharged as soon as possible after its customs authority is satisfied that the obligations arising from the importation of the goods have been fulfilled.

4. Nothing in this Article requires a Party to release a good if the requirements for release have not been met nor prevents a Party from liquidating a security deposit in accordance with its law.

5. Each Party may allow, to the extent practicable and in accordance with its customs laws, goods intended for import to be moved within its territory under the applicable regulatory requirements from the point of entry to another customs site within the territory of the Party where the goods are intended to be released.

ARTICLE 4.12
Express Shipments

1. Each Party shall adopt or maintain customs procedures allowing for the expedited release of, at least, those goods entered through air cargo facilities while maintaining appropriate customs control and selection. These procedures shall:

(a) provide for information necessary to release an express shipment to be submitted and processed before the shipment arrives;

(b) allow a single submission of information covering all goods contained in an express shipment, such as a manifest, through, if possible, electronic means[2];

(c) to the extent possible, provide for the release of certain goods with a minimum of documentation;

(d) under normal circumstances, provide for express shipments to be released immediately after submission of the necessary customs documents, provided the shipment has arrived;

(e) apply to shipments of any weight or value recognizing that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the good's weight or value; and

[2] For greater certainty, additional documents may be required as a condition for release.

(f) provide that, under normal circumstances, no customs duties will be assessed on express shipments valued at or below a fixed amount set under the Party's law.[3]

2. In cases where a Party has an existing procedure that provides the treatment in paragraph 1, this provision does not require that Party to introduce separate expedited release procedures.

ARTICLE 4.13
Perishable Goods

1. For the purposes of this Article, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

2. In addition to Article 4.11 and with a view to preventing avoidable loss or deterioration of perishable goods, each Party shall, provided that all necessary requirements have been met:

(a) provide, in normal circumstances, for perishable goods to be released in the shortest time possible[4];

(b) release perishable goods outside the business hours of its customs authority in exceptional circumstances, if it would be appropriate to do so; and

(c) give appropriate priority to perishable goods when scheduling any examinations that may be required.

3. Each Party shall either arrange, or allow an importer to arrange, for the proper storage of perishable goods pending their release. Each Party may require that any storage facilities arranged by the importer be approved or designated by its relevant authorities. Each Party shall, if practicable and consistent with its laws and regulations, on the request of the importer, provide for the release to take place at those storage facilities.

[3] Notwithstanding this Article, a Party may assess customs duties, or may require formal entry documents, for restricted or controlled goods, such as goods subject to import licensing or similar requirements.

[4] For perishable goods, such release will be done within six hours of arrival provided that all necessary requirements have been met.

ARTICLE 4.14
Authorised Economic Operators

1. Each Party shall establish or maintain a national Authorised Economic Operator (AEO) programme which recognizes an operator involved in the international movement of goods, in whatever function, that has been approved by the national customs authority as complying with the WCO SAFE Framework of Standards.

2. In order to facilitate trade and enhance compliance and risk management between them, the Parties shall endeavor to mutually conclude an AEO Mutual Recognition Arrangement.

3. The customs authorities of the Parties are encouraged to share best practices related to AEO programmes.

ARTICLE 4.15
Border Agency Cooperation

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade pursuant to this chapter.

ARTICLE 4.16
Appeal and Review

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

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

   (b) a judicial appeal or review of the decision.

2. Each Party shall ensure that its procedures for appeal and review are carried out in a non-discriminatory and timely manner.

3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its decision in the appeal or review, and the reasons for the decision.

ARTICLE 4.17
Customs Cooperation

1. The Parties, for the purposes of applying customs law and to give effect to the provisions of this Agreement, may cooperate in relation to:

(a) the implementation and operation of this Chapter;

(b) sharing best practices in the development, implementation and simplification of customs procedures, including capacity building activities; and

(c) other activities that the Parties may agree to.

2. With a view to further enhancing customs cooperation through the exchange of information and the sharing of best practices between the customs authorities to secure and facilitate lawful trade, the customs authorities of the Parties will endeavor to conclude and sign a Customs Mutual Assistance Agreement.

3. Cooperation under this Chapter shall be provided in accordance with the domestic law of the requested Party.

4. The Parties shall exchange official contact points with a view to facilitating the effective implementation of this Chapter.

ARTICLE 4.18
Rules of Origin and Customs and Trade Facilitation Sub-Committee

The Rules of Origin and Customs and Trade Facilitation Sub-Committee established under Article 19.4 (Establishment of Sub-Committees) shall be responsible for the effective implementation and operation of this Chapter.

CHAPTER 5

TRADE REMEDIES

ARTICLE 5.1
Scope

1. This Chapter shall apply to any trade remedies actions[1] that are taken by each Party's competent authority.

2. For the purposes of this Chapter, competent authority means:

   (a) for New Zealand, the New Zealand Ministry of Business, Innovation and employment or its successor;

   (b) for UAE, the Ministry of Economy or its successor.

ARTICLE 5.2
Anti-Dumping and Countervailing Measures

1. The Parties reaffirm their rights and obligations under Article VI and Article XVI of GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement.

2. The Parties recognize the right to apply measures consistent with Article VI of the GATT 1994, the Anti-Dumping Agreement, and the SCM Agreement, and the importance of promoting transparency.

3. Except as otherwise provided in this Chapter, nothing in this Agreement shall confer any additional rights or impose any additional obligations on the Parties with regard to proceedings or measures taken pursuant to Article VI of GATT 1994, the Anti-Dumping Agreement, or the SCM Agreement.

4. After receipt by a Party's investigating authority of a properly documented application for an anti-dumping investigation or a countervailing duty investigation with respect to imports of a good originating in the territory of the other Party, the Party shall provide written notice to the other Party of its receipt of the application at the earliest possible opportunity and no later than 7 days before initiating the investigation.

5. As soon as possible after accepting a properly documented application for a countervailing duty investigation with respect to imports of a good originating in the

[1] For greater certainty, the trade remedies actions can include investigations and measures.

territory of the other Party, and in any event before initiating an investigation, the Party shall invite the other Party for consultations with the aim of clarifying the situation as to the matters referred to in the application and arriving at a mutually agreed solution.

6. The investigating authority of each Party shall ensure, before a final determination is made, the disclosure of all essential facts under consideration which form the basis for the decision whether to apply definitive measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement. Disclosures shall be made in writing and allow interested parties[2] sufficient time to make their comments.

7. Interested parties should be granted the right to express their views during an anti-dumping or a countervailing investigation including:

(a) an ample opportunity to present in writing all evidence which they consider relevant; and

(b) the possibility to be heard upon a request,

provided that the granting of that right does not prevent the investigation from proceeding expeditiously.

8. The Parties shall observe the following practices in anti-dumping or countervailing cases between them in order to enhance transparency in the implementation of the relevant WTO Agreements:

(a) when dumping margins are established, assessed, or reviewed under Articles 2, 9.3, 9.5, and 11 of the Anti-Dumping Agreement, regardless of the comparison bases under Article 2.4.2 of the Anti-Dumping Agreement, all individual margins, whether positive or negative, should be counted toward the average;

(b) if a decision is taken to impose an anti-dumping duty pursuant to Article 9.1 of the Anti-Dumping Agreement, the Party taking such a decision shall apply the "lesser duty" rule by imposing a duty which is less than the dumping margin through the means provided for in the Party's domestic laws and regulations;

(c) if a Party's investigating authority determines that a timely response to a request for information does not comply with the request, the investigating authority shall inform the interested party that submitted the response of the nature of the deficiency and, to the extent practicable in light of the time limit established to complete the anti-dumping investigation or review, or the countervailing investigation or review, provide that interested party with an opportunity to

[2] For the purposes of this Article, "interested parties" shall be defined as per Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.

remedy or explain the deficiency. If, after being informed of a deficient response, an interested party submits a further response and the investigating authority finds that the response is not satisfactory, or that the response is not submitted within the applicable time limit, and if the investigating authority disregards all or part of the original and subsequent responses, the investigating authority shall explain in the determination or other written document the reasons for disregarding the information.

9. When imports from more than one country are simultaneously subject to anti-dumping or countervailing duty investigation, a Party shall examine, with due care, whether the cumulative assessment of the effect of the imports from the other Party is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.

10. Throughout a countervailing duty investigation, the other Party shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.

ARTICLE 5.3
Global Safeguard Measures

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement. Except as otherwise stipulated in this Article, this Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken under Article XIX of GATT 1994 and the Safeguards Agreement.

2. The Parties affirm their existing rights and obligations with respect to each other under Article 9 of the Safeguard Agreement[3].

3. Neither Party shall apply, with respect to the same product, at the same time a measure under Article XIX of GATT 1994 and the Safeguards Agreement, or Article 5 of the Agreement on Agriculture in Annex 1A to the WTO Agreement.

4. In taking measures under Article XIX of GATT 1994 and the Safeguards Agreement, a Party may exclude imports of an originating good from the other Party if such imports do not in and of themselves cause or threaten serious injury.

[3] For greater certainty, where, as a result of a global safeguard measure, a safeguard duty is imposed by a Party, it shall exclude imports of an originating good from the other Party in accordance with Article 9.1 of the WTO Agreement on Safeguards and the development status of the other Party at the WTO.

5. A Party that initiates a safeguard investigation shall provide to the other Party an electronic copy of the notification given to the WTO Committee on Safeguards under Article 12.1.a of the Safeguards Agreement.

ARTICLE 5.4
Contact Points and Cooperation

1. The Parties shall endeavour to encourage cooperation on trade remedies between the relevant authorities of each Party who have responsibility for trade remedy matters within the context of this Chapter.

2. All communication between the Parties on any matter covered by this Chapter shall be conducted through the following Contact Points:

(a) for New Zealand, the Ministry of Business, Innovation and Employment (traderemedies@mbie.govt.nz) or its successor; and

(b) for the UAE: Ministry of Economy, Foreign Trade Sector. (Antidumping@economy.ae) or its successor.

3. Each Party shall promptly notify the other Party of any change of its Contact Point.

ARTICLE 5.5
Dispute Settlement

Neither Party shall have recourse to dispute settlment under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1
Definitions

1. For the purposes of this Chapter, the definitions in Annex A of the SPS Agreement are incorporated into and made part of this Chapter, mutatis mutandis. Those definitions adopted under the auspices of the Codex Alimentarius Commission (hereinafter referred to as the "Codex"), the World Organization for Animal Health (hereinafter referred to as the "WOAH") and the International Plant Protection Convention (hereinafter referred to as the "IPPC") shall also apply.

2. In addition, for the purposes of this Chapter:

competent authority means a governmental body of each Party listed in Annex 6-A responsible for measures and matters referred to in this Chapter;

emergency measure means a sanitary or phytosanitary measure that is applied by the importing Party to a good of the exporting Party to address an urgent problem of human, animal, or plant life or health protection that arises or threatens to arise in the importing Party;

contact point means the designated representative of a competent authority of each Party designated pursuant to Article 6.5;

Sanitary MOU means the Memorandum of Understanding Between the New Zealand Ministry for Primary Industries and the United Arab Emirates Ministry of Climate Change and Environment on the Sanitary Conditions for the Trade in Food, Feed and Animal By-Products, and its implementing annexes, signed in Auckland on 18 March 2016 contained in Annex 6-B, and any amendments thereto;

Sanitary and Phytosanitary MOU means the Memorandum of Understanding Between the New Zealand Ministry for Primary Industries and the United Arab Emirates Ministry of Climate Change and Environment on the Sanitary Conditions for the Trade in Plant Products and Processed Food, and its implementing annexes, signed in Auckland on 18 March 2016 contained in Annex 6-C, and any amendments thereto.

ARTICLE 6.2
Objectives

The objectives of this Chapter are to:

(a) protect human, animal, and plant life and health in the respective territories of the Parties while facilitating trade;

(b) ensure that the Parties' sanitary and phytosanitary measures are science-based and do not create unjustified barriers to trade;

(c) enhance the practical implementation of the SPS Agreement; and

(d) enhance cooperation, communication, and transparency between the Parties, on the application of each Party's sanitary and phytosanitary measures.

ARTICLE 6.3
Scope

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

ARTICLE 6.4
General Provisions

The Parties affirm their rights and obligations under the SPS Agreement.

ARTICLE 6.5
Contact Points and Competent Authorities

1. Upon the entry into force of this Agreement, each Party shall designate a contact point or contact points to facilitate communication on matters covered by this Chapter and promptly notify the other Party, in any case no later than 30 days after the entry into force of this Agreement.

2. For the purposes of implementing this Chapter, the competent authorities of the Parties shall be those listed in Annex 6-A.

3. Each Party shall keep the information on contact points and competent authorities up to date and shall promptly inform the other Party of any change.

ARTICLE 6.6
Equivalence

1. The Parties recognise that the principle of equivalence as provided for under Article 4 of the SPS Agreement has mutual benefits for the Parties.

2. In determining the equivalence of a sanitary and phytosanitary measure, standards, group of measures, or equivalence on a systems-wide basis, the Parties shall follow the procedures developed by the WTO SPS Committee and relevant international standard-setting bodies in accordance with Annex A of the SPS Agreement*, mutatis mutandis*.

3. At the request of the exporting Party, the importing Party shall, within a reasonable period of time, explain the objective and rationale of its sanitary or phytosanitary measure and clearly identify the risk the sanitary or phytosanitary measure is intended to address.

4. If an equivalence assessment does not result in an equivalence determination by the importing Party, the importing Party shall provide the exporting Party with the rationale for its decision.

5. The importing Party shall recognise the equivalence of a sanitary or phytosanitary measure if the exporting Party objectively demonstrates that its measure achieves the importing Party's appropriate level of protection (hereinafter referred to as "ALOP") in relation to human, animal or plant life and health.

6. If an importing Party amends a sanitary or phytosanitary measure and considers an equivalence determination specified in this Chapter may be affected it shall:

(a) objectively consider whether the previous equivalence determination remains sufficient to meet its ALOP; and

(b) consult with the exporting Party and then decide whether the equivalence determination may continue with or without any special conditions.

ARTICLE 6.7
Adaptation to Regional Conditions, Including Pest- or Disease- Free Areas and Areas of Low Pest or Disease Prevalence

1. The Parties recognise that adaptation to regional conditions, including regionalisation, is an important means to facilitate trade.

2. When making a determination regarding adaptation to regional conditions, each Party shall take into account the standards, guidelines and recommendations developed

by the WTO SPS Committee and relevant international standard-setting bodies in accordance with Annex A of the SPS Agreement.

3. When an importing Party receives a request for a determination of regional conditions from an exporting Party and determines that the information provided by the exporting Party is sufficient, it shall initiate an assessment within a reasonable period of time.

4. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of the assessment of the exporting Party's request for a determination of regional conditions.

5. When the importing Party adopts a measure that recognises specific regional conditions of the exporting Party, the importing Party shall communicate that measure to the exporting Party in writing and implement the measure within a reasonable period of time.

6. The Parties involved in a particular determination may also decide in advance, the risk management measures that will apply to trade between them in the event of a change in status.

7. If the evaluation of the evidence provided by the exporting Party does not result in a determination to recognise pest- or disease- free areas, or areas of low pest or disease prevalence, the importing Party shall provide the exporting Party with the rationale for its determination.

8. If there is an incident that results in the importing Party modifying or revoking the determination recognising regional conditions, on request of the exporting Party, the Parties shall cooperate to assess whether the determination can be reinstated.

ARTICLE 6.8
Emergency Measures

1. If a Party adopts an emergency sanitary or phytosanitary measure that is necessary for the protection of human, animal, or plant life or health, that Party shall promptly notify the other Party of that measure through the relevant contact point and the competent authority. The Party adopting the emergency measure shall take into consideration any information provided by the other Party in response to the notification.

2. If a Party requests technical consultations to address the emergency sanitary or phytosanitary measure, technical consultations between the competent authorities shall be held within 15 days of the notification of the emergency sanitary or phytosanitary measure.

3. The importing Party shall, in a timely manner, consider information provided by the exporting Party when making decisions with respect to consignments that, at the time of adoption of the emergency measure, are being transported between the Parties.

4. If a Party adopts an emergency sanitary or phytosanitary measure, it shall review the scientific basis of that measure as soon as practically possible, and no later than six months from notification of the measure, and make available the results of the review to the other Party on request. If the Party maintains the emergency sanitary or phytosanitary measure after the review because the reason for its adoption remains, the Party shall review the measure periodically.

ARTICLE 6.9
Transparency and Exchange of Information

1. The Parties recognise the value of transparency in the adoption and application of sanitary and phytosanitary measures and the importance of sharing information about such measures on an ongoing basis.

2. In implementing this Chapter, each Party shall take into account the standards, guidelines and recommendations of the WTO SPS Committee and relevant international standard-setting bodies in accordance with Annex A of the SPS Agreement.

3. Each Party shall notify a proposed sanitary or phytosanitary measure that may have an effect on the trade of the other Party, including any that conforms to international standards, guidelines, or recommendations, by using the WTO SPS notification submission system as a means of notification.

4. The Parties shall exchange information on proposed or actual sanitary and phytosanitary measures which affect, or are likely to affect, trade between them and information relating to each Party's sanitary and phytosanitary regulatory system. To the extent that a Party desires to provide written comments on a proposed sanitary and phytosanitary measure by the other Party, the Party shall provide those comments in a timely manner.

5. A Party that proposes to adopt a sanitary or phytosanitary measure shall, on request of the other Party, discuss any scientific or trade concerns that the other Party may raise regarding the proposed measure and the availability of alternative, less trade-restrictive approaches for achieving the objective of the measure.

6. Each Party shall notify the other Party of final sanitary or phytosanitary measures through the WTO SPS notification submission system. Each Party shall ensure that the text or the notice of a final sanitary or phytosanitary measure specifies the date on which the measure takes effect and the legal basis for the measure. Each Party shall publish, preferably by electronic means, notices of final sanitary or phytosanitary measures.

7. An exporting Party shall notify the importing Party through the contact points, in a timely and appropriate manner, if it has knowledge of:

(a) a significant or urgent situation of sanitary or phytosanitary risk in its territory that may affect current trade between the Parties; or

(b) significant changes in food safety, pest, or disease management, control, or eradication policies or practices that may affect current trade between the Parties.

8. A Party shall provide to the other Party, on request, all sanitary or phytosanitary measures related to the importation of a good into that Party's territory.

9. Each Party shall provide, upon request of the other Party, information on results of import checks in case of rejected or non-compliant consignments, including the scientific basis for such rejections.

ARTICLE 6.10
Technical Consultations

1. The Parties will work expeditiously to address any specific sanitary or phytosanitary trade-related issue and commit to carry out the necessary technical level discussions in order to resolve any such issue.

2. At any time, a Party may raise a specific sanitary or phytosanitary issue with the other Party through the competent authorities and contact point and may request additional information related to the issue. The other Party shall respond in a timely manner.

3. If an issue is not resolved through the information exchanged pursuant to Article 6.9, upon request of either Party through its contact point, the Parties shall meet in a timely manner to discuss the specific sanitary or phytosanitary issue to avoid a disruption in trade, or to reach a mutually acceptable solution. The Parties shall meet either in person or using available technological means. If travel is required, the Party requesting the meeting shall travel to the territory of the other Party, unless otherwise agreed.

ARTICLE 6.11
Cooperation

1. The Parties shall cooperate to facilitate the implementation of this Chapter.

2. Consistent with the objectives of this Chapter, the Parties shall explore opportunities for further cooperation, collaboration, and information exchange between

the Parties on sanitary and phytosanitary matters of mutual interest related to the implementation of the SPS Agreement. Those opportunities may include trade facilitation initiatives and technical assistance.

3. The Parties may promote cooperation on matters related to the implementation of the SPS Agreement, and in relevant international standard-setting bodies such as the Codex, the IPPC, and the WOAH, as appropriate.

4. If there is mutual interest, and with the objective of establishing a common risk-based foundation for each Party's regulatory approach, the competent authorities of the Parties are encouraged to:

(a) share best practices; and

(b) cooperate on joint scientific data collection.

ARTICLE 6.12
Sanitary MOU and Sanitary and Phytosanitary MOU

The Sanitary MOU and the Sanitary and Phytosanitary MOU, and their Implementing Annexes, are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 6.13
Sanitary and Phytosanitary Measures Sub-Committee

1. The Sanitary and Phytosanitary Measures Sub-Committee (hereinafter referred to as "SPS Sub-Committee") established under Article 19.4 (Establishment of Sub-Committees) for the purposes of the effective implementation and operation of this chapter shall be composed of the representatives of the competent authorities.

2. The objectives of the SPS Sub-Committee are to facilitate safe bilateral trade in goods for which sanitary or phytosanitary measures may apply, to explore areas of cooperation such as AMR and any other topics of mutual interest, and to achieve this by effectively implementing to this Chapter.

3. The SPS Sub-Committee shall consider any matters relating to the implementation of this Chapter.

4. Notwithstanding paragraph XV of the Sanitary MOU, the SPS Subcommittee shall consider any matters relating to the implementation of the Sanitary MOU.

5. Notwithstanding paragraph XIV of the Sanitary and Phytosanitary MOU, the SPS Subcommittee shall consider any matters relating to the implementation of the Sanitary and Phytosanitary MOU.

6. The SPS Sub-Committee may:

(a) serve as a forum to resolve specific trade concerns where the Parties have been unable to reach a mutually acceptable solution through technical consultations;

(b) take any other action as the Parties may agree;

(c) develop Annexes recording mutual determinations and incorporate these under this Chapter;

(d) make any amendments mutually agreed by the Parties to Annexes under this Chapter; and

(e) make any amendment mutually agreed by the Parties to the Sanitary MOU and Sanitary and Phytosanitary MOU.

7. The SPS Sub-Committee shall meet within one year of the entry into force of this Agreement and at least annually thereafter, or as mutually agreed by the Parties. It may meet in person, by video conference, or through any other means, as mutually agreed by the Parties. The SPS Sub-Committee may also address issues through correspondence.

8. The SPS Sub-Committee may agree to establish technical working groups, consisting of expert-level representatives of the Parties, to identify and address technical and scientific issues arising from this Chapter. When additional expertise is needed, the membership of these groups need not be restricted to representatives of the Parties.

CHAPTER 7

TECHNICAL BARRIERS TO TRADE

ARTICLE 7.1
Definitions

For the purposes of this Chapter, the terms and definitions set out in Annex 1 to the TBT Agreement apply.

ARTICLE 7.2
Objectives

The objective of this Chapter is to facilitate trade in goods, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting regulatory cooperation and good regulatory practices.

ARTICLE 7.3
Scope

1. This Chapter shall apply to the preparation, adoption, and application of all standards, technical regulations, and conformity assessment procedures that may affect trade in goods between the Parties.

2. Notwithstanding paragraph 1, this Chapter shall not apply to:

   (a) purchasing specifications prepared by governmental bodies for their production or consumption requirements, which are covered by Chapter 11 (Government Procurement); or

   (b) sanitary or phytosanitary measures, which are covered by Chapter 6 (Sanitary and Phytosanitary Measures).

3. For greater certainty, nothing in this Chapter shall prevent a Party from adopting or maintaining standards, technical regulations, or conformity assessment procedures in accordance with its rights and obligations under this Agreement, the TBT Agreement, and any other relevant international agreement.

ARTICLE 7.4
Affirmation of the TBT Agreement

The Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement.

ARTICLE 7.5
International Standards

1. Each Party shall use relevant international standards, guides, and recommendations, to the extent provided in Articles 2.4 and 5.4 of the TBT Agreement, as a basis for its technical regulations and conformity assessment procedures.

2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall base its determination on the principles set out in the TBT Committee Decision on International Standards: *Decision and Recommendations of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement*, adopted by the WTO committee on technical barriers to trade since 1 January 1995, as revised on 15 November 2022 (G/TBT/1/Rev.15), and any subsequent version thereof.

3. The Parties shall cooperate, where feasible and appropriate, in areas of mutual interest in the context of their participation in international standardisation bodies to ensure that international standards developed within such organisations are trade-facilitating and do not create unnecessary obstacles to international trade.

ARTICLE 7.6
Technical Regulations

1. Consistent with Article 2.2 of the TBT Agreement, the Parties shall ensure that technical regulations are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

2. The Parties shall use international standards as a basis for preparing their technical regulations unless those international standards are ineffective or inappropriate for achieving the legitimate objective pursued.

3. Where a Party does not use relevant international standards, or the relevant parts thereof, as the basis for its technical regulations, that Party shall, on request from the other Party:

(a) identify any substantial deviation from the relevant international standards; and

(b) explain the reasons why those international standards have been considered inappropriate or ineffective for the objective pursued.

4. Consistent with Article 2.7 of the TBT Agreement, each Party shall give positive consideration to accepting as equivalent technical regulations of the other Party, even

if these regulations differ from its own, provided that it is satisfied that those technical regulations adequately fulfil the objectives of its own technical regulations.

5. Each Party shall give positive consideration to a request by the other Party to negotiate arrangements for achieving the equivalence of technical regulations.

6. Each Party shall, upon request of the other Party, explain why it has not accepted a request by the other Party to negotiate such arrangements.

ARTICLE 7.7
Conformity Assessment Procedures

1. Consistent with Article 5.1.2 of the TBT Agreement, the Parties shall ensure that conformity assessment procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade between the Parties.

