The US-Mexico-Canada Agreement

Revised Text for the North-America Free Trade Agreement

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ASIA BRIEFING

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UNITED STATES-MEXICO-CANADA AGREEMENT (USMCA)

PREAMBLE

The Government of the United States of America, the Government of the United Mexican States, and the Government of Canada (collectively "the Parties"), resolving to:

STRENGTHEN ANEW the longstanding friendship between them and their peoples, and the strong economic cooperation that has developed through trade and investment;

REPLACE the 1994 North American Free Trade Agreement with a 21st Century, high standard new agreement to support mutually beneficial trade leading to freer, fairer markets, and to robust economic growth in the region;

PRESERVE AND EXPAND regional trade and production by further incentivizing the production and sourcing of goods and materials in the region;

ENHANCE AND PROMOTE the competitiveness of regional exports and firms in global markets, and conditions of fair competition in the region;

SUPPORT the growth and development of small and medium-sized enterprises by enhancing their ability to participate in and benefit from the opportunities created by this Agreement, recognizing their contributions to economic growth, employment, community development, and innovation;

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

FACILITATE trade between the Parties by promoting efficient and transparent customs procedures that reduce costs and ensure predictability for importers and exporters, and encourage the expand of cooperation in the area of trade facilitation and enforcement;

RECOGNIZE their inherent right to regulate and resolve to preserve the flexibility of the Parties to set legislative and regulatory priorities, in a manner consistent with this Agreement, and protect legitimate public welfare objectives, such as public health, safety, the environment, the conservation of living or non-living exhaustible natural resources, the integrity and stability of the financial system and public morals, in accordance with the rights and obligations provided in this Agreement;

FACILITATE trade in goods and services between the Parties by preventing, identifying, and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting good regulatory practices;

PROTECT human, animal, or plant life or health in the territories of the Parties and advance science-based decision making while facilitating trade between them;

ELIMINATE obstacles to international trade which are more trade-restrictive than necessary;

FOSTER creativity and innovation, and promote trade in goods and services that are the subject of intellectual property rights, in a manner conducive to social and economic welfare

PROMOTE high levels of environmental protection, including through effective enforcement by each Party of its environmental laws, as well as through enhanced environmental cooperation, and further the aims of sustainable development, including through mutually supportive trade and environmental policies and practices;

PROMOTE the protection and enforcement of labor rights, the improvement of working conditions, the strengthening of cooperation and the Parties' capacity on labor issues;

SUPPORT the implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability, recognizing that these practices can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its public policy objectives;

PROMOTE transparency, good governance and the rule of law, and eliminate bribery and corruption in trade and investment;

RECOGNIZE the important work that their relevant authorities are doing to strengthen macroeconomic cooperation; and

ESTABLISH an Agreement to address future trade and investment challenges and opportunities, and contribute to advancing their respective priorities over time,

HAVE AGREED as follows:

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CHAPTER 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A – Initial Provisions

Article 1.1: Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of the GATT 1994 and Article V of the GATS, hereby establish a free trade area.

Article 1.2: Relation to Other Agreements

Each Party affirms its existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which it and another Party are party.

Article 1.3: Persons Exercising Delegated Governmental Authority

Each Party shall ensure that a person that has been delegated regulatory, administrative, or other governmental authority by a Party acts in accordance with the Party's obligations as set out under this Agreement in the exercise of that authority.

Section B – General Definitions

Article 1.4: General Definitions

For the purposes of this Agreement, unless otherwise provided:

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

central level of government means:

(a) for Canada, the Government of Canada;

(b) for Mexico, the federal level of government; and

(c) for the United States, the federal level of government;

Commission means the Free Trade Commission established under Article 30.1;

covered investment means, with respect to a Party, an investment in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

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

customs duty includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any 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) fee or other charge in connection with the importation commensurate with the cost of services rendered;

(c) antidumping or countervailing duty; and

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

customs offense means any act committed for the purpose of, or having the effect of, avoiding a Party's laws or regulations pertaining to the terms of this Agreement governing importations or exportations of goods between, or transit of goods through, the territories of the Parties, specifically those that violate a customs law or regulation for restrictions or prohibitions on imports or exports, duty evasion, transshipment, falsification of documents relating to the importation or exportation of goods, fraud, or smuggling of goods;

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

days means calendar days, including weekends and holidays;

Dispute Settlement Understanding (DSU) means the Understanding on Rules and Procedures Governing the Settlement of Disputes, set out in Annex 2 to the WTO Agreement;

duty deferral program includes measures such as those governing foreign trade zones, temporary importations under bond, bonded warehouses, "maquiladoras", and inward processing programs;

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

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

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

GATS means the *General Agreement on Trade in Services*, set out in Annex 1B to the WTO Agreement;

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

goods means a merchandise, product, article, or material;

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

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

for commercial sale or resale;

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes, and Subheading Notes as adopted and implemented by the Parties in their respective laws;

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

individual means a natural person;

measure includes any law, regulation, procedure, requirement, or practice;

NAFTA 1994 means the Agreement as done in December in 1992 and entered into force on January 1, 1994;

national means a "natural person who has the nationality of a Party" as set out below for each Party or a permanent resident of a Party:

(a) for Mexico, a person who has the nationality of Mexico in accordance with its applicable laws; and

(b) for the United States, a "national of the United States" as defined in the *Immigration and Nationality Act*;

originating means qualifying as originating under the rules of origin set out in Chapter 4 (Rules of Origin) or Chapter 6 (Textile and Apparel Goods);

person means a natural person or an enterprise;

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

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

publish means to disseminate information through paper or electronic means that is distributed widely and is readily accessible to the general public;

recovered material means a material in the form of one or more individual parts that results from:

(a) the disassembly of a used good into individual parts; and

(b) the cleaning, inspecting, testing or other processing of those parts as necessary for improvement to sound working condition;

remanufactured good means a good classified in HS Chapters 84 through 90 or under heading 94.02 except goods classified under HS headings 84.18, 85.09, 85.10, and 85.16, 87.03 or subheadings 8414.51, 8450.11, 8450.12, 8508.11, and 8517.11, that is entirely or partially composed of recovered materials and:

(a) has a similar life expectancy and performs the same as or similar to such a good when new; and

(b) has a factory warranty similar to that applicable to such a good when new;

regional level of government means:

(a) for Canada, a province or territory of Canada;

(b) for Mexico, a state of the United Mexican States; and

(b) for the United States, a state of the United States, the District of Columbia, or Puerto Rico;

Safeguards Agreement means the *Agreement on Safeguards*, set out in Annex 1A to the WTO Agreement;

sanitary or phytosanitary measure means a measure referred to in paragraph 1 of Annex A to the SPS Agreement;

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

Secretariat means the Secretariat established under Article 30.6;

SME means a small and medium-sized enterprise, including a micro-sized enterprise;

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

state enterprise means an enterprise that is owned, or controlled through ownership interests, by a Party;

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

territory has for each Party the meaning set out at Annex 1-A (Party-Specific Definitions);

textile or apparel good means a textile or apparel good classified in HS subheading 4202.12, 4202.22, 4202.32, or 4202.92 (luggage, handbags and similar articles with an outer surface of textile materials), heading 50.04 through 50.07, 51.04 through 51.13, 52.04 through 52.12, 53.03 through 53.11, Chapter 54 through 63, heading 66.01 (umbrellas) or heading 70.19 (yarns and fabrics of glass fiber), subheading 9404.90 (articles of bedding and similar furnishing), or heading 96.19 (babies diapers and other sanitary textile articles);

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, set out in Annex 1C to the WTO Agreement[1];

WTO means the World Trade Organization; and

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

[1] For greater certainty, TRIPS Agreement includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

Section C – Country-Specific Definitions

For the purposes of this Agreement, unless otherwise provided:

territory means:

(a) for Canada,

(i) the land territory, air space, internal waters, and territorial seas of Canada;

(ii) the exclusive economic zone of Canada; and

(iii) the continental shelf of Canada;

as determined by its domestic law and consistent with international law.

(b) for Mexico,

(i) the land territory, including the states of the Federation and Mexico City,

(ii) the air space,

(iii) the internal waters, territorial sea, and any areas beyond the territorial seas of Mexico within which Mexico may exercise sovereign rights and jurisdiction, as determined by its domestic law, consistent with the *United Nations Convention on the Law of the Sea*, done at Montego Bay on 10 December 1982; and

(c) for the United States,

(i) the customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico,

(ii) the foreign trade zones located in the United States and Puerto Rico, and

(iii) the territorial sea and air space of the United States and any area beyond the territorial sea within which, in accordance with customary international law as reflected in the *United Nations Convention on the*

Law of the Sea, the United States may exercise sovereign rights or jurisdiction.

CHAPTER 2

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1: Definitions

For the purposes of this Chapter:

advertising films and recordings means recorded visual media or audio materials that exhibit for prospective customers the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of any Party, provided that the films and recordings are not for broadcast to the general public;

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

consular transactions means requirements that goods of a Party intended for export to the territory of another Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party, or in the territory of a non-Party, for the purpose of obtaining a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers' export declaration, or any other customs documentation in connection with the importation of the good;

consumed means

(a) actually consumed; or

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

customs duty includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any 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) fee or other charge in connection with the importation commensurate with the cost of the services rendered;

(c) anti-dumping or countervailing duty; and

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

distributor means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of the Party of goods of another Party;

duty deferral program includes measures such as those governing foreign trade zones, temporary importations under bond, bonded warehouses, "maquiladoras", and inward processing programs;

duty-free means free of customs duty;

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

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 or bodies as a prior condition for importation into the territory of the importing Party;

Import Licensing Agreement means the *Agreement on Import Licensing Procedures*, set out in Annex 1A to the WTO Agreement;

performance requirement means a requirement that:

(a) a given level or percentage of goods or services be exported;

(b) domestic goods or services of the Party granting a waiver of customs duties or an import license be substituted for imported goods or services;

(c) a person benefitting from a waiver of customs duties or a grant of an import license purchase other goods or services in the territory of the Party granting the waiver or the import license or accord a preference to domestically produced goods or services;

(d) a person benefitting from a waiver of customs duties or a grant of an import license produce goods or provide services, in the territory of the Party granting the waiver or the import license, with a given level or percentage of domestic content; or

(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;

but does not include a requirement that an imported good be:

(f) subsequently exported;

(g) used as a material in the production of another good that is subsequently exported;

(h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or

(i) substituted by an identical or similar good that is subsequently exported;

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

satisfactory evidence means:

(a) a receipt, or a copy of a receipt, evidencing payment of customs duties on a particular entry;

(b) a copy of the entry document with evidence that it was received by a customs administration;

(c) a copy of a final customs duty determination by a customs administration respecting the relevant entry;

(d) any other evidence of payment of customs duties acceptable under the Uniform Regulations established in accordance with Article 5.17 (Origin Procedures – Uniform Regulations); and

used vehicle means an automobile, a truck, a bus, or a special purpose motor vehicle, not including a motorcycle, that:

(a) has been sold, leased, or loaned;

(b) has been driven for more than

(i) 1,000 kilometers if the vehicle has a gross weight of less than five metric tons, or

(ii) 5,000 kilometers if the vehicle has a gross weight of five metric tons or more; or

(c) was manufactured prior to the current year and at least 90 days have elapsed since the date of manufacture.

Article 2.2: Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods of a Party.

Article 2.3: National Treatment

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

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favorable than the most favorable treatment that regional level of government accords to any like, directly competitive, or substitutable goods, as the case may be, of the Party of which it forms a part.

3. Paragraphs 1 and 2 do not apply to the measures set out in Annex 2-A: Exceptions to Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions).

Article 2.4: Treatment of Customs Duties

1. Unless otherwise provided in this Agreement, no Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.

2. Unless otherwise provided in this Agreement, each Party shall apply customs duties on originating goods in accordance with its Schedule to Annex 2-B (Tariff Commitments).

3. On the request of any Party, the Parties shall consult to consider accelerating or broadening the scope of the elimination of customs duties set out in their Schedules to Annex 2-B (Tariff Commitments). An agreement between two or more Parties to accelerate or broaden the scope of the elimination of a customs duty on an originating good shall supersede any duty rate determined pursuant to those Parties' Schedules to Annex 2-B (Tariff Commitments) for that good once approved by each Party in accordance with its applicable legal procedures.

4. A Party may at any time unilaterally accelerate the elimination of customs duties set out in its Schedule to Annex 2-B (Tariff Commitments) on originating goods.

Article 2.5: Drawback and Duty Deferral Programs

1. Except as otherwise provided in this Article, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its territory, on condition that the good is:

(a) subsequently exported to the territory of another Party;

(b) used as a material in the production of another good that is subsequently exported to the territory of another Party; or

(c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party,

in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory and the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

2. No Party may, on condition of export, refund, waive, or reduce:

(a) an antidumping or countervailing duty;

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

(c) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party.

3. Where a good is imported into the territory of a Party pursuant to a duty deferral program and is subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, the Party from whose territory the good is exported:

(a) shall assess the customs duties as if the exported good had been withdrawn for domestic consumption; and

(b) may waive or reduce such customs duties to the extent permitted under paragraph 1.

4. In determining the amount of customs duties that may be refunded, waived, or reduced pursuant to paragraph 1 on a good imported into its territory, each Party shall require presentation of satisfactory evidence of the amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.

5. Where satisfactory evidence of the customs duties paid to the Party to which a good is subsequently exported under a duty deferral program described in paragraph 3 is not presented within 60 days after the date of exportation, the Party from whose territory the good was exported:

(a) shall collect customs duties as if the exported good had been withdrawn for domestic consumption; and

(b) may refund such customs duties to the extent permitted under paragraph 1 on the timely presentation of such evidence under its laws and regulations.

6. This Article does not apply to:

(a) a good entered under bond for transportation and exportation to the territory of another Party;

(b) a good exported to the territory of another Party in the same condition as when imported into the territory of the Party from which the good was exported.[1] Where such a good has been commingled with fungible goods and exported in the same condition, its origin for purposes of this subparagraph may be determined on the basis of inventory management methods such as first-in, first-out or last-in, first-out. For greater certainty, nothing in this subparagraph shall be construed to permit a Party to waive, refund, or reduce a customs duty contrary to paragraph 2(c);

(c) a good imported into the territory of a Party that is deemed to be exported from its territory, or used as a material in the production of another good that is deemed to be exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is deemed to be exported to the territory of another Party, by reason of

(i) delivery to a duty-free shop;

(ii) delivery for ship's stores or supplies for ships or aircraft; or

(iii) delivery for use in joint undertakings of two or more of the Parties and that will subsequently become the property of the Party into whose territory the good was deemed to be exported;

(d) a refund of customs duties by a Party on a particular good imported into its territory and subsequently exported to the territory of another Party, where that refund is granted by reason of the failure of such good to conform to sample or specification, or by reason of the shipment of such good without the consent of the consignee;

(e) an originating good that is imported into the territory of a Party and is subsequently exported to the territory of another Party, or used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party; or

[1] Processes such as testing, cleaning, repacking, inspecting, sorting, or marking a good, or preserving a good in its same condition, shall not be considered to change the good's condition.

(f) a good set out in paragraph 7.

7. (a) For exports from the territory of the United States to the territory of Canada or Mexico, goods provided for in U.S. tariff items 1701.13.20 or 1701.14.20 that are imported into the territory of the United States under any re-export program or any like program and used as a material in the production of, or substituted by an identical or similar good used as a material in the production of:

(i) a good provided for in in Canadian tariff item 1701.99.00 or Mexican tariff items 1701.99.01 and 1701.99.99 (refined sugar), or

(ii) sugar containing products that are prepared foodstuffs or beverages classified in headings 1704 and 1806 or in chapters 19, 20, 21, or 22, are not subject to this Article.

(b) For trade between Canada and the United States the following are not subject to this Article:

(i) imported citrus products;

(ii) an imported good used as a material in the production of, or substituted by an identical or similar good used as a material in the production of, a good provided for in U.S. items 5811.00.20 (quilted cotton piece goods), 5811.00.30 (quilted man-made piece goods) or 6307.90.99 (furniture moving pads), or Canadian items 5811.00.10 (quilted cotton piece goods), 5811.00.20 (quilted man-made piece goods) or 6307.90.30 (furniture moving pads), that are subject to the most-favored-nation rate of duty when exported to the territory of the other Party; and

(iii) an imported good used as a material in the production in the production of apparel that is subject to the most-favored-nation rate of duty when exported to the territory of the other Party.

8. For purposes of this Article:

identical or similar goods means "identical or similar goods" as defined in Article 5.1 (Origin Procedures — Definitions);

material means "material" as defined in Article 4.1 (Rules of Origin - Definitions);

used means "used" as defined in Article 4.1 (Rules of Origin – Definitions).

9. Where a good referred to by a tariff item number in this Article is described in parentheses following the tariff item number, the description is provided for purposes of reference only.

Article 2.6: Waiver of Customs Duties

No Party shall adopt or maintain any waiver of customs duties where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

Article 2.7: Temporary Admission of Goods

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

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

   (b) goods intended for display or demonstration, including their component parts, ancillary apparatus and accessories;

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

   (d) goods admitted for sports purposes

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

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

   (a) be imported by a national of another Party who seeks temporary entry;

   (b) be used solely by or under the personal supervision of a national of another Party in the exercise of the business activity, trade, profession, or sport of that person;

   (c) not be sold, leased, or, for goods referred to in paragraph 1(c), not be put to any use other than exhibition or demonstration, while in its territory;

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

   (e) be capable of identification when exported;

   (f) be exported on the departure of the person referenced in subparagraph (a), or within any other period reasonably related to the purpose of the temporary admission as the Party may establish, unless extended;

(g) be admitted in no greater quantity than is reasonable for its intended use; and

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

3. Subject to its domestic law, each Party shall extend the time limit for temporary admission beyond the period initially fixed at the request of the person concerned.

4. Each Party shall adopt and maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, those procedures shall provide that when such a good accompanies a national of another Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national.

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

6. Each Party shall provide, in accordance with its law, that the person responsible for a good admitted under this Article shall not be liable for failure to export the good upon presentation of proof satisfactory to the Party into which the good was admitted that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.

7. If any condition that a Party imposes under paragraph 2 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on entry or importation of the good in addition to any other charges or penalties provided for under its law.

8. Subject to Chapters 14 (Investment) and Chapter 15 (Cross Border Trade in Services):

(a) each Party shall allow a vehicle, or shipping container or other substantial holder, that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of that vehicle, or shipping container or other substantial holder;

(b) no Party shall require any security or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle, or shipping container or other substantial holder;

(c) no Party shall condition the release of any obligation, including any security, that it imposes in respect of the entry of a vehicle, or shipping container or other substantial holder, into its territory on the exit of that vehicle, or shipping container or other substantial holder, through any particular port of departure; and

(d) no Party shall require that the vehicle or carrier bringing a shipping container or other substantial holder from the territory of another Party into its territory be the same vehicle or carrier that takes that shipping container or other substantial holder to the territory of another Party.

9. For the purposes of paragraph 8, **vehicle** means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment, if used in international traffic.

10. (a) Each Party shall adopt or maintain procedures allowing for the arrival and release from customs custody, such as through procedures that provide for temporary admission as set forth in this Article, of a shipping container or other substantial holder being used or to be used in the shipment of goods in international traffic, whether arriving full or empty and of any size, volume, or dimension, with relief from custom duties and allowing it to remain within its territory for at least 90 consecutive days.

(b) Each Party shall, in accordance with its law, regulations, and procedures, extend the timeframe for temporary admission of a shipping container or other substantial holder beyond the period initially fixed at the request of the person concerned.

(c) A Party may require that a shipping container or other substantial holder be registered with the customs authority the first time it arrives in its territory, as a condition for this treatment.

11. Each Party shall include in the treatment of any shipping container or other substantial holder that has an internal volume of one cubic meter or more, the accessories or equipment accompanying it as defined by the importing Party.

12. For the purposes of paragraphs 8, 10, and 11, a shipping container or other substantial holder includes any container or holder, whether collapsible or not, that is constructed of a sturdy material capable of repeated use, if used in the shipment of goods in international traffic.

Article 2.8: Goods Re-Entered after Repair or Alteration

1. No 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 another Party for repair or alteration, regardless of whether that repair or alteration could have been performed in the territory of the Party from which the good was exported for repair or alteration or has increased the value of the good.

2. Paragraph 1 does not apply to a good imported under a duty deferral program that is exported for repair or alteration and is not re-imported under a duty deferral program.

3. Notwithstanding Article 2.5 (Drawback and Duty Deferral Programs), no Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of another Party for repair or alteration.

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

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

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

Article 2.9: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

No Party shall apply a customs duty to commercial samples of negligible value or to printed advertising materials imported from the territory of another Party, regardless of their origin, but may require that:

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

(b) the 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 2.10: Import and Export Restrictions

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

2. The Parties understand that GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

(a) export or import price requirements, except as permitted in enforcement of antidumping and countervailing duty orders or price undertakings;

(b) import licensing conditioned on the fulfilment of a performance requirement; or

(c) voluntary export restraints inconsistent with Article VI of the GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.

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

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

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

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

5. No Party shall as a condition for engaging in importation generally, or for the importation of a particular good, require a person of another Party to establish or maintain a contractual or other relationship with a distributor in its territory.

6. For greater certainty, paragraph 5 does not prevent a Party from requiring that a person referred to in that paragraph designate a point of contact for the purpose of facilitating communications between its regulatory authorities and that person.

7. Paragraphs 1 through 6 shall not apply to the measures set out in Annex 2-A: Exceptions to Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions).

8. For greater certainty, paragraph 1 applies to the importation of any good implementing or incorporating cryptography, if the good is not designed or modified specifically for government use and is sold or otherwise made available to the public.

9. For greater certainty, no Party may adopt or maintain a prohibition or restriction on the importation of originating used vehicles from the territory of another Party after January 1, 2019. This Article shall not prevent a Party from applying motor vehicle safety or emissions measures, or vehicle registration requirements, of general application to originating used vehicles in a manner consistent with this Agreement.

Article 2.11: Remanufactured Goods

1. For greater certainty, paragraph 1 of Article 2.10 (Import and Export Restrictions) applies to prohibitions and restrictions on remanufactured goods.

2. Subject to its obligations under this Agreement and the WTO Agreement, a Party may require that remanufactured goods:

(a) be identified as such, including through labelling, for distribution or sale in its territory, and

(b) meet all applicable technical requirements that apply to equivalent goods in new condition.

3. If a Party adopts or maintains prohibitions or restrictions on used goods, it shall not apply those measures to remanufactured goods.

Article 2.12: Administrative Fees and Formalities

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

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

3. No Party shall adopt or maintain a customs user fee on originating goods.[3]

Article 2.13: Export Duties, Taxes, or Other Charges

No Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of another Party, unless the duty, tax, or charge is also applied to the good when destined for domestic consumption.

Article 2.14: Most-Favored-Nation Rates of Duty on Certain Goods

1. Each Party shall accord most-favored-nation duty-free treatment to a good provided for under the tariff provisions set out in Table 2.1, Table 2.2, and Table 2.3.

[2] For Mexico, this paragraph shall not apply to the procedures for the duty-free entry of personal and household effects of natural persons relocating to Mexico.

[3] The merchandise processing fee (MPF) shall be the only customs user fee of the United States to which this paragraph shall apply. The *derechos de trámite aduanero* shall be the only customs user fee of Mexico to which this paragraph shall apply.

2. Notwithstanding Chapter 4 (Rules of Origin), each Party shall consider a good set out in Table 2.1, when imported into its territory from the territory of another Party, to be an originating good.

Table 2.1		
A. Automatic Data Processing Machines (ADP)		
	8471.30	
	8471.41	
	8471.49	
B. Digital Processing Units		
	8471.50	
C. Input or Output Units		
Combined Input/Output Units		
Canada	8471.60.00	
Mexico	8471.60.02	
United States	8471.60.10	
Display Units		
Canada	8528.42.00 8528.52.00 8528.62.00	
Mexico	8528.41.99 8528.51.01 8528.51.99 8528.61.01	
United States	8528.42.00 8528.52.00 8528.62.00	
Other Input or Output Units		
Canada	8471.60.00	
Mexico	8471.60.03 8471.60.99	
United States	8471.60.20 8471.60.70 8471.60.80 8471.60.90	
D. Storage Units		
	8471.70	
E. Other Units of Automatic Data Processing Machines		
	8471.80	
F. Parts of Computers		

	8443.99	parts of machines of subheading 8443.31 and 8443.32, excluding facsimile machines and teleprinters
	8473.30	parts of ADP machines and units thereof
	8517.70	parts of LAN equipment of subheading 8517.62
Canada	8529.90.19 8529.90.50 8529.90.90	parts of monitors and projectors of subheading 8528.42, 8528.52, and 8528.62
Mexico	8529.90.01 8529.90.06	parts of monitors or projectors of subheadings 8528.41, 8528.51, and 8528.61
United States	8529.90.22 8529.90.75 8529.90.99	parts of monitors and projectors of subheading 8528.42, 8528.52, and 8528.62
G. Computer Power Supplies		
Canada	8504.40.30 8504.40.90 8504.90.10 8504.90.20 8504.90.90	
Mexico	8504.40.12 8504.40.14 8504.90.02 8504.90.07 8504.90.08	 parts of goods classified in tariff item 8504.40.12
United States	8504.40.60 8504.40.70 8504.90.20 8504.90.41	

Table 2.2	
A. Metal Oxide Varistors	
Canada	8533.40.00
Mexico	8533.40.05
United States	8533.40.40
B. Diodes, Transistors and Similar Semiconductor Devices; Photosensitive Semiconductor Devices; Light Emitting Diodes; Mounted Piezo-electric Crystals	
	8541.10
	8541.21
	8541.29
	8541.30
	8541.50
	8541.60
	8541.90

Canada	8541.40
Mexico	8541.40.01 8541.40.02 8541.40.03
United States	8541.40.20 8541.40.60 8541.40.70 8541.40.80 8541.40.95
C. Electronic Integrated Circuits and Microassemblies	
	8542
Canada	8548.90.00
Mexico	8548.90.04
United States	8548.90.01

Table 2.3 **Local Area Network (LAN) Apparatus**	
Canada	8517.62.00
Mexico	8517.62.01
United States	8517.62.00

Article 2.15: Transparency in Import Licensing Procedures

1. Subject to paragraph 2, as soon as practicable, after this Agreement enters into force, each Party shall notify the other Parties of its existing import licensing procedures, if any. The notification shall:

(a) include the information specified in Article 5.2 of the Import Licensing Agreement and in the annual questionnaire on import licensing procedures described in Article 7.3 of the Import Licensing Agreement; and

(b) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.

2. A Party shall be deemed to be in compliance with the obligations in paragraph 1 with respect to an import licensing procedure if:

(a) it has notified that procedure to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement together with the information specified in Article 5.2 of that agreement; and

(b) in the most recent annual submission due before entry into force of this Agreement to the Committee on Import Licensing in response to the annual questionnaire on import licensing procedures described in Article 7.3 of the Import Licensing

Agreement, it has provided, with respect to that procedure, the information requested in that questionnaire.

3. A Party shall publish on an official government Internet website any new or modified import licensing procedure, including any information that it is required to be published under Article 1.4(a) of the Import Licensing Agreement. To the extent possible, the Party shall do so at least 20 days before the new procedure or modification takes effect.

4. Each Party shall respond within 60 days to a reasonable inquiry from another Party concerning its licensing rules and its procedures for the submission of an application for an import license, including the eligibility of persons, firms, and institutions to make an application, the administrative body or bodies to be approached, and the list of products subject to the licensing requirement.

5. If a Party denies an import license application with respect to a good of another Party, it shall, on request of the applicant and within a reasonable period after receiving the request, provide the applicant with a written explanation of the reason for the denial.

6. No Party shall apply an import licensing procedure to a good of another Party unless the Party has complied with the requirements of paragraphs 1 or 2, and 3, with respect to that procedure.

Article 2.16: Transparency in Export Licensing Procedures

1. Within 30 days after the date of entry into force of this Agreement, each Party shall notify the other Parties in writing of the publications in which its export licensing procedures, if any, are set out, including addresses of relevant government Internet websites on which the procedures are published. Thereafter, each Party shall publish any new export licensing procedure, or any modification of an export licensing procedure, it adopts as soon as practicable but no later than 30 days after the new procedure or modification takes effect.

2. Each Party shall ensure that it includes in the publications it has notified under paragraph 1:

(a) the texts of its export licensing procedures, including any modifications it makes to those procedures;

(b) the goods subject to each licensing procedure;

(c) for each procedure, a description of:

(i) the process for applying for a license; and

(ii) any criteria an applicant must meet to be eligible to seek a license, such as possessing an activity license, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

(d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export license;

(e) the administrative body or bodies to which an application or other relevant documentation should be submitted;

(f) a description of or a citation to a publication reproducing in full any measure or measures that the export licensing procedure implements;

(g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;

(h) if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, if practicable, the value of the quota, and the opening and closing dates of the quota; and

(i) any exemptions or exceptions available to the public that replace the requirement to obtain an export license, how to request or use these exemptions or exceptions, and the criteria for them.

3. A Party shall provide another Party, upon the other Party's request and to the extent practicable, the following information regarding a particular export licensing procedure that it adopts or maintains, except where doing so would reveal business proprietary or other confidential information of a particular person:

(a) the aggregate number of licenses the Party has granted over a recent period specified in the other Party's request; and

(b) measures, if any, that the Party has taken in conjunction with the licensing procedure to restrict domestic production or consumption or to stabilize production, supply, or prices for the relevant good.

4. Nothing in this Article shall be construed in a manner that would require a Party to grant an export license, or that would prevent a Party from implementing its obligations or commitments under United Nations Security Council Resolutions, as well as multilateral non-proliferation regimes, including: the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies*; the Nuclear Suppliers Group; the Australia Group; the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction*, done at Geneva, September 3, 1992, and signed at Paris, January 13, 1993; the *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, done at Washington, London, and Moscow, April 10, 1972; the *Treaty on the Non-Proliferation of Nuclear*

Weapons done at Washington, London, and Moscow, July 1, 1968; and the Missile Technology Control Regime.

5. For the purposes of this Article, **export licensing procedure** means a requirement that a Party adopts or maintains under which an exporter must, as a condition for exporting a good from the Party's territory, submit an application or other documentation to an administrative body or bodies, but does not include customs documentation required in the normal course of trade or any requirement that must be fulfilled prior to introduction of the good into commerce within the Party's territory.

Article 2.17: Committee on Trade in Goods

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

2. The Committee shall meet on the request of a Party or the Commission to consider any matter arising under this Chapter.

3. The Committee shall meet at a venue and time as the Parties decide or by electronic means. In-person meetings will be held alternately in the territory of each Party.

4. The Committee's functions shall include:

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

(b) promoting trade in goods between the Parties;

(c) providing a forum for the Parties to consult and endeavor to resolve issues relating to this Chapter, including, as appropriate, in coordination or jointly with other Committees, working groups, or other subsidiary bodies established under this Agreement;

(d) promptly seeking to address tariff and non-tariff barriers to trade in goods between the Parties and, if appropriate, referring the matter to the Commission for its consideration;

(e) coordinating the exchange of information on trade in goods between the Parties;

(f) discussing and endeavoring to resolve any difference that may arise between the Parties on matters related to the Harmonized System, including ensuring that each Party's obligations under this Agreement are not altered by its implementation of future amendments to the Harmonized System into its national nomenclature;

(g) referring to another committee established under this Agreement those issues that may be relevant to that committee, as appropriate; and

(h) undertaking additional work that the Commission may assign or another committee may refer to it.

Annex 2-A:
Exceptions to Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions)

1. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to the continuation, renewal, or amendment made to any law, statute, decree, or administrative regulations giving rise to a measure set out in this Annex to the extent that the continuation, renewal, or amendment does not decrease the conformity of the measure listed with Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions).

2. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to the import and export of rough diamonds (HS codes 7102.10, 7102.21, and 7102.31), pursuant to the Kimberley Process Certification Scheme and any subsequent amendments to that scheme.

Measures of Canada

1. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to:

(a) the export of logs of all species;

(b) the export of unprocessed fish pursuant to the following provincial laws and their related regulations:

(i) *New Brunswick Seafood Processing Act, SNB 2006, c S-5.3*, and *Fisheries and Aquaculture Development Act, SNB 2009, c F-15.001;*

(ii) *Newfoundland and Labrador Fish Inspection Act, RSNL 1990, c F-12;*

(iii) *Nova Scotia Fisheries and Coastal Resources Act, Chapter 25 of the Acts of 1996;*

(iv) *Prince Edward Island Fisheries Act, R.S.P.E.I. 1988, Cap. F-13.01, and Fish Inspection Act, R.S.P.E.I. 1988, Cap. F-1;* and

(v) *Quebec Marine Products Processing Act, CQLR c T-11.01*

For greater certainty, notwithstanding Paragraph 1 of this Annex, Article 2.3 and 2.10 shall not apply to any requirements for the export of unprocessed fish authorized under the above laws and their related regulations that are not being applied upon the entry into force of this Agreement, or that are in force upon the entry into force of this Agreement but suspended after that date, and subsequently applied;

(c) the importation of goods of the prohibited provisions of tariff items 9897.00.00, 9898.00.00 and 9899.00.00 referred to in the Schedule of the *Customs Tariff,* except as otherwise provided;

(d) the use of ships in the coasting trade of Canada; and

(e) Canadian excise duties on the absolute volume of ethyl alcohol, as listed under tariff item 2207.10.90 in Canada's Schedule of Concessions annexed to GATT 1994 (Schedule V), used in manufacturing under the provisions of the *Excise Act, 2001*, Statutes of Canada 2002, c. 22, as amended.

2. Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to quantitative import restrictions on originating goods from the United States classified in tariff headings 89.01, 89.04 and 89.05, and tariff items 8902.00.10 and 8903.99.90 (of an overall length exceeding 9.2 m only) for as long as the measures taken under the *Merchant Marine Act of 1920* and *Passenger Vessel Services Act* and 46 U.S.C. §§ 12102, 12113, and 12116, apply with quantitative effect to comparable originating goods from Canada sold or offered for sale into the U.S. market.

Measures of Mexico

1. Paragraphs 1 through 4 of Article 2.10 (Import and Export Restrictions) shall not apply to:

(a) export measures pursuant to Article 48 of the Hydrocarbons Law (Ley de Hidrocarburos) published in Mexico's Official Gazette (*Diario Oficial de la Federación*) on August 11, 2014, for the tariff items under the "Agreement that amends and establishes the classification and codification of Hydrocarbons and Petroleum Products subject to import and export permits by the Ministry of Energy" (*Acuerdo que modifica al diverso por el que se establece la clasificación y codificación de Hidrocarburos y Petrólíferos cuya importación y exportación está sujeta a Permiso Previo por parte de la Secretaría de Energía*) published in the Mexico's Official Gazette (*Diario Oficial de la Federación*) on December 29, 2014, subject to Mexico's rights and obligations under the WTO Agreement, including with regard to transparency and non-discriminatory treatment; and

(b) prohibitions or restrictions on the importation into Mexico of used tyres, used apparel, non-originating used vehicles, and used chassis equipped with vehicle motors set forth in paragraphs 1(I) and 5 of Annex 2.2.1 of the Resolution through which the Ministry of the Economy establishes Rules and General Criteria on International Trade (*Acuerdo por el que la Secretaría de Economía emite reglas y criterios de carácter general en materia de Comercio Exterior*) published in Mexico's Official Gazette (*Diario Oficial de la Federación*) on December 31, 2012.

Measures of the United States

Article 2.3 (National Treatment) and Article 2.10 (Import and Export Restrictions) shall not apply to:

(a) controls on the export of logs of all species; and

(b) (i) measures under existing provisions of the *Merchant Marine Act of 1920* and *Passenger Vessel Services Act* and 46 U.S.C. §§ 12102, 12113, and 12116, to the extent that such measures were mandatory legislation at the time of the accession of the United States to the General Agreement on Tariffs and Trade 1947 (GATT 1947) and have not been amended so as to decrease their conformity with Part II of the GATT 1947;

(ii) the continuation or prompt renewal of a non-conforming provision of any statute referred to in clause (i); and

(iii) the amendment to a non-conforming provision of any statute referred to in clause (i) to the extent that the amendment does not decrease the conformity of the provision with Articles 2.3 (National Treatment) and 2.10 (Import and Export Restrictions).

Annex 2-B: Tariff Commitments

1. The rate of customs duty for an originating good under this Agreement is indicated in each Party's Schedule to this Annex.

2. Except as otherwise provided in a Party's Schedule to this Annex, and pursuant to Article 2.4, the rate of customs duty on originating goods shall be designated with "0," and these goods shall be duty-free on the date of entry into force of this Agreement.

3. For originating goods provided for in the items marked with an asterisk (*) in a Party's Schedule to this Annex, the tariff treatment set forth in Appendix A to that Party's Schedule shall apply.

Annex 2-C

1. This article shall not apply to originating goods that qualify for duty free preferential tariff treatment under in Chapter 4 of the NAFTA 2018, imported from Mexico that are (i) passenger vehicles classified under subheadings 8703.21 through 8703.90, (ii) light trucks classified under subheading 8704.21 or 8704.31, and (iii) auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines).

2. The customs duty applied by the United States on passenger vehicles imported from Mexico under subheadings 8703.21 through 8703.90 that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018, shall not exceed the lesser of 2.5 percent or the United States' MFN applied rate in effect at the time of the importation of the good.

3. The customs duty applied by the United States on light trucks imported from Mexico under subheadings 8704.21 and 8704.31 that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018, shall not exceed the lesser of 25 percent or the United States' MFN applied rate in effect at the time of the importation of the good.

4. The customs duty applied by the United States on auto parts imported from Mexico listed in Appendix 1 to Annex 4-B (List of Tariff Lines) that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018, shall not exceed the lesser of the United States' MFN applied rate in effect on August 1, 2018 or the MFN applied rate in effect at the time of the importation of the good.

5. In the event that the United States implements any measure that increases its MFN applied rate in effect on August 1, 2018 on passenger vehicles under subheadings 8703.21 through 8703.90, and on auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines), and in order to protect Mexico's ability to export passenger vehicles and auto parts throughout North America at volumes that take into account Mexico's existing manufacturing capacity, the following shall apply:

(i) The customs duty applied by the United States on passenger vehicles under subheadings 8703.21 through 8703.90 imported from Mexico that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018 shall not exceed 2.5%, provided that the good qualifies under the rules set out in Appendix 1 to Annex 4-B (annex setting out NAFTA 1994 relevant provisions and rules of chapter 4 of the NAFTA 1994, including article 403, applicable provisions of Annex 401, Annex 403.1, and Annex 403.2). The United States may limit this treatment to 1,600,000 vehicles in any calendar year.

(ii) The customs duty applied by the United States on auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines) imported from Mexico that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018 shall not exceed the United States' MFN applied rate in effect on August 1, 2018, provided that the good qualifies under the rules set out in Appendix 1 to Annex 4-B (annex

setting out NAFTA 1994 relevant provisions and rules of chapter 4 of the NAFTA 1994, including article 403, applicable provisions of Annex 401, Annex 403.1, and Annex 403.2) The United States may limit this treatment to auto parts valued at 108 billion U.S. dollars in any calendar year.

(iii) Mexico shall monitor and allocate or otherwise administer quantities of passenger vehicles and auto parts eligible for this treatment under subparagraph (i) and (ii).

(iv) The customs duty applied by the United States on passenger vehicles of subheadings 8703.21 through 8703.90 or auto parts listed in Appendix 1 to Annex 4-B (List of Tariff Lines) that do not qualify as originating under the rules of origin in Chapter 4 of the NAFTA 2018 imported from Mexico in excess to the quantities set out in subparagraphs (i) and (ii) shall be the United States' MFN applied rate in effect at the time of importation of the good.

(v) For greater certainty, goods described under subparagraphs (i) and (ii) shall be subject to Origin Procedures under Chapter 5 of the NAFTA 2018.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

TARIFF SCHEDULE OF CANADA

GENERAL NOTES

1. The provisions of this Schedule are generally expressed in terms of Canada's Customs Tariff, and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes and Chapter Notes of Canada's Customs Tariff. To the extent that provisions of this Schedule are identical to the corresponding provisions of Canada's Customs Tariff, the provisions of this Schedule shall have the same meaning as the corresponding provisions of Canada's Customs Tariff.

2. This Schedule reflects Canada's applied tariff nomenclature as at July 1, 2017, which is implemented in accordance with the Harmonized System (2017 edition), and includes all tariff items of Chapter 1 through 97 of the HS that provide for a Most-Favoured-Nation (MFN) rate of customs duty.

3. For the purpose of this Agreement, Canada's Schedule is authentic in the English and French languages.

4. The following staging categories apply to the elimination or reduction of customs duties by Canada pursuant to Article 2.4:

(a) customs duties on originating goods provided for in the items in staging category B6 shall be eliminated in six annual stages, and such goods shall be duty-free effective January 1 of year six;

(b) customs duties on originating goods provided for in the items in staging category B11 shall be eliminated in eleven annual stages, and such goods shall be duty-free effective January 1 of year 11;

(c) customs duties on originating goods provided for in the items in staging category X are exempt from tariff elimination;

(d) customs duties on originating goods provided for in the items in staging category * shall be governed by the terms of the TRQ applicable to that tariff item, as outlined in Appendix A to this Schedule.

5. The base rate for determining the interim staged rate of customs duty for an item shall be the Canada's MFN rate of customs duty applied on July 1, 2017.

6. The rates of customs duty provided for in any tariff item in staging category B6 or B11 shall be initially reduced on the date of entry into force of this Agreement, with each subsequent tariff reduction taking effect on January 1 of each subsequent year.