2. The Parties shall use international standards as a basis for preparing their conformity assessment procedures unless those international standards are ineffective or inappropriate for achieving the legitimate objective pursued.

3. Where a Party does not use relevant international standards as the basis for its conformity assessment procedures, that Party shall, on request from the other Party:

(a) identify any substantial deviation from the relevant international standards; and

(b) explain the reasons why those international standards have been considered inappropriate or ineffective for the aim pursued.

4. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party's territory. Such mechanisms may include:

(a) recognising existing regional and multilateral mutual recognition agreements and arrangements to which both Parties' conformity assessment bodies are party;

(b) promoting mutual recognition of conformity assessment results by either Party through recognition of the other Party's designation of conformity assessment bodies;

(c) encouraging voluntary arrangements between conformity assessment bodies in the territory of each Party;

(d) accepting a supplier's declaration of conformity where appropriate;

(e) harmonising criteria for the designation of conformity assessment bodies, including accreditation procedures; and

(f) other mechanisms as mutually agreed by the Parties.

5. Each Party shall ensure, whenever possible, that the results of conformity assessment procedures conducted in the territory of the other Party are accepted, even when those procedures differ from its own, provided that those procedures offer a satisfactory assurance of applicable technical regulations or standards equivalent to its own procedures. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of the other Party, it shall, on request of the other Party, explain the reasons for its decision.

6. In order to enhance confidence in the consistent reliability of conformity assessment results, the Parties may consult as appropriate on matters such as the technical competence of the conformity assessment bodies involved.

7. Each Party shall give positive consideration to a request by the other Party to negotiate agreements or arrangements for the mutual recognition of the results of their respective conformity assessment procedures.

8. The Parties shall exchange information on acceptance mechanisms with a view to facilitating the acceptance of conformity assessment results.

ARTICLE 7.8
Cooperation

1. The Parties shall strengthen their cooperation in the fields of standards, technical regulations, and conformity assessment procedures with a view to:

(a) increasing the mutual understanding of their respective systems;

(b) enhancing cooperation between the Parties on matters of mutual interest, including health, safety and environmental protection;

(c) facilitating trade by implementing good regulatory practices; and

(d) enhancing cooperation, as appropriate, to ensure that technical regulations and conformity assessment procedures are based on international standards or the relevant parts of them and do not create unnecessary obstacles to trade between the Parties.

2. To achieve the objectives set out in paragraph 1, the Parties shall, as mutually agreed and to the extent possible, cooperate on regulatory issues, which may include the:

(a) promotion of good regulatory practices, including based on risk management principles;

(b) exchange of information to improve the quality and effectiveness of their technical regulations;

(c) development of joint initiatives for managing risks to health, safety, or the environment and preventing deceptive practices; and

(d) exchange of market surveillance information where appropriate.

3. The Parties shall encourage cooperation between their respective organisations responsible for standardisation, conformity assessment, accreditation, and metrology with a view to furthering the objectives of this Chapter.

4. The Parties shall enhance communication and coordination with each other, where appropriate, in discussions on the equivalence of technical regulations and related issues in international fora, such as the WTO Committee on Technical Barriers to Trade.

ARTICLE 7.9
Transparency

1. When a proposed technical regulation is notified to the WTO, a Party shall give appropriate consideration to the comments received from the other Party and, upon request of the other Party, provide written responses to the comments made by the other Party.

2. Each Party shall, upon request of the other Party, provide information, including the objective of, and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or proposes to adopt that may affect the trade between the Parties, within a reasonable period as agreed between the Parties.

3. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are publicly available.

ARTICLE 7.10
Contact Points

1. For the purposes of this Chapter, the Contact Points are:

(a) for the UAE, the Standardisation Affairs Sector, Ministry of Industry and Advanced Technology or its successor; and

(b) for New Zealand, Trade & Supply Chains team, Ministry of Business, Innovation and Employment or its successor.

2. Each Party shall promptly notify the other Party of any change of its Contact Point.

3. The Contact Points shall work jointly to facilitate the implementation of this Chapter, communication and cooperation between the Parties on matters relating to this Chapter.

ARTICLE 7.11
Information Exchange and Technical Discussions

1. A Party may request a technical discussion regarding any matter arising under this chapter, with the aim of resolving the matter to the mutual satisfaction of both Parties, by notifying the Contact Points. Each Party shall give positive consideration to such a request.

2. Unless the Parties agree otherwise, the Parties shall endeavour to hold technical discussions within 60 days of the request for technical discussions, and by any agreed method. The Parties shall endeavour to resolve the matter as expeditiously as possible.

3. If the requesting Party considers that the matter is urgent, it may request that any discussions commence within a shorter timeframe. In that case, the responding Party shall give positive consideration to this request.

4. Any information or explanation that a Party provides upon request of the other Party under this Chapter shall be provided in print or electronically within a reasonable period. Each Party shall endeavour to respond to such a request within 60 days.

ARTICLE 7.12
Halal

The Parties agree to strengthen cooperation between their respective competent authorities on halal-quality infrastructure, as well as any other form of cooperation as may be agreed between the Parties.

CHAPTER 8

INVESTMENT FACILITATION

ARTICLE 8.1
UAE – New Zealand Investment Agreement

The Parties acknowledge that, in addition to the provisions set out in this Chapter, they have concluded, concurrently with this Agreement, the Agreement between the Government of the United Arab Emirates and the Government of New Zealand for the Promotion and Protection of Investments ("UAE – New Zealand Investment Agreement").

ARTICLE 8.2
Promotion of Investment

The Parties affirm their desire to promote an attractive investment climate and expand trade in goods and services. In this regard, the Parties shall endeavour to take appropriate measures to promote an attractive investment climate, including by:

(a) encouraging investments between the Parties, especially those that will support decarbonisation efforts and the development of clean technologies;

(b) encouraging investment in partnership with Māori;

(c) promoting cooperation with relevant government agencies to expand opportunities for business and industry; and

(d) conducting information exchanges on other issues of mutual interest relating to investment opportunities between the Parties.

ARTICLE 8.3
Facilitation of Investment

1. Subject to its laws and regulations, each Party shall endeavour to secure favourable conditions necessary to facilitate long-term investment relationships between the Parties, including by:

(a) ensuring that all relevant measures of general application with respect to matters within the scope of this chapter are administered in a reasonable and impartial manner;

(b) ensuring that all relevant measures of general application with respect to matters within the scope of this chapter are promptly published, or otherwise made publicly available; and

(c) otherwise promoting the dissemination of investment information, including investment policies, procedures and informational materials.

2. To the extent possible, subject to its laws and regulations, a Party's activities under paragraph 1 may include providing voluntary assistance, in resolving difficulties experienced by investors of the other Party impacting their covered investments.

3. The Parties shall endeavour to facilitate meetings between their respective competent authorities aimed at exchanging knowledge and approaches to better facilitate investment in priority sectors and support the development of clean technologies. This includes the exchange of knowledge and approaches to engaging and partnering with Māori.

ARTICLE 8.4
Investment and the Environment

1. The Parties recall the provisions of Chapter 14 (Trade and Sustainable Development) that are applicable to promoting mutually supportive investment and environmental outcomes. The Parties shall endeavour to enhance their respective capacities to address investment-related environmental issues, including through cooperation.

2. The Parties further recall that such provisions include those applicable to:

(a) maintaining and enforcing domestic environmental law and policies;

(b) recognising that it is inappropriate to weaken or reduce the protection of environmental law to encourage investment;

(c) affirming commitments under multilateral environmental agreements to which they are party;

(d) supporting the transition to low carbon and climate resilient economies; and

(e) encouraging investment in environmental goods and services as a means of improving environmental and economic performance, supporting inclusive economic growth, contributing to clean growth, and addressing global environmental challenges.

ARTICLE 8.5
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 9

TRADE IN SERVICES

ARTICLE 9.1
Definitions

For the purposes of this Chapter:

aircraft repair and maintenance services means such activities when undertaken on an aircraft or a part thereof while the aircraft is withdrawn from service and does not include so-called line maintenance;

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

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

(a) the constitution, acquisition, or maintenance of a juridical person; or

(b) the creation or maintenance of a branch or representative office;

within the territory of a Party for the purpose of supplying a service;

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

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

juridical person means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust/fund, partnership, joint venture, sole proprietorship, or association;

juridical person of a Party means a juridical person which is either:

(a) constituted or otherwise organised under the law of that Party, and is engaged in substantive business operations in the territory of that Party: or

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

(i) natural persons of that Party; or

(ii) juridical persons of that other Party identified under subparagraph (a).

a juridical person is:

(a) "owned" by persons of a Party if more than 50 percent of the equity interest in it is beneficially owned by persons of that Party;

(b) "controlled" by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions; or

(c) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

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

measures by Parties mean measures taken by:

(a) central, regional or local governments or authorities; and

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

measures by Parties affecting trade in services include measures in respect of:

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

(b) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally; and

(c) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the other Party;

monopoly supplier of a service means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

natural person means:

(a) for the UAE a national or a permanent resident[1];

(b) for New Zealand, a citizen of New Zealand under its laws or a natural person who has the right of permanent residence in New Zealand;

sector of a service means:

(a) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule; or

(b) otherwise, the whole of that service sector, including all of its subsectors;

selling and marketing of air transport services mean opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

services include any service in any sector except services supplied in the exercise of governmental authority;

service consumer means any person that receives or uses a service;

service of the other Party means a service which is supplied:

(a) from or in the territory of that Party, or in the case of maritime transport, by a vessel registered under the laws of that Party, or by a person of that Party which supplies the service through the operation of a vessel or its use in whole or in part; or

(b) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of a Party;

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

service supplier means any person of a Party that seeks to supply or supplies a service;[2]

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[1] With respect to the UAE, the term "permanent resident" shall mean any natural person who is in possession of a valid residency permit under the laws and regulations of the UAE.

[2] Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Chapter. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

supply of a service includes the production, distribution, marketing, sale, and delivery of a service;

trade in services means the supply of a service:

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

(b) in the territory of a Party to the service consumer of the other Party;

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

(d) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party;

traffic rights means the rights for scheduled and non-scheduled services to operate or to carry passengers, cargo, and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged, and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

ARTICLE 9.2
Scope and Coverage

1. This Chapter applies to measures by Parties affecting trade in services.

2. This Chapter shall not apply to:

(a) government procurement;

(b) services supplied in the exercise of governmental authority;

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

(d) measures affecting natural persons of a Party seeking access to the employment market of the other Party, or measures regarding citizenship, residence or employment on a permanent basis.

(e) measures affecting air traffic rights however granted, or measures affecting services directly related to the exercise of air traffic rights, other than measures affecting:

(i) aircraft repair and maintenance services;

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

(iii) computer reservation system services;

(iv) specialty air services;

(v) airport operation and management services; or

(vi) ground-handling services.

3. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment.[3]

ARTICLE 9.3
Schedules of Specific Commitments

1. Each Party shall set out in its Schedule of Specific Commitments, the specific commitments it undertakes in accordance with Articles 9.5, 9.6, and 9.7.

2. With respect to sectors where such commitments are undertaken, each Schedule of Specific Commitments shall specify:

(a) terms, limitations, and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments;

(d) where appropriate, the timeframe for implementation of such commitments; and

(e) where appropriate, the date of entry into force of such commitments.

3. Measures inconsistent with both Articles 9.5 and 9.6 shall be inscribed in the column relating to Article 9.5. In this case, the inscription will be considered to provide a condition or qualification to Article 9.6 as well.

4. The Parties' Schedules of Specific Commitments are set forth in Annex 9C and Annex 9D.

[3] The sole fact of requiring a visa for natural persons of a certain country and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

ARTICLE 9.4
Most-Favoured Nation Treatment

1. In respect of the services sectors listed for each Party in its Most Favoured Nation Sectoral Coverage Appendix (Annex 9E), and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords to like services and service suppliers of a non-party.

2. Notwithstanding paragraph 1, each Party reserves the right to adopt or maintain any measure that accords differential treatment to services and service suppliers of any non-party under any free trade agreement or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

3. For greater certainty, paragraph 2 includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such an agreement.

4. For sectors and subsectors not set out in a Party's Most-Favoured-Nation Treatment Sectoral Coverage Appendix (Annex 9-E) pursuant to paragraph 1, if, after the date of entry into force of this Agreement, a Party subsequently enters into any agreement with a non-party in which it provides to services or service suppliers of that non-party treatment more favourable than it accords to like services or service suppliers of the other Party, the other Party may request consultations to discuss the possibility of extending, under this Agreement, treatment no less favourable than that provided under the agreement with the non-party. In such circumstances, the Parties shall enter into consultations bearing in mind the overall balance of benefits.

ARTICLE 9.5
Market Access

1. With respect to market access through the modes of supply identified in the definition of "trade in services" contained in Article 9.2, each Party shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of Specific Commitments.[4]

[4] If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (a) of the definition of "trade in services" contained in Article 9.1 and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (c) of the definition of "trade in services" contained in Article 9.1, it is thereby committed to allow related transfers of capital into its territory.

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule of Specific Commitments, are defined as:

(a) limitations on:

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

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

(iii) the total number of service operations or 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;[5]

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

(v) the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; and

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

ARTICLE 9.6
National Treatment

1. With respect to the services sectors inscribed in its Schedule of Specific Commitments, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.[6]

[5] Subparagraph 2(a)(iii) does not cover measures of a Party which limit inputs for the supply of services.

[6] Specific commitments assumed under this Article shall not be construed to require either Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment by a Party shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of that Party compared to the like service or service suppliers of the other Party.

ARTICLE 9.7
Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 9.5 and 9.6, including those regarding qualification, standards, or licensing matters. Such commitments shall be inscribed in a Party's Schedule of Specific Commitments.

ARTICLE 9.8
Modification of Schedules

Upon written request by a Party, the Parties shall hold consultations to consider any modification or withdrawal of a specific commitment in the requesting Party's Schedule of Specific Commitments. The consultations shall be held within three months of the requesting Party making its request. In the consultations, the Parties shall aim to ensure that a general level of mutually advantageous commitments no less favourable to trade than that provided for in the Schedule of Specific Commitments prior to such consultations is maintained. Modifications of Schedules are subject to any procedures adopted by the Joint Committee established in Chapter 19 (Administration of the Agreement).

ARTICLE 9.9
Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. If a Party adopts or maintains a measure relating to the authorisation for the supply of a service of general application, the Party shall, with respect to that measure, ensure that:

(a) the measure is based on objective and transparent criteria;[7]

[7] For greater certainty, these criteria may include competence and the ability to supply a service, including to do so in a manner consistent with a Party's regulatory requirements, such as health, labour,

(b) the competent authority reaches and administers any decision in a manner independent from any supplier of the service for which authorisation is required;[8]

(c) the procedures in the measure are impartial, adequate for applicants to demonstrate whether they meet the requirements for authorisation, and do not in themselves unjustifiably prevent fulfilment of a requirement;

(d) to the extent practicable, the measure does not require an applicant to approach more than one competent authority for each application for authorisation;[9] and

(e) the measure does not discriminate between men and women.[10]

3. Where authorisation is required for the supply of a service on which a specific commitment under this Chapter has been made, the competent authorities of each Party shall:

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

(b) in the case of an incomplete application:

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

(ii) on request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;

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

(d) if an application is terminated or denied, to the extent practicable, inform the applicant in writing, and without delay, the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.

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and environmental requirements. Competent authorities may assess the weight to be given to each criterion.

[8] For greater certainty, this provision does not mandate a particular administrative structure; it refers to the decision-making process and administering of decisions.

[9] For greater certainty, a Party may require multiple applications for authorisation if a service is within the jurisdiction of multiple competent authorities.

[10] Differential treatment that is reasonable and objective, and aims to achieve a legitimate purpose, and adoption by the Parties of temporary special measures aimed at accelerating de facto equality between men and women, shall not be considered discrimination for the purposes of this provision.

4. If a Party requires authorisation for the supply of a service, the Party shall promptly publish or otherwise make publicly available the information necessary to comply with requirements or procedures for obtaining, maintaining, amending, and renewing that authorisation. That information shall include:

(a) any fee;

(b) the contact information of the relevant competent authorities;

(c) any procedure for appeal or review of a decision concerning an application;

(d) any procedure for monitoring or enforcing compliance with the terms and conditions of licenses or qualifications;

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

(f) any indicative timeframe for processing of an application;

(g) any requirement or procedure; and

(h) any technical standard.

5. If a Party requires authorisation for the supply of a service, it shall ensure that each competent authority:

(a) endeavours to accept applications in electronic format;

(b) endeavours to accept requests to take any required examination in electronic format and to consider, to the extent practicable, the use of electronic means in other aspects of the examination process; and

(c) accepts copies of documents, that are authenticated in accordance with the Party's domestic laws and regulations, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorisation process.

6. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures do not constitute unnecessary barriers to trade in services, the Parties shall, in sectors where specific commitments are undertaken, aim to ensure that such requirements are:

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

(b) not more burdensome than necessary to ensure the quality of the service; and

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

7. In determining whether a Party is in conformity with the obligation under subparagraph 6, account shall be taken of international standards of relevant international organisations applied by that Party.[11]

8. Each Party shall ensure that any authorisation fee charged by each of its competent authorities is reasonable, transparent, based on authority set out in a measure, and does not, in itself, restrict the supply of the relevant service.[12]

9. Each Party shall endeavour to ensure that measures related to authoristion do not impose disproportionate burdens on micro-, small-, and medium-sized enterprises.

10. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.

11. The Parties shall jointly review the results of the negotiations on disciplines on domestic regulation, pursuant to Article VI.4 of the GATS, with a view of incorporating them into this Chapter.

ARTICLE 9.10
Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to paragraph 4, a Party may recognise, or encourage its relevant competent bodies to recognise, the education or experience obtained, requirements met, or licences or certifications granted in the other Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement between the Parties or their relevant competent bodies, or may be accorded autonomously.

2. If a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licences or certifications granted, in the territory of a non-party, nothing in Article 9.4 shall be construed to

[11] The term "relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of the Parties to this Agreement.

[12] For the purposes of this paragraph, an authorisation fee does not include a fee for the use of natural resources, payments for auction, tendering, or other non-discriminatory means of awarding concessions, or mandated contributions to the provision of universal service.

require the Party to accord recognition to the education or experience obtained, requirements met, or licences or certifications granted, in the territory of the other Party.

3. Where a Party recognises, by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted in the territory of a non-party, that Party shall afford the other Party adequate opportunity to negotiate its accession to such an agreement or arrangement, whether existing or future, or to negotiate a comparable agreement or arrangement with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the education, experience, licences or certifications obtained or requirements met in that other Party's territory should also be recognised.

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

5. The Parties agree to encourage, where possible, the relevant bodies in their respective territories responsible for issuance and recognition of professional and vocational qualifications to:

(a) strengthen cooperation and to explore possibilities for mutual recognition of respective professional and vocational qualifications; and

(b) pursue mutually acceptable standards and criteria for licensing and certification with respect to service sectors of mutual importance to the Parties.

ARTICLE 9.11
Payments and Transfers

1. Except under the circumstances envisaged in Article 21.5 (Restrictions to Safeguard the Balance-of-Payments), a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of a Party as a member of the International Monetary Fund (hereinafter referred to as the IMF) under the IMF Articles of Agreement, including the use of exchange actions which are in conformity with the IMF Articles of Agreement, provided that a Party shall not impose restrictions on any capital transaction inconsistently with its specific commitments regarding such transactions, except under Article 21.5 (Restrictions to Safeguard the Balance-of-Payments) or at the request of the IMF.

ARTICLE 9.12
Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 9.4, and its specific commitments.

2. Where a Party's monopoly supplier of a service competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's commitments, that Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

ARTICLE 9.13
Business Practices

1. The Parties recognise that certain business practices of service suppliers, other than those falling under Article 9.12, may restrain competition and thereby restrict trade in services.

2. Each Party shall, on request of any other Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The requested Party shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The requested Party may also provide other information available to the requesting Party, subject to its laws and regulations and to the conclusion of a satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

ARTICLE 9.14
Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier that is a juridical person, if persons of a non-party own or control that juridical person and the denying Party adopts or maintains measures with respect to the non-party or a person of the non-party that prohibit transactions with the juridical person or that would be

violated or circumvented if the benefits of this Agreement were accorded to the juridical person.

2. In the case of the supply of a maritime transport service, a Party may deny the benefits of this chapters if it establishes that the service is supplied:

(a) by a vessel registered under the laws of a non-party, and

(b) by a person of a non-party which operates or uses the vessel in whole or in part.

3. A Party may deny the benefits of this Chapter to a service supplier of another Party if the service supplier is a juridical person owned or controlled by persons of a non-party or by persons of the denying Party that have no substantial business activities in the territory of the denying Party.

ARTICLE 9.15
Review

1. In any review of this Agreement conducted in accordance with Article 19.6 (General Review) the Parties shall review this Chapter and related Annexes and Schedules so as to progressively liberalise trade in services between the Parties.

2. The first such review shall take place five years after the entry into force of this Agreement unless the Parties agree otherwise.

3. Further to paragraph 1, the Parties shall review their approach to the scheduling of commitments in accordance with Article 9.3, including whether either Party considers it appropriate to transition to making commitments on a negative list basis.

ARTICLE 9.16
Annexes

The following Annexes form an integral part of this Chapter:

(a) Annex 9-A (Financial Services);

(b) Annex 9-B (Telecommunications Services);

(c) Annex 9-C (Schedule of Specific Commitments of New Zealand);

(d) Annex 9-D (Schedule of Specific Commitments of UAE); and

(e) Annex 9-E (MFN Sectoral Coverage List).

ANNEX 9-A

FINANCIAL SERVICES

1. *Scope and Definition*

(a) This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in the definition of "trade in services" contained in Article 9.1.

(b) For the purposes of the definition of "services" contained in Article 9.1 (Definitions), "service supplied in the exercise of governmental authority" means the following:

(i) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(ii) activities forming part of a statutory system of social security or public retirement plans; and

(iii) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.

(c) For the purposes of the definition of "services" contained in Article 9.1 (Definitions), if a Party allows any of the activities referred to in subparagraphs (b)(ii) or (b)(iii) of this paragraph to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities.

(d) The definition of "service supplied in the exercise of governmental authority" contained in Article 9.1 (Definitions) shall not apply to services covered by this Annex.

2. *Domestic Regulation*

(a) Notwithstanding any other provisions of Chapter 9 (Trade in Services), a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of Chapter 9 (Trade in Services), they shall not be used as a means of

avoiding the Party's commitments or obligations under Chapter 9 (Trade in Services).

(b) Nothing in the Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

3. *Recognition*

(a) A Party may recognize prudential measures of a non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the non-Party concerned or may be accorded autonomously.

(b) A Party that is a party to such an agreement or arrangement referred to in subparagraph (a), whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

4. *Dispute Settlement*

Panels for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

5. *Definitions*

For the purposes of this Annex:

(a) A financial service is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

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

(A) life

(B) non-life

(ii) Reinsurance and retrocession;

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

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

Banking and other financial services (excluding insurance)

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

(vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(vii) Financial leasing;

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

(ix) Guarantees and commitments;

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

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

(B) foreign exchange;

(C) derivative products including, but not limited to, futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(E) transferable securities;

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

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

(xii) Money broking;

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

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

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

(xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

(b) A financial service supplier means any natural or juridical person of a Party wishing to supply or supplying financial services but the term "financial service supplier" does not include a public entity.

(c) "Public entity" means:

(i) a government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

ANNEX 9-B

TELECOMMUNICATIONS SERVICES

ARTICLE 9B.1
Definitions

For the purposes of this Annex:

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

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

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

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

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

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

international mobile roaming service means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications services that enables an end-user whose mobile handset or other device normally accesses public telecommunication services in the territory of one Party to use their mobile handset or other device for voice, data, or messaging services in the territory of the other Party;

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

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

major supplier means a supplier of public telecommunications networks or services that has the ability to materially affect the terms of participation (having regard to price

and supply), in the relevant market for public telecommunications networks or services as a result of:

(i) control over essential facilities; or

(ii) use of its position in that market;

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

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

mobile number portability means the ability of end-users of public telecommunications services to retain the same mobile telephone numbers when switching between the same category of suppliers of public telecommunications services;

personal information means any information, including data about an identified or identifiable individual;

public telecommunications network means the telecommunications infrastructure used to provide public telecommunications services between defined network termination points, as provided for in the laws and regulations of each Party;

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

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

telecommunications dispute resolution body means any body responsible for resolution of disputes concerning telecommunications; and

telecommunications regulatory body means any body or bodies responsible under the laws and regulations of a Party for the regulation of telecommunications.

ARTICLE 9B.2
Scope and Coverage

1. This Annex shall apply to measures by a Party affecting trade in public telecommunications services, including:

(a) measures affecting access to and use of public telecommunications networks or services;

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

(c) other measures relating to public telecommunications networks or services.

2. Nothing in this Annex shall prevent a Party from imposing licensing and qualification requirements and other rules and regulation governing the supply of a public telecommunications service.

3. This Annex shall not apply to measures affecting the cable or broadcast distribution of audio visual information content, except to ensure that service suppliers of such broadcast content can access and use public telecommunications networks and services.

4. Nothing in this Annex shall be construed to:

(a) require a Party to authorise a service supplier of another Party to establish, construct, acquire, lease, operate or supply telecommunications networks or services, other than the former Party's commitments under Chapter 9 (Trade in Services); or

(b) require a Party to compel any service supplier, to establish, construct, acquire, lease, operate or supply telecommunications networks or services not offered to the public generally.