TARIFF SCHEDULE OF MEXICO

GENERAL NOTES

The provisions of this Schedule are generally expressed in terms of Mexico's Tariff Schedule of the General Import and Export Duties Law (Tarifa de la Ley de los Impuestos Generales de Importación y de Exportación (LIGIE)) and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes and Chapter Notes of the LIGIE. To the extent that provisions of this Schedule are identical to the corresponding provisions of the LIGIE, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the LIGIE.

TARIFF SCHEDULE OF THE UNITED STATES

GENERAL NOTES

1. The provisions of this Schedule are generally expressed in terms of the Harmonized Tariff Schedule of the United States (HTSUS), and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes, and Chapter Notes of the HTSUS. To the extent that provisions of this Schedule are identical to the corresponding provisions of the HTSUS, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the HTSUS.

2. The base rates of duty set out in Appendix A to this Schedule reflect the United States' Most-Favored-Nation (MFN) rates of duty in effect on July 1, 2017.

3. In Appendix A to this Schedule, the following staging categories apply to the elimination or reduction of customs duties by the United States pursuant to Article 2.4:

(a) customs duties on originating goods provided for in the items in staging category B6 shall be eliminated in six annual stages, and such goods shall be duty-free effective January 1 of year six; and

(b) customs duties on originating goods provided for in the items in staging category B11 shall be eliminated in eleven annual stages, and such goods shall be duty-free effective January 1 of year eleven; and

(c) customs duties on originating goods provided for in the items in staging category TRQ shall be governed by the terms of the TRQ for that specific tariff line, as outlined in Appendix B to this Schedule.

4. Interim staged rates for tariff items in Appendix A to this Schedule shall be rounded down to the nearest tenth of a percentage point or, if the rate of duty is expressed in monetary units, to the nearest tenth of one U.S. cent.

5. For purposes of Appendix A to this Schedule, **year one** means the year this Agreement enters into force as provided in Article 34.5 (Final Provisions – Entry into Force).

6. For purposes of Appendix A to this Schedule, beginning in year two, each annual stage of tariff reduction shall take effect on January 1 of the relevant year.

ANNEX 3-A

AGRICULTURAL TRADE BETWEEN MEXICO AND THE UNITED STATES

1. For the purposes of this Annex:

qualifying good means an originating good that is an agricultural good, except that in determining whether such good is an originating good, operations performed in or materials obtained from Canada shall be considered as if they were performed in or obtained from a non-Party;

sugar means raw or refined sugar derived directly or indirectly from sugar cane or sugar beets, including liquid refined sugar;

sugar-containing product means a good containing sugar; and

sugar or syrup good means:

(a) for imports into Mexico, a good provided for in any of the current HS subheading 1701.91 (except those that contain added flavoring matter) and the current tariff items 1701.12.01, 1701.12.04, 1701.13.01, 1701.14.01, 1701.14.04, 1701.99.01, 1701.99.02, 1701.99.99, 1702.90.01, 1806.10.01 and 2106.90.05 of the General Import and Export Duty Act ("*Ley de los Impuestos Generales de Importación y Exportación*"); and

(b) for imports into the United States, a good provided for in any of the current tariff items 1701.12.05, 1701.12.10, 1701.12.50, 1701.13.05, 1701.13.10, 1701.13.20, 1701.13.50, 1701.14.05, 1701.14.10, 1701.14.20, 1701.14.50, 1701.91.05, 1701.91.10, 1701.91.30, 1702.90.05, 1702.90.10, 1702.90.20, 1702.90.35, 1702.90.40, 1702.90.52, 1702.90.54, 1702.90.58, 1702.90.64, 1702.90.68, 1702.90.90, 1806.10.43, 1806.10.45, 1806.10.55, 1806.10.65, 1806.10.75 and 2106.90.42, 2106.90.44, 2106.90.46 of the U.S. Harmonized Tariff Schedule, without regard to the quantity imported.

tariff rate quota means a mechanism that provides for the application of a customs duty at a certain rate to imports of a particular good up to a specific quantity (in-quota quantity), and at a different rate to imports of that good that exceed that quantity."

2. This Annex applies only as between Mexico and the United States.

3. With the exception of tariff-rate quotas (TRQ) set out in its schedule to the WTO Agreement, Mexico shall ensure that the customs duties for any TRQ it maintains for sugar or syrup goods on a most-favored-nation (MFN) basis are not less than the prevailing MFN rates of the United States for the same sugar and syrup goods.

4. Mexico shall not be required to apply the applicable preferential duty rate provided in this Agreement to a sugar or syrup good, or sugar-containing product, that is a qualifying good when

the United States has granted or will grant benefits under any re-export program or any like program in connection with the export of the good, including a good covered in paragraph 7 of Article 2.5 (National Treatment and Market Access – Drawback and Duty Deferral Programs). The United States shall notify Mexico in writing within two business days of any export to Mexico of such a good for which the benefits of any re-export program or any other like program have been or will be claimed by the exporter.

5. Notwithstanding Chapter 4 (Rules of Origin), for the purposes of applying the preferential duty rate provided in this Agreement to a good, the United States may consider it as if it were a non-originating good provided for in U.S. tariff items 1702.90.05, 1702.90.10, 1702.90.20, 1702.90.35, 1702.90.40, 1702.90.52, 1702.90.54, 1702.90.58, 1702.90.64, 1702.90.68, 1702.90.90, 1806.10.43, 1806.10.45, 1806.10.55, 1806.10.65, 1806.10.75 or 2106.90.42, 2106.90.44, 2106.90.46 that is exported from the territory of Mexico, if any material provided for in HS subheading 1701.99 used in the production of that good is not a qualifying good.

6. Notwithstanding Chapter 4 (Rules of Origin), for the purposes of applying the preferential duty rate provided in this Agreement to a good, Mexico may consider it as if it were non-originating a good provided for in: Mexican tariff item 1702.90.01, 1806.10.01 or 2106.90.05 that is exported from the territory of the United States, if any material provided for in HS subheading 1701.99 used in the production of that good is not a qualifying good.

7. Notwithstanding the Specific Rules of Origin provided in Annex 4-B, the United States or Mexico may consider a good classified in heading 1202 or subheading 2008.11 to be originating only if any peanuts used in the production of such a good that are classified in heading 1202 are also originating.

8. Each Party shall ensure that any measure it adopts or maintains regarding the grading of agricultural goods for quality, whether on a mandatory or voluntary basis, shall be applicable to imported agricultural goods, on the basis of the same regulatory framework, including the same requirements and based on the same criteria as domestic goods.

9. A Party which provides for the assignment of grades shall ensure that the same quality grade certificate requiring the same information is used for domestic and imported like products. No Party shall require a country of origin statement on any quality grade certificate, or any quality grade certificate to state that the agricultural good is foreign or domestic.

10. No Party shall make domestic registration of grain and oilseed varietals a requirement for importation, or a consideration in the assignment of quality grades or classes to imported grain and oilseed.

11. Mexico and the United States shall establish a technical working group, comprising representatives of Mexico and the United States. The technical working group shall meet on an annual basis, unless otherwise decided by the Parties participating in the technical working group, and shall be chaired by representatives of the participating Parties. The technical working group shall review matters related to agricultural grade and quality standards, technical specifications, and other standards in each Party and their application and implementation insofar as they affect trade between the Parties. The technical working group shall work to resolve issues that may arise

regarding the application and implementation of the standards, including where feasible and appropriate considering joint mechanisms, such as training programs, or work plans for quality inspections at the point of origin to facilitate trade between the Parties.

12. Beginning on the date of entry into force of this Agreement, neither Mexico nor the United States may refund the amount of customs paid, or waive or reduce the amount of customs duties owed, on any agricultural good imported into its territory that is substituted for an identical or similar good that is subsequently exported to the territory of the other Party.

ANNEX 3 A

PROPRIETARY FORMULAS FOR PREPACKAGED FOODS AND FOOD ADDITIVES

1. This Annex applies to the preparation, adoption, and application of technical regulations and standards of central government bodies that are related to prepackaged foods and food additives, other than sanitary or phytosanitary measures or technical specifications prepared by a governmental body for production or consumption requirements of governamental bodies.

2. For the purposes of this Annex, the terms "food," "food additive," and "prepackaged" have the same meanings as set out in the *Codex General Standard for the Labelling of Pre-Packaged Food* (CODEX STAN 1-1985) and the *Codex General Standard for the Labelling of Food Additives When Sold as Such* (CODEX STAN 107-1981), as they may be amended.

3. When requesting information relating to proprietary formulas for prepackaged foods or food additives, each Party shall:

(a) ensure that its information requirements are limited to what is necessary to achieve its legitimate objective; and

(b) protect the confidentiality of information supplied about products originating in the territory of another Party in the same manner as for domestic products and in a manner that protects legitimate commercial interests.

A Party may use confidential information it has obtained relating to proprietary formulas in administrative and judicial proceedings in accordance with its law, provided the Party maintains procedures to protect the confidentiality of the information in the course of those proceedings.

4. Nothing in paragraph 3 shall prevent a Party from requiring ingredients to be listed on labels consistent with CODEX STAN 1-1985 and CODEX STAN 107-1981, as they may be amended, except when those standards would be an ineffective or inappropriate means for the fulfilment of a legitimate objective.

ANNEX 3-B

AGRICULTURAL TRADE BETWEEN CANADA AND THE UNITED STATES

CANADA AND THE UNITED STATES

Section A: Tariff Classifications

1. Canada shall notify the United States of any change to Canada's Schedule to the Customs Tariff that increases the customs duty applied to a dairy, poultry or egg product when imported into Canada from the United States[1] prior to finalization of such change. To the maximum extent possible, Canada shall provide such notification immediately after publication of the proposal for the change, so as to provide a sufficient opportunity for the United States to review the proposal prior to its implementation. If the United States requests, Canada shall promptly provide information to the United States, and respond to questions from the United States, pertaining to any change to Canada's Schedule to the Customs Tariff that increases the customs duty applied to a dairy, poultry or egg product when imported into Canada from the United States, whether or not the United States has been previously notified of the change.

2. The United States shall notify Canada of any change to the Harmonized Tariff Schedule of the United States that increases the tariff rate applied to a sugar, sugar containing (SCP), or dairy product when imported into the United States from Canada[2] prior to finalization of such change. To the maximum extent possible, the United States shall provide such notification immediately after publication of the proposal for the change, so as to provide sufficient opportunity for Canada to review the proposal prior to its implementation. If Canada requests, the United States shall promptly provide information to Canada, and respond to questions from Canada, pertaining to any change to the Harmonized Tariff Schedule of the United States that increases the tariff rate applied to a sugar or dairy product when imported into the United States from Canada, whether or not Canada has been previously notified of the change.

3. On the request of the other Party, a Party shall meet to discuss any measures or policies that may affect trade between the Parties of a sugar, SCP, dairy, poultry or egg product within 30 days of the request.

[1] For purposes of this paragraph, a "change to Canada's Schedule to the Customs Tariff that increases the customs duty applied to a dairy, poultry, or egg product when imported into Canada from the United States" means a change to Canada's Schedule to the Customs Tariff that changes the classification of any good not previously classified under a tariff item listed in Appendix A that results in the good being classified under a tariff item listed in Appendix A.

[2] For purposes of this paragraph, a "change to the Harmonized Tariff Schedule of the United States that increases the tariff rate applied to a sugar, sugar containing, or dairy product when imported into the United States from Canada" means a change to the Harmonized Tariff Schedule of the United States that changes the classification of any good not classified before the change under a tariff item listed in Appendix B to this Annex that results in the good being classified under a tariff item listed in Appendix B.

Section B: Tariff-Rate Quota Administration

1. For the purposes of this Section:

allocation mechanism means any system where access to the tariff-rate quota (TRQ) is granted on a basis other than first-come first-served.

tariff rate quota means a mechanism that provides for the application of a preferential customs duty at a certain rate to imports of a particular originating good up to a specified quantity (in-quota quantity), and at a different rate to imports of that good that exceed that quantity.

2. For the purposes of Section A, TRQs means only those TRQs established under this Agreement as set out in a Party's Schedule to Annex 2-B (Tariff Commitments). For greater certainty, this Section shall not apply to TRQs set out in a Party's Schedule to the WTO Agreement.

3. Each Party shall implement and administer TRQs in accordance with Article XIII of GATT 1994, including its interpretative notes, the Import Licensing Agreement and Article 2.15 (National Treatment and Market Access for Goods – (Transparency in Import Licensing). All TRQs established by a Party under this Agreement shall be set out in that Party's Schedule to Annex 2-B (Tariff Commitments).

4. Each Party shall ensure that its procedures for administering its TRQs:

(a) are transparent;

(b) are fair and equitable;

(c) use clearly specified timeframes, administrative procedures, and requirements;

(d) are no more administratively burdensome than necessary;

(e) are responsive to market conditions; and

(f) are administered in a timely manner.

5. The Party administering a TRQ shall publish on its designated website at least 90 days prior to the beginning of the TRQ year all information concerning its TRQ administration, including the size of quotas and eligibility requirements.

6. Each Party shall administer its TRQs in a manner that allows importers the opportunity to utilize TRQ quantities fully.

(a) Except as provided in subparagraph (b) and (c), no Party shall introduce a new or additional condition, limit, or eligibility requirement on the utilization of a TRQ for

importation of a good, including in relation to specification or grade, permissible end-use of the imported product, or package size beyond those set out in its Schedule to Annex 2-B (Tariff Commitments)]. For greater certainty, this paragraph shall not apply to conditions, limits, or eligibility requirements that apply regardless of whether or not the importer utilizes the TRQ when importing the good.

(b) A Party seeking to introduce a new or additional condition, limit, or eligibility requirement on the utilization of a TRQ for importation of a good shall notify the other Party at least 45 days prior to the proposed effective date of the new or additional condition, limit, or eligibility requirement. Another Party with a demonstrable commercial interest in supplying the good may submit a written request for consultations within 30 days of the notification to the Party seeking to introduce the new or additional condition, limit, or eligibility requirement. On receipt of such a request for consultations, the Party seeking to introduce the new or additional condition, limit, or eligibility requirement shall promptly undertake consultations with the other Party, in accordance with Article [XX] (Transparency).

(c) The Party seeking to introduce the new or additional condition, limit, or eligibility requirement may do so if another Party with a demonstrable commercial interest in supplying the good has not submitted a written request for consultations within 30 days of the notification pursuant to subparagraph (b) or, in the case where another Party has submitted a written request for consultations pursuant to subparagraph (b) if:

(i) it has consulted with the other Party; and

(ii) the other Party has not objected, after the consultation, to the introduction of the new or additional condition, limit, or eligibility requirement.

(d) A new or additional condition, limit, or eligibility requirement that is the outcome of any consultation held pursuant to subparagraph (c) shall be circulated to the other Party prior to its implementation.

7. Notwithstanding paragraph 6, a Party shall not implement a condition, limit, or eligibility requirement:

(a) regarding the quota applicant's nationality, or headquarters location; or

(b) requiring the quota applicant's physical presence in the territory of the Party, except that a Party may require that the quota applicant either:

(i) do business and have a business office, or

(ii) have an employee, an agent for service of process, or a legal representative, in the territory of the Party.

8. Upon entry into force of this Agreement as between Canada and the United States, if either Party maintains a TRQ in its Schedule to Annex 2-B (Tariff Commitments) that is applicable to goods of the other Party, and that is administered through issuance of permits by either Party, the Party maintaining the TRQ shall have:

(a) consulted with the other Party with respect to all procedures for the allocation and use of the TRQ, and any condition or requirement applicable on or in connection with the allocation or use of the TRQ; and

(b) promulgated and implemented regulations or policies containing all of its procedures for the allocation and use of the TRQ and any condition or requirement of that Party applicable on or in connection with the allocation or use of the TRQ.

9. In the event that access under a TRQ is subject to an allocation mechanism, the Party administering the TRQ shall prior to any change to the allocation mechanism:

(a) publish for public comment proposed regulations or policies containing all of its procedures for the allocation and use of the TRQ and any condition or requirement applicable on or in connection with the allocation or use of the TRQ no less than 60 days in advance of the date on which comments are due;

(b) take any comments into account in the development of the final regulations or policies; and

(c) promulgate, implement, and publish the final regulations or policies on its designated website at least 90 days prior to the beginning of each TRQ year.

10. When a TRQ is administered by an allocation mechanism, the Party administering the TRQ shall provide that the allocation mechanism that it uses allows for importers that have not previously imported the product subject to the TRQ (new importers), and that meet all eligibility criteria other than import performance, to be eligible for a quota allocation. Each such Party shall not discriminate against new importers when allocating the TRQ.

11. The Party administering the allocated TRQ shall ensure that:

(a) any person of the other Party that fulfils the importing Party's eligibility requirements is able to apply and to be considered for a quota allocation under the TRQ;

(b) unless otherwise agreed, it does not allocate any portion of the quota to a producer group, condition access to an allocation on the purchase of domestic production or limit access to an allocation to processors;

(c) each allocation is made in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that the TRQ applicant requests;

(d) an allocation for in-quota imports is applicable to any tariff lines subject to the TRQ and is valid throughout the TRQ year;

(e) if the aggregate TRQ quantity requested by applicants exceeds the quota size, allocation to eligible applicants shall be conducted by equitable and transparent methods;

(f) applicants have at least four weeks after the opening of the application period to submit their applications; and

(g) quota allocation takes place no later than four weeks before the opening of the quota period, unless the allocation is based in whole or in part on import performance during the 12-month period immediately preceding the quota period. If the Party bases the allocation in whole or in part on import performance during the 12-month period immediately preceding the quota period, the Party shall make a provisional allocation of the full quota amount no later than four weeks before the opening of the quota period. All final allocation decisions, including any revisions, shall be made and communicated to applicants by the beginning of the quota period.

12. If less than 12 months remain in the first TRQ year on the date of entry into force of this Agreement, the Party shall make available to quota applicants, beginning on the date of entry into force of this Agreement, the quota quantity established in its Schedule to Annex 2-B (Tariff Commitments), multiplied by a fraction the numerator of which shall be a whole number consisting of the number of months remaining in the TRQ year on the date of entry into force of this Agreement, including the entirety of the month in which this Agreement enters into force, and the denominator of which shall be 12. The Party shall make the entire quota quantity established in its Schedule to Annex 2-B (Tariff Commitments) available to quota applicants beginning on the first day of each TRQ year that the quota is in operation.

13. The Party administering a TRQ shall not require the re-export of a good as a condition for application for, or utilization of, a quota allocation.

14. Any quantity of goods imported under a TRQ under this Agreement shall not be counted towards, or reduce the quantity of, any other TRQ provided for such goods in a Party's Schedule to the WTO Agreement or under any other trade agreements.[3]

15. When a TRQ is administered by an allocation mechanism, a Party shall ensure that there

[3] For greater certainty, nothing in this paragraph shall prevent a Party from applying an in-quota rate of customs duty to goods from another Party, as set out in that Party's Schedule to Annex 2-B (Tariff Commitments), that is different than the rate applied to the same goods of non-Parties under a TRQ established under the WTO Agreement. Further, nothing in this paragraph requires a Party to change the in-quota quantity of any TRQ established under the WTO Agreement.

is a mechanism for the return and reallocation of unused allocations in a timely and transparent manner that provides the greatest possible opportunity for the TRQ to be filled.

16. Each Party shall publish on a regular basis on its designated publicly available website information concerning amounts allocated, amounts returned and, if available, quota utilization rates. In addition, each Party shall publish on the website designated to provide TRQ information the amounts available for reallocation and the application deadline, at least two weeks prior to the date on which the Party will begin accepting applications for reallocations.

17. Each Party shall identify the entity or entities responsible for administering its TRQs and designate and notify at least one contact point, in accordance with Article 30.5 (Administrative and Institutional Provisions –Agreement Coordinator and Contact Points), to facilitate communications between the Parties on matters relating to the administration of its TRQs. Each Party shall promptly notify the other Party of any amendments to the details of its contact point.

18. If a TRQ is administered by an allocation mechanism, the name and address of allocation holders shall be published on the designated publicly available website.

19. If a TRQ is administered on a first-come, first-served basis, the importing Party's administering authority shall publish over the course of each year, in a timely and continually on-going manner on its designated website, utilization rates and remaining available quantities for that TRQ.

20. When a TRQ of an importing Party that is administered on a first-come, first-served basis fills, that Party shall publish a notice to this effect on its designated publicly available website within 10 days.

21. When a TRQ of an importing Party that is administered by an allocation mechanism fills, that Party shall publish a notice to this effect on its designated publicly available website as early as practicable.

22. On written request of the exporting Party, the Party administrating a TRQ shall consult with the exporting Party regarding the administration of its TRQ within 30 days of the request, under normal circumstances.