ARTICLE 9B.3
Access to and Use of Public Telecommunications Networks and Services

1. Each Party shall ensure that any service supplier of the other Party is accorded access to and use of public telecommunications networks and services including leased circuits, offered in its territory or across its borders in a timely fashion and on transparent, reasonable and non-discriminatory terms and conditions. This obligation shall be applied, inter alia, through paragraphs 2 through 6.

2. Subject to paragraphs 5 and 6, each Party shall ensure that service suppliers of the other Party are permitted to:

(a) purchase or lease, and attach terminal or other equipment which:

(i) interfaces with a public telecommunications network; and

(ii) is necessary to supply their services;

(b) connect leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another service supplier;

(c) use operating protocols of the service supplier's choice; and

(d) provide services to users over any leased or owned circuits.

3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications networks and services for the movement of information within its territory or across its borders, including for intra-corporate communications of such service suppliers, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of the Party.

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

5. Each Party shall ensure that no condition is imposed in law, including the enforcement or exercise of law, regarding access to and use of public telecommunications networks and services, other than as necessary to:

(a) safeguard the public interest, including the promotion of competition; or

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

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

(a) restrictions on resale or shared use of public telephone services;

(b) a requirement to use specified technical interfaces, including interface protocols, for connection with those networks and services;

(c) requirements, where necessary, for the inter-operability of such networks and services;

(d) type approval of terminal or other equipment which interfaces with the networks and technical requirements relating to the attachment of such

equipment to such networks;

(e) restrictions on connection of leased or owned circuits with such public telecommunications networks or services or with circuits leased or owned by other service suppliers; or

(f) a requirement for notification, registration, and licensing.

ARTICLE 9B.4
Interconnection to be Ensured

1. To the extent provided for in its laws and regulations, each Party shall ensure that suppliers of public telecommunications networks or services in its territory provide interconnection with the suppliers of public telecommunications networks or services of the other Party.

2. To the extent provided for in its laws and regulations, each Party shall ensure that a supplier of public telecommunications networks or services in its territory does not use or provide commercially sensitive or confidential information of, or relating to, suppliers and end-users of public telecommunications networks or services, acquired as a result of interconnection arrangements, other than for the purpose of providing these services.

ARTICLE 9B.5
Interconnection with Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications networks or services of the other Party:

(a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates;

(b) of a quality no less favourable than that provided by the major supplier for its own like services, or for like services of non-affiliated suppliers of public telecommunications networks or services, or of its subsidiaries or other affiliates;

(c) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and

(d) upon request, at points in addition to the network termination points offered to the majority of facilities-based suppliers, subject to charges that reflect the cost of construction of necessary additional facilities and mutually agreed terms and conditions.

2. Each Party shall ensure that a major supplier in its territory offers access to network elements on an unbundled basis on terms and conditions that are reasonable, non-discriminatory and transparent for the supply of public telecommunications services. A Party may determine the network elements required to be made available in its territory, and the suppliers that may obtain those elements, in accordance with its laws and regulations.

3. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party may interconnect with the facilities and equipment of major suppliers in its territory pursuant to at least one of the following options:

(a) availability of the reference interconnection offer for the stakeholders containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications networks or services;

(b) the terms and conditions of an interconnection agreement that is in effect; or

(c) a new interconnection agreement through commercial negotiation.

4. Each Party shall ensure that the applicable procedures for interconnection negotiations with major suppliers in its territory are made publicly available.

5. Each Party shall ensure that major public telecommunication suppliers in its territory make available for the other suppliers either their interconnection agreements or a reference interconnection offer.

ARTICLE 9B.6
Mobile Number Portability

Each Party shall ensure that suppliers of public telecommunications networks or services in its territory provide number portability for mobile services, to the extent technically feasible, on a timely basis, and on reasonable and non-discriminatory terms and conditions.

ARTICLE 9B.7
Resale

1. No Party shall prohibit the resale of any public telecommunications service.

2. For greater certainty, Paragraph 1 does not limit the right of a Party to otherwise regulate resale, including the right to licence the provision of resale.

3 Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by a major supplier based on the need to promote competition or to benefit the long-term interests of end-users. If a Party has determined that a service must be offered for resale by a major supplier, that Party shall ensure that suppliers of public telecommunications networks or services in its territory do not impose unreasonable or discriminatory conditions or limitations on the resale of those services to suppliers of public telecommunications networks or services of the other Party.

ARTICLE 9B.8
Treatment by Major Suppliers

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

(a) the availability, provisioning, rates or quality of like public telecommunications networks or services; and

(b) the availability of technical interfaces necessary for interconnection.

ARTICLE 9B.9
Competitive Safeguards

1. Each Party shall, through its relevant authorities, adopt or maintain appropriate measures for the purpose of preventing suppliers of public telecommunications services that, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 shall include in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other suppliers of public telecommunications networks or services, on a timely basis, technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

ARTICLE 9B.10
Provisioning of Leased Circuit Services

Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications networks or services of the other Party with leased circuit services that are public telecommunications services on terms and conditions, and at rates, that are not unduly unfavourable or disadvantageous.

ARTICLE 9B.11
Co-location and Access to Facilities

1. To the extent provided for in its laws and regulations, each Party shall ensure that a major supplier in its territory allows suppliers of public telecommunications networks or services of another Party to locate their equipment necessary for interconnection or access to unbundled network elements, at the major supplier's premises. Each Party shall endeavour to ensure that co-location is provided on a timely basis and on terms and conditions, including technical feasibility and space availability where applicable, and at rates, that are reasonable, non-discriminatory, and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall endeavour to ensure that a major supplier in its territory provides an alternative solution, on a timely basis and on terms and conditions, and at rates, that are reasonable, non-discriminatory, and transparent.

3. A Party may determine in accordance with its laws and regulations which premises owned or controlled by major suppliers in its territory are subject to paragraphs 1 and 2, having regard to factors such as the state of competition in the market where co-location is required, and whether such premises can feasibly be economically or technically substituted in order to provide a competing service.

ARTICLE 9B.12
Universal Service

Each Party has the right to define the kind of universal service obligations it wishes to maintain. Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory and competitively neutral manner, and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

ARTICLE 9B.13
Public Availability of Licensing Criteria

1. If a Party requires a supplier of public telecommunications services to have a licence, the Party shall make publicly available:

(a) all the licensing criteria and procedures that it applies;

(b) the period of time normally required to reach a decision concerning an application for a licence; and

(c) the terms and conditions of individual licences.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the:

(a) denial of a licence;

(b) imposition of supplier-specific conditions on a licence;

(c) revocation of a licence; or

(d) refusal to renew a licence.

ARTICLE 9B.14
Independent Regulatory and Dispute Resolution Body

1. Each Party shall ensure that its telecommunications regulatory body and telecommunications dispute resolution bodies are separate from, and not accountable to, any supplier of public telecommunications networks or services.

2. Each Party shall ensure that the regulatory decisions and procedures used by its telecommunications regulatory body and telecommunications dispute resolution bodies are impartial with respect to all market participants.

3. Telecommunications regulatory bodies and telecommunications dispute resolution bodies may not accord more favourable treatment to a supplier of public telecommunications networks or services in a Party's territory than that it accords to a like supplier of the other Party on the basis that the supplier receiving more favourable treatment is owned, wholly or in part, by the Party.

ARTICLE 9B.15
Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including assignment of frequencies, access to numbers and rights-of-way, in an objective, timely, transparent and non-discriminatory manner.

2. Each Party shall make publicly available the current state of allocated frequency bands, but shall not be required to provide detailed identification of frequencies allocated for specific government uses.

3. Each Party retains the right to establish and apply spectrum and frequency management policies which may affect the number of suppliers of public telecommunications networks or services, provided that it does so in a manner consistent with this Agreement. Each Party also retains the right to allocate frequency bands taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition.

ARTICLE 9B.16
Transparency

1. Each Party shall endeavour to ensure that telecommunications service suppliers are provided an opportunity to comment on a regulatory decision of general application that its telecommunications regulatory authority proposes.

2. Each Party shall ensure that relevant information on conditions affecting access to and use of public telecommunications networks and services is publicly available, including:

(a) tariffs and other terms and conditions of service;

(b) specifications of technical interfaces with such networks and services;

(c) information on bodies responsible for the preparation and adoption of standards affecting such access and use;

(d) conditions for attaching terminal or other equipment; and

(e) requirements for notification, permit, registration, or licensing requirements, if any.

ARTICLE 9B.17
International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Parties and enhance consumer welfare.

2. A Party shall ensure that information regarding retail mobile roaming rates is easily accessible to consumers.

3. The Parties recognise that with a view to ensuring that rates or conditions for wholesale international roaming services are reasonable, the Parties may cooperate with each other to facilitate the implementation of measures affecting the rates or conditions applicable to wholesale international roaming services, including by entering into arrangements.

4. A Party that ensures access for suppliers of the other Party shall be deemed to be in compliance with its obligations under Article 9.4 (Most-Favoured-Nation Treatment) with respect to international mobile roaming services.

5. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

ARTICLE 9B.18
Submarine Cable Systems

Each Party shall ensure that any major supplier who controls international submarine cable landing stations in the Party's territory provides access to those landing stations, on non-discriminatory terms consistent with its laws and regulations.

ARTICLE 9B.19
Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and inter-operability of telecommunications networks and services and endeavour to promote such standards through the work of relevant international organisations.

ARTICLE 9B.20
Relationship to Other Chapters

In the event of any inconsistency between this Annex and other Chapters of this Agreement, this Annex shall prevail to the extent of the inconsistency.

ARTICLE 9B.21
Cooperation

1. The Parties recognise the transformational impact of communications networks, infrastructure, and technologies (including those that are new and emerging), and the importance of these technologies to the Parties' respective economies and societies.

2. Accordingly, each Party shall take measures to:

   (a) encourage a diverse and competitive market for telecommunications services and networks in its territory; and

   (b) protect the security and integrity of its telecommunications infrastructure.

3. The Parties shall endeavour to:

   (a) exchange information on the opportunities and challenges associated with communication networks, infrastructure, and technologies;

   (b) work together in regional and multilateral fora to promote a shared approach to these opportunities and challenges; and

   (c) exchange information and experience in spectrum management.

ARTICLE 9B.22
Resolution and Appeal of Telecommunications Disputes

1. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party have timely recourse to its telecommunications regulatory body or telecommunications dispute resolution bodies to resolve disputes in accordance with its laws and regulations.

2. Each Party shall ensure that any supplier of public telecommunications networks or services aggrieved by a determination or decision of its relevant telecommunications regulatory body may obtain review of, or have the opportunity to appeal, such determination or decision in accordance with its laws and regulations.

3. No Party shall permit the making of an application for review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the relevant body otherwise determines.

ARTICLE 9B.23
Enforcement

Each Party shall provide its competent authority with the authority to enforce the Party's measures relating to the obligations set out in Articles 9B.4 through 9B.7. Such authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), or the modification, suspension, or revocation of licences.

CHAPTER 10

DIGITAL TRADE

ARTICLE 10.1
Definitions

For purposes of this Chapter:

authentication means the process or act of verifying the identity of a party to an electronic communication or transaction and ensuring the origin and integrity of an electronic communication;

cryptography means the principles, means, or methods for the transformation of data in order to hide its information content, prevent its undetected modification or prevent its unauthorised use; and is limited to the transformation of information using one or more secret parameters, for example, crypto variables or associated key management;

cryptographic algorithm or cipher means a mathematical procedure or formula for combining a key with plaintext to create a ciphertext;

digital product means a computer programme, text, video, image, sound recording or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically;[1,2]

digital or electronic signature means data in digital or electronic form that is in, affixed to, or logically or cryptographically associated with date in electronic form that is used to identify or verify the signatory in relation to the data in electronic form and used by a signatory to agree on the date in electronic form to which it relates;

electronic invoicing or **e-invoicing** means the automated creation, exchange and processing of request for payments between suppliers and buyers using a structured digital format;

electronic transmission or **transmitted electronically** means a transmission made using any electromagnetic means, including by photonic means;

encryption means the conversion of data (plaintext) into a form that cannot be easily understood without subsequent re-conversion (ciphertext) through the use of a cryptographic algorithm;

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[1] For greater certainty, digital product does not include a digitised representation of a financial instrument, including money.

[2] The definition of digital product should not be understood to reflect a Party's view on whether trade in digital products through electronic transmission should be categorised as trade in services or trade in goods.

key means a parameter used in conjunction with a cryptographic algorithm that determines its operation in such a way that an entity with knowledge of the key can reproduce or reverse the operation, while an entity without knowledge of the key cannot;

open data means non-proprietary information, including data, the central level of government of a Party elects to make freely available to the public;

personal data means any information, including data, about an identified or identifiable natural person; and

unsolicited commercial electronic message means an electronic message which is sent for commercial or marketing purposes to an electronic address, without the consent of the recipient or despite the explicit rejection of the recipient, through an Internet access service supplier or, to the extent provided for under the laws and regulations of each Party, other telecommunications service.

ARTICLE 10.2
Objectives

1. The Parties recognise the economic growth and opportunity that digital trade provides, the importance of avoiding barriers to its use and development, the importance of frameworks that promote consumer confidence in digital trade, the importance of open standards in enhancing interoperability of digital systems, the importance of the digital economy in promoting inclusive economic growth; the importance of promoting corporate social responsibility, cultural identity and diversity, environmental protection, gender equality, indigenous rights, inclusive trade, sustainable development and traditional knowledge, as well as the importance of preserving the right to regulate in the public interest, and the applicability of the principles of the WTO Agreements to measures affecting digital trade.

2. The Parties seek to foster an environment conducive to the further advancement of digital trade, including electronic commerce and the digital transformation of the global economy, by strengthening their bilateral relations on these matters.

ARTICLE 10.3
General Provisions

1. This Chapter shall apply to measures adopted or maintained by a Party that affect trade by electronic means.

2. This Chapter shall not apply:

(a) to government procurement;

(b) to a service supplied in the exercise of governmental authority;

(c) except for Article 10.19, to financial services;

(d) except for Article 10.16, to information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection; and

(e) to measures adopted or maintained by New Zealand that it deems necessary to protect or promote Māori rights, interests, duties and responsibilities[3] in respect of matters covered by this Chapter, including in fulfilment of New Zealand's obligations under te Tiriti o Waitangi / the Treaty of Waitangi. Chapter 20 (Dispute Settlement) does not apply to the interpretation of te Tiriti o Waitangi / the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it.

3. For greater certainty, the Parties affirm that measures affecting the supply of a service delivered or performed electronically are subject to the relevant provisions of Chapter 9 (Trade in Services) and its Annexes, including any exceptions or limitations set out in this Agreement that are applicable to such provisions.

ARTICLE 10.4
Customs Duties

1. A Party shall not impose customs duties on electronic transmissions, including content transmitted electronically, between a person of a Party and a person of the other Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees or other charges on content transmitted electronically, provided that such taxes, fees or charges are imposed in a manner consistent with this Agreement.

ARTICLE 10.5
Non-Discriminatory Treatment of Digital Products

1. A Party shall not accord less favourable treatment to digital products created, produced, published, contracted for, commissioned or first made available on commercial terms in the territory of the other Party, or to digital products of which the author, performer, producer, developer or owner is a person of the other Party, than it accords to other like digital products[4].

[3]For greater certainty, Māori rights, interests, duties and responsibilities include those relating to mātauranga Māori.

[4] For greater certainty, to the extent that a digital product of a non-Party is a "like digital product", it will qualify as an "other like digital product" for the purposes of this paragraph.

2. Paragraph 1 shall not apply to the extent of any inconsistency with a Party's rights and obligations concerning intellectual property contained in Chapter 13 (Intellectual Property) or another international agreement a Party is party to.

3. The Parties understand that this Article does not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.

4. This Article shall not apply to broadcasting.

ARTICLE 10.6
Information and Communication Technology that Uses Cryptography

1. This Article shall apply to information and communication technology (ICT) products that use cryptography.[5]

2. With respect to a product that uses cryptography and is designed for commercial applications, no Party shall impose or maintain a technical regulation or conformity assessment procedure that requires a manufacturer or supplier of the product, as a condition of the manufacture, sale, distribution, import or use of the product, to:

(a) transfer or provide access to a particular technology, production process or other information, for example, a private key or other secret parameter, algorithm specification or other design detail, that is proprietary to the manufacturer or supplier and relates to the cryptography in the product, to the Party or a person in the Party's territory;

(b) partner with a person in its territory; or

(c) use or integrate a particular cryptographic algorithm or cipher, other than where the manufacture, sale, distribution, import or use of the product is by or for the government of the Party.

3. Paragraph 2 shall not apply to:

(a) requirements that a Party adopts or maintains relating to access to networks that are owned or controlled by the government of that Party, including those of central banks; or

(b) measures taken by a Party pursuant to supervisory, investigatory or examination authority relating to financial institutions or markets.

4. For greater certainty, this Section shall not be construed to prevent a Party's law enforcement authorities from requiring service suppliers using encryption they control to provide, pursuant to that Party's legal procedures, unencrypted communications.

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5 For greater certainty, for the purposes of this section, a "product" is a good and does not include a financial instrument.

ARTICLE 10.7
Domestic Electronic Transactions Framework

1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the *UNCITRAL Model Law on Electronic Commerce* (1996) or the *United Nations Convention on the Use of Electronic Communications in International Contracts*, done at New York on November 23, 2005.

2. Each Party shall endeavour to:

   (a) avoid any unnecessary regulatory burden on electronic transactions; and

   (b) facilitate input by interested persons in the development of its legal framework for electronic transactions, including in relation to trade documentation.

3. The Parties recognise the importance of facilitating the use of electronic transferable records. When developing measures relating to electronic transferable records, each Party shall take into account the *UNCITRAL Model Law on Electronic Transferable Records* (2017).

ARTICLE 10.8
Authentication

1. Except in circumstances otherwise provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. Neither Party shall adopt or maintain measures regarding authentication that would:

   (a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods for that transaction; or

   (b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with any legal requirements with respect to authentication.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication meets certain performance standards which are objective, transparent and non-discriminatory or is certified by an authority accredited in accordance with its law.

4. The Parties shall encourage the use of interoperable means of authentication.

ARTICLE 10.9
Paperless Trading

1. Each Party shall, to the extent practicable, make publicly available, including through a process prescribed by that Party, electronic versions of all existing publicly available trade administration documents.[6]

2. Each Party shall provide electronic versions of trade administration documents referred to in paragraph 1 in English or any of the other official languages of the WTO, and shall endeavour to provide such electronic versions in a machine-readable format.

3. Each Party shall accept electronic versions of trade administration documents as the legal equivalent of paper documents, except where:

(a) there is a domestic or international legal requirement to the contrary; or

(b) doing so would reduce the effectiveness of trade administration.

4. Noting the obligations in the *WTO Agreement on Trade Facilitation*, each Party shall establish or maintain a single window, enabling traders to submit documentation or data requirements for importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies.

5. The Parties shall endeavour to establish or maintain a seamless, trusted, high availability[7] and secure interconnection of their respective single windows to facilitate the exchange of data relating to trade administration documents, which may include:

(a) sanitary and phytosanitary certificates;

(b) import and export data; or

(c) any other documents, as jointly determined by the Parties, and in doing so, the Parties shall provide public access to a list of such documents and make this list of documents available online.

6. The Parties recognise the importance of facilitating, where relevant in each jurisdiction, the exchange of electronic records used in commercial trading activities between the Parties' businesses.

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[6] For greater certainty, electronic versions of trade administration documents include trade administration documents provided in a machine-readable format.

[7] For greater certainty, "high availability" refers to the ability of a single window to continuously operate. It does not prescribe a specific standard of availability.

7. The Parties shall endeavour to develop systems to support the exchange of:

(a) data relating to trade administration documents referred to in paragraph 5 between the competent authorities of each Party;[8] and

(b) electronic records used in commercial trading activities between the Parties' businesses, where relevant in each jurisdiction.

8. The Parties recognise that the data exchange systems referred to in paragraph 7 should be compatible and interoperable with each other. To this end, the Parties recognise the role of internationally recognised and, if available, open standards in the development and governance of the data exchange systems.

9. The Parties shall cooperate and collaborate on new initiatives which promote and advance the use and adoption of the data exchange systems referred to in paragraph 7, including but not limited to, through:

(a) sharing of information, experiences and best practices in the area of development and governance of the data exchange systems; and

(b) collaboration on pilot projects in the development and governance of data exchange systems.

10. The Parties shall cooperate bilaterally and in international fora to enhance acceptance of electronic versions of trade administration documents and electronic records used in commercial trading activities between businesses.

11. In developing other initiatives which provide for the use of paperless trading, each Party shall endeavour to take into account the methods agreed by relevant international organisations.

ARTICLE 10.10
Online Consumer Protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective measures to protect consumers from misleading, deceptive, and fraudulent practices when they engage in digital trade.

8 The Parties recognise that the data exchange systems referred to in this paragraph may refer to interconnection of the single windows referred to in paragraph 5.

2. Each Party shall adopt or maintain consumer protection laws to proscribe misleading, deceptive, and fraudulent commercial activities that cause harm or potential harm to consumers engaged in digital trade.[9]

ARTICLE 10.11
Personal Data Protection

1. The Parties recognise the economic and social benefits of protecting the personal data of persons who conduct or engage in electronic transactions and the contribution that this makes to enhancing consumer confidence in digital trade.

2. To this end, each Party shall adopt or maintain a legal framework that provides for the protection of the personal data of the users of electronic commerce and digital trade.[10] In the development of any legal framework for the protection of personal data, each Party shall take into account principles and guidelines of relevant international organisations.

3. The Parties recognise that the principles underpinning a robust legal framework for the protection of personal data should include:

(a) collection limitation;

(b) data quality;

(c) purpose specification;

(d) use limitation;

(e) security safeguards;

(f) transparency;

(g) individual participation; and

(h) accountability.

4. Each Party shall adopt non-discriminatory practices in protecting users of electronic commerce from personal data protection violations occurring within its jurisdiction.

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[9] For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as generally-applicable consumer protection laws or regulations or sector or medium-specific laws or regulations regarding consumer protection.

[10] For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as a comprehensive privacy, personal information or personal data protection laws, sector-specific laws covering privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.

5. Each Party shall publish information on the personal data protections it provides to users of electronic commerce, including how:

(a) individuals can pursue remedies; and

(b) businesses can comply with any legal requirements.

6. Recognising that the Parties may take different legal approaches to protecting personal information, each Party shall pursue the development of mechanisms to promote compatibility and interoperability between their different regimes for protecting personal data. These mechanisms may include:

(a) the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement;

(b) broader international frameworks;

(c) where practicable, appropriate recognition of comparable protection afforded by their respective legal frameworks' national trustmark or certification frameworks; or

(d) other avenues of transfer of personal information between the Parties.

7. The Parties shall endeavour to exchange information on how the mechanisms in paragraph 6 are applied in their respective jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility and interoperability between them.

8. The Parties shall encourage adoption of data protection trustmarks by businesses that would help verify conformance to personal data protection standards and best practices.

9. The Parties shall endeavour to exchange information on and share experiences on the use of data protection trustmarks.

10. The Parties shall endeavour to mutually recognise the other Party's data protection trustmarks as a valid mechanism.

ARTICLE 10.12
Principles on Access to and Use of the Internet for Digital Trade

Subject to applicable policies, laws and regulations, each Party recognizes that consumers in its territory should be able to:

(a) access and use services and applications of their choice available on the Internet, subject to reasonable network management;

(b) connect their choice of devices to the Internet, provided that such devices do not harm the network; and

(c) access information on the network management practices of a consumer's Internet access service provider.

ARTICLE 10.13
Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

(a) require a supplier of unsolicited commercial electronic messages to facilitate the ability of a recipient to prevent ongoing reception of those messages;

(b) require the consent, as specified in the laws and regulations of each Party, of recipients to receive commercial electronic messages; or

(c) otherwise provide for the minimisation of unsolicited commercial electronic messages.

2. Each Party shall provide recourse against a supplier of unsolicited commercial electronic messages that does not comply with a measure adopted or maintained in accordance with paragraph 1.

3. The Parties shall cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

ARTICLE 10.14
Cross-Border Flow of Information

1 The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. Each Party shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining a measure inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(b) does not impose restrictions on transfers of information greater than are required to achieve the objective.

ARTICLE 10.15
Location of Computing Facilities

1. The Parties recognise that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. Neither Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.

3. Nothing in this Article shall prevent a Party from adopting or maintaining a measure inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

(b) does not impose restrictions on the use or location of computing facilities greater than are required to achieve the objective.

ARTICLE 10.16
Open Data

1. The Parties recognise that facilitating public access to and use of open data may foster economic and social benefit, competitiveness, productivity improvements and innovation. To the extent that a Party chooses to make open data available, it shall endeavour to ensure:

(a) that the information is appropriately anonymised, is accompanied by appropriate metadata and is in a machine readable and open format that allows it to be searched, retrieved, used, reused, and redistributed freely by the public; and

(b) to the extent practicable, that the information is regularly updated.

2. The Parties shall endeavour to cooperate to identify ways in which each Party can expand access to and use of open data, with a view to enhancing and generating business and research opportunities.

ARTICLE 10.17
Digital Government

1. The Parties recognise that technology can enable more efficient and agile government operations, improve the quality and reliability of government services, and enable governments to better serve the needs of their citizens and other stakeholders.

2. To this end, the Parties shall endeavour to develop and implement strategies to digitally transform their respective government operations and services, which may include:

(a) adopting open and inclusive government processes focusing on accessibility, transparency, and accountability in a manner that overcomes digital divides;

(b) promoting cross-sectoral and cross-governmental coordination and collaboration on digital agenda issues;

(c) shaping government processes, services, and policies with digital inclusivity in mind;

(d) providing a unified customer services experience and common digital enablers for government service delivery;

(e) leveraging emerging technologies to build capabilities in anticipation of disasters and crises and facilitating proactive responses;

(f) generating public value from government data by applying it in the planning, delivering, and monitoring of public policies, and adopting rules and ethical principles for the trustworthy and safe use of data;

(g) making government data and policy-making processes (including algorithms) available for the public to engage with; and

(h) promoting initiatives to raise the level of digital capabilities and skills of both the populace and the government workforce.

3. Recognising that the Parties can benefit by sharing their experiences with digital government initiatives, the Parties shall endeavour to cooperate on activities relating to the digital transformation of government and government services, which may include:

(a) exchanging information and experiences on digital government strategies and policies;

(b) sharing best practices on digital government and the digital delivery of government services; and

(c) providing advice or training, including through exchange of officials, to assist the other Party in building digital government capacity.

ARTICLE 10.18
Digital and Electronic Invoicing

1. The Parties recognise the importance of digital and electronic invoicing which increases the efficiency, accuracy and reliability of commercial transactions. The Parties also recognise the benefits of ensuring that the systems used for digital and electronic invoicing within their respective jurisdictions are interoperable with the systems used for electronic invoicing in the other Party's jurisdiction.

2. Each Party shall endeavour to ensure that the implementation of measures related to digital and electronic invoicing in its jurisdiction supports cross-border interoperability. To this end, each Party shall base its measures relating to digital and electronic invoicing on international frameworks, where they exist.

3. The Parties recognise the economic importance of promoting the global adoption of digital and electronic invoicing systems, including those based on interoperable international frameworks. To this end, the Parties shall endeavour to:

(a) promote, encourage, support, or facilitate the adoption of digital and electronic invoicing by enterprises;

(b) promote the existence of policies, infrastructure, and processes that support digital and electronic invoicing;

(c) generate awareness of, and build capacity for, digital and electronic invoicing; and

(d) share best practices and promote the adoption of interoperable international digital and electronic invoicing systems.

ARTICLE 10.19
Electronic Payments

1. Noting the rapid growth of electronic payments, in particular, those provided by new payment service providers, Parties agree to support the development of efficient, safe and secure cross border electronic payments by fostering the adoption and use of internationally accepted standards, promoting interoperability and the interlinking of payment infrastructures, and encouraging useful innovation and competition in the payments ecosystem.

2. To this end, and in accordance with their respective laws and regulations, the Parties recognise the following principles:

(a) The Parties shall endeavour to make their respective regulations on electronic payments, including those pertaining to regulatory approval, licensing requirements, procedures and technical standards, publicly available in a timely manner.

(b) The Parties shall endeavour to take into account, for relevant payment systems, internationally accepted payment standards to enable greater interoperability between payment systems.

(c) The Parties shall endeavour to enable cross-border authentication and electronic know-your-customer of individuals and businesses using digital identities.

(d) The Parties recognise the importance of upholding safety, efficiency, trust and security in electronic payment systems through regulation. The implementation of regulation should, where appropriate, be proportionate to and commensurate with the risks posed by the provision of electronic payment systems.

(e) The Parties agree that policies should promote innovation and competition in a level playing field and recognise the importance of enabling the introduction of new financial and electronic payment products and services by incumbents and new entrants in a timely manner such as through adopting regulatory and industry sandboxes.

ARTICLE 10.20
Digital Identities

1. Recognising that cooperation between the Parties on digital identities, for natural persons and enterprises, will promote connectivity and growth of digital trade, and recognising that each Party may take different legal and technical approaches to digital identities, the Parties shall endeavour to promote compatibility between their respective digital identity regimes. This may include:

(a) developing appropriate frameworks and common standards to foster technical interoperability between each Party's implementation of digital identities;

(b) developing comparable protection of digital identities under each Party's respective legal frameworks, or the recognition of their legal effects, whether accorded autonomously or by agreement;

(c) supporting the development of international frameworks on digital identity regimes; and

(d) exchanging knowledge and expertise on best practices relating to digital identity policies and regulations, technical implementation and security standards, and the promotion of the use of digital identities.

2. For greater certainty, nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 1 to achieve a legitimate public policy objective.

ARTICLE 10.21
Cooperation

1. Recognising the importance of digital trade to their collective economies, the Parties shall endeavour to maintain a dialogue on regulatory matters relating to digital trade. Such dialogue will be conducted with a view to sharing information and experiences, as appropriate, including on related laws, regulations, and their implementation, and best practices with respect to digital trade. Such dialogue may include discussions on:

(a) online consumer protection;

(b) personal data protection;

(c) unsolicited commercial electronic messages;

(d) authentication;

(e) intellectual property concerns with respect to digital trade;

(f) challenges for small and medium-sized enterprises in digital trade; and

(g) digital government.

2. The Parties have a shared vision to promote secure digital trade and recognise that threats to cybersecurity undermine confidence in digital trade. Accordingly, the Parties recognise the importance of:

(a) building the capabilities of their government agencies responsible for computer security incident response;

(b) using existing collaboration mechanisms to cooperate to identify and mitigate malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties; and

(c) promoting the development of a strong public and private workforce in the area of cybersecurity, including possible initiatives relating to mutual recognition of qualifications.

3. For greater certainty, all cooperation activities under this Chapter are:

(a) subject to the availability of resources;

(b) pursuant to a request from a Party; and

(c) to be conducted on the terms and conditions mutually decided upon between the Parties.

ARTICLE 10.22
Digital Inclusion

1. The Parties acknowledge the importance of digital inclusion to ensure that all people and businesses have what they need to participate in, contribute to, and benefit from the digital economy.

2. The Parties recognise the importance of expanding and facilitating digital economy opportunities by removing barriers. This may include enhancing cultural and people-to-people links, including between Indigenous Peoples, and improving access for women, rural populations and low socio-economic groups.

3. To this end, the Parties shall cooperate on matters relating to digital inclusion, including the participation of women, rural populations, low socio-economic groups and Indigenous Peoples in the digital economy. Cooperation may include:

(a) sharing of experiences and best practices, including exchange of experts, with respect to digital inclusion;

(b) promoting inclusive and sustainable economic growth, to help ensure that the benefits of the digital economy are more widely shared;

(c) addressing barriers in accessing digital economy opportunities;

(d) developing programmes to promote participation of all groups in the digital economy;

(e) sharing methods and procedures for the collection of disaggregated data, the use of indicators, and the analysis of statistics related to participation in the digital economy; and

(f) other areas as mutually agreed by the Parties.

4. Cooperation activities relating to digital inclusion may be carried out through the coordination, as appropriate, of the Parties' respective agencies, enterprises, labour unions, civil society, academic institutions and non-governmental organisations, among others.

CHAPTER 11

GOVERNMENT PROCUREMENT

ARTICLE 11.1
General

The Parties recognise the importance of government procurement in trade relations and set as their objective the effective, reciprocal and gradual opening of their government procurement markets, in order to maximise, *inter alia*, competitive opportunities based on principles of equality, transparency, integrity, fair treatment and non-discrimination for the suppliers of the Parties.

ARTICLE 11.2
Definitions

For the purpose of this Chapter:

electronic auction means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;

goods or services means goods or services that a procuring entity needs to carry out its business;

in writing or **written** means any worded or numbered expression that can be read, reproduced and may be later communicated. It may include electronically transmitted and stored information;

limited tendering means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice**;**

measure means any law, regulation, procedure, administrative guidance, or practice, or any action of a procuring entity relating to a covered procurement;

multi-use list means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

notice of procurement means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

offset means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade and similar action or requirement;

open tendering means a procurement method whereby all interested suppliers may submit a tender;

procuring entity means an entity listed in Annex 11-A;

qualified supplier means a supplier that a procuring entity recognises as having satisfied the conditions for participation;

selective tendering means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

Services: includes construction services, unless otherwise provided in this Chapter;

standard means a document approved by a recognised body that provides for common and repeated use, rules, guidelines, or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a good, service, process, or production method;

supplier means a person or group of persons that provides or could provide goods or services to a procuring entity; and

technical specification means a tendering requirement that:

(a) lays down the characteristics of goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

(b) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service.

ARTICLE 11.3
Scope

Application of Chapter

1. This Chapter applies to any measure regarding covered procurement.

2. For the purposes of this Chapter, covered procurement means government procurement:

(a) of a good, service or any combination thereof as specified in each Party's Schedule to Annex 11-A;

(b) by a procuring entity;

(c) by any contractual means, including: purchase; lease; and rental or hire purchase, with or without an option to buy;

(d) for which the value, as estimated in accordance with paragraph 6, equals or exceeds the relevant threshold specified in a Party's Schedule to Annex 11-A, at the time of publication of a notice of procurement; and

(e) that is not otherwise excluded from coverage under this Agreement.

Activities Not Covered

3. Unless otherwise provided in a Party's Schedule to Annex 11-A, this Chapter does not apply to**:**

(a) the acquisition or rental of land, existing buildings, or other immovable property or the rights thereon;

(b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees, and fiscal incentives;

(c) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;

(d) public employment contracts;

(e) procurement conducted:

(i) for the specific purpose of providing international assistance including development aid;

(ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or

(iii) under the particular procedure or condition of an international organisation, or funded by international grants, loans, or other

assistance where the applicable procedure or condition would be inconsistent with this Chapter.

Schedules

4. Each Party shall specify the following information in its Schedule to Annex 11-A:

(a) in Section A, the central government entities whose procurement is covered by this Chapter;

(b) in Section B, other entities whose procurement is covered by this Chapter;

(c) in Section C, the goods covered by this Chapter;

(d) in Section D, the services covered by this Chapter;

(e) in Section E, any general notes;

(f) in Section F, time periods required under Article 11.14;

(g) in Section G, the publication of procurement information required under Article 11.6 and Article 11.7(2); and

(h) in Section H, the applicable threshold adjustment formula.

Compliance

5. Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements.

6. A procuring entity shall not prepare a procurement, or otherwise structure or divide a procurement into separate procurements in any stage of the procurement, or use a particular method to estimate the value of a procurement, in order to avoid the obligations of this Chapter.

7. Nothing in this Chapter shall be construed to prevent a Party, including its procuring entities, from developing new procurement policies, procedures, or templates, provided that they are not inconsistent with this Chapter.

Valuation

8. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:

(a) neither divide a procurement into separate procurements, nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Chapter; and

(b) include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:

(i) premiums, fees, commissions and interest; and

(ii) where the procurement provides for the possibility of options, the total value of such options.

ARTICLE 11.4
Exceptions

1. Subject to the requirement that a measure is not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions prevail, or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party, including its procuring entities, from adopting or maintaining a measure:

(a) necessary to protect public morals, interest, order or safety;

(b) necessary to protect human, animal or plant life or health;

(c) necessary to protect intellectual property; or

(d) relating to the good or service of a person with disabilities, of philanthropic or not-for-profit institutions, or of prison labour.

2. Nothing in this Chapter shall be construed to prevent a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes.

3. The Parties understand that subparagraph 1(b) includes environmental measures necessary to protect human, animal or plant life or health.

ARTICLE 11.5
General Principles

National Treatment and Non-Discrimination[1]

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party, treatment no less favorable than the treatment that the Party, including its procuring entities, accords to domestic goods, services, and suppliers.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

   (a) treat a locally established supplier less favorably than another locally established supplier on the basis of degree of foreign affiliation to, or ownership by, a person of the other Party; or

   (b) discriminate against a locally established supplier on the basis that the good or service offered by that supplier for a particular procurement is a good or service of the other Party.

3. All orders under contracts awarded for covered procurement shall be subject to paragraphs 1 and 2 of this Article.

Procurement Methods

4. A procuring entity shall use an open tendering procedure for covered procurement unless Article 11.9 or Article 11.10 applies.

Conduct of Procurement

5. A procuring entity shall conduct covered procurement in a transparent and impartial manner that:

   (a) avoids conflicts of interest; and

   (b) prevents corrupt practices.

[1] For greater certainty, paragraphs 1, 2, and 3 shall not be applied to the companies classified as SMEs in accordance with UAE legislation, as detailed in paragraph 2.a) of Section E of the UAE Schedule to Annex 11-A.

Rules of Origin

6. For the purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

Use of Electronic Means

7. The Parties shall provide for covered procurement to be undertaken through electronic means, including for the publication of procurement information, notices and tender documentation, and for the receipt of offers, generally, the full cycle of procure to pay.

8. When conducting covered procurement by electronic means, a procuring entity shall:

(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available financial systems, information technology systems, and software; and

(b) establish and maintain mechanisms that ensure the integrity of information provided by suppliers.

Offsets

9. With regard to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose, or enforce any offset at any stage of a procurement.[2]

Measures Not Specific to Procurement

10. Paragraphs 1 and 2 shall not apply to: customs duties and charges of any kind imposed on, or in connection with, importation; the method of levying such duties and charges; other import regulations or formalities and measures affecting trade in services other than measures governing covered procurement.

[2] For greater certainty, this paragraph shall not be applied to the UAE's In-Country Value certification policy, as specified in paragraph 2.b), Section E of the UAE's Schedule to Annex 11-A.

ARTICLE 11.6
Publication of Procurement Information

1. Each Party shall promptly publish any measure of general application relating to covered procurement, and any change or addition to this information.

2. Each Party shall list in Section G of its Schedule to Annex 11-A the electronic means through which the Party publishes the information described in paragraph 1 and the notices required by Article 11.7, Article 11.9, and Article 11.16.

3. Each Party shall, on request, provide an explanation in response to an inquiry relating to the information referred to in paragraph 1.

ARTICLE 11.7
Notice of Procurement

1. Except in the circumstances described in Article 11.10, and where applicable for each covered procurement, a procuring entity shall publish a notice of procurement through the appropriate paper or electronic means listed in Annex 11-A. The notice shall remain readily accessible to the public until at least the expiration of the time period for responding to the notice or the deadline for submission of the offers.

2. The notice shall, if accessible by electronic means, be provided free of charge, through a single point of access, set out in Section G in Annex 11-A.

3. Unless otherwise provided in this Chapter, each notice of procurement shall include the following information, unless that information is provided in the tender documentation that is made available free of charge to all interested suppliers at the same time as the notice of procurement:

(a) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and the cost and terms of payment to obtain the relevant documents, if any;

(b) a description of the procurement, including the nature, exact or estimated quantity, and technical specification of the goods or services to be procured;

(c) if applicable, the contract terms and duration, service levels required from suppliers, and time frame for delivery of goods or services;

(d) the mechanism, criteria and weighting used for the evaluation of requests for participation in the procurement or the submission of tenders;

(e) the address and final date for the submission of requests for participation in the procurement or the submission on tenders;

(f) the language or languages in which requests for participation in the procurement or the submission may be submitted, if other than an official language of the Party of the procuring entity; and

(g) if applicable, a list and a brief description of any conditions for participation of suppliers, that may include any related requirements for specific documents or certifications that suppliers must provide.

Notice of Planned Procurement

4. Each Party shall encourage its procuring entities to publish, as early as possible in each fiscal year, information regarding their indicative procurement plans.

ARTICLE 11.8
Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a covered procurement to those conditions that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to fulfil the requirements of that procurement.

2. In establishing the conditions for participation, a procuring entity:

(a) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a given Party or that the supplier has prior work experience in the territory of that Party; and

(b) may require relevant prior experience if essential to meet the requirements of the procurement.

3. In assessing whether a supplier satisfies the conditions for participation, a procuring entity shall:

(a) evaluate the financial capacity, the commercial and technical abilities, and the regulatory compliance practices of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity[3] and

[3] For greater certainty, it is the responsibility of the supplier to provide accurate information, and the procuring entity may reasonably rely on information provided to it by the supplier.

(b) base its evaluation solely on the conditions that the procuring entity has specified in advance in notices or tender documentation.

4. Where there is supporting justification, a Party, including its procuring entities, may exclude a supplier on grounds such as:

(a) bankruptcy or insolvency;

(b) false declarations;

(c) significant or persistent deficiencies in the performance of any substantive requirement or obligation under a prior contract or contracts;

(d) final judgments in respect of serious crimes or other serious offences;

(e) professional misconduct, actions or omissions, or unethical practices that reflect on the commercial integrity of the supplier; or

(f) failure to pay government fees or taxes.

ARTICLE 11.9
Qualification of Suppliers

Registration Systems and Qualification Procedures

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information and documentation.

2. A Party, including its procuring entities, shall not:

(a) adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement; or

(b) use any registration system or qualification procedure to prevent or delay the inclusion of suppliers of the other Party on a list of suppliers or prevent those suppliers from being considered for a particular procurement.

Selective Tendering

3. Where a procuring entity intends to use selective tendering, the entity shall:

(a) include in the notice of procurement at least the information specified in subparagraphs 3(a), 3(b), 3(e), and 3(g) of Article 11.7 and invite suppliers to submit a request for participation; and

(b) provide, by the commencement of the time-period for tendering, at least the information in subparagraphs 3(c), 3(d) and 3(f) of Article 11.7 to the qualified suppliers that are invited to submit tenders.

4. A procuring entity shall allow all qualified suppliers to participate in a particular procurement, unless the procuring entity states in the notice of procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.

5. Where the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 3, a procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers invited to submit tenders.

Multi-Use Lists

6. A Party, including its procuring entities, may establish or maintain a multi-use list provided that it makes continuously available in the electronic medium listed in Annex 11-A a notice inviting interested suppliers to apply for inclusion on the list.

7. The notice provided for in paragraph 6 shall include:

(a) a description of the goods or services, or categories thereof, for which the list may be used;

(b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;

(c) the name and address of the procuring entity and other information necessary to contact the entity and obtain all relevant documents relating to the list; and

(d) the period of validity of the list and the means for its renewal or termination, or where the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list.

8. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

9. Where a supplier that is not included on a multi-use list submits request for participation in a procurement based on a multi-use list and all required documents, within the time-period provided for in Article 11.14, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time-period allowed for the submission of tenders.

Information on Procuring Entity Decisions

10. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement, or application for inclusion on a multi-use list, of the procuring entity's decision with respect to the request or application.

11. If a procuring entity rejects a supplier's request for participation in a procurement or application for inclusion on a multi-use list, ceases to recognise a supplier as qualified, or removes a supplier from a multi-use list, the procuring entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reason for its decision.

ARTICLE 11.10
Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers or conflicts with its measures, a procuring entity may use limited tendering and may choose not to apply Articles 11.7 through 11.9, Article 11.11, Article 11.12, Article 11.13, Article 11.14, and Article 11.15 only under any of the following circumstances:

(a) where:

(i) no tenders were submitted or no suppliers requested participation;

(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted have been collusive,

provided that the requirements of the tender documentation are not substantially modified;

(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:

(i) the requirement is for a work of art;

(ii) the protection of patents, copyrights or other exclusive rights; or

(iii) due to an absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

(d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;

(e) for goods purchased on a commodity market;

(f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those

arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers; or

(h) where a contract is awarded to a winner of a design contest provided that:

(i) the contest has been organised in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a notice of procurement; and

(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.

2. A procuring entity shall prepare a report in writing on each contract awarded under paragraph 1. The report shall include the name of the procuring entity, the value and kind of goods or services procured, and a statement indicating the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

ARTICLE 11.11
Negotiations

1. A Party may provide for its procuring entities to conduct negotiations in the context of covered procurement if:

(a) the procuring entity has indicated its intent to conduct negotiations in the notice of procurement required under Article 11.7 (Notices of Procurement);

(b) it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of procurement or tender documentation;

(c) there is a need to clarify the terms and conditions; or

(d) if the tenders exceed the allocated budget.

2. A procuring entity shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of procurement or tender documentation; and

(b) when negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

ARTICLE 11.12
Technical Specifications

1. A procuring entity shall not prepare, adopt, or apply any technical specification or prescribe any conformity assessment procedure with the purpose or effect of creating an unnecessary obstacle to trade between the Parties.

2. In prescribing the technical specifications for the good or service being procured, a procuring entity shall, where appropriate:

(a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specification on international standards, where these exist; otherwise, on national technical regulations, recognised national standards or building codes.

3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as “or equivalent” in the tender documentation.

4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, the procuring entity includes words such as “or equivalent” in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. For greater certainty, a procuring entity may conduct market research in developing specifications for a particular procurement.

7. For greater certainty, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources or the protection of the environment.

8. For greater certainty, this Chapter is not intended to preclude a party, or its procuring entities, from preparing, adopting, or applying technical specifications required to protect sensitive government information, including specifications that may affect or

limit the storage, hosting, or processing of such information outside the territory of the Party.

ARTICLE 11.13
Tender Documentation

General

1. A procuring entity shall, where applicable, make available to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of procurement, such documentation shall include a complete description of:

(a) the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings or instructional materials;

(b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection with the conditions for participation;

(c) all evaluation criteria the entity will apply in the awarding of the contract, and, except where price is the sole criterion, the relative importance of such criteria;

(d) where the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;

(e) where the procuring entity will hold an electronic auction, the rules on which the auction will be conducted;

(f) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, such as whether on paper or by electronic means; and

(g) any dates for the delivery of goods or the supply of services.

2. In establishing any date for the delivery of a good or the supply of a service being procured, a procuring entity shall take into account factors such as the complexity of the procurement.

3. A procuring entity shall promptly reply to any reasonable request for relevant information by an interested or participating supplier, provided that the information does not give that supplier an advantage over other suppliers.

Modifications

4. Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of procurement or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all such modifications or amended or re-issued notice or tender documentation:

(a) in the same manner as the original information was made available; and

(b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

ARTICLE 11.14
Time Periods

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for a supplier to obtain the tender documentation and to prepare and submit a request for participation and a responsive tender, taking into account factors such as the nature and complexity of the procurement and the time necessary for submitting tenders.

2. Notwithstanding Paragraph 1, entities shall provide no less than the minimum time periods set out in Section F of each Party's schedule to Annex 11-A.

3. Time periods, and any amendment of time periods, shall be the same for all interested or participating suppliers.

ARTICLE 11.15
Treatment of Tenders and Awarding of Contracts

Treatment of Tenders

1. A procuring entity shall receive, open, and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.

2. Where a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

Awarding of Contracts

3. To be considered for an award, an offer shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notice and tender documentation and be submitted by a supplier who satisfies the conditions for participation.

4. Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the procuring entity has determined to be fully capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notice and tender documentation, has submitted:

(a) the most advantageous tender; or

(b) if price is the sole criterion, the lowest price.

5. Where a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

6. A procuring entity shall not use options, cancel a procurement, or modify or terminate awarded contracts in a manner that circumvents the obligations under this Chapter.

ARTICLE 11.16
Transparency and Post-Award Information

Information Provided to Suppliers

1. A procuring entity shall promptly inform suppliers that have submitted a tender of the contract award decision. The procuring entity may do so in writing or through publication.

2. Subject to Article 11.17, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the procuring entity did not select the unsuccessful supplier's tender.

Publication of Award Information

3. The procuring entity may publish, according to its laws and regulations, the details of the award decision in the electronic medium specified in Section G of Annex 11-A.

Maintenance of Records

4. A procuring entity shall maintain the documentation, records, and reports relating to tendering procedures and contract awards for covered procurement, for at least three years after the award of a contract.

ARTICLE 11.17
Disclosure of Information

Provision of Information to Parties

1. On request of the other Party, a Party shall promptly provide information sufficient to demonstrate whether a procurement was conducted fairly, impartially, and in accordance with this Chapter, including, if applicable, information on the characteristics and relative advantages of the successful tender, without disclosing confidential information. The Party that receives the information shall not disclose it to any supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

Non-Disclosure of Information

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not, except to the extent required by law or with the written authorisation of the supplier that provided the information, disclose information that would prejudice legitimate commercial interests of a particular supplier or that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities, and review bodies, to disclose confidential information if that disclosure:

(a) would impede law enforcement;

(b) might prejudice fair competition between suppliers;

(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

(d) would otherwise be contrary to the public interest.

ARTICLE 11.18
Ensuring Integrity in Procurement Practices

1. Each Party shall ensure that criminal or administrative measures exist to address corruption in its government procurement. These measures may include procedures to render ineligible for participation in the Party's procurements, either indefinitely or for a stated period of time, suppliers that the Party has determined to have engaged in fraudulent or other illegal actions.

2. Each Party shall also ensure that it has in place policies and procedures to eliminate to the extent possible or manage any potential conflict of interest on the part of those engaged in or having influence over a procurement.

ARTICLE 11.19
Domestic Review

1. Each Party shall maintain, establish, or designate at least one impartial administrative or judicial authority (hereinafter referred to as a "review authority") that is independent of its procuring entities to review, in a non-discriminatory, timely, transparent, and effective manner, a challenge or complaint (hereinafter referred to as a "complaint") by a supplier that there has been:

(a) a breach of this Chapter; or

(b) if the supplier does not have a right to directly challenge a breach of this Chapter under the law of a Party, a failure of a procuring entity to comply with the Party's measures implementing this Chapter.