Section C: Dairy Pricing and Exports

1. This Section applies to any milk class pricing system for dairy[4] adopted or maintained by a Party.

2. For the purpose of this Section:

[4] For Canada, milk class pricing system refers to price setting under the supply management system for dairy. For the United States, milk class pricing system refers to price setting under the federal milk marketing orders.

assumed processor margin means the estimated cost to a processor of converting raw milk into a specified manufactured wholesale commodity or milk product, which may then be used in the calculation of a milk class price and may also be referred to as a make allowance;

dairy year means August 1 to July 31;

eligible goods means goods that a processor may manufacture using the milk or milk components provided at the milk class price;

infant formula means a good defined by HS Code 1901.10 containing more than 10% on a dry weight basis of cow milk solids;

milk class means an end use for which processors may utilize milk or milk components provided at milk class prices;

milk class price means the price, minimum price, or milk component price at which milk or milk components are billed or provided to processors based on their end use;

milk component means butterfat, protein, other solids, and any other component of milk for which a Party sets a milk class price;

milk protein concentrate means goods defined by HS Code 0404.90;

skim milk powder means goods defined by HS Code 0402.10;

USDA nonfat dry milk price means the nonfat dry milk price published by the United States Department of Agriculture ("USDA") in its Announcement of Class and Component Prices, as used in the calculation of the Nonfat Milk Solids price in the United States; and

yield factor means the estimated ratio of a given volume of skim milk powder to the volume of non-fat solids required to manufacture that volume skim milk powder as determined by the Party.

3. Canada shall ensure that milk class 6 and milk class 7, including their associated milk class prices, are eliminated six months after entry into force of this Agreement.

4. Six months after entry into force of this Agreement, Canada shall ensure that products and ingredients formerly classified under milk classes 6 and 7 shall be reclassified and that their associated milk class prices shall be established appropriately based on end use.

5. Notwithstanding paragraph 4, Canada shall ensure that the prices for non-fat solids used to manufacture milk protein concentrates, skim milk powder, and infant formula shall be no lower than the applicable price determined by the following formula:

(The USDA nonfat dry milk price

minus

Canada's applicable processor margin)

multiplied by

Canada's yield factor.

6. Paragraph 5 shall not apply to domestic sales of milk components for non-human consumption, such as for use as animal feed.

7. Canada shall monitor its global exports of milk protein concentrates, skim milk powder, and infant formula and provide information regarding those exports to the United States as specified in paragraph 12.

8.

(a) In a given dairy year, if the total global exports of milk protein concentrates and skim milk powder from Canada exceed the following thresholds:

Year	MPC plus SMP Thresholds
1	55,000 MT
2	35,000 MT

then, Canada shall apply an export charge of CAD 0.54 per kilogram to global exports of these goods in excess of the thresholds set out above for the remainder of the dairy year.

(b) In a given dairy year, if global exports of infant formula from Canada exceed the following thresholds:

Year	Infant Formula Thresholds
1	13,333 MT
2	40,000 MT

then, Canada shall apply an export charge of CAD 4.25 per kilogram to global exports of these goods in excess of the thresholds set out above for the remainder of the dairy year.

9. With regard to the thresholds established in paragraph 8(a) and 8(b), after Year 2 each threshold shall increase at a rate of 1.2 percent annually on a dairy year basis.

10. Each Party shall publish on or linked to a central government website, the information listed in the subparagraphs to this paragraph. Each Party shall publish this information on entry into force of this Agreement for existing measures. Thereafter, a Party shall publish the information as soon as possible:

(a) laws and regulations at the central or regional level of government of a Party that govern or implement a milk class pricing system for dairy, including any modification, replacement, or amendment thereof;

(b) the assumed processor margin;

(c) each milk class price, including for each milk component by each milk class;

(d) the yield factor;

(e) requirements, terms, and conditions for obtaining and using milk and milk components at milk class prices, including:

(i) list or description of the goods for which processors are eligible to receive milk or milk components at a milk class price; and

(ii) list or description of the products that eligible goods can be used to manufacture;

(f) the milk utilization and sales by milk class and month, including quantities sold, prices, and revenues for milk and each milk component.

11. Before introducing a new milk class, changing an existing milk class, introducing a new milk class price, or changing an existing milk class price, a Party shall:

(a) notify the other Party or publicly announce its intent to introduce or amend a milk class or milk class price, so as to provide a sufficient opportunity for the other Party to review the proposed measure or policy containing the new or amended milk class or milk class price prior to its implementation;

(b) consult with the other Party upon request or allow participation in its public regulatory process regarding the proposed measure or policy containing the new or amended milk class or milk class price, and take any comments into account in the decision to introduce or change the milk class or milk class price; and

(c) publish the final measure or policy, and allow an interval of at least one calendar month between the publication of the final measure or policy and its effective date.

12. Further to paragraph 7, Canada shall make available to the United States data regarding Canada's global exports of milk protein concentrates, skim milk powder, and infant formula, at the six digit HS Code level, on a monthly basis, and no later than 30 days after the close of each month.

13. Within 30 days of a request from a Party, the Parties shall meet in a jointly agreed location, or by electronic means, to discuss any matter associated with the application of this Section.

14. Recognizing that new products and new consumer preferences may impact the demand for and exports of skim milk powder, milk protein concentrates, and infant formula, if the trade monitoring mechanism established in paragraphs 7-9 is unsatisfactory to either Party, the Parties shall within 30 days of a written request of a Party enter consultations to consider and, if appropriate, seek to amend the provisions of paragraphs 7-9 through Article 34.3 (Final Provisions – Amendments).

15. Five years after entry into force and every two years thereafter, Canada and the United States shall meet to consider whether conditions have changed such that this section should be removed or modified. Modifications, including removal, may be made at this time or at any other time by mutual consent of Canada and the United States.

Section D: Grain

1. Each Party shall accord to originating wheat imported from the territory of the other Party treatment no less favorable than that it accords to like wheat of national origin with respect to the assignment of quality grades, including by ensuring that any measure it adopts or maintains regarding the grading of wheat for quality, whether on a mandatory or voluntary basis, is applied to imported wheat on the basis of the same requirements as domestic wheat.

2. No Party shall require that a country of origin statement be issued on a quality grade certificate for originating wheat imported from the territory of the other Party, recognizing that phytosanitary or customs requirements may require such a statement.

3. At the request of the other Party, the Parties shall discuss issues related to the operation of a domestic grain grading or grain class system, including issues related to the seed regulatory system associated with the operation of any such system, through existing mechanisms. The Parties shall endeavor to share best practices with respect these issues, as appropriate.

4. Canada shall exclude from transport rates that are subject to the Maximum Grain Revenue Entitlement, established under the *Canada Transportation Act*, or any modification, replacement, or amendment thereof, agricultural goods originating in Canada and shipped via west coast ports for consumption in the United States.

Section E: Other

1. Canada shall ensure that imports of dairy, poultry or egg products eligible for Canada's Duties Relief Program ("DRP") and Import for Re-export Program ("IREP") as of September 1, 2018, continue to be eligible for these programs, as well as any subsequent or successor programs to DRP and IREP, as long as Canada maintains such programs.

2. Notwithstanding the product-specific rules of origin in Annex 4-B of this Agreement, the rule of origin for a good traded between the United States and Canada in subheading 1517.10 shall allow a change from heading 15.11 or any other chapter.

3. For the purposes of paragraphs 4-7, "product of Canada" shall be determined based on U.S. general requirements utilized to determine country eligibility under its WTO TRQ obligations.

4. Consistent with Article XIII of the GATT 1994, the United States shall allocate to Canada:

   (a) a share of the in-quota quantity of the refined sugar TRQ[5] of not less than 10,300 metric tons, raw value, for sugar that is a product of Canada; and

   (b) a share of the in-quota quantity of the SCP TRQ[4] of not less than 59,250 metric tons for SCPs that are the product of Canada.

5. Further to Paragraph 4, the United States shall permit access for sugar that is the product of Canada to any in-quota quantity of the refined sugar TRQ that is not allocated among supplying countries. The United States shall permit access to the unallocated amounts in a tariff-rate quota period without regard to whether the share allocated to Canada for that period has been filled.

6. Further to Paragraph 4, if the United States allocates the refined sugar TRQ reserved for specialty sugar, the United States shall do so consistent with its WTO obligations and in consultation with Canada.

7. Further to Paragraph 4, where for any TRQ period Canada informs the United States that Canada will not supply the full amount of the share of SCP TRQ allocated to Canada as described in Paragraph 4, the United States shall transfer the quantity of the share that Canada will not supply to the quantity of SCP TRQ that is not allocated among supplying countries. The United States shall provide Canada reasonable advance notice of the date upon which such a transfer will take effect. Any transfer under this paragraph will not affect the amount of the share of the SCP TRQ allocated to Canada pursuant to Paragraph 4 in subsequent TRQ periods.

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[5] Refined sugar TRQ is as provided for in Additional U.S. Note 2 to chapter 17 of the Schedule of the United States annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994*.
[4] SCP TRQ is as provided for in Additional U.S. Note 6 to chapter 17 of the Schedule of the United States annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994*.

Appendix A

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Appendix B

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CHAPTER 3

AGRICULTURE

Article 3.1: Definitions

For the purposes of this Chapter:

agricultural goods means those agricultural products referred to in Article 2 of the Agreement on Agriculture;

export subsidies shall have the meaning assigned to that term in Article 1(e) of the Agreement on Agriculture; and

Agreement on Agriculture, means the *Agreement on Agriculture*, set out in Annex 1A to the WTO Agreement.

Article 3.2: Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to trade in agricultural goods.

2. In the event of any inconsistency between this Chapter and another provision of this Agreement, this Chapter shall prevail to the extent of the inconsistency.

Article 3.3: International Cooperation

The Parties shall work together in the World Trade Organization to promote increased transparency and to improve and further develop multilateral disciplines on the three pillars of agricultural trade (domestic support, export competition and market access) with the objective of substantial progressive reductions in agriculture support and protection resulting in fundamental reform.

Article 3.4: Export Competition

1. No Party shall adopt or maintain an export subsidy on any agricultural good destined for the territory of another Party.

2. If a Party considers that export financing support granted by another Party results or may result in a distorting effect on trade between the Parties, or considers that an export subsidy is being granted by another Party, with respect to an agricultural good, it may request to discuss the matter. The responding Party shall agree to meet with the requesting Party as soon as practicable.

Article 3.5: Export Restrictions – Food Security

1. Parties recognize that under Article XI:2(a) of the GATT 1994, a Party may temporarily apply an export prohibition or restriction that is otherwise prohibited under Article XI:1 of the GATT 1994 on foodstuffs[1] to prevent or relieve a critical shortage of foodstuffs, subject to meeting the conditions set out in Article 12.1 of the *Agreement on Agriculture*.

2. In addition to the conditions set out in Article 12.1 of the *Agreement on Agriculture* under which a Party may apply an export prohibition or restriction, other than a duty, tax, or other charge, on foodstuffs:

(a) a Party that:

(i) imposes such a prohibition or restriction on the exportation or sale for export of foodstuffs to another Party to prevent or relieve a critical shortage of foodstuffs, shall notify the measure to the other Parties prior to the date it takes effect and, except when the critical shortage is caused by an event constituting *force majeure*, shall notify the measure to the other Parties at least 30 days prior to the date it takes effect; or

(ii) as of the date of entry into force of this Agreement, maintains such a prohibition or restriction, shall, within 30 days of that date, notify the measure to the other Parties.

(b) A notification under this paragraph shall include the reasons for imposing or maintaining the prohibition or restriction, as well as an explanation of how the measure is consistent with Article XI:2(a) of the GATT 1994, and shall note alternative measures, if any, that the Party considered before imposing the prohibition or restriction.

(c) A measure shall not be subject to notification under this paragraph or paragraph 4 if it prohibits or restricts the exportation or sale for export only of a foodstuff or foodstuffs of which the Party imposing the measure has been a net importer during each of the three calendar years preceding the imposition of the measure, excluding the year in which the Party imposes the measure.

(d) If a Party that adopts or maintains a measure referred to in subparagraph (a) has been a net importer of each foodstuff subject to that measure during each of the three calendar years preceding imposition of the measure, excluding the year in which the Party imposes the measure, and that Party does not provide the other Parties with a notification under subparagraph (a), the Party shall, within a reasonable period of time, provide to the other Parties trade data demonstrating that it was a net importer of the foodstuff or foodstuffs during these three calendar years.

[1] For the purpose of this Article, foodstuffs include fish and fisheries products, intended for human consumption.

3. A Party that is required to notify a measure under paragraph 2(a) shall:

(a) consult, on request, with any other Party having a substantial interest as an importer of the foodstuffs subject to the measure, with respect to any matter relating to the measure;

(b) on the request of any Party having a substantial interest as an importer of the foodstuffs subject to the measure, provide that Party with relevant economic indicators bearing on whether a critical shortage within the meaning of Article XI:2(a) of the GATT 1994 exists or is likely to occur in the absence of the measure, and on how the measure will prevent or relieve the critical shortage; and

(c) respond in writing to any question posed by any other Party regarding the measure within 14 days of receipt of the question.

4. A Party which considers that another Party should have notified a measure under paragraph 2(a) may bring the matter to the attention of that other Party. If the matter is not satisfactorily resolved promptly thereafter, the Party which considers that the measure should have been notified may itself bring the measure to the attention of the other Party.

5. A Party should ordinarily terminate a measure subject to notification under paragraph 2(a) or 4 within six months of the date it is imposed. A Party contemplating continuation of a measure beyond six months from the date it is imposed shall notify the other Parties no later than five months after the date the measure is imposed and provide the information specified in paragraph 2(b). Unless the Party has consulted with the other Parties that are net importers of any foodstuff the exportation of which is prohibited or restricted under the measure, the Party shall not continue the measure beyond 12 months from the date it is imposed. The Party shall immediately discontinue the measure when the critical shortage, or threat thereof, ceases to exist.

6. No Party shall apply any measure that is subject to notification under paragraph 2(a) or 4 to food purchased for non-commercial humanitarian purposes.

Article 3.6: Domestic Support

1. The Parties recognize that domestic support measures can be of crucial importance to their agricultural sectors but may also have trade distorting and production effects. If a Party supports its agricultural producers, the Party shall consider domestic support measures that have minimal or no trade distorting or production effects.

2. If a Party raises concerns that another Party's domestic support measure has had a negative impact on trade between the Parties, the Parties shall share relevant information regarding the domestic support measure with each other and discuss the matter with a view to seeking to minimize the negative trade impact.

Article 3.7: Committee on Agricultural Trade

1. The Parties hereby establish a Committee on Agricultural Trade ("Committee"), composed of government representatives of each Party.

2. The Committee's functions shall include:

   (a) promoting trade in agricultural goods between the Parties under this Agreement;

   (b) monitoring and promoting cooperation on the implementation and administration of this Chapter;

   (c) providing a forum for the Parties to consult and endeavor to address issues or trade barriers and improve access to their respective markets, in coordination or jointly with other committees, working groups or any other subsidiary bodies established under this Agreement;

   (d) endeavoring to exchange information on trade in agricultural goods between the Parties, including information covered by Article 3.9.1 (Transparency and Consultations) or any other relevant transparency provision in this Chapter;

   (e) fostering cooperation among the Parties in areas of mutual interest, such as rural development, technology, research and development and capacity building, creating joint programs as mutually agreed between the agencies involved in agriculture, among others;

   (f) undertaking any additional work, including that the Commission may assign or another Committee may refer;

   (g) recommending to the Commission any modification of or addition to this Chapter; and

   (h) reporting annually on its activities to the Commission.

3. The Committee shall establish its terms of reference at its first meeting and may revise those terms as needed.

4. The Committee shall meet within one year of the date of entry into force of this Agreement and once each year thereafter unless the Parties decide otherwise.

Article 3.8: Consultative Committees on Agriculture

1. The activities of the Consultative Committees on Agriculture (CCAs) established by:

(a) the *Terms of Reference* to *the Record of Understanding Between the Governments of the United States of America and Canada Regarding Areas of Agricultural Trade* (ROU) on December 4, 1998;

(b) the *Memorandum of Understanding Between the U.S. Department of Agriculture and the Office of the U.S. Trade Representative, and the Secretariat of Agriculture, Livestock, Rural Development, Fish and Food and the Secretary of Economy of the United Mexican States Regarding Areas of Food and Agriculture Trade* (US-MX MOU) on October 1, 2001 and re-established on March 6, 2007; and

(c) the MOU between the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food of the United Mexican States and Agriculture and Agri-Food Canada (MX-CA MOU) on February 1, 2002;

shall as of the date of entry into force of this Agreement be organized under this Agreement.

2. The CCAs shall be governed by and operate according to their respective ROU, MOUs, and all implementing or administrative documents, as may be amended.

3. The CCAs may inform the Committee on Agricultural Trade, the Committee on Sanitary and Phytosanitary Measures, or the Committee on Technical Barriers to Trade of their activities.

Article 3.9: Agricultural Special Safeguards

Originating agricultural goods traded under preference from any Party shall not be subject to any duties applied by a Party pursuant to a special safeguard taken under the *Agreement on Agriculture*.[2]

Article 3.10: Transparency and Consultations

1. Each Party shall endeavor, as appropriate, to share with another Party, on request, available information regarding a measure relating to trade in agricultural goods taken by a regional level of government in its territory that may have a significant effect on trade between those Parties of any of these goods.

2. On request of a Party, a Party shall meet to discuss, and where appropriate resolve, matters arising from grade, quality, technical specifications, and other standards as they affect trade between the Parties.

Section A - Agricultural Biotechnology

[2] For greater certainty, goods for which MFN tariff treatment applies may be subject to additional duties applied by a Party pursuant to a special safeguard taken under the *Agreement on Agriculture*.

Article 3.A.1: Definitions

For the purposes of this Section:

agricultural biotechnology means technologies including modern biotechnology used for the deliberate manipulation of an organism to introduce, remove or modify one or more heritable characteristics of a product for agriculture and aquaculture use and that are not technologies used in traditional breeding and selection;

modern biotechnology means the application of:

(a) *in vitro* nucleic acid techniques, including recombinant deoxyribonucleic acid (rDNA) and direct injection of nucleic acid into cells or organelles; or

(b) fusion of cells beyond the taxonomic family,

that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection.

product of agricultural biotechnology means an agricultural good, or a fish or fish product covered by Chapter 3 of the Harmonized System, developed using agricultural biotechnology, but does not include a medicine or a medical product; and

product of modern biotechnology means an agricultural good, or a fish or fish product covered by Chapter 3 of the Harmonized System, developed using modern biotechnology, but does not include a medicine or a medical product.

Low Level Presence (LLP) Occurrence means low levels of recombinant DNA plant materials that have passed a food safety assessment according to the Codex Guideline for the Conduct of a Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003) in one or more countries, which may on occasion be inadvertently present in food or feed in importing countries in which the food safety of the relevant recombinant-DNA plant has not been determined.

Article 3.A.2: Contact Points

Each Party shall designate and notify a contact point or contact points for the sharing of information on matters related to this Section, in accordance with Article 30.5 (Administrative and Institutional Provisions – Agreement Coordinator and Contact Points).

Article 3.A.3: Trade in Products of Agricultural Biotechnology

1. The Parties confirm the importance of encouraging agricultural innovation and facilitating trade in products of agricultural biotechnology, while fulfilling legitimate objectives, including by promoting transparency and cooperation, and exchanging information related to the trade in products of agricultural biotechnology.

2. This Section does not require a Party to mandate an authorization for a product of agricultural biotechnology to be on the market.

3. Each Party shall make available to the public and, to the extent possible on-line:

(a) the information and documentation requirements for applicants to submit for any authorization , if required, of a product of agricultural biotechnology.

(b) any summary of any risk or safety assessment that has led to the authorization, if required, of a product of agricultural biotechnology; and

(c) any list of the products of agricultural biotechnology that have been authorized in its territory.

4. To reduce the likelihood of disruptions to trade in products of agricultural biotechnology:

(a) Each Party shall continue to encourage applicants to submit timely and concurrent applications to Parties for authorization, if required, of products of agricultural biotechnology;

(b) Party requiring any authorization for a product of agricultural biotechnology shall:

(i) accept and review applications for the authorization, if required, of products of agricultural biotechnology on an ongoing basis year-round;

(ii) adopt or maintain measures that allow the initiation of the domestic regulatory authorization process of a product not yet authorized in another country;

(iii) if an authorization is subject to expiration, take steps to help ensure that the review of the product is completed and a decision is made in a timely manner, and if possible, prior to expiration; and

(iv) communicate between the Parties regarding any new and existing authorizations of products of agricultural biotechnology so as to improve information exchange.

Article 3.A.4: LLP Occurrence

1. Each Party shall adopt or maintain policies or approaches designed to facilitate the management of LLP occurrences.

2. To address an LLP occurrence, and with a view to preventing future LLP occurrences, on request of an importing Party, an exporting Party shall:

(a) provide any summary of the specific risk or safety assessments that the exporting Party conducted in connection with any authorization of the product of modern biotechnology that is the subject of the LLP occurrence;

(b) provide, upon receiving permission of the entity, if required, a contact point for any entity within its territory that received authorization for the product of modern biotechnology that is the subject of the LLP occurrence and that is on the basis of this authorization, likely to possess:

(i) any existing, validated methods for the detection of the product of modern biotechnology that is the subject of the LLP occurrence;

(ii) any reference sample of the product of modern biotechnology that is the subject of the LLP occurrence necessary for the detection of the LLP occurrence; and

(iii) relevant information[3] that can be used by the importing Party to conduct a risk or safety assessment, if appropriate, in accordance with the relevant international standards and guidelines; and

(c) encourage the entity within its territory that received authorization related to the product of modern biotechnology that is the subject of the LLP occurrence to share the information referred to in paragraph 2(b) with the importing Party.