2. In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or had, an interest, that there has been a breach or

failure as referred to in paragraph 1, the Party of the procuring entity conducting the procurement shall encourage, if appropriate, the procuring entity and the supplier to seek resolution of the complaint through consultations. The procuring entity shall accord impartial and timely consideration to the complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or its right to seek corrective measures under the administrative or judicial review procedure. Each Party shall make information on its complaint mechanisms generally available.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. If a body other than the review authority initially reviews a complaint, the Party shall ensure, to the extent applicable, that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the complaint.

5. Each Party shall ensure that, if the review authority is not a court, its review procedures are conducted in accordance with the following procedures:

(a) a supplier shall be allowed sufficient time to prepare and submit a complaint in writing from the time when the basis of the complaint became known or reasonably should have become known to the supplier;

(b) a procuring entity shall respond in writing to a supplier's complaint and provide all relevant documents to the review authority;

(c) a supplier that initiates a complaint shall be provided an opportunity to reply to the procuring entity's response before a decision is made on the complaint; and

(d) the review authority shall provide its decision on a supplier's complaint in a timely manner, in writing, with an explanation of the basis for the decision.

6. Each Party shall adopt or maintain procedures that provide for prompt interim measures, pending the resolution of a complaint, to preserve the supplier's opportunity to participate in the procurement and to ensure that the procuring entities of the Party comply with its measures implementing this Chapter. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether those measures should be applied. Just cause for not acting shall be provided in writing.

ARTICLE 11.20
Modifications and Rectifications of Annex

1. A Party shall notify any proposed modification or rectification (hereinafter referred to as "modification") to its Schedule to Annex 11-A by circulating a notice in writing to the other Party through the contact point designated under Article 19.5 (Communications). A Party shall provide compensatory adjustments for a change in coverage if necessary to maintain a level of coverage comparable to the coverage that existed prior to the modification. The Party may include the offer of compensatory adjustment in its notice.

2. A Party is not required to provide compensatory adjustments to the other Party if the proposed modification concerns one of the following:

(a) a procuring entity over which the Party has effectively eliminated its control or influence in respect of covered procurement by that procuring entity; or

(b) rectifications of a purely formal nature and minor modifications to its Schedule to Annex 11-A, such as:

(i) changes in the name of a procuring entity;

(ii) the merger of one or more procuring entities listed in its Schedule;

(iii) the separation of a procuring entity listed in its Schedule into two or more procuring entities that are all added to the procuring entities listed in the same Section of the Annex; and

(iv) changes in website references,

and the other Party does not object under paragraph 3 on the basis that the proposed modification does not concern subparagraph (a) or (b).

3. If a Party considers that its rights under this Chapter are affected by a proposed modification notified under paragraph 1, it shall notify the other Party of any objection to the proposed modification within 45 days of the date of circulation of the notice.

4. If a Party objects to a proposed modification, including a modification regarding a procuring entity on the basis that government control or influence over the entity's covered procurement has been effectively eliminated, that Party may request additional information, including information on the nature of any government control or influence, with a view to clarifying and reaching agreement on the proposed modification, including the procuring entity's continued coverage under this Chapter. The modifying Party and the objecting Party shall make every attempt to resolve the objection through consultations.

5. The Joint Committee shall modify Annex 11-A to reflect any agreed modification.

ARTICLE 11.21
Facilitation of Participation by SMEs

1. The Parties recognize the important contribution that SMEs can make to economic growth and employment and the importance of facilitating the participation of SMEs in government procurement.

2. If a Party maintains a measure that provides preferential treatment for SMEs, the Party shall ensure that the measure, including the criteria for eligibility, is transparent.

3. To facilitate participation by SMEs in covered procurement, each Party shall, to the extent possible and if appropriate:

(a) provide comprehensive procurement-related information that includes a definition of SMEs in a single electronic portal;

(b) make all tender documentation available free of charge;

(c) conduct procurement by electronic means or through other new information and communication technologies; and

(d) consider the size, design, and structure of the procurement, including the use of subcontracting by SMEs;

(e) seek opportunities to simplify administrative processes; and

(f) require prompt payment by procuring entities, including in subcontracting.

ARTICLE 11.22
Financial Obligations

Each Party is solely responsible for any financial expenses to implement this Chapter.

ARTICLE 11.23
Language

To improve access to each Party's procurement market, each Party shall, where possible, use English in its publication of materials or information pursuant to Article 11.6 (Publication of Procurement Information), including in the publications listed in Section G of each Party's schedule to Annex 11-A.

CHAPTER 12

COMPETITION

ARTICLE 12.1
Objective

The Parties recognise the importance of creating and maintaining competitive markets that promote economic efficiency and consumer welfare.

ARTICLE 12.2
Competition Authorities

For the purposes of this chapter, Competition Authority means:

(a) for New Zealand, the New Zealand Commerce Commission or its successor.

(b) for United Arab Emirates, the Ministry of Economy, or its successor.

ARTICLE 12.3
General Provisions

1. The Parties recognise the sovereign rights of each party to develop, administer, and enforce its competition laws, regulations and policies.

2. Each Party shall maintain its autonomy in developing and enforcing its competition law and regulations.

ARTICLE 12.4
Competition Laws and Authorities

1. The Parties shall promote competition by maintaining national competition laws that proscribe anticompetitive practices.

2. Each Party's national competition laws, and their application, shall give due regard to the principles of transparency, comprehensiveness, non-discrimination on the basis of nationality, and procedural fairness.

3. Each Party shall endeavour to apply its national competition laws to all commercial activities in its territory in accordance with domestic laws and policies. However, each Party may provide for certain exemptions and exclusions from the application of its national competition laws.

4. Each Party shall maintain a competition authority responsible for the enforcement of its national competition laws. Each party shall enforce its national competition laws with due regard to the principles set out in paragraph 2.

5. If a Party's competition authority alleges a violation of its national competition laws, that authority shall establish the legal and factual basis for the alleged violation in accordance with each Party's national competition laws.

ARTICLE 12.5
Procedural Fairness

1. Each Party shall ensure that, before a sanction or remedy is imposed against a person relating to a violation of the Party's competition laws, that person is afforded the opportunity to:

(a) be provided with information and evidence regarding the national competition authority's concerns, including identification of the relevant specific competition law engaged;

(b) engage with the relevant competition authority at key points on significant legal, factual, and procedural issues; and

(c) submit their views and provide evidence in their defence,

except that a Party may provide for these opportunities within a reasonable time after it imposes an interim sanction or remedy.

2. Each Party shall ensure that where information that is protected as confidential, or privileged by its law, is obtained by its competition authority during investigations that information is not disclosed, except to the extent provided for under the law of each Party.

3. Each Party shall ensure that findings of violation of its competition laws establish the facts and conclusions of law on which the decisions are based and are communicated to the recipient found to be in violation, in accordance with each Party's competition law.

4. Each Party shall ensure that the recipient of a decision to impose a sanction or a remedy for violation of its competition law is given the opportunity to seek judicial review of such a decision.

ARTICLE 12.6
Cooperation

The Parties may cooperate to foster effective competition law enforcement, subject to their laws, regulations, reasonably available resources, and important interests.

ARTICLE 12.7
Disclosure of Information

Nothing in this Chapter shall require a Party to provide information when this information is confidential or the disclosure of such information may be unreasonably burdensome, contrary to its important interests, or contrary to its laws or regulations, including laws and regulations regarding legal privilege, disclosure of information, confidentiality, or business secrecy.

ARTICLE 12.8
Consultation

The Parties recognise the importance of respecting the sovereign right of each competition authority to enforce their competition laws. The Parties shall endeavour to accord full and sympathetic consideration to a request for consultations to foster understanding between the Parties or to address a specific matter which may arise under this chapter. The request for consultations shall indicate the reasons therefore.

ARTICLE 12.9
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 13

INTELLECTUAL PROPERTY

SECTION A
GENERAL PROVISIONS

ARTICLE 13.1
Definitions

For the purposes of this Chapter:

geographical indication means an indication that identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

intellectual property refers to:

(a) copyright and related rights;

(b) patents;

(c) trademarks;

(d) industrial designs;

(e) layout-designs (topographies) of integrated circuits;

(f) geographical indications;

(g) protection of plant varieties; and

(h) protection of undisclosed information,

as referred to in Sections 1 through 7 of Part II of the TRIPS Agreement;

national means, in respect of the relevant right, a person of a Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 13.5; and

WIPO means the World Intellectual Property Organization.

ARTICLE 13.2
Objectives

The protection and enforcement of intellectual property rights should contribute to the promotion of trade, investment, technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

ARTICLE 13.3
Principles

1. A Party may adopt appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices that unreasonably restrain trade or adversely affect the international transfer of technology, provided that such measures are consistent with this Agreement.

2. Further to paragraph 1, the Parties recognise the need to foster competition.

3. A Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Chapter.

ARTICLE 13.4
Nature and Scope of Obligations

Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene the provisions of this Chapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

ARTICLE 13.5
International Agreements

The Parties affirm their obligations set out in the following multilateral agreements:

(a) TRIPS Agreement;

(b) Patent Cooperation Treaty, done at Washington, 19 June 1970, as amended on 3 October 2001;

(c) Paris Convention for the Protection of Industrial Property, done at Paris, 20 March 1883, as revised at Stockholm, 14 July 1967, as amended on 28 September 1979;

(d) Berne Convention for the Protection of Literary and Artistic Works, done at Berne, 9 September 1886, as revised at Paris, 24 July 1971, as amended on 28 September 1979 (hereinafter referred to as "Berne Convention");

(e) Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, done at Madrid, 27 June 1989;

(f) WIPO Performances and Phonogram Treaty, adopted at Geneva, 20 December 1996 (hereinafter referred to as the "WPPT");

(g) WIPO Copyright Treaty, adopted at Geneva, 20 December 1996 (hereinafter referred to as the "WCT");

(h) Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest, 28 April 1977, as amended on 26 September 1980; and

(i) Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, done at Marrakesh, 27 June 2013.

ARTICLE 13.6
Intellectual Property and Public Health

The Parties recognise the principles established in the *Declaration on the TRIPS Agreement and Public Health,* adopted at Doha, 14 November 2001 (hereinafter referred to as the "Doha Declaration") by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to the Doha Declaration.

ARTICLE 13.7
National Treatment

1. In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to nationals of the other Party treatment no less favourable than it

accords to its own nationals with regard to the protection of intellectual property rights in accordance with Article 3(1) of the TRIPS Agreement.

2. A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such derogation is:

(a) necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter; and

(b) not applied in a manner that would constitute a disguised restriction on trade.

3. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

ARTICLE 13.8
Transparency

1. Each Party shall endeavour, subject to its legal system and practice, to make information concerning application and registration of trademarks, geographical indications, industrial designs, patents and plant variety rights accessible for the general public.

2. The Parties also acknowledge the importance of informational materials, such as publicly accessible databases of registered intellectual property rights that assist in the identification of subject matter that has fallen into the public domain.

3. Each Party shall endeavour to make available such information on the internet and in the English language.

ARTICLE 13.9
Application of Chapter to Existing Subject Matter and Prior Acts

1. Unless otherwise provided in this Chapter, this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into force of this Agreement for a Party and that is protected on that date in the territory of a Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter without unreasonably impairing the fair interest of third parties.

2. Unless provided in this Chapter, a Party shall not be required to restore protection to subject matter that on the date of entry into force of this Agreement for that Party has fallen into the public domain in its territory.

ARTICLE 13.10
Exhaustion of Intellectual Property Rights

Nothing in this Agreement prevents a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under its legal system.

SECTION B
COOPERATION

ARTICLE 13.11
Cooperation Activities and Initiatives

1. The Parties shall endeavour to cooperate on the subject matter covered by this Chapter, such as through appropriate coordination, training and exchange of information between the respective intellectual property offices of the Parties, or other institutions, as determined by each Party.

2. Cooperation activities and initiatives undertaken under this Chapter shall be undertaken on request, subject to the availability of resources and on terms and conditions mutually agreed upon between the Parties.

SECTION C
TRADEMARKS

ARTICLE 13.12
Types of Signs Registrable as Trademarks

No Party shall require, as a condition of registration, that a sign be visually perceptible, nor shall a Party deny registration of a trademark only on the ground that the sign of which it is composed is a sound. Additionally, each Party shall make best efforts to register scent marks. A Party may require a concise and accurate description, or graphical representation, or both, as applicable, of the trademark.

ARTICLE 13.13
Collective and Certification Marks

Each Party shall provide that trademarks include collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in its law, provided that those marks are protected. Each Party shall also provide that signs that may serve as geographical indications are capable of protection under its trademark system.[1]

ARTICLE 13.14
Use of Identical or Similar Signs

Each Party shall provide that the owner of a registered trademark has the exclusive right to prevent third parties that do not have the owner's consent from using in the course of trade identical or similar signs, including subsequent geographical indications,[2, 3] for goods or services that are related to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

ARTICLE 13.15
Exceptions

A Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that those exceptions take account of the legitimate interest of the owner of the trademark and of third parties.

ARTICLE 13.16
Well-Known Trademarks

1. No Party shall require as a condition for determining that a trademark is well-known, that the trademark has been registered in the Party or in another jurisdiction, included on a list of well-known trademarks, or given prior recognition as a well-known trademark.

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[1] Consistent with Article 13.24, any sign or combination of signs shall be eligible for protection under one or more of the legal means for protecting geographical indications, or a combination of such means.

[2] For greater certainty, the exclusive right in this Article applies to cases of unauthorised use of geographical indications with goods for which the trademark is registered, in cases in which the use of that geographical indication in the course of trade would result in a likelihood of confusion as to the source of the goods.

[3] For greater certainty, the Parties understand that this Article should not be interpreted to affect their rights and obligations under Articles 22 and 23 of the TRIPS Agreement.

2. Article 6bis of the Paris Convention shall apply, mutatis mutandis, to goods or services that are not identical or similar to those identified by a well-known trademark,[4] whether registered or not, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the trademark, and provided that the interests of the owner of the trademark are likely to be damaged by such use.

3. Each Party recognises the importance of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO, 20 to 29 September 1999.

4. Each Party shall provide for appropriate measures to refuse the application of, or to cancel the registration and prohibit the use of, a trademark that is identical or similar to a well-known trademark[5], for identical or similar goods or services, if the use of that trademark is likely to cause confusion with the prior well-known trademark. A Party may also provide such measures including in cases in which the subsequent trademark is likely to deceive.

ARTICLE 13.17
Procedural Aspects of Examination, Opposition and Cancellation

Each Party shall provide a system for the examination and registration of trademarks which includes among other things:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register the trademark;

(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register the trademark;

(c) providing an opportunity to oppose the registration of the trademark or to seek cancellation of the trademark; and

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[4] In determining whether a trademark is well-known in a Party, that Party need not require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services.

[5] The Parties understand that a well-known trademark is one that was already well-known before, as determined by a Party, the application for, registration of or use of the first-mentioned trademark.

(d) requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which may be provided by electronic means.

ARTICLE 13.18
Electronic Trademarks System

Each Party shall provide:

(a) a system for the electronic application for, and maintenance of, trademarks; and

(b) a publicly available electronic information system, including an online database, of trademark applications and of registered trademarks.

ARTICLE 13.19
Classification of Goods and Services

Each Party shall adopt or maintain a trademark classification system that is consistent with the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks,* done at Nice, 15 June 1957, as revised and amended (Nice Classification). Each Party shall provide that:

(a) registrations and the publications of applications indicate the goods and services by their names, grouped according to the classes established by the Nice Classification;[6] and

(b) goods or services may not be considered as being similar to each other on the ground that, in any registration or publication, they are classified in the same class of the Nice Classification. Conversely, each Party shall provide that goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication, they are classified in different classes of the Nice Classification.

ARTICLE 13.20
Term of Protection for Trademarks

Each Party shall provide that initial registration and each renewal of registration of a trademark is for a term of no less than 10 years.

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[6] A Party that relies on translations of the Nice Classification shall follow updated versions of the Nice Classification to the extent that official translations have been issued and published.

ARTICLE 13.21
Non-Recordal of a License

No Party shall require recordal of trademark licenses:

(a) to establish the validity of the license; or

(b) as a condition for use of a trademark by a licensee to be deemed to constitute use by the holder in a proceeding that relates to the acquisition, maintenance or enforcement of trademarks.

SECTION D
DOMAIN NAMES

ARTICLE 13.22
Domain Names

In connection with each Party's system for the management of its country-code top-level domain (ccTLD) domain names, the following shall be available:

(a) an appropriate procedure for the settlement of disputes, based on, or modelled along the same lines as, the principles established in the Uniform Domain-Name Dispute-Resolution Policy, as approved by the Internet Corporation for Assigned Names and Numbers (ICANN) or that:

  (i) is designed to resolve disputes expeditiously and at low cost;

  (ii) is fair and equitable;

  (iii) is not overly burdensome; and

  (iv) does not preclude resort to judicial proceedings; and

(b) online public access to a reliable and accurate database of contact information concerning domain name registrants,

in accordance with each Party's law and, if applicable, relevant administrator policies regarding the protection of privacy and personal data.

SECTION E
COUNTRY NAMES

ARTICLE 13.23
Country Names

Each Party shall provide the legal means for interested persons to prevent commercial use of the country name of a Party in relation to a good in a manner that misleads consumers as to the origin of that good.

SECTION F
GEOGRAPHICAL INDICATIONS

ARTICLE 13.24
Protection[7] of Geographical Indications

The Parties reaffirm that geographical indications may be protected through a trademark or *sui generis* system or other legal means.

ARTICLE 13.25
Administrative Procedures for the Protection or Recognition of Geographical Indications

If a Party provides administrative procedures for the protection or recognition of geographical indications, whether through a trademark or a *sui generis* system, that Party shall, with respect to applications for that protection or petitions for that recognition, ensure that its laws and regulations governing the filing of those applications or petitions are readily available to the public and clearly set out the procedures for these actions.

ARTICLE 13.26
Date of Protection of a Geographical Indication

If a Party grants protection or recognition to a geographical indication through the procedures referred to in Article 13.25, that protection or recognition shall commence no

[7] For greater certainty, protection of geographical indications collectively means protection by registration or recognition.

earlier than the filing date[8] or the registration date in that Party according to the national laws and regulations of each Party.

SECTION G
PATENTS

ARTICLE 13.27
Grace Period

Each Party shall disregard at least information contained in public disclosures used to determine if an invention is novel or has an inventive step, if the public disclosure:[9, 10]

(a) was made by the patent applicant or by a person that obtained the information directly or indirectly from the patent applicant; and

(b) occurred within 12 months prior to the date of the filing of the application in the territory of the Party.

ARTICLE 13.28
Procedural Aspects of Examination, Opposition, Cancellation and Invalidation

Each Party shall provide a system for the examination and registration[11] of patents which includes among other things:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register the patent;

(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register the patent;

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[8] For greater certainty, the filing date referred to in this Article includes, as applicable, the priority filing date under the Paris Convention.

[9] Neither Party shall be required to disregard information contained in applications for, or registrations of, intellectual property rights made available to the public or published by a patent office, unless erroneously published or unless the application was filed without the consent of the inventor or their successor in title, by a third person who obtained the information directly or indirectly from the inventor.

[10] For greater certainty, a Party may limit the application of this Article to disclosures made by, or obtained directly or indirectly from, the inventor or joint inventor. For greater certainty, a Party may provide that, for the purposes of this Article, information obtained directly or indirectly from the patent applicant may be information contained in the public disclosure that was authorised by, or derived from, the patent applicant.

[11] For the purpose of Articles 13.28 and 13.29 "registration" is interpreted as "grant" in New Zealand.

(c) providing an opportunity for interested parties to seek cancellation or invalidation of a registered patent. In addition, each Party may provide an opportunity for interested parties to oppose the registration of the patent; and

(d) making decisions in opposition, cancellation, or invalidation proceedings to be reasoned and in writing, which may be delivered by electronic means.

ARTICLE 13.29
Amendments, Corrections, and Observations

1. Each Party shall provide an applicant for a patent with at least one opportunity to make amendments, corrections or observations in connection with its application.

2. Each Party shall provide a right holder of a patent with opportunities to make amendments or corrections after registration provided that such amendments or corrections keep the scope of the patent right the same or narrower as a whole.

ARTICLE 13.30
Exceptions

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the right holder, taking account of the legitimate interests of third parties.

SECTION H
INDUSTRIAL DESIGNS

ARTICLE 13.31
Procedural Aspects of Examination, Opposition, Cancellation and Invalidation

Each Party shall provide a system for the examination and registration of industrial designs which includes among other things:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register the industrial design;

(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register the industrial design;

(c) providing an opportunity for interested parties to seek cancellation or invalidation of a registered industrial design. In addition, each Party may provide an opportunity for interested parties to oppose the registration of the industrial design; and

(d) making decisions in opposition, cancellation, or invalidation proceedings to be reasoned and in writing, which may be delivered by electronic means.

ARTICLE 13.32
Amendments, Corrections, and Observations

1. Each Party shall provide an applicant for an industrial design with at least one opportunity to make amendments, corrections or observations in connection with its application.

2. Each Party shall provide a right holder of an industrial design with opportunities to make amendments or corrections after registration provided that such amendments or corrections keep the scope of the industrial design right same or narrower as a whole.

ARTICLE 13.33
Industrial Design Protection

1. The Parties shall ensure that requirements for securing registered industrial design protection do not unreasonably impair the opportunity to obtain such protection.

2. The duration of protection available for registered industrial designs shall amount to at least 15 years from the date of filing.

ARTICLE 13.34
Exceptions

A Party may provide limited exceptions to the exclusive rights conferred by the protection of an industrial design, provided that such exceptions do not unreasonably conflict with a normal exploitation of an industrial design and do not unreasonably prejudice the legitimate interests of the right holder, taking account of the legitimate interests of third parties.

SECTION I
GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS

ARTICLE 13.35
Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions

1. Subject to its international obligations and to its laws and regulations, each Party may establish appropriate measures [12] to protect genetic resources, traditional knowledge, and traditional cultural expressions.

2. The Parties shall endeavour to pursue quality patent examination, which may include, wherever applicable and appropriate, the use of databases or digital libraries which contain relevant information on traditional knowledge associated with genetic resources, and, when determining prior art, relevant publicly-available documented information related to traditional knowledge associated with traditional knowledge may be taken into account.

SECTION J
COPYRIGHT AND RELATED RIGHTS

ARTICLE 13.36
General Provision

1. Consistent with the obligations set out in the applicable international agreements to which the Parties are party and in accordance with its laws and regulations, each Party shall provide adequate and effective protection to authors for their works, performers for fixations of their performances in phonograms, producers for their phonograms and broadcasters for their broadcasts.

2. Each Party shall ensure that a broadcasting organisation has the exclusive right of authorising:

(a) the rebroadcasting of their broadcasts by wireless means; and

(b) the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

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[12] For greater certainty, "appropriate measures" are a matter for each Party to determine.

ARTICLE 13.37
Term of Protection for Copyright and Related Rights

Each Party shall provide that:

(a) in cases in which the term of protection of a work, performance or phonogram is to be calculated on the basis of the life of a natural person, the term shall be not less than the life of the author and 50 years after the author's death;

(b) the term of protection to be granted to performers under this Agreement shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed;

(c) the term of protection to be granted to producers of phonograms under this Agreement shall last, at least, until the end of a period of 50 years computed from the end of the year in which the phonogram was published, or failing such publication within 50 years from fixation of the phonogram, 50 years from the end of the year in which the fixation was made; and

(d) the term of protection to be granted to broadcasting organisations under this Agreement shall last, at least, until the end of a period of 20 years computed from the end of the year in which the broadcast took place.

ARTICLE 13.38
Limitations and Exceptions

1. With respect to this Section, each Party shall confine limitations or exceptions to exclusive rights to certain special cases that do not conflict with a normal exploitation of the work, performance or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder.

2. This Article does not reduce or extend the scope of applicability of the limitations and exceptions permitted by the TRIPS Agreement, the Berne Convention, the WCT or the WPPT.

ARTICLE 13.39
Balance in Copyright and Related Rights Systems

Each Party shall endeavour to achieve an appropriate balance in its copyright and related rights system, among other things by means of limitations or exceptions that are consistent with Article 13.38, including those for the digital environment, giving due consideration to legitimate purposes such as, but not limited to: criticism; comment; news reporting;

teaching, scholarship, research, and other similar purposes; and facilitating access to published works for persons who are blind, visually impaired or otherwise print disabled.[13, 14]

ARTICLE 13.40
Contractual Transfers

Each Party shall provide that for copyright and related rights, any person acquiring or holding any economic right[15] in a work, performance or phonogram:

(a) may freely and separately transfer that right by contract; and

(b) by virtue of contract, including contracts of employment underlying the creation of works, performances or phonograms, shall be able to exercise that right in that person's own name and enjoy fully the benefits derived from that right.[16]

ARTICLE 13.41
Obligations Concerning Protection of Rights-Management Information

1. Each Party shall provide adequate and effective legal remedies against any person who knowingly:

(a) without authorisation, removes or alters any electronic rights-management information; or

(b) distributes, imports for distribution, broadcasts or communicates to the public, without authority, works or copies of works knowing that electronic rights-management information has been removed or altered without authority.