3. In the event of an LLP occurrence, the importing Party shall:

(a) inform the importer or the importer's agent of the LLP occurrence and of any additional information, including the information referenced in para X.4.2(b), that will be required to be submitted to assist the importing Party to make a decision on the management of the LLP occurrence;

(b) upon request, and if available, provide to the exporting Party any summary of any risk or safety assessment that the importing Party has conducted in accordance with its domestic law in connection with the LLP occurrence;

(c) ensure that the LLP occurrence is managed without unnecessary delay and that any measure[4] applied to manage the LLP Occurrence is appropriate to achieve compliance with its laws and regulations and takes into account any risk posed by the LLP Occurrence; and

(d) take into account, as appropriate, any relevant risk or safety assessment provided, and authorization granted, by another Party or non-Party when deciding how to manage the LLP occurrence.

[3] For example, relevant information includes the information contained in Annex 3 of the *Codex Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants* (CAC/GL 45-2003).
[4] For purposes of this paragraph, "measure" does not include penalties.

Article 3.A.5: Working Group for Cooperation on Agricultural Biotechnology

1. The Parties hereby establish a Working Group for Cooperation on Agricultural Biotechnology (Working Group) for information exchange and cooperation on policy and trade-related matters associated with products of agricultural biotechnology. The Working Group shall be co-chaired by government representatives of each of the Parties, and shall be comprised of policy officials responsible for issues related to agricultural biotechnology of each of the Parties. The Working Group shall report to the Agriculture Committee on its activities and progress on related matters.

2. The Working Group shall provide a forum for the Parties to:

   (a) exchange information on issues, including on existing and proposed domestic laws, regulations, and policies, and on any risk or safety assessments subject to appropriate confidentiality arrangements, related to the trade in products of agricultural biotechnology;

   (b) exchange information, and collaborate when possible, on issues pertaining to products of agricultural biotechnology, including on regulatory and policy developments;

   (c) consider work, based upon accumulated knowledge and experience of certain products, in areas of regulatory affairs and policy to facilitate trade in products of agricultural biotechnology;

   (d) work collaboratively to consider common approaches for the management of LLP occurrences; and

   (e) consider the work conducted under other trilateral cooperation mechanisms focused on agricultural biotechnology, including the Trilateral Technical Working Group.

3. The Working Group shall coordinate efforts to advance transparent, science and risk-based regulatory approaches and trade policies for products of agricultural biotechnology in other countries and in international organizations.

4. The Working Group shall meet annually, unless otherwise agreed, and may meet in person, or by any other means as mutually determined by the Parties.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

ANNEX 3 B

DISTILLED SPIRITS, WINE, BEER, AND OTHER ALCOHOL BEVERAGES

Section A: Internal Sale and Distribution of Distilled Spirits, Wine, Beer, or other Alcohol Beverages

1. For the purposes of Section A:

commercial considerations means price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise in the relevant business or industry;

distilled spirits include distilled spirits and distilled spirit containing beverages; and

wine includes wine and wine-containing beverages.

2. This Section applies to any measure related to the internal sale and distribution of distilled spirits, wine, beer, or other alcohol beverages[1].

3. Except as otherwise provided in this Section, Article 2.3 (National Treatment and Market Access for Goods – National Treatment) shall not apply to:

(a) a non-conforming provision of any measure related to the internal sale and distribution of wine or distilled spirits in existence on January 1st 1989;

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

(c) an amendment to a non-conforming provision of a measure referred to in subparagraph (a) to the extent that the amendment does not decrease its conformity with Article 2.3 (National Treatment and Market Access for Goods – National Treatment.

4. The Party asserting that paragraph 3 applies to a measure shall have the burden of establishing that the measure meets the conditions set out in paragraph 3.

5. All measures related to distribution of distilled spirits, wine, beer, or other alcohol beverages shall conform with Article 2.3 (National Treatment and Market Access for Goods – National Treatment).

[1] Paragraphs 3 and 4 of Section A do not apply to Mexico.

6. Notwithstanding paragraph 5, and provided that distribution measures otherwise ensure conformity with Article 2.3 (National Treatment and Market Access for Goods – National Treatment), Canada may maintain a measure in existence on January 1, 1989, requiring private wine store outlets in existence on October 4, 1987, in the provinces of Ontario and British Columbia to discriminate in favor of wine of those provinces to a degree no greater than the discrimination required by such measure in existence on January 1, 1989.

7. Nothing in this Agreement shall prohibit the Province of Quebec from requiring that any wine sold in grocery stores in Quebec be bottled in Quebec, provided that alternative outlets are provided in Quebec for the sale of wine of the other Parties, whether or not such wine is bottled in Quebec.

8. If a Party requires that distilled spirits, wine, beer, or other alcohol beverages be listed to be distributed or sold in its territory, all measures related to listing shall:

(a) conform with Article 2.3 (National Treatment and Market Access for Goods – National Treatment);

(b) not create disguised barriers to trade;

(c) be based on commercial considerations; and

(d) be transparent, including providing transparent criteria for decisions regarding listing.

9. If a Party requires that distilled spirits, wine, beer, or other alcohol beverages be listed to be distributed or sold in its territory, that Party shall, with regard to the decisions of the entity exercising governmental authority regarding the listing:

(a) provide for a prompt decision on any listing application;

(b) provide prompt written notification of decisions regarding a listing application to the applicant and, in the case of a negative decision, provide for a statement of the reason for refusal; and

(c) establish administrative appeal procedures for listing decisions that provide for prompt, fair, and objective rulings.

10. If a distributor or retailer exercises governmental authority regarding internal sale or distribution of distilled spirits, wine, beer, or other alcohol beverages, any price mark-ups charged by that entity shall conform with Article 2.3 (National Treatment and Market Access for Goods – National Treatment) and that entity shall accord treatment to distilled spirits, wine, beer, or other alcohol beverages of another Party no less favorable than the treatment accorded to a like product of any other Party to the Agreement or a non-Party.

11. If a distributor or retailer exercises governmental authority regarding internal sale or distribution of distilled spirits, wine, beer, or other alcohol beverages, that entity may charge the

actual cost-of-service differential between distributing or selling distilled spirits, wine, beer, or other alcohol beverages of another Party and distributing or selling domestic or regional product. The cost-of-service shall be reasonable and commensurate with service. Any such cost-of-service differential shall not exceed the actual amount by which the audited cost of service for the product of the exporting Party exceeds the audited cost of service for the product of the importing Party.

12. A Party may maintain or introduce a measure limiting on premise sales by a winery or distillery to those wines or distilled spirits produced on its premises.

13. No Party shall adopt or maintain any measure requiring that distilled spirits, wine, beer, or other alcohol beverages imported from another Party for bottling be blended with any distilled spirits, wine, beer, or other alcohol beverages of the importing Party.

Section B: Distinctive Products

1. Canada and Mexico shall recognize Bourbon Whiskey and Tennessee Whiskey, which is a straight Bourbon Whiskey authorized to be produced only in the State of Tennessee, as distinctive products of the United States. Accordingly, Canada and Mexico shall not permit the sale of any product as Bourbon Whiskey or Tennessee Whiskey, unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey.

2. Mexico and the United States shall recognize Canadian Whisky as a distinctive product of Canada. Accordingly, Mexico and the United States shall not permit the sale of any product as Canadian Whisky, unless it has been manufactured in Canada in accordance with the laws and regulations of Canada governing the manufacture of Canadian Whisky for consumption in Canada.

3. Canada and the United States shall recognize Tequila and Mezcal as distinctive products of Mexico. Accordingly, Canada and the United States shall not permit the sale of any product as Tequila or Mezcal unless it has been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of Tequila and Mezcal.

Section C: Wine and Distilled Spirits

1. For the purposes of Sections C and D:

container means any bottle, barrel, cask, or other closed receptacle, irrespective of size or of the material from which it is made, used for the retail sale of wine or distilled spirits;

distilled spirits means a potable alcoholic distillate including spirits made from wine, whiskey, rum, brandy, gin, tequila, mezcal, liqueurs, cordials, and vodka and all dilutions or mixtures thereof for consumption;

label means any brand, mark, pictorial, or other descriptive matter that is written, printed,

stenciled, marked, embossed, or impressed on, or firmly affixed to a primary container of wine or distilled spirits;

mandatory information means information required by a Party to appear on a wine or distilled spirits container, label, or packaging;

oenological practices means winemaking materials, processes, treatments, and techniques, but does not include labeling, bottling, or packaging for final sale;

single field of vision means any part of the surface of a primary container, excluding its base and cap, that can be seen without having to turn the container; and

wine means a beverage that is produced by the complete or partial alcoholic fermentation exclusively of fresh grapes, grape must, or products derived from fresh grapes and as defined by each Party's laws and regulations.[2]

2. This Section shall apply to the preparation, adoption, and application of all technical regulations, standards, and conformity assessment procedures adopted or maintained by each Party at the central level of government that may affect trade in wine and distilled spirits between the Parties, other than sanitary or phytosanitary measures or technical specifications prepared by a governmental body for production or consumption requirements of governmental bodies.

3. Each Party shall make its laws and regulations concerning wine and distilled spirits available online.

4. A Party may require that any wine or distilled spirits label be:

(a) clear, specific, truthful, accurate, and not misleading to the consumer;

(b) legible to the consumer; and

(c) that such labels that are not an integral part of the container be firmly affixed to the container.

5. Each Party shall permit mandatory information to be displayed on a supplementary label affixed to a distilled spirits container. Each Party shall permit such supplementary labels to be affixed to an imported distilled spirits container after importation but prior to the product being offered for sale in the Party's territory. A Party may require that the supplementary label be affixed prior to release from customs. For greater certainty, a Party may require that the information indicated on a supplementary label meet the requirements in paragraph 4.

6. A Party may require that information indicated on a supplementary label affixed to a distilled spirits or wine container not conflict with information on an existing label.

[2] For the United States, the alcohol content of wine must be not less than seven per cent and not more than 24 per cent.

7. Each Party shall permit the alcoholic content by volume indicated on a wine or distilled spirits label to be expressed by alcohol by volume (alc/vol), for example 12% alc/vol or alc12%vol, and to be indicated in percentage terms to a maximum of one decimal point, for example 12.1%.

8. Each Party shall permit the use of the term "wine" as a product name. A Party may require a wine label to indicate the type, category, class, or classification of the wine.

9. With respect to wine labels, each Party shall permit the information set out in subparagraphs 11(a) through (d) to be presented in a single field of vision for a container of wine. If this information is presented in a single field of vision, then the Party's requirements with respect to placement of this information are satisfied. A Party shall accept any of the information that appears outside a single field of vision if that information satisfies that Party's laws, regulations and requirements.

10. Notwithstanding paragraph 9, a Party may require net contents to be displayed on the principal display panel for a subset of less commonly used container sizes if specifically required by that Party's laws or regulations.

11. If a Party requires a wine label to indicate information other than:

(a) product name;

(b) country of origin;

(c) net contents; or

(d) alcohol content,

it shall permit the information to be indicated on a supplementary label affixed to the wine container. A Party shall permit the supplementary label to be affixed to the container of the imported wine after importation but prior to the product being offered for sale in the Party's territory, and may require that the supplementary label be affixed prior to release from customs. For greater certainty, a Party may require that information on a supplementary label meet the requirements set out in paragraph 4.

12. If there is more than one label on a container of imported wine or distilled spirits, a Party may require that each label be visible and not obscure mandatory information on another label.

13. If a Party has more than one official language, it may require that information on a wine or distilled spirits label appear in equal prominence in each official language.

14. Each Party shall permit placement of a lot identification code on a wine or distilled spirits container, if the code is clear, specific, truthful, accurate, and not misleading, and shall not impose requirements regarding:

(a) where to place the lot identification code on the container, provided that the code does not cover up mandatory information printed on the label; and

(b) the specific font size, readable phrasing, and formatting for the code provided that the lot identification code is legible by physical means, and if permitted, by electronic means.

15. A Party may impose penalties for the removal or deliberate defacement of any lot identification code on the container.

16. No Party shall require a date mark on a wine or distilled spirits container, label, or packaging, including the following or iterations of the following:

(a) date of production or manufacture;

(b) use-by date (recommended last consumption date, expiration date);

(c) date of minimum durability (best-before date), best quality before date;

(d) sell-by date;

(e) date of packaging; or

(f) date of bottling.

except that a Party may require the display of a date of minimum durability or use-by date on products that could have a shorter date of minimum durability or expiration than would normally be expected by the consumer because of their packaging or container, for example, bag-in-box wines or individual serving size wines; or because of the addition of perishable ingredients.

17. No Party shall require a wine or distilled spirits label or packaging to include translation of a trademark or brand name. A Party may require that a trademark or brand name not conflict with any mandatory information on the label.

18. No Party shall prevent imports of wine from other Parties on the basis that the wine label includes the following terms: chateau, classic, clos, cream, crusted, crusting, fine, late bottled vintage, noble, reserve, ruby, special reserve, solera, superior, sur lie, tawny, vintage, or vintage character.[3]

19. No Party shall require a wine label or packaging to disclose an oenological practice, except to meet a legitimate human health or safety objective with respect to that oenological practice.

20. Each Party shall permit wine to be labeled as Icewine, ice wine, ice-wine or a similar variation of those terms, only if the wine is made exclusively from grapes naturally frozen on the vine.

21. Each Party shall endeavor to base its quality and identity requirements for any specific

[3] Nothing in this paragraph shall be construed to require Canada to apply this paragraph in a manner inconsistent with its obligations under Article A(3) of Annex V of the EU-Canada Wine Agreement, as amended.

type, category, class, or classification of distilled spirits solely on minimum ethyl alcohol content and raw materials, added ingredients, and production procedures used to produce that specific type, category, class, or classification of distilled spirits.

22. No importing Party shall require imported wine or distilled spirits to be certified by an official certification body of the Party in which territory the wine or distilled spirits were produced or by a certification body recognized by the Party in whose territory the wine or distilled spirits were produced regarding (a) vintage, varietal, regional, or appellation of origin claims for wine; or (b) raw materials and production processes for distilled spirits, except that the importing Party may require:

(i) that wine or distilled spirits be certified regarding (a) or (b) if the Party in which territory the wine or distilled spirits were produced requires that certification; or

(ii) that wine be certified regarding (a) if the importing Party has a reasonable and legitimate concern about a vintage, varietal, regional, or appellation of origin claim for wine; or that distilled spirits be certified regarding (b) if certification is necessary to verify claims such as age, origin, or standards of identity.

23. A Party shall normally permit submission of any required certification (other than those required pursuant to paragraph 22), test result, or sample only with the initial shipment of a particular brand, producer, and lot. If a Party requires submission of a sample of the product for the Party's procedure to assess conformity with its technical regulation or standard, it shall not require a sample quantity larger than the minimum quantity necessary to complete the relevant conformity assessment procedure. Nothing in this provision precludes a Party from undertaking verification of test results or certification, for example, if the Party has information that a particular product may be non-compliant.

24. Each Party shall endeavor to assess other Parties' laws, regulations, and requirements in respect of oenological practices, with the aim of reaching agreements that provide for the Parties' acceptance of each other's mechanisms for regulating oenological practices, if appropriate.

25. If an importing Party requires certification for wine or distilled spirits from the Party in whose territory the wine or distilled spirits were produced, the importing Party shall not deny the certification on the basis that the certification was issued from a conformity assessment body accredited and approved by the Party in whose territory the wine or distilled spirits were produced.

26. Each Party shall permit a wine or distilled spirits label to include:

(a) statements regarding quality[4];

(b) statements regarding production processes; and

(c) drawings, figures, or illustrations;

[4] Statements regarding quality would include, for example, "premium" or "ultra premium."

provided they are not false, misleading, obscene or indecent, as defined in each Party's law.

27. Nothing in paragraph 26 affects mandatory information requirements or a Party's ability to enforce its intellectual property, health, or safety laws and regulations.

Section D: Other Provisions

1. Unless urgent problems of human health or safety arise or threaten to arise, a Party shall normally allow a reasonable period of time, as determined by the authority responsible, following the date of entry into force of a measure before requiring wine or distilled spirits that were entered into commerce in the territory of that Party prior to that date of entry into force to comply with the measure in order to allow time for the sale of those products.

For the purpose of this paragraph, a measure means a technical regulation, standard, conformity assessment procedure, or sanitary or phytosanitary measure adopted by a Party at the central level of government that may affect trade in wine and distilled spirits between the Parties, other than technical specifications prepared by a governmental body for production or consumption requirements of governmental bodies.

2. If a Party imposes a mandatory food allergen labelling requirement at the central level of government for wine or distilled spirits, that Party shall:

(a) not apply the requirement to wines and distilled spirits if no protein from a food allergen is present in the product; or

(b) provide an exemption[5] for food allergen sources that have been used in the production of the beverage if:

(i) the finished product or class of products does not cause an allergic response that poses a risk to human health; or

(ii) the finished product does not contain protein from a food allergen.

For the purpose of this paragraph, "food allergen" means those food allergens that a Party requires to be declared on a wine or distilled spirits label.

3. Each Party shall apply a risk-based approach regarding whether to require, for wine, certificates of analysis for pathogenic microorganisms. In applying a risk-based approach, each Party shall take into account that wine is a microbiological low risk food product.

4. If a central government authority deems that certification of wine is necessary to protect human health or safety or to achieve other legitimate objectives, that Party shall consider the use of the

[5] For greater certainty, a Party may require the producer, bottler, or importer of the product to establish eligibility for an exemption from the Party's allergen labeling requirement using a scientifically validated testing methodology.

generic model official certificate in the *Codex Alimentarius Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CAC/GL 38-2001), as amended, or the APEC model wine export certificate. A Party requiring certification of wine shall ensure any certification requirements are transparent and non-discriminatory.

5. The Committee on Agricultural Trade established in Article 3.7 (Agriculture – Committee on Agricultural Trade) shall provide a forum for the Parties to:

(a) monitor and promote cooperation on the implementation and administration of this Annex;

(b) if appropriate consult on matters and positions relevant to trade in alcohol beverages in international organizations;

(c) promote trade in alcohol beverages between the Parties under this Agreement; and

(d) discuss any other matters related to this Annex.

CHAPTER 4

RULES OF ORIGIN

Article 4.1: 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 such as eggs, fry, fingerlings, or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

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

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

(a) fuel and energy;

(b) tools, dies, and molds;

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

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

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

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

(g) catalysts and solvents; and

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

intermediate material means a material that is self-produced and used in the production of a good, and designated pursuant to Article 8 (Intermediate Materials);

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

net cost means total cost minus sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

net cost of a good means the net cost that can be reasonably allocated to a good using one of the methods set out in Article 4.5;

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

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

originating good or **originating material** means a good or material that qualifies as originating under this Chapter;

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

packing materials and containers means materials and containers that are used to protect a good during transportation;

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

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

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

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

(a) personnel training, without regard to where the training is performed; or

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

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

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

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

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

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

(e) product liability insurance;

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

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

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

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

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

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

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

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

(a) product costs are costs that are associated with the production of a good and include the value of materials, direct labor costs and direct overheads;

(b) period costs are costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses; and

(c) other costs are all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

Total cost does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes.

transaction value means the customs value as determined in accordance with the *Customs Valuation Agreement*, that is, the price actually paid or payable for a good or material with respect to a transaction of, except for the application of Article 10.3 and 10.4(a) in Appendix 1 to Annex 4-B, the producer of the good, adjusted in accordance with the principles of Articles 8(1), 8(3), and 8(4) of the *Customs Valuation Agreement*, regardless of whether the good or material is sold for export;

used means used or consumed in the production of goods;

value means value of a good or material for purposes of calculating customs duties or for the purposes of applying Chapter 4.

Article 4.2: 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 one or more of the Parties, as defined in Article 4.3;

(b) produced entirely in the territory of one or more of the Parties using non-originating materials provided the good satisfies all applicable requirements of Annex 4-B (Product-Specific Rules of Origin);

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

(d) except for a good provided for in Chapter 61 to 63 of the Harmonized System:

(i) produced entirely in the territory of one or more of the Parties; and

(ii) one or more of the non-originating materials provided for as parts under the Harmonized System used in the production of the good cannot satisfy the requirements set out in Annex 4-B (Product-Specific Rules of Origin) because both the good and its materials are classified in the same subheading, or heading that is not further subdivided into subheadings or, the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to General Rule of Interpretation 2(a) of the Harmonized System; and

(iii) the regional value content of the good, determined in accordance with Article 4.11 *(Accumulation),* is not less than 60 per cent if the transaction value method is used, or not less than 50 percent if the net cost method is used;

and the good satisfies all other applicable requirements of this Chapter.

Article 4.3: Wholly Obtained or Produced Goods

Each Party shall provide that, for the purposes of Article 4.2 a good is wholly obtained or produced entirely in the territory of one or more of the Parties if it is:

(a) a mineral good or other naturally occurring substance extracted or taken from there;

(b) a plant, plant good, vegetable or fungus, grown, cultivated, harvested, picked, or gathered there;

(c) a live animal born and raised there;

(d) a good obtained from a live animal there;

(e) an animal obtained by hunting, trapping, fishing, gathering or capturing there;

(f) a good obtained from aquaculture there;

(g) fish, shellfish, and other marine life taken from the sea, seabed or subsoil outside the territories of the Parties and, under international law, 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;

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

(i) a good other than fish, shellfish and other marine life taken by a Party or a person of a Party from the seabed or subsoil outside the territories of the Parties, provided that Party has the right to exploit that seabed or subsoil;

(j) waste and scrap derived from:

(i) production there*;* or

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

(k) a good produced there, exclusively from goods referred to in subparagraphs (a) through (j), or from their derivatives, at any stage of production.

Article 4.4: Treatment of Recovered Materials Used in the Production of a Remanufactured Good

1. Each Party shall provide that a recovered material derived in the territory of one or more of the Parties is treated as originating when it is used in the production of, and incorporated into, a remanufactured good.

2. For greater certainty:

(a) a remanufactured good is originating only if it satisfies the applicable requirements of Article 4.2 (Originating Goods); and

(b) a recovered material that is not used or incorporated in the production of a remanufactured good is originating only if it satisfies the applicable requirements of Article 4.2 (Originating Goods).

Article 4.5: Regional Value Content

1. Except as provided in paragraph 6, each Party shall provide that the regional value content of a good shall be calculated, at the choice of the importer, exporter or producer of the good, on the basis of either the transaction value method set out in paragraph 2 or the net cost method set out in paragraph 3.

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

RVC=(TV-VNM)/TV x 100

where

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

TV is the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good; and

VNM is the value of non-originating materials including materials of undetermined origin used by the producer in the production of the good.

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

RVC=(NC-VNM)/NC x 100

where

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

NC is the net cost of the good; and

VNM is the value of non-originating materials including materials of undetermined origin used by the producer in the production of the good.

4. Except as provided in Article 10.3 of Appendix 1 to Annex 4-B, for a motor vehicle identified in Article 10.4.2(a) of that Appendix, or a component identified in Table G of that Appendix, the value of non-originating materials used by the producer in the production of a good shall not, for the purposes of calculating the regional value content of the good under paragraph 2 or 3, include the value of non-originating materials used to produce originating materials that are subsequently used in the production of the good.

5. Each Party shall provide that if a non-originating material is used in the production of a good, the following may be counted as originating content for the purpose of determining whether the good meets a regional value content requirement:

(a) the value of processing of the non-originating materials undertaken in the territory of one or more of the Parties; and

(b) the value of any originating material used in the production of the non-originating material undertaken in the territory of one or more of the Parties.

6. Each Party shall provide that an exporter or producer shall calculate the regional value content of a good solely on the basis of the net cost method set out in paragraph 3 if the rule under the PSR Annex does not provide a rule based on the transaction value method.

7. If an importer, exporter or producer of a good calculates the regional value content of the good on the basis of the transaction value method set out in paragraph 2 and a Party subsequently notifies the exporter or producer, during the course of a verification pursuant to Chapter 5 (Origin Procedures) that the transaction value of the good, or the value of material used in the production of the good, is required to be adjusted or is unacceptable under Article 1 of the *Customs Valuation Agreement*, the exporter, producer, or importer may then also calculate the regional value content of the good on the basis of the net cost method set out in paragraph 3.

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

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

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

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

provided that the allocation of all those costs is consistent with the provisions regarding the reasonable allocation of costs set out in the *Uniform Regulations*.

Article 4.6: Value of Materials Used in Production

Each Party shall provide that, for the purposes of this Chapter, the value of a material is:

(a) for a material imported by the producer of the good, the transaction value of the material at the time of importation, including the costs incurred in the international shipment of the material;

(b) for a material acquired in the territory where the good is produced:

(i) the price paid or payable by the producer in the Party where the producer is located;

(ii) the value as determined for an imported material in subparagraph (a);

(iii) the earliest ascertainable price paid or payable in the territory of the Party; or

(c) for a material that is self-produced:

(i) all the costs incurred in the production of the material, which includes general expenses; and

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

Article 4.7: Further Adjustments to the Value of Materials

1. Each Party shall provide that for a non-originating material or material of undetermined origin, the following expenses may be deducted from the value of the material:

(a) the costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer of the good;

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

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

2. If the cost or expense listed in paragraph 1 is unknown or documentary evidence of the amount of the adjustment is not available, then no adjustment is allowed for that particular cost.

Article 4.8: Intermediate Materials

1. Except as provided in Article 10.3 of Appendix 1 to Annex 4-B, each Party shall provide that any self-produced material, other than a component identified in Table G of that Appendix, that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value content of the good under paragraph 2 or 3 of Article 4.5, provided that if the intermediate material is subject to a regional value-content requirement, no other self-produced material subject to a regional value-content requirement used in the production of that intermediate material may itself be designated by the producer as an intermediate material.

Article 4.9: Indirect Materials

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

Article 4.10: Automotive Goods

Appendix 1 to Annex 4-B includes additional provisions that apply to automotive goods.

Article 4.11: Accumulation

1. Each Party shall provide that a good is originating if the good is produced in the territory of one or more of the Parties by one or more producers, provided that the good satisfies the requirements of Article 4.2 (Originating Goods) and all other applicable requirements in this Chapter.

2. Each Party shall provide that an originating good or material of one or more of the Parties is considered as originating in the territory of another Party when used as a material in the production of a good in the territory of another Party.

3. Each Party shall provide that production undertaken on a non-originating material in the territory of one or more of the Parties may contribute toward the originating status of a good, regardless of whether that production was sufficient to confer originating status to the material itself.

Article 4.12: *De Minimis*

1. Except as provided in Annex 4-A (Exceptions to Article 4.12 (*De Minimis*)), each Party shall provide that a good is an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex 4-B (Product Specific Rules of Origin) is not more than 10 percent:

(a) of the transaction value of the good adjusted to exclude any costs incurred in the international shipment of the good; or

(b) of the total cost of the good,

provided that the good satisfies all other applicable requirements of this Chapter.

2. If a good described in paragraph 1 is also subject to a regional value content requirement, the value of those non-originating materials shall be included in the value of non-originating materials for the applicable regional value content requirement.

3. A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy the requirement if the value of all non-originating materials used in the production of the good is not more than 10 percent of the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good, or the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.

4. With respect to a textile or apparel good, Article 6.1.2 through 6.1.3 apply in place of paragraph 1.

Article 4.13: Fungible Goods and Materials

1. Each Party shall provide that a fungible material or good is originating if:

(a) when originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating is made on the basis of an inventory management method recognized in the Generally Accepted Accounting Principles of, or otherwise accepted by, the Party in which the production is performed; or

(b) when originating and non-originating fungible goods are commingled and exported in the same form, the determination of whether the goods are originating is made on the basis of an inventory management method recognized in the Generally Accepted Accounting Principles of, or otherwise accepted by, the Party from which the good is exported.

2. The inventory management method selected under paragraph 1 must be used throughout the fiscal year of the person that selected the inventory management method.

3. For greater certainty, an importer may claim that a fungible material or good is originating if the importer, producer, or exporter has physically segregated each fungible material or good as to allow their specific identification.

Article 4.14: Accessories, Spare Parts, Tools, or Instructional or Other Information Materials

1. Each Party shall provide that:

   (a) in determining whether a good is wholly obtained, or satisfies a process or change in tariff classification requirement as set out in Annex 4-B (Product-Specific Rules of Origin), accessories, spare parts, tools, or instructional or other information materials as described in paragraph 3, are to be disregarded; and

   (b) in determining whether a good meets a regional value content requirement, the value of the accessories, spare parts, tools, or instructional or other information materials, as described in paragraph 3, are to be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

2. Each Party shall provide that a good's accessories, spare parts, tools, or instructional or other information materials, as described in paragraph 3, have the originating status of the good with which they are delivered.

3. For the purposes of this Article, accessories, spare parts, tools, or instructional or other information materials are covered when:

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

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

Article 4.15: Packaging Materials and Containers for Retail Sale

1. Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good, are disregarded in determining whether all the non-originating materials used in the production of the good have satisfied the applicable process

or change in tariff classification requirement set out in Annex 4-B (Product-Specific Rules of Origin) or whether the good is wholly obtained or produced.

2. Each Party shall provide that if a good is subject to a regional value content requirement, the value of the packaging materials and containers in which the good is packaged for retail sale, if classified with the good, are taken into account as originating or non-originating, as the case may be, in calculating the regional value content of the good.

Article 4.16: Packing Materials and Containers for Shipment

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

Article 4.17: Sets of Goods, Kits or Composite Goods

1. Except as provided in Annex 4-B (Product-Specific Rules of Origin), each Party shall provide that for a set classified as a result of the application of rule 3 of the General Rules for the Interpretation of the Harmonized System, the set is originating only if each good in the set is originating and both the set and the goods meet the other applicable requirements of this Chapter.

2. Notwithstanding paragraph 1, for a set classified as a result of the application of rule 3 of the General Rules for the Interpretation of the Harmonized System, the set is originating if the value of all the non-originating goods in the set does not exceed 7 per cent of the value of the set.

3. For the purposes of paragraph 2, the value of the non-originating goods in the set and the value of the set shall be calculated in the same manner as the value of non-originating materials and the value of the good.

4. With respect to a textile or apparel good, Article 6.1.4 through 6.1.5 apply in place of paragraph 1.

Article 4.18: Transit and Transshipment

1. Each Party shall provide that an originating good retains its originating status if the good has been transported to the importing Party without passing through the territory of a non-Party.

2. Each Party shall provide that if an originating good is transported outside the territories of the Parties, the good retains its originating status if the good:

(a) remains under customs control in the territory of a non-Party; and

(b) does not undergo an operation outside the territories of the Parties other than: unloading; reloading; separation from a bulk shipment; storing; labeling 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.

Article 4.19: Non-Qualifying Operations

Each Party shall provide that a good shall not be considered to be an originating good merely by reason of:

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

(b) a production or pricing practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent this Chapter.

ANNEX 4-A

EXCEPTIONS TO ARTICLE 4.12 DE MINIMIS

Each Party shall provide that Article 4.12 (*De Minimis)* shall not apply to:

(a) a non-originating material of heading 04.01 through 04.06, or a non-originating dairy preparation containing over 10 per cent by dry weight of milk solids of subheading 1901.90 or 2106.90, used in the production of a good of heading 04.01 through 04.06;

(b) a non-originating material of heading 04.01 through 04.06, or non-originating dairy preparations containing over 10 per cent by dry weight of milk solids of subheading 1901.90 or 2106.90, used in the production of the following goods:

(i) infant preparations containing over 10 per cent by dry weight of milk solids of subheading 1901.10;

(ii) mixes and doughs, containing over 25 per cent by dry weight of butterfat, not put up for retail sale of subheading 1901.20;

(iii) dairy preparations containing over 10 per cent by dry weight of milk solids of subheading 1901.90 or 2106.90;

(iv) goods of heading 21.05;

(v) beverages containing milk of subheading 2202.90; or

(vi) animal feeds containing over 10 per cent by dry weight of milk solids of subheading 2309.90;

(c) a non-originating material of heading 08.05 or subheading 2009.11 through 2009.39 used in the production of a good of subheading 2009.11 through 2009.39, or a fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, of subheading 2106.90 or 2202.90;

(d) a non-originating material of Chapter 9 of the Harmonized System used in the production of unflavored instant coffee of subheading 2101.10 (instant coffee, not flavored);

(e) a non-originating material of Chapter 15 of the Harmonized System, used in the production of a good of headings 15.01 through 15.08, 15.12, 15.14, or 15.15;

(f) a non-originating material of heading 17.01 used in the production of a good provided for in heading 17.01 through 17.03;

(g) a non-originating material of Chapter 17 of the Harmonized System or heading 18.05 that is used in the production of a good of subheading 1806.10;

(h) non-originating peaches, pears or apricots of Chapter 8 or 20 of the Harmonized System, used in the production of a good of heading 20.08;

(i) a non-originating single juice ingredient provided for in heading 20.09 that is used in the production of a good provided for in subheading 2009.90, or tariff item 2106.90.cc (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins) or 2202.90.bb (mixtures of fruit or vegetable juices, fortified with minerals or vitamins);

(j) a non-originating material provided for in headings 22.03 through 22.08 that is used in the production of a good provided for in headings 22.07 or 22.08;

(k) a non-originating material used in the production of a good of Chapters 1 through 27 of the Harmonized System, unless the non-originating materials are provided for in a different subheading than the good for which origin is being determined under this Article.

ANNEX 4-B

PRODUCT SPECIFIC RULES OF ORIGIN

Section A- General Interpretative Note

For purposes of interpreting the rules of origin set out in this Annex:

(a) the new tariff items created for purposes of Chapter Four, shown generically in the specific rules of origin by eight-digit numbers comprised of six numeric and two alpha characters, refer to the Party-specific tariff items shown in the table following Section B of this Annex;

(b) the specific rule, or specific set of rules, that applies to a particular heading, subheading or tariff item is set out immediately adjacent to the heading, subheading or tariff item;

(c) a rule applicable to a tariff item shall take precedence over a rule applicable to the heading or subheading which is parent to that tariff item;

(d) a requirement of a change in tariff classification applies only to non-originating materials;

(e) reference to weight in the rules for goods provided for in Chapter 1 through 24 of the Harmonized System means dry weight unless otherwise specified in the Harmonized System;

(f) the following definitions apply:

chapter means a chapter of the Harmonized System;

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

section means a section of the Harmonized System;

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

tariff item means the first eight digits in the tariff classification number under the Harmonized System as implemented by each Party.

Section B – Product-Specific Rules of Origin

Section I - Live Animals; Animal Products (Chapter 1-5)

Chapter 1 Live Animals

01.01-01.06 A change to heading 01.01 through 01.06 from any other chapter.

Chapter 2 Meat and Edible Meat Offal

02.01-02.10 A change to heading 02.01 through 02.10 from any other chapter.

Chapter 3 Fish and Crustaceans, Molluscs and Other Aquatic Invertebrates

03.01-03.08 A change to heading 03.01 through 03.08 from any other chapter.

Chapter 4 Dairy Produce; Birds' Eggs; Natural Honey; Edible Products of Animal Origin, Not Elsewhere Specified or Included

04.01-04.10 A change to heading 04.01 through 04.10 from any other chapter, except from tariff item 1901.90.aa or 2106.90.dd.

Chapter 5 Products of Animal Origin, Not Elsewhere Specified or Included

05.01-05.11 A change to heading 05.01 through 05.11 from any other chapter.

Section II - Vegetable Products (Chapter 6-14)

Note: Agricultural and horticultural goods grown in the territory of a Party shall be treated as originating in the territory of that Party even if grown from seed, bulbs, rootstock, cuttings, slips or other live parts of plants imported from a non-Party.

Chapter 6 Live Trees and Other Plants; Bulbs, Roots and the Like; Cut Flowers and Ornamental Foliage

06.01-06.04 A change to heading 06.01 through 06.04 from any other chapter.

Chapter 7 Edible Vegetables and Certain Roots and Tubers

Note: Notwithstanding subparagraph (k) of Annex 4-A, paragraph 1 of Article 4.12 applies to: non-originating truffles of subheading 0709.59 used in the production of mixtures of mushrooms and truffles of subheading 0709.59 and non-originating capers of subheading 0711.90 used in the production of mixtures of vegetables of subheading 0711.90.

07.01-07.11 A change to heading 07.01 through 07.11 from any other chapter.

0712.20-0712.39	A change to subheading 0712.20 through 0712.39 from any other chapter.
0712.90	A change to savory, crushed or ground, of subheading 0712.90 from savory, neither crushed nor ground, of subheading 0712.90 or any other chapter; or A change to any other good of subheading 0712.90 from any other chapter.
07.13-07.14	A change to heading 07.13 through 07.14 from any other chapter.

Chapter 8 Edible Fruit and Nuts; Peel of Citrus Fruit or Melons

Note: Notwithstanding subparagraph (k) of Annex 4-A, paragraph 1 of Article 4.12, does not apply to non-originating macadamia nuts of subheading 0802.60 used in the production of mixtures of nuts of subheading 0802.90.

08.01-08.14	A change to heading 08.01 through 08.14 from any other chapter.

Chapter 9 Coffee, Tea, Maté and Spices

09.01	A change to heading 09.01 from any other chapter.
0902.10-0902.40	A change to subheading 0902.10 through 0902.40 from any other subheading, including another subheading within that group.
09.03	A change to heading 09.03 from any other chapter.
0904.11	A change to subheading 0904.11 from any other chapter.
0904.12	A change to subheading 0904.12 from any other subheading.
0904.21	A change to subheading 0904.21 from any other chapter.
0904.22	A change to allspice, crushed or ground, of subheading 0904.22 from allspice, neither crushed nor ground of subheading 0904.21 or from any other chapter; or A change to any other good of subheading 0904.22 from any other chapter.
09.05	A change to heading 09.05 from any other chapter.
0906.11-0906.19	A change to subheading 0906.11 through 0906.19 from any other chapter.

0906.20	A change to subheading 0906.20 from any other subheading.
0907.10-0907.20	A change to a good of any of subheading 0907.10 through 0907.20 from any other good within that subheading, any other subheading within that group or any other chapter.
0908.11-0909.62	A change to a good of any of subheading 0908.11 through 0909.62 from any other good within that subheading, any other subheading within that group or any other chapter.
0910.11 – 0910.12	A change to a good of any of subheading 0910.11 through 0910.12 from any other good within that subheading group, any other subheading within that group or from any other chapter.
0910.20	A change to subheading 0910.20 from any other chapter.
0910.30	A change to a good of subheading 0910.30 from within that subheading or any other chapter.
0910.91	A change to subheading 0910.91 from any other subheading.
0910.99	

Note: Notwithstanding subparagraph (k) of Annex 4-A, paragraph 1 of Article 4.12, applies to non-originating thyme, bay leaves or curry of subheading 0910.99 used in the production of mixtures of subheading 0910.99.

A change to bay leaves, crushed or ground, of subheading 0910.99 from bay leaves, neither crushed nor ground, of subheading 0910.99 or any other chapter;

A change to dill seeds, crushed or ground, of subheading 0910.99 from dill seeds, neither crushed nor ground, of subheading 0910.99 or any other chapter;

A change to curry of subheading 0910.99 from any other good of subheading 0910.99 or any other subheading; or

A change to any other good of subheading 0910.99 from any other chapter.

Chapter 10 Cereals

10.01-10.08	A change to heading 10.01 through 10.08 from any other chapter.

Chapter 11 Products of the Milling Industry; Malt; Starches; Inulin; Wheat Gluten

11.01-11.09	A change to heading 11.01 through 11.09 from any other chapter.

Chapter 12 Oil Seeds and Oleaginous Fruits; Miscellaneous Grains, Seeds and Fruit; Industrial or Medicinal Plants; Straw and Fodder

12.01-12.06	A change to heading 12.01 through 12.06 from any other chapter.
1207.10-1207.70	A change to subheading 1207.10 through 1207.70 from any other chapter.
1207.91	A change to a good of subheading 1207.91 from within that subheading or any other chapter.
1207.99	A change to subheading 1207.99 from any other chapter.
12.08	A change to heading 12.08 from any other chapter.
1209.10-1209.30	

Note: Notwithstanding subparagraph (k) of Annex 4-A, paragraph 1 of Article 4.12 applies to non-originating timothy grass seed when used in the production of mixtures of subheading 1209.29.

	A change to subheading 1209.10 through 1209.30 from any other chapter.
1209.91	A change to celery seeds, crushed or ground, of subheading 1209.91 from celery seeds, neither crushed nor ground, of subheading 1209.91 or any other chapter; or
	A change to any other good of subheading 1209.91 from any other chapter.
1209.99	A change to subheading 1209.99 from any other chapter.
12.10-12.14	A change to heading 12.10 through 12.14 from any other chapter.

Chapter 13 Lac; Gums, Resins and Other Vegetable Saps and Extracts

1301.20	A change to a good of subheading 1301.20 from within that subheading or any other chapter.

1301.90	A change to subheading 1301.90 from any other chapter
1302.11-1302.32	

Note: Notwithstanding subparagraph (k) of Annex 4-A, paragraph 1 of Article 4.12 applies to non-originating saps and extracts of pyrethrum or of the roots of plants containing rotenone when used in the production of goods of subheading 1302.19.

	A change to subheading 1302.11 through 1302.32 from any other chapter, except from concentrates of poppy straw of subheading 2939.11.
1302.39	A change to carrageenan of subheading 1302.39 from within that subheading or any other chapter, provided the non-originating materials of subheading 1302.39 do not exceed 50 percent by weight of the good; or
	A change to any other good of subheading 1302.39 from any other chapter, except from concentrates of poppy straw of subheading 2939.11.