2. For the purposes of this Article, the expression "rights-management information" means any information provided by a right holder that identifies the work or other subject

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[13] As recognised by the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled,* done at Marrakesh, 27 June 2013.

[14] For greater certainty, a use that has commercial aspects may in appropriate circumstances be considered to have a legitimate purpose under Article 13.38.

[15] For greater certainty, this provision does not affect the exercise of moral rights.

[16] Nothing in this Article affects a Party's ability to establish: (i) which specific contracts underlying the creation of works, performances or phonograms shall, in the absence of a written agreement, result in a transfer of economic rights by operation of law; and (ii) reasonable limits to protect the interests of the original right holders, taking into account the legitimate interests of the transferees.

matter that is the object of protection under this Chapter, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information. Paragraph 1 shall apply when any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter that is the object of protection under this Chapter.

ARTICLE 13.42
Collective Management

The Parties recognise the role of collective management societies for copyright and related rights in collecting and distributing royalties based on practices that are fair, efficient, transparent and accountable, which may include appropriate record keeping and reporting mechanisms.

SECTION K
ENFORCEMENT

ARTICLE 13.43
General Obligation in Enforcement

1. The Parties shall provide in their respective laws for the enforcement of intellectual property rights consistent with the TRIPS Agreement, in particular Articles 41 through 61.

2. Without limiting paragraph 1, each Party shall ensure that enforcement procedures as specified in this Section are available under its law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

ARTICLE 13.44
Border Measures

1. Each Party shall, in conformity with its domestic law and regulations and the provisions of Part III, Section 4 of the TRIPS Agreement, adopt or maintain procedures to enable a right holder, who has valid grounds for suspecting that the importations of counterfeit trademark or pirated copyright goods may take place, to lodge an application

in writing with the competent authorities, in the Party in which the border measure procedures are applied, for the suspension by that Party's customs authorities of the release into free circulation of such goods.

2. A Party may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of Part III, Section 4 of the TRIPS Agreement are met. A Party may also provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from their territory as per its domestic laws and regulation.

CHAPTER 14

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 14.1
Objectives

The objectives of this Chapter are to promote mutually supportive trade and sustainable development policies, including those focused on labour and environment; promote labour and environmental protection, including through enforcement of labour and environmental laws; and enhance cooperation between the Parties to address trade-related labour and environmental issues.

ARTICLE 14.2
Context

1. The Parties recognise Agenda 21 and the Rio Declaration on Environment and Development, adopted at Rio de Janeiro on 14 June 1992, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the International Labour Organization Declaration on Social Justice for a Fair Globalization, adopted at Geneva on 10 June 2008 by the International Labour Conference at its 97th Session (hereinafter referred to as the “ILO Declaration on Social Justice for a Fair Globalization”), the Outcome Document of the United Nations Conference on Sustainable Development of 2012 entitled "The Future We Want" endorsed by United Nations General Assembly Resolution A/RES/66/288, adopted on 27 July 2012, and the United Nations Agenda “Transforming our world: the 2030 Agenda for Sustainable Development”, adopted on 25 September 2015 by United Nations General Assembly Resolution A/RES/70/1 (hereinafter referred to as the “2030 Agenda for Sustainable Development”) and its Sustainable Development Goals.

2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interlinked and mutually reinforcing. The Parties recognise the importance of mutually supportive trade, labour, and environmental policies and practices to improve labour and environment protection in pursuance of sustainable development.

3. The Parties recognise the importance of promoting the development of international trade and investment in a way that contributes to the objectives of sustainable development.

4. The Parties recognise the importance of ensuring that the rights and economic interests of Indigenous Peoples, including Māori in the case of New Zealand, are

appropriately integrated in, and are reinforced and not undermined by, international trade and investment policy and activity, including ensuring Indigenous perspectives, voices and effective participation are appropriately embedded in trade and investment activities.

5. The Parties recognise the sovereign right of each Party to establish, administer and enforce its environment and labour laws, regulations, policies and priorities, in a manner consistent with the rights and obligations in this Agreement.

6. The Parties recognise the importance of providing for and encouraging high levels of environmental and labour protection and continuing to improve their respective levels of environmental and labour protection.

ARTICLE 14.3
Multilateral Agreements

1. The Parties recognise the important role multilateral environmental agreements play in protecting the environment, including reducing biodiversity loss and addressing climate change, and the need to enhance the mutual supportiveness between trade and environmental laws and policies.

2. The Parties agree to cooperate on trade-related aspects of environmental policies and measures, bilaterally and in international fora, as appropriate, including in the United Nations Environment Programme, United Nations Environment Assembly, multilateral environmental agreements (MEAs), the Food and Agriculture Organization of the United Nations (FAO), and the WTO.

3. The Parties affirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, as expressed in the ILO Declaration on Social Justice for a Fair Globalization.

4. Recalling the ILO Declaration on Social Justice for a Fair Globalization, and in accordance with their domestic laws and regulations, the Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.

ARTICLE 14.4
General Provisions

1. The Parties recognise the importance of the effective enforcement of their environment and labour laws.

2. The Parties shall endeavour to ensure that environmental and labour laws or other environmental and labour measures are not used for protectionist trade purposes between the Parties.

3. The Parties shall endeavour to not seek to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental and labour laws.

ARTICLE 14.5
Labour Rights

1. The Parties, in accordance with their laws and regulations, and their obligations as members of the International Labour Organization and the Declaration on Fundamental Principles and Rights at Work, shall endeavour to adopt and maintain the principles concerning the fundamental rights at work.

2. Each Party shall adopt or maintain laws and regulations, and practices thereunder, governing decent working conditions.[1]

3. Each Party recognises the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour. The Parties agree to share information, experiences and good practices related to this matter.

4. Each Party shall encourage enterprises operating within its jurisdiction to adopt policies of responsible business conduct that contribute to achieving sustainable development in its labour dimension, and are consistent with internationally-recognised principles and guidelines that have been endorsed or are supported by that Party.

ARTICLE 14.6
Women's Economic Empowerment

1. The Parties recognise the importance of gender balance and the empowerment of all women in advancing sustainable and inclusive economic growth and development, including through women's participation in international trade and investment.

2. The Parties also recognise that gender-responsive policies and practices are important to advancing gender balance and the empowerment of all women. The Parties recognise the importance of adopting, maintaining and implementing gender balance and women's economic empowerment laws, regulations, policies and best practice, in line with the Sustainable Development Goal 5 of the UN 2030 Agenda for

[1] As determined by each Party.

Sustainable Development. The Parties also recognise the importance of the *Convention on the Elimination of all Forms of Discrimination Against Women,* done at New York City on 18 December 1979, the *Beijing Declaration and Platform for Action, Fourth World Conference on Women: Action for Equality, Development and Peace*, adopted at Beijing on 15 September 1995, and the WTO *Joint Declaration on Trade and Women's Economic Empowerment* adopted at Buenos Aires on 12 December 2017.

3. Accordingly, each Party shall endeavour to:

(a) implement this Agreement in a manner that advances the full, equal and meaningful participation of women in the economy and in a manner that protects and promotes women's rights and economic well-being;

(b) foster women's entrepreneurship, including promoting women's access to the benefits and opportunities of this Agreement;

(c) promote the exchange of information and best practice related to the development and implementation of policies and programmes aimed at enhancing women's participation in economic activity, including international trade; and

(d) in the case of New Zealand, provide opportunities for wāhine Māori[2] to engage in trade activities including with a Te Ao Māori[3] framework.

4. The Parties recognise the importance of women's economic empowerment as part of the Parties' trade and investment relationship. Accordingly, the Parties emphasise their intention to implement the provisions of this Agreement in a manner that upholds this principle and encourage inclusive participation of women in the implementation of the cooperation activities established under this Article, as appropriate.

ARTICLE 14.7
Climate Change

1. The Parties recognise the importance of achieving the objectives of the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992 and the Paris Agreement under the United Nations Framework Convention on Climate Change, done at Paris on 12 December 2015, in order to address the urgent threat of climate change, and the role of trade and investment in pursuing this

[2] The term **"wāhine Māori"** refers to Indigenous women of New Zealand.
[3] "**Te Ao Māori**" refers to the Māori world view based on a holistic approach to life

objective, and agree to cooperate to address climate change. The Parties further recognise the importance of sharing knowledge, information, good practices and expertise that supports understanding and addressing the challenges of transition to net-zero greenhouse gas emissions and climate resilient economies.

2. The Parties also recognise the importance of removing obstacles to trade and investment in goods and services which are particularly relevant to climate change mitigation and adaptation, and which can enhance the mutual supportiveness of trade, investment and climate policies and measures.

3. The Parties recognise the important and unique connection Indigenous Peoples have to the environment and their right to maintain, control, protect and develop their systems of knowledge, cultural expressions, practices and values. The Parties also recognise the valuable contribution Indigenous histories, knowledge and knowledge systems, cultures and practices can make towards sustainable trade and investment, including solutions to climate change.

4. The Parties further recognise the role of market-based solutions to mitigate and adapt to climate change and the role of policies, programs and innovation to achieve climate goals. Accordingly, the Parties agree to promote:

(a) carbon markets as an effective policy tool for reducing greenhouse gas emissions efficiently, both domestically and internationally, whether those carbon markets are voluntary or compliance-based;

(b) environmental credibility in the development of international carbon markets;

(c) the role of nature-based solutions in addressing climate change;

(d) policies and repurposing public support which support the achievement of climate goals, including policies regarding food systems and agriculture; and

(e) knowledge and evidence-based innovations, including local and Indigenous knowledge, especially technological innovations, to support solutions to climate change, including sustainable agriculture production.

5. The Parties agree to cooperate bilaterally and in international fora, including at the WTO and the United Nations and on international environmental conventions, to:

(a) address matters of mutual interest with respect to trade-related aspects of climate change policies and measures; and

(b) mitigate and adapt to climate change including through:

i) implementation of the Paris Agreement;

ii) international trade-related aspects of effective action against climate change; and

iii) contributing to a reduction in greenhouse gas emissions and increased climate resilience.

ARTICLE 14.8
Sustainable Natural Resources

1. The Parties recognise the ecosystems most vulnerable to climate change exist within water, coastal, marine, agricultural, forestry and dryland areas. The Parties recognise the effects of climate change on these ecosystems which will impact food security and public health. The Parties further recognise their international commitments, including Sustainable Development Goals 2, 12, 14, and 15 of the 2030 Agenda. The Parties further acknowledge the importance, and positive role, of the multilateral trading system and WTO in encouraging sustainable use of resources, sustainable ecosystems, sustainability of services and sustainable long-term growth.

2. The Parties reaffirm their shared ambition for the WTO to advance international cooperation efforts on the WTO Agreement on Agriculture and the WTO Agreement on Fisheries Subsidies. The Parties agree to cooperate in international fora to secure a sustainable future.

3. The Parties recognise the harmful environmental consequences that subsidies across all sectors can have, including by encouraging unsustainable forms of production. The Parties reaffirm their rights and obligations under the SCM Agreement and Agreement on Agriculture.

4. The Parties also recognise the importance of cooperating to understand the implications, operations, and future direction of environmentally harmful subsidies. The Parties also recognise the importance of seeking ways to encourage dialogue, and cooperate bilaterally and in international fora to address environmental harm resulting from subsidies and explore options for reform. The Parties further recognise the importance of providing financial support to policies and practices that support environmental outcomes, for example through research and development funding or through repurposing financial support provided through subsidies.

ARTICLE 14.9
Sustainable Agriculture

1. The Parties recognise the importance of strengthening policies and defining programmes that contribute to the development of sustainable, inclusive, healthy and resilient food systems.

2. Accordingly, the Parties recognise the following principles:

(a) furthering sustainable agriculture and associated public investment;

(b) encouraging innovation and implementing research and development in sustainable agriculture and food systems to increase resilience to climate change;

(c) promoting practices and policies that assist agricultural production to mitigate and adapt to climate change;

(d) highlighting the positive role the multilateral trading system can play in finding solutions and promoting sustainable agriculture;

(e) basing approaches in risk- and science-based decision-making, and recognising Indigenous values, practices and knowledge;

(f) avoiding unduly prescriptive measures and compliance costs when implementing sustainability measures;

(g) avoiding policies that undermine global food security; and

(h) sharing internationally recognised best practice for sustainable agriculture production, while emphasising that this be evidence-based and transparent, in order to protect the sustainability of agricultural production.

3. The Parties agree to identify implementing opportunities for the COP28 Declaration on Sustainable Agriculture and Food Systems, specifically focusing on ensuring sustainable production through science and evidence-based innovation and scaling up investment related to agriculture and food systems for the purpose of promoting sustainable agriculture, resilient food systems and climate action.

ARTICLE 14.10
Sustainable Fisheries

1. The Parties recognise the importance of conserving and sustainably managing marine fisheries as well as promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives.

2. Accordingly, the Parties agree to:

(a) support national, regional and international action to address IUU fishing in accordance with national and international instruments[4], and by using relevant bilateral and international frameworks; and

(b) cooperate on trade-related aspects of fishery and aquaculture policies and measures bilaterally, regionally, and in international fora as appropriate, including in the WTO, FAO, United Nations General Assembly, Regional Fisheries Management Organisations, and other multilateral organisations in this field, which are important to promoting sustainable fishing practices and trade in fish products from sustainably managed fisheries.

ARTICLE 14.11
Sustainable Forestry

1. The Parties recognise the importance of the conservation and sustainable management of forests, and the sustainable production of forest products in providing environmental and ecosystem services, economic and social benefits, and opportunities for future generations including by addressing climate change and reducing biodiversity loss, and the role of trade in pursuing this objective.

2. Accordingly, the Parties agree to:

(a) promote the conservation and sustainable management of forests;

[4] Regional and international instruments include, as they may apply, the *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* of the FAO, done at Rome on 2 March 2001 ("2001 IUU Fishing Plan of Action"), the *2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing*, adopted in Rome on 12 March 2005 ("Declaration on IUU"), the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*, done at Rome on 22 November 2009, the FAO Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels, as well as instruments establishing and adopted by Regional Fisheries Management Organisations (RFMOs), which are defined as intergovernmental fisheries organisations or arrangements, as appropriate, that have the competence to establish conservation and management measures.

(b) contribute to combatting illegal logging, illegal deforestation, and associated trade, including with respect to communities dependent on forests; and

(c) promote trade in legally, and sustainably produced, commodities which could otherwise be associated with deforestation.

ARTICLE 14.12
Resource Efficient and Circular Economy

1. The Parties recognise the transition towards a circular economy and greater resource efficiency can reduce the adverse impacts on the environment, improve resource security, and contribute to their respective efforts to achieve their international commitments, including Sustainable Development Goal 12 of the 2030 Agenda. The Parties further recognise the role that trade can play in achieving this transition through trade in second-hand goods, end-of-life products, secondary materials or waste, as well as trade in related services.

2. The Parties also recognise that policy objectives to facilitate the transition to a resource efficient and circular economy include: extending product lifetimes; increasing the proportion of materials and products that are reused and recycled; and reducing waste throughout supply chains.

3. The Parties further recognise the importance of applying circular economy principles in sectors such as sustainable manufacturing, green infrastructure, sustainable transportation and sustainable food production and consumption. Accordingly, the Parties agree to:

(a) encourage, including through research and development, resource efficient product design, including the designing of products to be easier to reuse, dismantle, or recycle at end of life;

(b) encourage environmental labelling, including eco-labelling, to make it easier for consumers to make more sustainable choices;

(c) with a view to limit the generation of waste, encourage reuse, repair, and remanufacture as well as the recovery of resources where residual waste does occur, and strive to reduce the amount of waste sent to landfill; and

(d) encourage relevant public entities to consider the policy objectives in paragraph 2 in their purchasing decisions in accordance with improved environmental, social and labour considerations.

4. The Parties agree to cooperate on ways to encourage a transition towards a resource efficient and circular economy, which may include:

(a) developing policies and practices to encourage the transition to a resource efficient and circular economy;

(b) promoting and facilitating trade that contributes to a resource efficient and circular economy, including trade in secondary materials and used goods, and goods for repair, reuse, and remanufacture; and

(c) sharing best practices on resource efficient product design and related product information and quality standards for secondary materials and goods.

ARTICLE 14.13
Environmental Goods and Services

1. The Parties recognise the importance of trade and investment in, and strengthening the market for, environmental goods and services as a means of improving environmental and economic performance and addressing global environmental challenges, including climate change. The Parties further recognise that facilitating trade and investment in environmental goods and services, including clean technology, is a means of improving environmental and economic performance, contributing to clean growth and jobs, and encouraging sustainable development while addressing global environmental challenges including climate change.

2. The Parties recognise the importance of promoting trade and investment in environmental goods and services. Accordingly, the Parties agree to:

(a) facilitate and promote trade and investment in environmental goods and services;

(b) promote trade and investment in goods and services that are related to the protection of the environment or that contribute to enhancing social conditions; and

(c) support transparent, factual and non-misleading sustainability schemes or other voluntary initiatives to contribute meaningfully to sustainable development.

ARTICLE 14.14
Eco-labelling

1. The Parties recognise that flexible and voluntary mechanisms, such as eco-labels, which protect the environment, encourage innovation and build consumer awareness, are important for trade and investment.

2. The Parties further recognise the potential for eco-labels, and other environmental standards on goods and services, to be used as barriers to trade and shall endeavour to address related non-tariff barriers while encouraging the uptake of transparent, factual and non-misleading sustainability schemes, such as fair and ethical trade schemes and ecolabels.

ARTICLE 14.15
Conservation of Biological Diversity

1. The Parties recognise the importance of conserving, and sustainably using, biological diversity and the role of trade in pursuing these objectives, consistent with relevant MEAs to which they are a party, including the *Convention on Biological Diversity*, done at Rio de Janeiro on 5 June 1992 (hereinafter referred to as the "Convention on Biological Diversity") and its Protocols, the *Convention on the Conservation of Migratory Species of Wild Animals*, done at Bonn on 23 June 1979, *The Ramsar Convention on Wetlands*, done at Ramsar on 2 February 1971, and the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington, D.C. on 3 March 1973, and the decisions adopted thereunder. Accordingly, the Parties agree to:

(a) fulfil their commitments to the Convention on Biological Diversity by implementing the Kunming-Montreal Global Biodiversity Framework, done at Montreal on 19 December 2022, through their national biodiversity strategies;

(b) take appropriate action to conserve biological diversity when it is subject to pressures linked to trade and investment, in particular to prevent the spread of invasive alien species; and

(c) take appropriate measures to protect and conserve wild fauna and flora, including critical and endangered habitats, that they have identified to be at risk within their respective territories, and measures to conserve the ecological integrity of specifically protected natural areas and critical ecosystems such as wetlands.

2. The Parties also recognise the importance of respecting, protecting, preserving and maintaining knowledge, innovations and practices of Indigenous Peoples embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity, and the role of international trade in supporting this.

ARTICLE 14.16
Cooperation

The Parties recognise the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits, and to strengthen the Parties' joint and individual capacities to promote Trade and Sustainable Development, including as they strengthen their trade and investment relations.

ARTICLE 14.17
Contact Points

1. Each Party shall, within 90 days of entry into force of this Agreement, designate an office or official within its trade ministry, or equivalent entity, as a contact point to address matters related to this Chapter. Each Party shall notify the other Party promptly in the event of any change to its contact point.

2. The contact points shall facilitate regular communication and coordination between the Parties, and cooperate, including with other appropriate agencies of their governments, to develop and implement cooperative activities.

ARTICLE 14.18
Consultations

1. The Parties recognise the importance of cooperation and consultation, based on the principle of mutual respect, and shall endeavour to resolve any matter arising under this Chapter.

2. At any time, after making a request for information about a matter arising under this Chapter, the requesting Party may express its concern in writing to the responding Party and request consultations on the matter. Consultations between the Parties to discuss the concerns raised shall be held within 60 days after the date of delivery of the request.

3. The Parties shall endeavour to achieve a satisfactory resolution of the matter through consultations initiated in accordance with paragraph 2. The Parties may

request advice from an independent expert or experts chosen by them to assist. The Parties shall document any outcome.

ARTICLE 14.19
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 15

INDIGENOUS PEOPLES ECONOMIC AND TRADE COOPERATION

ARTICLE 15.1
Definitions

For the purposes of this Chapter:

"well-being" from a Te Ao Māori perspective refers to the holistic balancing and inter-connection of numerous factors required for individuals and groups to be truly well and thrive, including taha tinana (physical), taha hinengaro (mental), taha wairua (spiritual), whenua (land), taiao (environment), moana (sea or waterways), whakapapa (genealogy) and kaitiakitanga (stewardship). It can also include environmental, economic, and cultural aspects;

"Mānuka" (and its spelling variations including **"Manuka"** and **"Maanuka")** is a Māori word and *taonga* used exclusively for the tree *Leptospermum scoparium* grown in Aotearoa New Zealand and products including honey and oil deriving from that tree;

"taonga" refers to a highly valuable or prized object, element, natural resource or possession, and can be tangible or intangible; and

"cultural expressions" are those expressions that result from the creativity of individuals, groups and societies, and that have cultural content.

ARTICLE 15.2
Objective and Principles

1. The objective of this Chapter is for the Parties to cooperate to enable and advance Māori and Indigenous Peoples (hereinafter referred to as "Indigenous Peoples") to fully benefit from the trade and investment opportunities created by this Agreement.

2. In implementing this Chapter, the Parties recognise:

   (a) that Māori, Indigenous and Emirati Peoples have been engaged in trade since time immemorial, and that trade is fundamental to maintaining and promoting their histories, identity, relationships, values, culture, customs, traditional knowledge, and well-being;

   (b) the value and importance for Indigenous Peoples to maintain and develop their economic systems, institutions, priorities and strategies, to engage freely in all their traditional and other economic activities, to be actively

involved in determining and developing their economic programmes, and to promote their development in accordance with their aspirations and needs;

(c) the important contribution that Indigenous traditional knowledge can make to innovation, sustainable development, and the ecologically sound management of the environment;

(d) the value and importance of Indigenous Peoples' genetic resources, traditional knowledge (including traditional knowledge associated with genetic resources), and traditional cultural expressions in their participation in international trade and investment, including the names and uses of plants, traditional foods, languages, and sciences including health sciences;

(e) the value and importance of Indigenous Peoples' cultural expressions, including visual and performing art, handicrafts, designs, music, literature, film, architecture, textile and fashion design, songs, stories, carvings and works of art;

(f) the ancestral connections that Indigenous Peoples have with their traditionally owned or occupied lands, their dependency on biological diversity, and the contribution this can make to achieving their economic, social and cultural development and well-being; and

(g) the value of enhancing people and business connections to support the trade and investment opportunities created by this Agreement for both Parties.

3. The Parties agree to implement this Chapter consistent with their respective constitutional frameworks, which for New Zealand includes Te Tiriti o Waitangi/The Treaty of Waitangi. The Parties recognise the importance of relevant multilateral instruments to which both Parties are party, including:

(a) The United Nations Declaration on the Rights of Indigenous Peoples, adopted in New York on 13 September 2007;

(b) United Nations Agenda "Transforming our world: the 2030 Agenda for Sustainable Development", adopted on 25 September 2015 by United Nations General Assembly Resolution A/RES/70/1 and its Sustainable Development Goals;

(c) The UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expressions, adopted in Paris on 20 October 2005; and

(d) The Convention on Biological Diversity, adopted in Rio de Janeiro on 5 June 1992 and its Protocols.

ARTICLE 15.3
Provisions across the Agreement

In addition to this Chapter, there are provisions in other Chapters of this Agreement that aim to enhance Māori participation in trade and investment opportunities under this Agreement. These include:

(a) Chapter 2 (Trade in Goods);

(b) Chapter 8 (Investment Facilitation);

(c) Chapter 10 (Digital Trade);

(d) Chapter 13 (Intellectual Property);

(e) Chapter 14 (Trade and Sustainable Development);

(f) Chapter 16 (Small and Medium-Sized Enterprises);

(g) Chapter 17 (Economic Cooperation); and

(h) Chapter 21 (Exceptions) including Te Tiriti o Waitangi/The Treaty of Waitangi.

ARTICLE 15.4
Cooperation Activities

1. To achieve the objective of this Chapter, the Parties agree to cooperate to enable and advance Indigenous Peoples' trade and economic opportunities under this Agreement. Cooperation activities may include:

(a) developing programmes and initiatives to enhance the ability for Indigenous-owned enterprises to access and fully benefit from the opportunities of international trade and investment, including through exchanges on good practices, projects and programmes;

(b) developing and enhancing links between the UAE and Indigenous-owned enterprises, including Indigenous women-led enterprises, to facilitate access to existing and new supply chains as well as trade in goods and services;

(c) sharing experiences to enhance the ability of Indigenous Peoples and businesses to participate in and benefit from both Parties' energy transitions;

(d) enabling and strengthening the digital inclusion for Indigenous Peoples and businesses and their participation in electronic commerce and digital trade;

(e) identifying potential areas of cooperation between businesses for the mutual benefit of both Parties, and developing, supporting and strengthening business networks, cooperation and partnerships, including through trade missions;

(f) promoting trade and investment in sectors relevant for Indigenous-owned enterprises, including businesses that relate to or derive from traditional knowledge and traditional cultural expressions such as arts and crafts, dance and music, tourism, food and agri-business, biological diversity and environmental management, and the green economy and resources;

(g) promoting the inclusion of Indigenous Peoples and businesses in agri-food and agricultural trade and related activities;

(h) sharing information on promoting and protecting Mānuka honey; and

(i) any other area of mutual interest that the Parties may agree to.