Chapter 14 Vegetable Plaiting Materials; Vegetable Products Not Elsewhere Specified or Included

14.01-14.04	A change to heading 14.01 through 14.04 from any other chapter.

Section III - Animal or Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes (Chapter 15)

Chapter 15 Animal or Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes

15.01-15.18	A change to heading 15.01 through 15.18 from any other chapter, except from heading 38.23.
15.20	A change to heading 15.20 from any other heading, except from heading 38.23.
15.21-15.22	A change to heading 15.21 through 15.22 from any other chapter.

Section IV - Prepared Foodstuffs; Beverages, Spirits and Vinegar; Tobacco and Manufactured Tobacco Substitutes (Chapter 16-24)

Chapter 16 Preparations of Meat, of Fish or of Crustaceans, Molluscs or Other Aquatic Invertebrates

16.01-16.05	A change to heading 16.01 through 16.05 from any other chapter.

Chapter 17 Sugars and Sugar Confectionery

17.01-17.03	A change to heading 17.01 through 17.03 from any other chapter.
17.04	A change to heading 17.04 from any other heading.

Chapter 18 Cocoa and Cocoa Preparations

18.01-18.05	A change to heading 18.01 through 18.05 from any other chapter.
1806.10.aa	A change to tariff item 1806.10.aa from any other heading except subheading 1701.99.
1806.10	A change to subheading 1806.10 from any other heading, provided that the non-originating sugar of Chapter 17 constitutes no more than 35 percent by weight of the sugar and the non-originating cocoa powder of heading 18.05 constitutes no more than 35 percent by weight of the cocoa powder.
1806.20	A change to subheading 1806.20 from any other heading.
1806.31 - 1806.90	A change to subheading 1806.31 through 1806.90 from any other subheading, including another subheading within that group.

Chapter 19 Preparations of Cereals, Flour, Starch or Milk; Pastrycooks' Products

1901.10	
1901.10.aa	A change to tariff item 1901.10.aa from any other chapter, except from Chapter 4.
1901.10	A change to subheading 1901.10 from any other chapter.
1901.20	
1901.20.aa	A change to tariff item 1901.20.aa from any other chapter, except from Chapter 4.
1901.20	A change to subheading 1901.20 from any other chapter.
1901.90	

1901.90.aa	A change to tariff item 1901.90.aa from any other chapter, except from Chapter 4.
1901.90	A change to subheading 1901.90 from any other chapter.
19.02-19.03	A change to heading 19.02 through 19.03 from any other chapter.
1904.10	A change to subheading 1904.10 from any other chapter.
1904.20	A change to subheading 1904.20 from any other subheading, except from Chapter 20.
1904.30-1904.90	A change to subheading 1904.30 through 1904.90 from any other chapter.
19.05	A change to heading 19.05 from any other chapter.

Chapter 20 Preparations of Vegetables, Fruit, Nuts or Other Parts of Plants

Note: Fruit, nut and vegetable preparations of Chapter 20 that have been prepared or preserved merely by freezing, by packing (including canning) in water, brine or natural juices, or by roasting, either dry or in oil (including processing incidental to freezing, packing, or roasting), shall be treated as an originating good only if the fresh good were wholly produced or obtained entirely in the territory of one or more of the Parties.

Fruit preparations of heading 20.08 that contain peaches, pears, or apricots, either alone or mixed with other fruits shall be treated as originating only if the peaches, pears, or apricots were wholly obtained or produced entirely in the territory of one or more of the Parties

Note: Notwithstanding subparagraph (k) of Annex 4-A, paragraph 1 of Article 4.12, does not apply to non-originating bamboo shoots of subheading 2005.91 used in the production of mixtures of vegetables of subheading 2005.99.

20.01-20.07	A change to heading 20.01 through 20.07 from any other chapter.
2008.11	A change to subheading 2008.11 from any other heading, except from heading 12.02.
2008.19-2008.99	A change to subheading 2008.19 through 2008.99 from any other chapter.
2009.11-2009.39	A change to subheading 2009.11 through 2009.39 from any other chapter, except from heading 08.05.
2009.41-2009.89	A change to subheading 2009.41 through 2009.89 from any other chapter.

2009.90	A change to subheading 2009.90 from any other chapter; A change to cranberry juice mixtures of subheading 2009.90 from any other subheading within Chapter 20, except from subheading 2009.11 through 2009.39 or cranberry juice of subheading 2009.80, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used; or A change to any other good of subheading 2009.90 from any other subheading within Chapter 20, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from a single non-Party, constitute in single strength form no more than 60 per cent by volume of the good.

Chapter 21 Miscellaneous Edible Preparations

21.01	
2101.11.aa	A change to tariff item 2101.11.aa from any other chapter, provided that the non-originating coffee of Chapter 9 constitutes no more than 60 percent by weight of the good.
21.01	A change to heading 21.01 from any other chapter.
21.02	A change to heading 21.02 from any other chapter.
2103.10	A change to subheading 2103.10 from any other chapter.
2103.20	
2103.20.aa	A change to tariff item 2103.20.aa from any other chapter, except from subheading 2002.90.
2103.20	A change to subheading 2103.20 from any other chapter.
2103.30	A change to subheading 2103.30 from any other chapter.
2103.90	A change to subheading 2103.90 from any other subheading.
21.04	A change to heading 21.04 from any other chapter.

21.05	A change to heading 21.05 from any other heading, except from Chapter 4 or tariff item 1901.90.aa.
21.06	
2106.90.aa	A change to tariff item 2106.90.aa, or from any other chapter, except from Chapter 4 or from tariff item No. 1901.90.aa.
2106.90.bb	A change to tariff item 2106.90.bb from any other chapter, except from heading 08.05 or 20.09 or tariff item 2202.90.aa.
2106.90.cc	A change to tariff item 2106.90.cc from any other chapter, except from heading 20.09 or tariff item 2202.90.bb; or A change to tariff item 2106.90.cc from any other subheading within Chapter 21, heading 20.09, or tariff item 2202.90.bb, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from a single non-Party, constitute in single strength form no more than 60 percent by volume of the good.
2106.90.dd	A change to tariff items 2106.90.dd from any other chapter, except from Chapter 4 or tariff item 1901.90.aa.
2106.90.ee	A change to tariff item tariff item 2106.90.ee from any other tariff item, except from heading 22.03 through 22.09.
2106.90.ff	A change to tariff item 2106.90.ff from any other chapter except from subheading 1701.99.
21.06	A change to heading 21.06 from any other chapter.

Chapter 22 Beverages, Spirits and Vinegar

22.01	A change to heading 22.01 from any other chapter.
2202.10	A change to subheading 2202.10 from any other chapter.
2202.90	
2202.90.aa	A change to tariff item 2202.90.aa from any other chapter, except from heading 08.05 or 20.09 or tariff item 2106.90.bb.

2202.90.bb	A change to tariff item 2202.90.bb from any other chapter, except from heading 20.09 or tariff item 2106.90.cc; or A change to tariff item 2202.90.bb from any other subheading within Chapter 22, heading 20.09, or tariff item 2106.90.cc, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from a single non-Party, constitute in single strength form no more than 60 percent by volume of the good.
2202.90.cc	A change to tariff item 2202.90.cc from any other chapter, except from Chapter 4 or tariff item 1901.90.aa.
2202.90	A change to subheading 2202.90 from any other chapter.
22.03-22.07	A change to heading 22.03 through 22.07 from any heading outside that group, except from tariff item 2106.90.ee or heading 22.08 through 22.09.
2208.20	A change to subheading 2208.20 from any other heading, except from tariff item 2106.90.ee or heading 22.03 through 22.07 or 22.09.
2208.30-2208.70	No required change in tariff classification to subheading 2208.30 through 2208.70, provided that the non-originating alcoholic ingredients constitute no more than 10 percent of the alcoholic content of the good by volume.
2208.90	A change to subheading 2208.90 from any other heading, except from tariff item 2106.90.ee or heading 22.03 through 22.07 or 22.09.
22.09	A change to heading 22.09 from any other heading, except from tariff item 2106.90.ee or heading 22.03 through 22.08.

Chapter 23 Residues and Waste From the Food Industries; Prepared Animal Fodder

23.01-23.08	A change to heading 23.01 through 23.08 from any other chapter.
2309.10	A change to subheading 2309.10 from any other heading.
2309.90	
2309.90.aa	A change to tariff item 2309.90.aa from any other heading, except from Chapter 4 or tariff item 1901.90.aa.
2309.90	A change to subheading 2309.90 from any other heading.

Chapter 24 Tobacco and Manufactured Tobacco Substitutes

24.01-24.03 A change to heading 24.01 through 24.03 from tariff item 2401.10.aa, 2401.20.aa or 2403.91.aa or any other chapter.

Section V - Mineral Products (Chapter 25-27)

Chapter 25 Salt; Sulphur; Earths and Stone; Plastering Materials, Lime and Cement

25.01-25.30 A change to heading 25.01 through 25.30 from any other chapter.

Chapter 26 Ores, Slag and Ash

26.01-26.21 A change to heading 26.01 through 26.21 from any other heading, including another heading within that group.

Chapter 27 Mineral Fuels, Mineral Oils and Products of Their Distillation; Bituminous Substances; Mineral Waxes

Note 1: Notwithstanding the applicable product-specific rules of origin, a good of chapter 27 that is the product of a chemical reaction is an originating good if the chemical reaction occurred in the territory of one or more of the Parties.

For the purposes of this rule, a "chemical reaction" is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

The following are not chemical reactions:

(a) dissolving in water or other solvents;
(b) the elimination of solvents, including solvent water; or
(c) the addition or elimination of water of crystallisation.

Note 2: For the purposes of heading 27.10, the following processes confer origin:

(a) Atmospheric distillation - A separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapor then condensed into different liquefied fractions. Liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils, and lubricating oil are produced from petroleum distillation;

(b) Vacuum distillation - Distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is useful for distilling high-boiling and heat-sensitive materials such as heavy distillates in

petroleum oils to produce light to heavy vacuum gas oils and residuum. In some refineries gas oils may be further processed into lubricating oils;

(c) Catalytic hydroprocessing - The cracking and/or treating of petroleum oils with hydrogen at high temperature and under pressure, in the presence of special catalysts. Catalytic hydroprocessing includes hydrocracking and hydrotreating;

(d) Reforming (catalytic reforming) - The rearrangment of molecules in a naphtha boiling range material to form higher octane aromatics (i.e., improved antiknock quality at the expense of gasoline yield). A main product is catalytic reformate, a blend component for gasoline. Hydrogen is another by-product;

(e) Alkylation - A process whereby a high-octane blending component for gasolines is derived from catalytic combination of an isoparaffin and an olefin;

(f) Cracking - A refining process involving decomposition and molecular recombination of organic compounds, especially hydrocarbons obtained by means of heat, to form molecules suitable for motor fuels, monomers, petrochemicals, etc.:

(i) Thermal cracking - Exposes the distillate to temperatures of approximately 540-650C (1000-1200F) for varying periods of time. Process produces modest yields of gasoline and higher yields of residual products for fuel oil blending,

(ii) Catalytic cracking - Hydrocarbon vapors are passed at approximately 400C (750F) over a metallic catalyst (e.g., silica-alumina or platinum); the complex recombinations (alkylation, polymerization, isomerization, etc.) occur within seconds to yield high-octane gasoline. Process yields less residual oils and light gases than thermal cracking;

(g) Coking - A thermal cracking process for the conversion of heavy low grade products, such as reduced crude, straight run pitch, cracked tars, and shale oil into solid coke (carbon) and lower boiling hydrocarbon products which are suitable as feed for other refinery units for conversion into lighter products; and

(h) Isomerization - The refinery process of converting petroleum compounds into their isomers.

Note 3: For the purposes of heading 27.10, “direct blending” is defined as a refinery process whereby various petroleum streams from processing units and petroleum components from holding/storage tanks combine to create a finished product, with pre-determined parameters, classified under heading 27.10, provided that the non-originating material constitutes no more than 25 percent by volume of the good.

Note 4: For the purposes of determining whether or not a good of heading 27.09 is an originating good, the origin of diluent of heading 27.09 or 27.10 that is used to facilitate the transportation between Parties of crude petroleum oils and crude oils obtained from bituminous minerals of heading 27.09 is disregarded, provided that the diluent constitutes no more than 40 per cent by volume of the good.

27.01-27.03	A change to heading 27.01 through 27.03 from any other chapter.
27.04	A change to heading 27.04 from any other heading.
27.05-27.06	A change to heading 27.05 through 27.06 from any other heading, including another heading within that group.
2707.10-2707.91	A change to subheading 2707.10 through 2707. 91 from any other heading; or A change to subheading 2707.10 through 2707. 91 from any other subheading within heading 27.07, whether or not there is also a change from any other heading, provided that the good resulting from such change is the product of a chemical reaction.
2707.99	A change to subheading 2707.99 from any other heading; A change to phenols of subheading 2707.99 from within that subheading or any other subheading within heading 27.07, whether or not there is also a change from any other heading, provided that the good resulting from such change is the product of a chemical reaction; or A change to any other good of subheading 2707.99 from phenols of that subheading or any other subheading within heading 27.07, whether or not there is also a change from any other heading, provided that the good resulting from such change is the product of a chemical reaction.
27.08-27.09	A change to heading 27.08 through 27.09 from any other heading, including another heading within that group.
27.10	A change to heading 27.10 from any other heading, except from heading 27.11 through 27.15; Production of any good of heading 27.10 as the result of atmospheric distillation, vacuum distillation, catalytic hydroprocessing, catalytic reforming, alkylation, catalytic cracking, thermal cracking, coking or isomerization; or

	Production of any good of heading 27.10 as the result of direct blending, provided that (1) the non-originating material is classified in Chapter 27, (2) no component of that non-originating material is classified under heading 22.07, and (3) the non-originating material constitutes no more than 25 percent by volume of the good.
2711.11	A change to a good of subheading 2711.11 from within that subheading or any other subheading, provided that the non-originating feedstock of subheading 2711.11 constitutes no more than 49 percent by volume of the good.
2711.12-2711.14	A change to a good of subheading 2711.12 through 2711.14 from within that subheading or any other subheading, including another subheading within that group, provided that the non-originating feedstock of subheading 2711.12 through 2711.14 constitutes no more than 49 percent by volume of the good.
2711.19	A change to subheading 2711.19 from any other subheading, except from subheading 2711.29.
2711.21	A change to subheading 2711.21 from any other subheading.
2711.29	A change to subheading 2711.29 from any other subheading, except from subheading 2711.12 through 2711.21.
27.12	A change to heading 27.12 from any other heading.
2713.11-2713.12	A change to subheading 2713.11 through 2713.12 from any other heading.
2713.20	A change to a good of subheading 2713.20 from within that subheading or any other subheading, provided that the non-originating feedstock of subheading 2713.20 constitutes no more than 49 percent by volume of the good.
2713.90	A change to subheading 2713.90 from any other heading, except from heading 27.10 through 27.12, subheading 2713.11 through 2713.20 or heading 27.14 through 27.15.
27.14	A change to heading 27.14 from any other heading.
27.15	A change to heading 27.15 from any other heading, except from subheading 2713.20 or heading 27.14.

27.16 A change to heading 27.16 from any other heading.

Section VI - Products of the Chemical or Allied Industries (Chapter 28-38)

Note 1:
A good of any chapter or heading in Section VI that satisfies one or more of Rules 1 through 8 of this Section shall be treated as an originating good, except as otherwise specified in those rules.

Note 2:
Notwithstanding Note 1, a good is an originating good if it meets the applicable change in tariff classification or satisfies the applicable value content requirement specified in the rules of origin in this Section.

Rule 1: Chemical Reaction Rule

A good of Chapters 28 through 38, except a good of headings 33.01 or 38.23, or subheadings 2916.32 or 3502.11 through 3502.19, that results from a chemical reaction in the territory of one or more of the Parties shall be treated as an originating good.

For purposes of this rule, a "chemical reaction" is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

The following are not considered to be chemical reactions for the purposes of determining whether a good is an originating good:

(a) dissolution in water or in another solvent;

(b) the elimination of solvents, including solvent water; or

(c) the addition or elimination of water of crystallisation.

Rule 2: Purification Rule

A good of Chapters 28 through 38, except for a good of heading 33.01 or subheadings 3502.11 through 3502.19, that is subject to purification is an originating good, provided that the purification occurs in the territory of one or more of the Parties and results in the following:

(a) the elimination of not less than 80 percent of the content of existing impurities; or

(b) the reduction or elimination of impurities resulting in a good suitable for one or more of the following:

(i) as a pharmaceutical, medical, cosmetic, veterinary, or food grade substance;

(ii) as a chemical product or reagent for analytical, diagnostic, or laboratory uses;

(iii) as an element or component for use in micro-elements;

(iv) for specialized optical uses;

(v) for non-toxic uses for health and safety

(vi) for biotechnical use (e.g. in cell culturing, in genetic technology, or as a catalyst);

(vii) as a carrier used in a separation process; or

(viii) for nuclear grade uses.

Rule 3: Mixtures and Blends Rule

A good of Chapters 28 through 38, except for a good of chapters 28, 29 or 32, heading 33.01 or 38.08, or subheadings 3502.11 through 3502.19 is an originating good if the deliberate and proportionally controlled mixing or blending (including dispersing) of materials other than the addition of diluents, to conform to predetermined specifications occurs in the territory of one or more of the Parties, resulting in the production of a good having essential physical or chemical characteristics that are relevant to the purposes or uses of the good and are different from the input materials.

Rule 4: Change in Particle Size Rule

A good of Chapters 28 through 38, except for a good of chapters 28, 29, 32 or 38, heading 33.01, or subheadings 3502.11 through 3502.19, is an originating good if the deliberate and controlled modification in particle size of a good, including micronizing by dissolving a polymer and subsequent precipitation, other than by merely crushing or pressing, occurs in the territory of one or more of the Parties, resulting in a good with a defined particle size, defined particle size distribution, or defined surface area, that is relevant to the purposes of the resulting good, and having essential physical or chemical characteristics different from the input materials.

Rule 5: Standards Materials Rule

A standards material of Chapters 28 through 38, except for a good of heading 33.01, or subheadings 3502.11 through 3502.19 is an originating good if it is produced in the territory of one or more of the Parties.

For the purposes of this rule, a "standards material" (including a standard solution) is a preparation suitable for analytical, calibrating, or referencing uses, having precise degrees of purity or proportions that are certified by the manufacturer.

Rule 6: Isomer Separation Rule

A good of Chapters 28 through 38, except for a good of heading 33.01, or subheadings 3502.11 through 3502.19 is an originating good if the isolation or separation of isomers from mixtures of isomers occurs in the territory of one or more of the Parties.

Rule 7: Separation Prohibition Rule

A good of Chapters 28 through 38, except for a good of heading 33.01, or subheadings 3502.11 through 3502.19, that undergoes a change from one classification to another in the territory of one or more of the Parties as a result of the separation of one or more materials from a man-made mixture shall not be treated as an originating good unless the isolated material underwent a chemical reaction in the territory of one or more of the Parties.

Rule 8: Biotechnological Processes Rule

A good of Chapters 28 through 38, except for a good of chapter 30, headings 29.30 through 29.42, heading 33.01, or subheadings 3502.11 through 3502.19, is an originating good if it undergoes a biochemical process or through one or more of the following processes

(a) Biological or biotechnological culturing, hybridization or genetic modification of:

(i) Micro-organisms (bacteria, viruses (includes phages) etc., or

(ii) Human, animal or plant cells;

(b) Production, isolation or purification of cellular or intercellular structures (such as isolated genes, gene fragments and plasmids); or

(c) Products obtained by fermentation

<u>Chapter 28 Inorganic Chemicals; Organic or Inorganic Compounds of Precious Metals, of Rare-Earth Metals, of Radioactive Elements or of Isotopes</u>

2801.10-2853.00 A change to subheading 2801.10 through 2853.00 from any other subheading, including another heading within that group; or

A change to subheading 2801.10 through 2853.00, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than:

(a) 40 percent where the transaction value method is used, or
(b) 30 percent where the net cost method is used.

Chapter 29 Organic Chemicals

2901.10 – 2942.00 A change to subheading 2901.10 through 2942.00 from any other subheading, including another subheading within that group; or

A change to subheading 2901.10 through 2942.00, except for a good of subheading 2916.32 whether or not there is also a change from any other subheading, provided there is a regional value content of not less than:

(a) 40 percent where the transaction value method is used, or
(b) 30 percent where the net cost method is used.

Chapter 30 Pharmaceutical Products

3001.20 – 3003.90 A change to subheading 3001.20 through 3003.90 from any other subheading.