2. In implementing the cooperation activities under this Chapter, the Parties may invite the views and participation of relevant stakeholders, and in the case of Aotearoa New Zealand of Māori in accordance with Te Tiriti o Waitangi/The Treaty of Waitangi.

3. All cooperation activities shall be at the request of a Party, on mutually agreed terms in respect of each cooperation activity and subject to resource availability.

ARTICLE 15.5
Contact Points

1. Each Party shall designate and notify a contact point for implementing this Chapter.

2. Each Party shall promptly notify the other Party of any change to its contact point.

3. The contact points shall facilitate communication, coordination, and information exchange between the Parties:

(a) on any matter the Parties consider relevant to this Chapter;

(b) as required for monitoring the implementation of this Agreement as it relates to Indigenous Peoples; and

(c) as required for coordinating between any committee, working group or other subsidiary body established by this Agreement, on any matter covered by this Chapter.

ARTICLE 15.6
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 16

SMALL AND MEDIUM-SIZED ENTERPRISES

ARTICLE 16.1
General Principles

1. The Parties, recognising the fundamental role of SMEs in maintaining dynamism and enhancing competitiveness of their respective economies and their contribution to economic growth, sustainable development, and innovation, shall foster close cooperation between SMEs of the Parties and cooperate in promoting jobs and growth in SMEs.

2. The Parties recognise the integral role of the private sector in the SME cooperation to be implemented under this Chapter.

ARTICLE 16.2
Cooperation to Increase Trade and Investment Opportunities for SMEs

With a view to more robust cooperation between the Parties to enhance commercial opportunities for SMEs, each Party shall seek to increase trade and investment opportunities. In particular, each Party may:

(a) promote cooperation between the Parties' small business support infrastructure including dedicated SME centres, incubators and accelerators, export assistance centres, and other centres as appropriate, to create an international network for sharing best practices, exchanging market research, and promoting SME participation in international trade, as well as creating business growth in local markets;

(b) strengthen its collaboration with the other Party on activities to promote SMEs owned by women and youth, start-ups, and partnership among these SMEs and their participation in international trade;

(c) enhance cooperation with the other Party to exchange information and best practices in areas including improving SME access to capital and credit, SME participation in covered government procurement opportunities, and helping SMEs adapt to changing market conditions;

(d) encourage participation in purpose-built mobile or web-based platforms, for entrepreneurs and business advisers to share information and best practices

to help SMEs link with international suppliers, buyers, and other potential business partners;

(e) promote the participation in international trade of SMEs owned by under-represented groups, such as women, youth, Māori, and minority groups; and

(f) support SMEs to participate in digital trade and e-commerce to take advantage of opportunities resulting from this Agreement.

ARTICLE 16.3
Information Sharing

1. Each Party shall establish or maintain its own free, publicly accessible website containing information regarding this Agreement, including:

(a) the text of this Agreement;

(b) a summary of this Agreement; and

(c) information designed for SMEs that contains:

(i) a description of the provisions in this Agreement that the Party considers to be relevant to SMEs; and

(ii) any additional information that would be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall include in its website, referred to in paragraph 1, links, or information through automated electronic transfer, to:

(a) the equivalent website of the other Party; and

(b) the websites of its own government agencies and other appropriate entities that provide information the Party considers useful to any person interested in trading, investing, or doing business in that Party's territory.

3. Subject to each Party's laws and regulations, the information described in paragraph 2(b) may include:

(a) customs regulations, procedures, or enquiry points;

(b) regulations or procedures concerning intellectual property;

(c) technical regulations, standards, quality or conformity assessment procedures;

(d) relevant sanitary or phytosanitary measures relating to importation or exportation;

(e) foreign investment regulations;

(f) business registration procedures;

(g) trade promotion programmes;

(h) competitiveness programmes;

(i) SME investment and financing programmes;

(j) taxation information;

(k) government procurement opportunities covered under Chapter 11 (Government Procurement); and

(l) other information which the Party considers to be useful for SMEs.

4. Each Party shall regularly review the information and links on the website referred to in paragraphs 1 and 2 to ensure the information and links are up-to-date and accurate.

5. To the extent possible, each Party shall make the information referred to in paragraphs 1 through 3 available in English. If this information is available in another authentic language of this Agreement, the Party shall endeavor to make this information available, as appropriate.

ARTICLE 16.4
Contact Points

1. Each Party shall, within 90 days of the entry into force of this Agreement, designate an office or official within its trade ministry or equivalent entity as a contact point to address matters related to this Chapter. Each Party shall notify the other Party promptly in the event of any change to its contact point.

2. The contact points shall facilitate regular communication and coordination between the Parties, and cooperate, including with other appropriate agencies of their governments and any relevant sub-committee established under this Agreement, to develop and implement cooperative activities.

3. The Parties recognise the importance of cooperation and consultation, based on the principle of mutual respect, and shall endeavour to resolve any matter arising under this Chapter.

ARTICLE 16.5
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 17

ECONOMIC COOPERATION

ARTICLE 17.1
Objectives

1. The Parties shall promote cooperation under this Agreement for their mutual benefit in order to liberalise and facilitate trade and investment between the Parties and foster economic growth.

2. Economic cooperation under this Agreement shall be built upon a common understanding between the Parties to support the implementation of this Agreement, with the objective of maximising its benefits, supporting pathways to trade and investment facilitation, and further improving market access and openness to contribute to the sustainable inclusive economic growth and prosperity of the Parties.

ARTICLE 17.2
Scope

1. Economic cooperation under this Agreement shall support the effectiveness and efficiency of the implementation and utilisation of this Agreement through activities that relate to trade and investment.

2. The Parties will endeavour to encourage cooperation between the Parties, their respective business communities, scientific and academic communities, Māori in the case of New Zealand, and other stakeholders as appropriate, in areas of common interest under this Agreement, with priorities to be mutually determined and subject to available resources. The Parties acknowledge the provisions to encourage and facilitate cooperation included in various Chapters of this Agreement, including chapters on; Customs Procedures and Trade Facilitation; Digital Trade; Intellectual Property; Trade Remedies; Trade and Sustainable Development; Sanitary and Phytosanitary Measures; Technical Barriers to Trade; Small and Medium-Sized Businesses; Competition; Trade and Sustainable Development; and Māori and Indigenous Trade and Economic Cooperation.

3. Areas of cooperation may include:

   (a) agriculture, fisheries and aquaculture, forestry and food security;

   (b) industrials and manufacturing;

   (c) innovation and science and technology;

   (d) green and renewable energy;

(e) halal cooperation;

(f) services sectors, including tourism; and

(g) trade and investment promotion.

ARTICLE 17.3
Global Supply Chains

1. The Parties acknowledge the importance of global supply chains as a means to strengthen and widen economic relations between the Parties. The Parties acknowledge that international trade and investment, supported by robust and resilient supply chains, are engines of economic growth.

2. The Parties acknowledge the importance of SMEs as a driver of productivity and their impact on employment. The Parties recognise that the inclusion of SMEs in global supply chains will contribute to a more efficient allocation of the benefits of international trade, including the diversification and enhancing of value added in exports.

3. The Parties recognise the important role of the services sector in the creation and utilisation of global supply chains, and affirm the contribution service suppliers play in their integration.

ARTICLE 17.4
Priorities and Resources

1. Priorities for cooperation activities shall be decided by the Parties based on their interests and available resources, and in accordance with the laws and regulations of the Parties.

2. The Parties, on the basis of mutual benefit, may consider cooperation with, and contributions from, external parties to support their cooperation activities.

ARTICLE 17.5
Cooperative Framework

1. The Parties recognise the critical role of the private sector in leveraging the full potential of the CEPA. Accordingly, the Parties will endeavour to encourage collaboration such as trade missions and business and networking events to promote the Agreement and achieve tangible benefits including in collaboration with their respective business communities such as Chambers of Commerce or other industry bodies as appropriate.

2. Where appropriate, the Parties should encourage the establishment of dialogue between their relevant private sector organisations or representatives to share and facilitate understanding of the Agreement and the opportunities it provides.

ARTICLE 17.6
Means of Cooperation

1. Economic and trade cooperation activities may be carried out on issues determined by the Parties. Such cooperation activities may include:

(a) dialogues, workshops, seminars, and conferences;

(b) collaborative programmes and projects;

(c) technical cooperation;

(d) sharing of best practices on policies and procedures;

(e) the exchange of experts, information and technology;

(f) the exchange of trade and investment data and of information to promote business opportunities;

(g) the organization of trade missions, business and networking events, and trade fairs;

(h) the promotion of joint business initiatives between entrepreneurs of the Parties; and

(i) any other form of cooperation that may be agreed by the Parties.

Article 17.7
Contact Points

1. Each Party shall, at the time of the first meeting of the Joint Committee, designate an official contact point to address matters related to this Chapter. Each Party shall notify the other Party promptly in the event of any change to its contact point.

2. The contact points will endeavour to facilitate regular communication and coordination between the Parties, and work together to develop and implement cooperative activities as mutually agreed.

ARTICLE 17.8
Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 18

TRANSPARENCY

ARTICLE 18.1
Publication

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published via an officially designated medium and, where feasible, by electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them.

2. To the extent possible and appropriate, each Party shall endeavour to provide a reasonable period of time between publication and entry into force of laws and regulations with respect to any matter covered by this Agreement.

ARTICLE 18.2
Provision of Information

Upon request of a Party, the other Party shall promptly provide information and respond to questions on its laws or regulations of general application referred to in Article 18.1(1).

ARTICLE 18.3
Administrative Proceedings

1. With a view to administering in a consistent, impartial, and reasonable manner all measures of general application with respect to any matter covered by this Agreement, each Party shall endeavour to ensure in its administrative proceedings applying those laws, regulations, procedures, or administrative rulings referred to in Article 18.1 to a particular person, good or service of another Party in specific cases that:

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

(b) wherever possible, a person of the other Party that is directly affected by a proceeding is afforded a reasonable opportunity to present facts and arguments in support of that person's position prior to any final

administrative action, when time, the nature of the proceeding, and the public interest permit; and

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

ARTICLE 18.4
Review and Appeal

1. Each Party, subject to its laws and regulations, shall endeavour to establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, if warranted, correction of a final administrative action with respect to any matter covered by this Agreement. Those tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall endeavour to ensure that, with respect to the tribunals or procedures referred to in paragraph 1, the parties to a proceeding are provided with the right to:

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

(b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the relevant authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its domestic law, that the decision referred to in paragraph 2(b) shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

ARTICLE 18.5
WTO Transparency Commitments

The Parties affirm their commitments in relation to transparency under the WTO Agreement and build on those commitments in this chapter.

CHAPTER 19

ADMINISTRATION OF THE AGREEMENT

ARTICLE 19.1
Establishment of the Joint Committee

The Parties hereby establish the United Arab Emirates - New Zealand CEPA Joint Committee which may meet at the level of senior officials or Ministers, as mutually determined by the Parties.

ARTICLE 19.2
Meetings of the Joint Committee

1. The Joint Committee shall meet within one year from the entry into force of this Agreement. Thereafter, it shall meet every two years unless the Parties agree otherwise. The regular sessions of the Joint Committee shall be chaired successively by each Party. The Party chairing a meeting of the Joint Commission shall provide any necessary administrative support for such meeting.

2. The Joint Committee shall also hold special sessions without undue delay from the date of a request thereof from either Party, unless otherwise agreed by the Parties.

ARTICLE 19.3
Functions of the Joint Committee

1. The Joint Committee shall:

   (a) consider any matters relating to the implementation of this Agreement;

   (b) review the general operation of this Agreement;

   (c) consider any proposal to amend this Agreement that is referred to it and endeavour to make a recommendation to the Parties on the proposed amendment;

   (d) supervise the work of all subsidiary bodies established under this Agreement and oversee other activities conducted under this Agreement;

   (e) consider ways to further enhance trade and investment between the Parties; and

(f) establish its own rules of procedure.

2. The Joint Committee may:

(a) establish subsidiary bodies, refer matters to any subsidiary bodies, and consider matters raised by any subsidiary bodies established under this Agreement;

(b) merge or dissolve any subsidiary bodies established under this Agreement;

(c) develop arrangements for the implementation of the Agreement;

(d) seek to resolve differences or disputes that may arise regarding the interpretation or application of this Agreement;

(e) issue interpretations of the provisions of this Agreement;

(f) consider any other matter that may affect the operation of this Agreement;

(g) take any other action as the Parties may agree; and

(h) consider and adopt a modification to this Agreement of:

(i) Annex 3-A (Product Specific Rules) pursuant to Article 3.40(3);

(ii) Annex 6-A (Competent Authorities) pursuant to Article 6.13(6)(d);

(iii) Annex 6-B (Sanitary MOU) pursuant to Article 6.13(6)(e);

(iv) Annex 6-C (Sanitary and Phytosanitary MOU) pursuant to Article 6.13(6)(e);

(v) Annex 11-A (Government Procurement Schedules) pursuant to Article 11.20(5);

(vi) Annex 20-A (Rules of Procedure for the Panel) pursuant to Article 20.29; and

(vii) Annex 20-B (Code of Conduct for Panellists and Others Engaged in Dispute Settlement Proceedings under this Agreement) pursuant to Article 20.29.

3. The Joint Committee, or any subsidiary bodies established under this Agreement, shall take decisions on any matter within its functions by mutual agreement.

4. Meetings of the Joint Committee, or any subsidiary bodies established under this Agreement, may be conducted in person or by any other means as determined by the Parties.

ARTICLE 19.4
Establishment of Sub-Committees

The following sub-committees are hereby established under the auspices of the Joint Committee:

(a) the Trade in Goods Sub-Committee, the functions of which are set out in Article 2.20 (Sub-Committee on Trade in Goods);

(b) the Rules of Origin and Customs and Trade Facilitation Sub-Committee, the functions of which are set out in Article 3.38 (Rules of Origin and Trade Facilitation Sub-Committee) and Article 4.18 (Sub-Committee on Customs Procedures and Trade Facilitation); and

(c) the Sanitary and Phytosanitary Measures Sub-Committee, the functions of which are set out in Article 6.13 (Sub-Committee on Sanitary and Phytosanitary Measures).

ARTICLE 19.5
Communications

1. Each Party shall, within 30 days of the date of entry into force of this Agreement, designate a contact point to receive and facilitate official communications among the Parties on any matter relating to this Agreement. Each Party shall notify the other Party of the contact details of that contact point. Each Party shall promptly notify the other Party, in writing, of any changes to its contact point.

2. Upon request of the other Party, a Party's contact point shall identify the office or official responsible for any matter relating to implementation of this Agreement. The contact point will assist, as necessary, in facilitating communications between the other Party and that office or official.

3. All official communications in relation to this Agreement shall be in the English language.

ARTICLE 19.6
General Review

1. The Parties shall undertake a general review of the Agreement, with a view to furthering its objectives, every five years following the date of entry into force, unless the Parties agree otherwise.

2. The conduct of general reviews shall normally coincide with regular meetings of the Joint Committee.

CHAPTER 20

DISPUTE SETTLEMENT

ARTICLE 20.1
Objective

The objective of this Chapter is to establish an effective and efficient mechanism for avoiding and settling disputes between the Parties concerning the interpretation and application of this Agreement with a view to reaching, where possible, a mutually agreed solution.

ARTICLE 20.2
Cooperation

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

ARTICLE 20.3
Scope of Application

1. Except as provided in paragraphs 2 and 3, this Chapter shall apply with respect to the avoidance or settlement of any dispute between the Parties concerning the interpretation or application of this Agreement (hereinafter referred to as "covered provisions"), wherever a Party considers that:

   (a) a measure of the other Party is inconsistent with its obligations under this Agreement; or

   (b) the other Party otherwise failed to carry out its obligations under this Agreement.

2. This Chapter shall not cover non-violation complaints and other situation complaints.

3. The covered provisions shall include all provisions of this Agreement with the exception of:

   (a) Chapter 5 (Trade Remedies);

   (b) Chapter 8 (Investment Facilitation);

(c) Chapter 12 (Competition);

(d) Chapter 14 (Trade and Sustainable Development);

(e) Chapter 15 (Indigenous Peoples Economic and Trade Cooperation);

(f) Chapter 16 (Small and Medium-Sized Enterprises); and

(g) Chapter 17 (Economic Cooperation).

ARTICLE 20.4
Contact Point

1. Each Party shall designate a contact point to facilitate communications between the Parties with respect to any dispute initiated under this Chapter.

2. Any request, notification, written submission or other document made in accordance with this Chapter shall be delivered to the other Party through its designated contact point.

ARTICLE 20.5
Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 20.3 by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request delivered to the other Party identifying the reasons for the request, including the measure or other matter at issue and a description of its factual basis, and the legal basis for the complaint.

3. The Party to which the request for consultations is made shall reply to the request promptly, but no later than 10 days after the date of receipt of the request.

4. Unless agreed otherwise, the Parties shall enter consultations within a period of no more than:

(a) 15 days after the receipt of the request for consultation on matters of urgency including those which concern perishable goods, or seasonal goods or seasonal services that rapidly lose their value; or

(b) 30 days after the date of receipt of the request of all other matters.

5. Unless the Parties agree otherwise, consultations shall be deemed concluded within:

(a) 30 days of the receipt of the request for consultations on matters which concern perishable goods; or

(b) 60 days of the receipt of the request for consultations regarding all other matters.

6. During consultations each Party shall provide sufficient information to allow a complete examination of how the measure, or other matter subject to consultations, might affect the operation or application of this Agreement.

7. Consultations, including all information disclosed and positions taken by the Parties during consultations, shall be designated as confidential for the purposes of Article 1.5 (Confidential Information), and without prejudice to the rights of either Party in any further proceedings.

8. Consultations may be held in person or by any other means of communication agreed by the Parties. Unless the Parties agree otherwise, consultations, if held in person, shall take place in the territory of the Party to which the request is made.

ARTICLE 20.6
Good Offices, Conciliation or Mediation

1. The Parties may at any time agree to voluntarily undertake good offices, conciliation or mediation. These procedures may begin at any time and be terminated by either Party at any time.

2. Proceedings involving good offices, conciliation or mediation and the particular positions taken by the Parties in these proceedings, shall be confidential for the purposes of Article 1.5 (Confidential Information), and without prejudice to the rights of either Party in any further proceedings.

3. If the Parties agree, procedures for good offices, conciliation or mediation may continue while the panel procedures proceed.

ARTICLE 20.7
Establishment of a Panel

1. The complaining Party may request the establishment of a panel if:

(a) the respondent Party does not respond to the request for consultations within 10 days after the date of its delivery;

(b) consultations are not held within the time periods set out in Article 20.5(4);

(c) the Parties agree not to have consultations; or

(d) consultations have been concluded and no mutually agreed solution has been reached.

2. The request for establishment of a panel shall be made in writing to the responding Party. In the request, the complaining Party shall set out the reasons for the request sufficient to present the problem clearly, including by identifying:

(a) a specific measure or other matter at issue;

(b) the legal basis for the complaint, including the provisions of this Agreement alleged to have been breached;

(c) any other relevant provisions; and

(d) the factual basis for the complaint.

ARTICLE 20.8
Composition of a Panel

1. The panel shall be composed of three panellists.

2. Each Party shall appoint a panellist within 20 days of the receipt of the request to establish a panel and shall at the same time nominate up to three candidates to serve as the third panellist who shall be the chair of the panel. The nominated candidates can also be appointed as a panellist who is not the chair pursuant to paragraphs 5 and 6.

3. The Parties shall appoint by common agreement the chair within 40 days of the receipt of the request to establish a panel, taking into account the candidates nominated pursuant to paragraph 2.

4. The chair shall not be a national of, nor have their usual place of residence in, nor be employed by, a Party.

5. If all three members of the panel have not been appointed in accordance with paragraphs 2 and 3 within 40 days of receipt of the request to establish a panel, a Party

may request the Director General of the WTO to make the remaining appointments within a further period of 15 days. Any lists of nominees which were provided under paragraph 2 shall also be provided to the Director General of the WTO and may be used in making the required appointments.

6. If the Director General of the WTO:

(a) notifies the Parties to the dispute that he or she is unavailable; or

(b) does not appoint the unappointed panellist within 20 days after the date of the request made pursuant to paragraph 5;

the remaining panellist shall be appointed by a draw of lot from the list of nominees which were provided under paragraph 2. If a Party fails to submit its list of three nominees pursuant to paragraph 2, the remaining panellist will be drawn from the list submitted by the other Party.

7. The date of establishment of the panel shall be the date on which the last panellist is appointed.

ARTICLE 20.9
Decision on Urgency

If a Party so requests, the panel shall decide, within 15 days of its establishment, whether the dispute concerns matters of urgency.

ARTICLE 20.10
Requirements for Panellists

1. Each panellist shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

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

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute;

(d) comply with the Code of Conduct established in Annex 20-B; and

(e) be chosen strictly on the basis of objectivity, reliability, and sound judgment.

2. The chairperson shall also have experience in dispute settlement procedures.

3. Persons who provided good offices, conciliation or mediation to the Parties, pursuant to Article 20.6, in relation to the same or a substantially equivalent matter, shall not be eligible to be appointed as panellists in that matter.

ARTICLE 20.11
Replacement of Panellists

If any of the panellists of the original panel becomes unable to act, withdraws or needs to be replaced because that panellist does not comply with the requirements of the code of conduct, a successor panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist under Article 20.8 and the work of the panel shall be suspended pending the appointment of the successor panellist. The time period for the delivery of the report, or decision of the panel, shall be extended for the time necessary for the appointment of the new panellist.

ARTICLE 20.12
Functions of the Panel

The panel:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the covered provisions;

(b) shall set out, in its decisions and reports, the findings of fact and law and the rationale behind any findings and conclusions that it makes; and

(c) should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

ARTICLE 20.13
Terms of Reference

1. Unless the Parties agree otherwise within 20 days after the date of establishment of a panel, the terms of reference of the panel shall be to:

(a) examine, in light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of a panel under Article 20.7(2);

(b) make findings and determinations, together with the reasons therefore, as well as any recommendations, and

(c) issue a written report in accordance with Articles 20.17 and 20.18.

2. If the Parties agree on other terms of reference, they shall notify the agreed terms of reference to the panel within the time period specified in paragraph 1.

ARTICLE 20.14
Rules of Interpretation

1. The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law.

2. The panel may take into account relevant interpretations in reports of panels established under this Agreement and reports of panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO.

3. The findings and determination of the panel cannot add to or diminish the rights and obligations of the Parties provided under this Agreement.

ARTICLE 20.15
Procedures of the Panel

1. Unless the Parties otherwise agree, the panel shall follow the model Rules of Procedure set out in Annex 20-A.

2. There shall be no ex parte communications with the panel concerning matters under its consideration.

3. The deliberations of the panel shall be kept confidential.

4. A Party asserting that a measure of the other Party is inconsistent with the provisions of this Agreement, or that the responding Party has otherwise failed to carry out its obligations the Agreement, shall have the burden of establishing such inconsistency. A Party asserting that a measure is justified by an affirmative defence under the Agreement shall have the burden of establishing that the defence applies.

5. The panel shall draft reports and take decisions by consensus. If this is not possible, the panel shall decide by majority vote.

ARTICLE 20.16
Receipt of Information

1. Upon the request of a Party, or on its own initiative, the panel may seek from the Parties relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for information.

2. Upon the request of a Party, or on its own initiative, the panel may seek from any source any information it considers appropriate.

3. On request of a Party, or on its own initiative, the panel may, subject to any terms and conditions the Parties agree, seek technical advice or expert opinion from any individual or body that it deems appropriate.

4. Any information, advice or opinion obtained by the panel under this Article shall be made available to the Parties and the Parties may provide comments on that information. Where a panel take the information or technical advice into account in the preparation of its report, it shall also take into account any comments by the Parties on the information or technical advice.

ARTICLE 20.17
Interim Report

1. The panel shall deliver an interim report to the Parties within 90 days after the date of composition of the panel. When the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. Under no circumstances shall the delay exceed 30 days after the deadline. The interim report shall not be made public.

2. The interim report shall contain:

   (a) a section summarizing the submissions of the Parties;

   (b) findings of fact;

   (c) the determination of the panel as to whether:

      (i) the measure at issue is inconsistent with obligations in this Agreement; or

      (ii) a Party has otherwise failed to carry out its obligations in this Agreement;

   (d) any other determination requested in the terms of reference; and

(e) the reasons for the findings and determinations.

3. Each Party may submit to the panel written comments on, or a written request to review precise aspects of, the interim report within 15 days after the date of issuance of the interim report or within another period as the disputing Parties may agree. A Party may comment on the others Party's request within six days of the delivery of the request.

4. After considering any written comments and requests by each Party on the interim report, the panel may modify the interim report and make any further examination it considers appropriate.

ARTICLE 20.18
Final Report

1. The panel shall deliver its final report to the Parties, including any separate opinions on matters not unanimously agree, within 120 days after the date of composition of the panel unless the Parties agree otherwise. When the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its final report. Under no circumstances shall the delay exceed 30 days after the deadline unless the Parties agree otherwise.

2. The final report shall include a discussion of any written comments and requests made by the Parties on the interim report. The panel may, in its final report, suggest ways in which the final report could be implemented.

3. The final report shall be made public within 15 days of its delivery to the Parties.

4. No panel shall, either in its interim report or its final report, disclose which panellists are associated with majority or minority opinions.

5. The final report of the panel shall be binding on the Parties.

ARTICLE 20.19
Implementation of the Final Report

1. If in its final report the panel determines that:

(a) the measure at issue is inconsistent with a Party's obligations in this Agreement; or

(b) a Party has otherwise failed to carry out its obligations in this Agreement;

the responding Party shall eliminate the non-conformity.

2. If it is not practicable to comply immediately, the respondent Party shall, no later than 30 days after the delivery of the final report, notify the complaining Party of the reasonable period of time necessary for compliance with the final report and the Parties shall endeavour to agree on the reasonable period of time required for compliance with the final report.

ARTICLE 20.20
Reasonable Period of Time for Compliance

1. If the Parties have not agreed on the length of the reasonable period of time within 20 days after the date of receipt of the notification made by the respondent Party in accordance with Article 20.19(2), the complaining Party may request in writing the original panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the respondent Party. The 20-day period referred to in this paragraph may be extended by mutual agreement of the Parties.

2. The original panel shall deliver its decision to the Parties within 30 days from the relevant request.

3. The length of the reasonable period of time for compliance with the final report may be extended by mutual agreement of the Parties.

ARTICLE 20.21
Compliance Review

1. The respondent Party shall, no later than at the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the final report along with a description on how the measure ensures compliance.

2. Where the Parties disagree on the existence of measures to comply with the final report, or their consistency with the covered provisions, the complaining Party may request in writing, no later than 20 days after the responding Party's notification under paragraph 1, the original panel to decide on the matter. Such request shall be notified simultaneously to the respondent Party

3. The request shall provide the factual and legal basis for the complaint, including the identification of the specific measures at issue and an indication of why any measures taken by the respondent Party fail to comply with the final report or are otherwise inconsistent with the covered provisions.

4. The panel shall deliver its decision to the Parties within 60 days after the date of the submission of the request.

5. If the panel considers that it cannot provide its compliance report within the time period specified in paragraph 4, it shall inform the Parties in writing of the reasons for the delay together with an estimate of when it will issue its report. The panel shall not exceed an additional period of 30 days.

ARTICLE 20.22
Temporary Remedies in Case of Non-Compliance

1. If:

(a) the respondent Party fails to notify any measure taken to comply with the final report no later than the date of expiry of the reasonable period of time; or

(b) the respondent Party notifies the complaining Party in writing that it does not intend to comply with the final report, or that it is impracticable to do so within the reasonable period of time determined pursuant to Article 20.20; or

(c) the panel finds, pursuant to Article 20.21, that compliance with the final report has not been achieved or that the measure taken to comply is inconsistent with this Agreement;

the respondent Party shall, on request of the complaining Party, enter into consultations with a view to agreeing on mutually satisfactory compensation.

2. If, in any of the circumstances set out in paragraphs 1 (a) to (c), the complaining Party chooses not to request consultations or the Parties do not agree on compensation within 20 days of entering into consultation on compensation, the complaining Party may deliver a written notification to the respondent Party that it intends to suspend the application of concessions or other obligations under this Agreement.

3. The complaining Party may begin the suspension of concessions or other obligations referred to in the preceding paragraph 20 days after the date when it notified on the respondent Party, unless the respondent Party made a request under paragraph 7.

4. The suspension of concessions or other obligations:

(a) shall be at a level equivalent to the nullification or impairment that is caused by the failure of the respondent Party to comply with the final report; and

(b) shall be restricted to benefits accruing to the respondent Party under this Agreement.

5. In considering what concessions or other obligations to suspend in accordance with paragraph 2, the complaining Party shall apply the following principles:

(a) the complaining Party should first seek to suspend the concessions or other obligations in the same sector or sectors as that affected by the matter that the panel has found to be inconsistent with this Agreement;

(b) the complaining Party may suspend concessions or other obligations in other sectors, if it considers that it is not practicable or effective to suspend concessions or other obligations in the same sector or sectors. The communication in which it notifies such a decision shall indicate the reasons on which it is based; and

(c) it shall only suspend concessions or other obligations that are subject to dispute settlement in accordance with Article 20.3.

6. The suspension of concessions or other obligations, or the mutually satisfactory compensation foreseen in paragraph 1, shall be temporary and shall only apply until such time as the responding Party is found to have complied with the final report or until the Parties have reached a mutually agreed solution pursuant to Article 20.27.

7. If the respondent Party considers that the suspension of concessions or other obligations does not comply with paragraphs 4 and 5, that Party may request in writing the original panel to examine the matter no later than 15 days after the date of receipt of the notification referred to in paragraph 2. That request shall be notified simultaneously to the complaining Party. The original panel shall notify to the Parties its decision on the matter no later than 60 days of the receipt of the request from the respondent Party. Concessions or other obligations shall not be suspended until the panel has delivered its decision pursuant to this paragraph. The suspension of concessions or other obligations shall be consistent with this decision.

ARTICLE 20.23
Review of any Measure Taken to Comply After the Adoption of Temporary Remedies

1. Upon the notification by the respondent Party to the complaining Party of the measures taken to comply with the final report panel ruling:

(a) in a situation where the right to suspend concessions or other obligations has been exercised by the complaining Party in accordance with Article 20.22, the complaining Party shall terminate the suspension of concessions or other obligations no later than 30 days after the date of receipt of the notification, with the exception of the cases referred to in paragraph 2; or

(b) in a situation where necessary compensation has been agreed, the respondent Party may terminate the application of such compensation no later than 30 days after the date of receipt of the notification, with the exception of the cases referred to in paragraph 2.

2. If the Parties do not reach an agreement on whether the measures notified in accordance with paragraph 1 bring the respondent Party into compliance with the covered provisions, within 30 days after the date of receipt of the notification, either Party may request in writing the panel to examine the matter. That request shall be notified simultaneously to the respondent Party.

3. The decision of the panel shall be notified to the Parties no later than 60 days after the date of submission of the request. If the panel decides that the measures notified in accordance with paragraph 1 bring the respondent Party into compliance with the covered provisions the suspension of concessions or other obligations, or the application of the compensation, as the case may be, shall be terminated no later than 15 days after the date of the decision. If the panel decides that the measures notified in accordance with paragraph 1 do not achieve compliance with the final report or are inconsistent with the Agreement, the suspension of concessions or other obligations, or the application of compensation, may continue. If the panel determines that the notified measure achieves only partial compliance with the covered provisions, the level of suspension of benefits or other obligations, or of the compensation, shall be adapted in light of the decision of the panel.

ARTICLE 20.24
Suspension and Termination of Proceedings

1. At the request of both Parties, the panel shall suspend the proceedings for a period agreed by the Parties not exceeding 12 consecutive months from the date of such request.

2. In the event of a suspension of the panel proceedings, the relevant time periods under this Chapter shall be extended by the same period of time for which the proceedings are suspended.

3. The panel shall resume the proceedings before the end of the suspension period at the written request of both Parties or at the end of the suspension period on the written request of a Party.

4. If the work of the panel has been suspended for more than 12 consecutive months, the authority of the panel shall lapse and the panel proceedings shall be terminated.

5. The Parties may agree at any time to terminate the panel proceedings. The Parties shall jointly notify that agreement to the panel.

ARTICLE 20.25
Choice of Forum

1. Unless otherwise provided in this Article, this Chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other international trade agreements to which they are both Parties.

2. If a dispute with regard to a particular matter arises under this Agreement and under another international trade agreement to which both Parties are party, including the WTO Agreement, the complaining Party may select the forum in which to settle the dispute.

3. Once a Party has selected the forum and initiated dispute settlement proceedings under this Chapter or under the other international agreement with respect to the particular matter referred to in paragraph 2, the selected forum shall be used to the exclusion of other fora unless the forum selected first fails to make findings on the issues in dispute for jurisdictional or procedural reasons.

4. For the purposes of paragraph 3:

(a) dispute settlement proceedings under this Chapter are deemed to be initiated when a Party requests the establishment of a panel in accordance with Article 20.7;

(b) dispute settlement proceedings under the WTO Agreement are deemed to be initiated when a Party requests the establishment of a panel in accordance with Article 6 of the DSU; and

(c) dispute settlement proceedings under any other agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.

ARTICLE 20.26
Remuneration and Expenses

1. Unless the Parties otherwise agree, the remuneration and expenses of the panel and other expenses associated with the conduct of its proceedings shall be borne in equal parts by both Parties.

2. Each Party shall bear its own expenses and legal costs in the panel proceedings.

3. The Joint Committee shall, at its first meeting, establish the procedure for determining appropriate remuneration for panellists and assistants.

ARTICLE 20.27
Mutually Agreed Solution

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 20.3.

2. If a mutually agreed solution is reached during the panel proceedings, the Parties shall jointly notify that solution to the chairperson of the panel. Upon such notification, the panel shall be terminated.

3. Each Party shall take any measures necessary to implement the mutually agreed solution within the agreed time period.

4. No later than at the expiry of the agreed time period, the implementing Party shall inform the other Party, in writing, of any measures that it has taken to implement the mutually agreed solution.

5. Any mutually agreed solution reached between the Parties shall be made available to the public. Where a Party has designated information as confidential in the course of determining a mutually agreed solution, that information shall be treated as confidential for the purposes of Article 1.5.

ARTICLE 20.28
Time Periods

1. All time periods laid down in this Chapter shall be counted in calendar days from the day following the act or fact to which they refer, unless otherwise specified in this Chapter.

2. Any time period referred to in this Chapter may be modified by mutual agreement of the Parties. The panel may at any time propose to the Parties to modify any time period, stating the reasons for the proposal.

3. Except as otherwise provided for in this chapter, all time periods laid down in this Chapter shall be cut by half for disputes concerning matters of urgency pursuant to Article 20.9.

ARTICLE 20.29
Annexes

The Joint Committee may modify Annexes 20-A and 20-B.

ANNEX 20-A

RULES OF PROCEDURE FOR THE PANEL

Notifications

1. Any request, notice, written submission or other document of:

   (a) the panel shall be sent to both Parties at the same time;

   (b) a Party which is addressed to the panel shall be copied to the other Party at the same time; and

   (c) a Party which is addressed to the other Party shall be copied to the panel at the same time.

2. Any request, notice, written submission or other document referred to under Rule 1 shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of its sending. Unless proven otherwise, such notification shall be deemed to be delivered on the date of its sending.

3. Minor errors of a clerical nature in any request, notice, written submission or other document related to the panel proceeding may be corrected by delivery of a new document clearly indicating the changes. Any such correction shall not affect the timetable for the proceeding. Any disagreement regarding whether or not the correction is of a clerical nature shall be resolved by the panel after consulting the Parties.

Organisational Meeting

4. Unless the Parties agree otherwise, the Parties shall meet with the panel within seven days of the establishment of the panel in order to determine such matters that the Parties or the panel deem appropriate, including:

   (a) the remuneration and expenses that shall be paid to the panellists and their assistants, in accordance with Rules 24 through 26 and the procedures established pursuant to Article 20.26(3) (Remuneration and Expenses); and

   (b) the timetable for the proceeding, setting forth, among other things, precise dates for the filing of submissions and the date of the oral hearing.

Timetable

5. Should the panel consider there is a need to modify the timetable provided pursuant to Rule 4(b), it shall inform the Parties in writing of the proposed modification and the reason for it. In cases of urgency in accordance with Article 20.9 (Decision on Urgency) the panel, after consulting the Parties, shall adjust the timetable as appropriate and shall notify the Parties of such adjustment.

Written Submissions

6. Subject to Rule 4, the complaining Party shall deliver its first written submission to the panel no later than 20 days after the date of composition of the panel. The respondent Party shall deliver its first written submission to the panel and to the complaining Party no later than 30 days after the date of delivery of the complaining Party's first written submission, unless the panel decides otherwise.

7. Within 20 days of the conclusion of the oral hearing, each Party may deliver to the panel and the other Party a supplementary written submission responding to any matter that arose during the hearing.

Operation of the Panel

8. The chairperson of the panel shall preside at all of its meetings. The panel may delegate to the chairperson the authority to make administrative and procedural decisions.

9. Except as otherwise provided for, the panel may conduct its activities by any means, including telephone, video conference or other electronic means of communication.

10. Panel deliberations shall be confidential. Only panellists may take part in the deliberations of the panel, but the panel may permit their assistants to be present during its deliberations. The drafting of any decision and report shall remain the exclusive responsibility of the panel and shall not be delegated. The reports of panel shall be drafted without the presence of the Parties and in the light of the information provided and the statements made.

11. Opinions expressed in the panel report by individual panellists shall be anonymous.

Hearings

12. Based on the timetable agreed pursuant to Rule 4, after consulting with the Parties and the other panellists, the chairperson of the panel shall notify the Parties time and venue of the oral hearing.

13. Unless the Parties agree otherwise, the oral hearing shall be hosted by the responding Party. In duly justified circumstances and at the request of a Party, the panel may decide to hold a virtual or hybrid hearing and make appropriate arrangements, taking into account the rights of due process and the need to ensure transparency, after consulting both Parties.

14. The panel may convene additional oral hearings if the Parties so agree.

15. All panellists shall be present during the entirety of the oral hearing.

16. Unless the Parties agree otherwise, the following persons may attend the oral hearing:

(a) representatives and advisers of a Party; and

(b) assistants, interpreters and other persons whose presence is required by the panel.

17. The oral hearing shall be conducted by the panel in a manner ensuring that the complaining Party and the respondent Party are afforded equal time to present their case. The panel shall, as a general rule, conduct the hearing in the following manner:

(a) Argument

(i) argument of the complaining Party;

(ii) argument of the respondent Party;

(b) Rebuttal Argument

(i) the reply of the complaining Party;

(ii) the counter-reply of the respondent Party;

(c) Closing Statement

(i) closing statement of the complaining Party; and

(ii) closing statement of the respondent Party.

18. The chairperson may set time limits for oral arguments to ensure that each Party is afforded equal time.

Written Questions

19. The panel may direct written questions to one or both Parties at any time during the proceedings. In the event that the panel addresses questions to one Party only, the panel shall provide a copy of the written questions to the other Party. A Party to whom the panel addresses a written question shall deliver a written reply to the panel and the other Party in accordance with the timetable established by the panel.

20. Each Party shall be given the opportunity to provide written comments on the response of the other Party within the timetable established by the panel.

Confidentiality

21. Each Party shall treat as confidential information submitted to the panel by the other Party which that Party has designated as confidential for the purposes of Article 1.5 (Confidential Information).

22. Where a Party designates as confidential its written submissions to the panel, it shall provide the panel and the other Party with a non-confidential summary, no later than 10 days after the date of request, of the information contained in its written submissions that may be disclosed to the public. Nothing in these Rules shall prevent a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.

Working Language

23. The working language of the panel proceedings, including for written submissions, oral arguments or presentations, the report of the panel and all written and oral communications between the Parties and with the panel, shall be English.

Expenses

24. The panel shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to its assistants.

25. Each panellist may hire one assistant to provide research, translation or interpretation support, unless a panellist requires an additional assistant and the disputing Parties agree that, due to exceptional circumstances, the panellist should be permitted to hire an additional assistant.

26. Unless the Parties agree otherwise, the total remuneration for each panellist's assistant shall not exceed 50 per cent of the remuneration of that panellist.

Ex Parte Contacts

27. The panel shall not meet or contact a Party in the absence of the other Party.

28. No Party shall meet or contact any panellist in relation to the dispute in the absence of the other Party and other panellists.

29. No panellist shall meet or contact a Party in the absence of the other Party and other panellists.

ANNEX 20-B

CODE OF CONDUCT FOR PANELLISTS AND OTHERS ENGAGED IN DISPUTE SETTLEMENT PROCEEDINGS UNDER THIS AGREEMENT[1]

Definitions

1. For the purposes of this Annex:

assistant means a person who, under the terms of appointment of a panellist, conducts research or provides support for the panellist, works under the direction and control of a panellist to assist with case-specific task;

candidate means a person who is under consideration for selection as a panellist;

panellist means a member of a panel established under Article 20.8 (Establishment of a Panel);

proceeding, unless otherwise specified, means the proceeding of a panel under this Chapter; and

staff, in respect of a panellist, means persons under the direction and control of the panellist, other than assistants.

Responsibilities to the Process

2. In order to preserve the integrity and impartiality of the dispute settlement process, each candidate and panellist shall:

(a) avoid impropriety or the appearance of impropriety;

(b) be independent and impartial;

(c) avoid direct or indirect conflicts of interest; and

(d) observe high standards of conduct.

Disclosure Obligations

3. Prior to confirmation of their selection as a panellist under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect their independence or impartiality or that might reasonably create an appearance of

[1] For greater certainty, Annex 20-B, Code of Conduct for Panellists and Others Engaged in Dispute Settlement Proceedings Under this Agreement, is applicable for the purpose of Article 20.6 (Good Offices, Conciliation or Mediation), unless otherwise provided by the instruments of good offices, conciliation and mediation.

impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

4. Once selected, a panellist shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in paragraph 3 and shall disclose them by communicating them in writing to the Parties for their consideration. The obligation to disclose is a continuing duty, which requires a panellist to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

Performance of Duties by Panellists

5. A panellist shall comply with the provisions of Chapter 20 (Dispute Settlement) and its Annexes.

6. On selection, a panellist shall be available to perform and shall perform their duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence.

7. A panellist shall not deny other panellists the opportunity to participate in all aspects of the proceeding.

8. A panellist shall consider only those issues raised in the proceeding and necessary to make a decision and shall not delegate the duty to decide to any other person.

9. A panellist shall take all appropriate steps to ensure that the panellist's assistant and staff are aware of, and comply with, paragraphs 2, 3, 4, 20, 21, 22 and 23 of this Annex.

10. A panellist shall not engage in ex parte contacts concerning the proceeding.

11. A panellist shall not communicate matters concerning actual or potential violations of this Annex by another panellist unless the communication is to both Parties or is necessary to ascertain whether that panellist has violated or may violate this Annex.

12. Each panellist shall keep a record and render a final account of the time devoted to the panel proceedings and of their expenses, as well as the time and expenses of their assistants.

Independence and Impartiality of Panellists

13. A panellist shall act in a fair manner.

14. A panellist shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.

15. A panellist shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the panellist's duties.

16. A panellist shall not use his or her position on the panel to advance any personal or private interests. A panellist shall avoid actions that may create the impression that others are in a special position to influence the panellist. A panellist shall make every effort to prevent or discourage others from representing themselves as being in such a position.

17. A panellist shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the panellist's conduct or judgment.

18. A panellist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the panellist's impartiality or that might reasonably create an appearance of impropriety or bias.

Duties in Certain Situations

19. A former panellist shall avoid actions that may create the appearance that the panellist was biased in carrying out the panellist's duties or would benefit from the decision or report of the panel.

Maintenance of Confidentiality

20. A panellist or former panellist shall not at any time disclose or use any confidential or non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage, or advantage for others, or to affect adversely the interest of others.

21. A panellist shall not disclose a panel report, or parts thereof, prior to its publication.

22. A panellist or former panellist shall not at any time disclose the deliberations of a panel, or any panellist's view, except as required by legal or constitutional requirements.

23. A panellist or former panellist shall not at any time disclose which panellist's are associated with majority or minority opinions in a proceeding.

24. A panellist shall not make a public statement regarding the panel proceeding.

CHAPTER 21

EXCEPTIONS

ARTICLE 21.1
General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 6 (Sanitary and Phytosanitary Measures), Chapter 7 (Technical Barriers to Trade), and Chapter 10 (Digital Trade), Article XX of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. For the purposes of Chapter 9 (Trade in Services) and Chapter 10 (Digital Trade), Article XIV of the GATS, including its footnotes, is incorporated into and made part of this Agreement, *mutatis mutandis*.

3. For the purposes of this Agreement, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods or services and investment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect national works or specific sites of historical or archaeological value, or to support creative arts[1] of national value.

ARTICLE 21.2
Security Exceptions

Nothing in this Agreement shall be construed:

(a) to require any Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

[1] "Creative arts" include ngā toi Māori (Māori arts), the performing arts – including theatre, dance, and music, haka (traditional Māori posture dance), waiata (song or chant) – visual arts and craft such as painting, sculpture, whakairo (carving), raranga (weaving), and tā moko (traditional Māori tattoo), literature, film and video, language arts, creative online content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution, and interpretation of the arts; and the study and technical development of these art forms and activities.

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

(iv) taken in time of war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE 21.3
Taxation

1. For the purposes of this Article:

designated authorities means:

(a) for New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commisioner;

(b) for the United Arab Emirates, the Ministry of Finance or the authority assigned by the Ministry of Finance;

or any successor of these designated authorities as notified in writing to the other Party;

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and

taxes and **taxation measures** include excise duties, but do not include:

(a) a "customs duty" as defined in Article 1.3 (General Definitions - Definition of Customs Duty); or

(b) the measures listed in subparagraphs (b) and (c) of that definition.

2. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, that convention shall prevail to the extent of the inconsistency.

4. In the case of a tax convention between or including the Parties, if an issue arises as to whether any inconsistency exists between this Agreement and the tax convention, the issue shall be referred to the designated authorities of the Parties. The designated authorities shall determine the existence and the extent of such inconsistency. A determination made under this paragraph by the designated authorities shall be binding.

5. For greater certainty, advantages accorded by a Party pursuant to a tax convention are not subject to any most-favoured nation obligation.

6. This Agreement shall apply to taxation measures only to the same extent as does Article III of the GATT 1994.

7. For greater certainty, nothing in this Article shall prevent the adoption or enforcement of any new taxation measure aimed at ensuring the equitable or effective imposition of or collection of taxes, including any taxation measure that differentiates between persons based on their place of residence for tax purposes, provided that the taxation measure does not arbitrarily discriminate between persons, goods or services of the other Party.

ARTICLE 21.4
Tiriti o Waitangi / Treaty of Waitangi

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods, trade in services, and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement, including in fulfilment of its obligations under te Tiriti o Waitangi / the Treaty of Waitangi.

2. The Parties agree that the interpretation of te Tiriti o Waitangi / the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 20 (Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 20.8

(Establishment of a Panel) may be requested by the other Party to determine only whether any measure (referred to in paragraph 1) is inconsistent with its rights under this Agreement.

ARTICLE 21.5
Restrictions to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

   (a) in the case of trade in goods, in accordance with GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the GATT 1994 in Annex 1A to the WTO Agreement, adopt restrictive import measures;

   (b) in the case of trade in services, adopt or maintain restrictions on trade in services on which it has undertaken commitments, including on payments or transfers for transactions related to such commitments.

2. Any restrictions adopted or maintained under paragraph 1(b) shall:

   (a) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-Party;

   (b) be consistent with the Articles of Agreement of the International Monetary Fund;

   (c) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

   (d) not exceed those necessary to deal with the circumstances described in paragraph 1(b); and

   (e) be temporary and be phased out progressively as the situations specified in paragraph 1(b) improve.

3. A Party adopting or maintaining any restrictions under paragraph 1 shall:

   (a) promptly notify, in writing, the other Party of the measures, including any changes therein; and

   (b) upon the request of the other Party, promptly commence consultations with the other Party in order to review the measures adopted or maintained by it.

CHAPTER 22

FINAL PROVISIONS

ARTICLE 22.1
Annexes, Side Letters, and Footnotes

The Annexes, Side Letters, and Footnotes to this Agreement shall constitute an integral part of this Agreement.

ARTICLE 22.2
Amendments

The Parties may agree, in writing, to amend this Agreement. Any amendment shall enter into force 60 days after the date on which the Parties have notified each other in writing, through diplomatic channels, confirming they have completed their respective domestic procedures necessary for entry into force. The Parties may agree on another date for entry into force of the amendment.

ARTICLE 22.3
Accession

Any State, group of States, or separate customs territory may accede to this Agreement subject to such terms and conditions as may be agreed between the State, group of States, or separate customs territory and the Parties and following approval in accordance with the applicable domestic procedures of each Party and acceding State or separate customs territory.

ARTICLE 22.4
Termination

1. This Agreement shall remain in force unless terminated pursuant to paragraph 2.

2. A Party may notify the other Party of its intention to terminate this Agreement. The termination of this Agreement shall take effect six months after the date of the delivery of the notification, unless the Parties agree otherwise.

ARTICLE 22.5
Entry into Force

This Agreement shall enter into force 60 days after the date on which the Parties have notified each other in writing, through diplomatic channels, confirming that they have completed their respective domestic procedures necessary for the entry into force of this Agreement. The Parties may agree on another date of entry into force of this Agreement.

ARTICLE 22.6
Authentic Texts

This Agreement is done in duplicate in Arabic and English languages. The English and Arabic texts of this Agreement are equally authentic. In the event of any divergence between these texts, the English text shall prevail.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done at Abu Dhabi, this day of January 2025.

For the Government of New Zealand	***For the Government of the United Arab Emirates***
Hon Todd McClay Minister for Trade	**H.E. Dr. Thani bin Ahmed Al Zeyoudi** Minister of State for Foreign Trade