30.04 A change to heading 30.04 from any other heading, except from heading 30.03; or

A change to subheading 30.04 from heading 30.03 or any other subheading, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

3005.10-3005.90 A change to subheading 3005.10 through 3005.90 from any other heading; or

A change to subheading 3005.10 through 3005.90 from any other subheading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

3006.10-3006.50	A change to subheading 3006.10 through 3006.50 from any other subheading, including another subheading within that group.
3006.60	A change to subheading 3006.60 from any other heading; or A change to subheading 3006.60 from any other subheading, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value is used, or (b) 50 percent where the net cost method is used.
3006.70	A change to subheading 3006.70 from any other chapter, except from Chapter 28 through 38; or A change to subheading 3006.70 from any other subheading, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
3006.91-3006.92	A change to subheading 3006.91 through 3006.92 from any other subheading.

Chapter 31 Fertilizers

3101.00-3105.90	A change to subheading 3101.00 through 3105.90 from any other good within these subheadings or any other subheading, including another subheading within that group.

Chapter 32 Tanning or Dyeing Extracts; Tannins and Their Derivatives; Dyes, Pigments and Other Colouring Matter; Paints and Varnishes; Putty and Other Mastics; Inks

Note 1:Pigments or coloring materials classified under heading 32.06 and 32.12 shall be disregarded in determining the origin of the goods classified under heading 32.07 through 32.15, except for any such pigments or materials based on titanium dioxide.

3201.10-3202.90	A change to subheading 3201.10 through 3202.90 from any other subheading, including another subheading within that group.
32.03	A change to heading 32.03 from any other heading.
3204.11-3204.90	A change to subheading 3204.11 through 3204.90 from any other subheading, including another subheading within that group.
3205.00	A change to subheading 3205.00 from any other subheading; or A change to subheading 3205.00 from any other subheading, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 40 percent where the transaction value method is used, or (b) 30 percent where the net cost method is used.
3206.11-3206.42	A change to subheading 3206.11 through 3206.42 from any other subheading.
3206.49	A change to pigments and preparations based on cadmium compounds of subheading 3206.49 from any other good of subheading 3206.49 or any other subheading; or A change to pigments and preparations based on hexacyanoferrates (ferrocyanides and ferricyanides) of subheading 3206.49 from any other good of subheading 3206.49 or any other subheading; or A change to any other good of subheading 3206.49 from any other subheading.
3206.50	A change to subheading 3206.50 from any other subheading.
3207.10-3215.90	A change to subheading 3207.10 through 3215.90 from any other chapter.

Chapter 33 Essential Oils and Resinoids; Perfumery, Cosmetic or Toilet Preparations

3301.12-3301.13	A change to subheading 3301.12 through 3301.13 from any other chapter; or

	A change to subheading 3301.12 through 3301.13 from any other subheading, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
3301.19	A change to essential oils of bergamot of subheading 3301.19 from any other good of subheading 3301.19 or any other subheading; or A change to any other good of subheading 3301.19 from any other chapter; or A change to any other good of subheading 3301.19 from essential oils of bergamot or of lime of subheading 3301.19 or any other subheading, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
3301.24-3301.25	A change to subheading 3301.24 through 3301.25 from any other subheading, including another subheading within that group.
3301.29	A change to essential oils of geranium, jasmine, lavender, lavandin or vetiver of subheading 3301.29 from any other good of subheading 3301.29 or any other subheading; A change to any other good of subheading 3301.29 from any other chapter; or A change to any other good of subheading 3301.29 from essential oils of geranium, jasmine, lavender, lavandin or vetiver of subheading 3301.29 or any other subheading within Chapter 33, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

3301.30-3301.90	A change to subheading 3301.30 through 3301.90 from any other chapter; or A change to subheading 3301.30 through 3301.90 from any other subheading, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
33.02 – 32.03	A change to heading 33.02 through 32.03 from any other heading.
3304.10-3305.90	A change to subheading 3304.10 through 3305.90 from any other subheading, including another subheading within that group.
3306.10-3307.90	A change to subheading 3307.10 through 3307.90 from any other heading.

Chapter 34 Soap, Organic Surface-active Agents, Washing Preparations, Lubricating Preparations, Artificial Waxes, Prepared Waxes, Polishing or Scouring Preparations, Candles and Similar Articles, Modelling Pastes, "Dental Waxes" and Dental Preparations with a Basis of Plaster

34.01	A change to heading 3401 from any other heading.
34.02-34.04	A change to heading 3402 through 3404 from any other subheading, including another subheading within that group; or No required change in tariff classification to heading 3402 through 3404, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
34.05-34.07	A change to heading 34.05 through 34.07 from any other heading, including another heading within that group.

Chapter 35 Albuminoidal Substances; Modified Starches; Glues; Enzymes

35.01	A change to heading 35.01 from any other heading; or No required change in tariff classification to heading 35.01, provided there is a regional value content of not less than:

(a) 65 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

3502.11-3502.19 A change to subheading 3502.11 through 3502.19 from any other heading.

3502.20-3502.90 A change to subheading 3502.20 through 3502.90 from any other heading; or

No required change in tariff classification to subheading 3502.20 through 3502.90, provided there is a regional value content of not less than:

(a) 65 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

3503.00-3507.90 A change to subheading 3503.00 through 3507.90 from any other subheading, including another subheading within that group; or

No required change in tariff classification to subheading 3503.00 through 3507.90, provided there is a regional value content of not less than:

(a) 40 percent where the transaction value method is used, or

(b) 30 percent where the net cost method is used.

Chapter 36 Explosives; Pyrotechnic Products; Matches; Pyrophoric Alloys; Certain Combustible Preparations

36.01-36.06 A change to heading 36.01 through 36.06 from any other heading, including another heading within that group.

Chapter 37 Photographic or Cinematographic Goods

37.01-37.03 A change to heading 37.01 through 37.03 from any heading outside that group.

37.04- 37.07 A change to heading 37.04 through 37.07 from any other heading, including another heading within that group.

Chapter 38 Miscellaneous Chemical Products

3801.10-3807.00	A change to subheading 3801.10 through 3807.00 from any other subheading, including another subheading within that group; or No required change in tariff classification to subheading 3801.10 through 3807.00, provided there is a regional value content of not less than: (a) 40 percent where the transaction value method is used, or (b) 30 percent where the net cost method is used.
3808.50-3808.99	A change to subheading 3808.50 through 3808.99 from any other subheading provided that not less than 50 percent by weight of the total active ingredient or ingredients is originating.
3809.10-3821.00	A change to subheading 3809.10 through 3821.00 from any other subheading; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 40 percent where the transaction value method is used, or (b) 30 percent where the net cost method is used.
38.22	A change to heading 38.22 from any other heading.
3823.11-3826.00	A change to subheading 3823.11 through 3826.00 from any other subheading; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 40 percent where the transaction value method is used, or (b) 30 percent where the net cost method is used.

Section VII - Plastics and Articles Thereof; Rubber and Articles Thereof (Chapter 39-40)

Notes to Section VII:

Note 1:

A good of any chapter or heading in Section VII that satisfies one or more of Rules 1 through 7 of this Section shall be treated as an originating good, except as otherwise specified in those rules.

Note 2:
Notwithstanding Note 1, a good is an originating good if it meets the applicable change in tariff classification or satisfies the applicable value content requirement specified in the rules of origin in this Section.

Rule 1: Chemical Reaction Rule

A good of Chapters 39 through 40 that results from a chemical reaction in the territory of one or more of the Parties shall be treated as an originating good.

For purposes of this rule, a "chemical reaction" is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

The following are not considered to be chemical reactions for the purposes of determining whether a good is an originating good:

(a) dissolution in water or in another solvent;

(b) the elimination of solvents, including solvent water; or

(c) the addition or elimination of water of crystallization.

Rule 2: Purification Rule

A good of Chapters 39 through 40 that is subject to purification is an originating good, provided that the purification occurs in the territory of one or more of the Parties and results in the following:

(a) the elimination of not less than 80 percent of the content of existing impurities; or

(b) the reduction or elimination of impurities resulting in a good suitable for one or more of the following:

(i) as a pharmaceutical, medical, cosmetic, veterinary, or food grade substance;

(ii) as a chemical product or reagent for analytical, diagnostic, or laboratory uses;

(iii) as an element or component for use in micro-elements;

(iv) for specialized optical uses;

(v) for non-toxic uses for health and safety

(vi) for biotechnical use (e.g. in cell culturing, in genetic technology, or as a catalyst);

(vii) as a carrier used in a separation process; or

(viii) for nuclear grade uses.

Rule 3: Mixtures and Blends Rule

A good of Chapter 39 an originating good if the deliberate and proportionally controlled mixing or blending (including dispersing) of materials, other than the addition of diluents, to conform to predetermined specifications occurs in the territory of one or more of the Parties, resulting in the production of a good having essential physical or chemical characteristics that are relevant to the purposes or uses of the good and are different from the input materials.

Rule 4: Change in Particle Size Rule

A good of Chapter 39 is an originating good if the deliberate and controlled modification in particle size of a good, including micronizing by dissolving a polymer and subsequent precipitation, other than by merely crushing or pressing, occurs in the territory of one or more of the Parties, resulting in a good with a defined particle size, defined particle size distribution, or defined surface area, that is relevant to the purposes of the resulting good, and having essential physical or chemical characteristics different from the input materials.

Rule 5: Standards Materials Rule

A standards material of Chapter 39 is an originating good if it is produced in the territory of one or more of the Parties.

For the purposes of this rule, a "standards material" (including a standard solution) is a preparation suitable for analytical, calibrating, or referencing uses, having precise degrees of purity or proportions that are certified by the manufacturer.

Rule 6: Isomer Separation Rule

A good of Chapter 39 is an originating good if the isolation or separation of isomers from mixtures of isomers occurs in the territory of one or more of the Parties.

Rule 7: Biotechnological Processes Rule

A good of Chapter 39 is an originating good if it undergoes a biochemical process or through one or more of the following processes

(a) Biological or biotechnological culturing, hybridization or genetic modification of:

(i) Micro-organisms (bacteria, viruses (includes phages) etc., or

(ii) Human, animal or plant cells;

(b) Production, isolation or purification of cellular or intercellular structures (such as isolated genes, gene fragments and plasmids); or

(c) Products obtained by fermentation

Chapter 39 Plastics and Articles Thereof

39.01-39.15	A change to heading 39.01 through 39.15 from any other heading, provided that the originating polymer content in heading 39.01 through 39.15 is not less than 50 percent by weight of the total polymer content.
39.16-39.26[1]	A change to heading 39.15 through 39.26 from any other heading,

Chapter 40 Rubber and Articles Thereof

4001.10-4002.99	A change to subheading 4001.10 through 4002.99 from any other subheading, including another subheading within that group.
40.03-40.04	A change to heading 40.03 through 40.04 from any other heading, including another heading within that group.
40.05-40.06	A change to heading 40.05 through 40.06 from any other heading, including another heading within that group, except from heading 40.01; or A change to heading 40.05 through 40.06 from heading 40.01, whether or not there is also a change from any other heading, including another

[1] If the good provided for in subheading 3926.90 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	heading within that group, provided there is a regional value content of not less than: (a) 35 percent where the transaction value method is used, or (b) 25 percent where the net cost method is used.
40.07-40.08	A change to heading 40.07 through 40.08 from any heading outside that group.
4009.11	A change to subheading 4009.11from any other heading, except from heading 40.10 through 40.17.
4009.12[2]	A change to tubes, pipes or hoses of subheading 4009.12, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17; A change to tubes, pipes or hoses of subheading 4009.12, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from subheading 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used. A change to tubes, pipes or hoses of subheading 4009.12, other than those of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17.
4009.21	A change to subheading 4009.21 from any other heading, except from heading 40.10 through 40.17.

[2] If the good provided for in subheading 4009.12 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

4009.22[3]	A change to tubes, pipes or hoses of subheading 4009.22, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17; A change to tubes, pipes or hoses of subheading 4009.22, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from subheading 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used. A change to tubes, pipes or hoses of subheading 4009.22, other than those of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17.
4009.31[4]	A change to subheading 4009.31 from any other heading, except from heading 40.10 through 40.17.
4009.32[5]	A change to tubes, pipes or hoses of subheading 4009.32, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17; A change to tubes, pipes or hoses of subheading 4009.32, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from subheading 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

[3] If the good provided for in subheading 4009.22 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[4] If the good is for use in a vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[5] If the good is for use in a vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used. A change to tubes, pipes or hoses of subheading 4009.32, other than those of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17.
4009.41	A change to subheading 4009.41 from any other heading, except from heading 40.10 through 40.17.
4009.42[6]	A change to tubes, pipes or hoses of subheading 4009.42, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17; A change to tubes, pipes or hoses of subheading 4009.42, of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from subheading 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used. A change to tubes, pipes or hoses of subheading 4009.42, other than those of a kind for use in a motor vehicle of tariff item 8702.10.bb or 8702.90.bb, subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or heading 87.11, from any other heading, except from heading 40.10 through 40.17.
40.10-40.11[7]	A change to heading 40.10 through 40.11 from any other heading, except from heading 40.09 through 40.17.

[6] If the good is for use in a vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[7] If the good provided for in subheadings 4011.10 or 4011.22 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply. If the good provided

4012.11-4012.19[8]	A change to subheading 4012.11 through 4012.19 from any subheading outside that group.
4012.20-4012.90	A change to subheading 4012.20 through 4012.90 from any other heading.
40.13-40.15[9]	A change to heading 40.13 through 40.15 from any other heading, including another heading within that group.
4016.10-4016.95[10]	A change to subheading 4016.10 through 4016.95 from any other heading.
4016.99[11]	
4016.99.aa	A change to tariff item 4016.99.aa from any other heading; or A change to tariff item 4016.99.aa from any other subheading, provided there is a regional value content of not less than 50 percent under the net cost method.
4016.99	A change to subheading 4016.99 from any other heading.
40.17	A change to heading 40.17 from any other heading.

Section VIII - Raw Hides and Skins, Leather, Furskins and Articles Thereof; Saddlery and Harness; Travel Goods, Handbags and Similar Containers; Articles of Animal Gut (Other Than Silk-worm Gut) (Chapter 41-43)

Chapter 41 Raw Hides and Skins (Other Than Furskins) and Leather

for in subheadings 4010.31, 4010.32, 4010.33, 4010.34, or 4010.39 is for use in a motor vehicle of Chapter 87 as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[8] If the good provided for in subheading 4012.11, 4012.12, or 4012.19 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[9] If the good provided for in subheadings 4013.10 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[10] If the good provided for in subheadings 4016.10 or 4016.93 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[11] If the good provided for in subheading 4016.99 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

41.01	A change to hides or skins of heading 41.01 which have undergone a tanning (including pre-tanning) process which is reversible from any other good of heading 41.01 or any other chapter; or A change to any other good of heading 41.01 from any other chapter.
41.02	A change to hides or skins of heading 41.02 which have undergone a tanning (including pre-tanning) process which is reversible from any other good of heading 41.02 or any other chapter; or A change to any other good of heading 41.02 from any other chapter.
41.03	A change to hides or skins of heading 41.03, except hides or skins of camels or dromedaries of heading 41.03, which have undergone a tanning (including pre-tanning) process which is reversible from any other good of heading 41.03 or any other chapter; A change to hides or skins of camels or dromedaries of heading 41.03 from any other chapter, except from Chapter 43; or A change to any other good of heading 41.03 from any other chapter.
41.04	A change to heading 41.04 from any other heading, except from 41.07.
4105.10	A change to subheading 4105.10 from heading 41.02 or any other chapter.
4105.30	A change to subheading 4105.30 from heading 41.02, subheading 4105.10 or any other chapter.
4106.21	A change to subheading 4106.21 from subheading 4103.10 or any other chapter.
4106.22	A change to subheading 4106.22 from subheading 4103.10 or 4106.21 or any other chapter.
4106.31	A change to subheading 4106.31 from subheading 4103.30 or any other chapter.
4106.32	A change to subheading 4106.32 from subheading 4103.30 or 4106.31 or any other chapter.
4106.40	A change to tanned hides and skins in the wet state (including wet-blue) of subheading 4106.40 from subheading 4103.20 or any other chapter; or

	A change to crust hides and skins of subheading 4106.40 from subheading 4103.20 or tanned hides and skins in the wet state (including wet-blue) of subheading 4106.40 or any other chapter.
4106.91	A change to subheading 4106.91 from subheading 4103.90 or any other chapter.
4106.92	A change to subheading 4106.92 from subheading 4103.90 or 4106.91 or any other chapter.
41.07	A change to heading 41.07 from heading 41.01 or any other chapter.
41.12	A change to heading 41.12 from heading 41.02, subheading 4105.10 or any other chapter.
41.13	A change to heading 41.13 from heading 41.03, subheading 4106.21 or 4106.31, tanned hides and skins in the wet state (including wet-blue) of subheading 4106.40, subheading 4106.91 or any other chapter.
41.14	A change to heading 41.14 from heading 41.01 through 41.03, subheading 4105.10, 4106.21, 4106.31 or 4106.91 or any other chapter.
4115.10-4115.20	A change to subheading 4115.10 through 4115.20 from heading 41.01 through 41.03 or any other chapter.

Chapter 42 Articles of Leather; Saddlery and Harness; Travel Goods, Handbags and Similar Containers; Articles of Animal Gut (Other Than Silk-Worm Gut)

42.01	A change to heading 42.01 from any other chapter.
4202.11	A change to subheading 4202.11 from any other chapter.
4202.12	A change to subheading 4202.12 from any other chapter, except from heading 54.07, 54.08 or 55.12 through 55.16, or fabric of man-made fibers of subheading 5903.10, fabric of man-made fibers of subheading 5903.20, fabric of man-made fibers of subheading 5903.90, fabric of man-made fibers of subheading 5906.99 or fabric of man-made fibers of subheading 5907.00.
4202.19-4202.21	A change to subheading 4202.19 through 4202.21 from any other chapter.
4202.22	A change to subheading 4202.22 from any other chapter, except from heading 54.07, 54.08 or 55.12 through 55.16, or fabric of man-made fibers of subheading 5903.10, fabric of man-made fibers of subheading 5903.20,

	fabric of man-made of subheading 5903.90, fabric of man-made fibers of subheading 5906.99 or fabric of man-made fibers of subheading 5907.00.
4202.29-4202.31	A change to subheading 4202.29 through 4202.31 from any other chapter.
4202.32	A change to subheading 4202.32 from any other chapter, except from heading 54.07, 54.08 or 55.12 through 55.16, or fabric of man-made fibers of subheading 5903.10, fabric of man-made fibers of subheading 5903.20, fabric of man-made fibers of subheading 5903.90, fabric of man-made fibers of subheading 5906.99 or fabric of man-made fibers of subheading 5907.00.
4202.39-4202.91	A change to subheading 4202.39 through 4202.91 from any other chapter.
4202.92	A change to subheading 4202.92 from any other chapter, except from heading 54.07, 54.08 or 55.12 through 55.16, or fabrics of man-made fibers of subheading 5903.10, fabric of man-made fibers of subheading 5903.20, fabric of man-made fibers of subheading 5903.90, fabric of man-made fibers of subheading 5906.99 or fabric of man-made fibers of subheading 5907.00.
4202.99	A change to subheading 4202.99 from any other chapter.
42.03-42.06	A change to heading 42.03 through 42.06 from any other chapter.

Chapter 43 Furskins and Artificial Fur; Manufactures Thereof

43.01	A change to heading 43.01 from any other chapter.
43.02	A change to heading 43.02 from any other heading.
43.03-43.04	A change to heading 43.03 through 43.04 from any heading outside that group.

Section IX - Wood and Articles of Wood; Wood Charcoal; Cork and Articles of Cork; Manufactures of Straw, of Esparto or of Other Plaiting Materials; Basketware and Wickerwork (Chapter 44-46)

Chapter 44 Wood and Articles of Wood; Wood Charcoal

44.01-44.21	A change to heading 44.01 through 44.21 from any other heading, including another heading within that group.

Chapter 45 Cork and Articles of Cork

45.01-45.02	A change to heading 45.01 through 45.02 from any other heading, including another heading within that group.
4503.10	A change to a good of subheading 4503.10 from any other good within that subheading or any other subheading.
4503.90	A change to subheading 4503.90 from any other heading.
45.04	A change to heading 45.04 from any other heading.

Chapter 46 Manufactures of Straw, of Esparto or of Other Plaiting Materials; Basketware and Wickerwork

46.01	A change to heading 46.01 from any other chapter.
46.02	A change to heading 46.02 from any other heading.

Section X - Pulp of Wood or of other Fibrous Cellulosic Material; Waste and Scrap of Paper or Paperboard; Paper and Paperboard and Articles Thereof (Chapter 47-49)

Chapter 47 Pulp of Wood or of Other Fibrous Cellulosic Material; Waste and Scrap of Paper or Paperboard

47.01-47.07	A change to heading 47.01 through 47.07 from any other chapter.

Chapter 48 Paper and Paperboard; Articles of Paper Pulp, of Paper or of Paperboard

48.01	A change to heading 48.01 from any other chapter.
48.02	A change to paper or paperboard in strips or rolls of a width not exceeding 15 cm of heading 48.02 from strips or rolls of a width exceeding 15 cm of heading 48.02 or any other heading, except from heading 48.17 through 48.23; A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 48.02 from strips or rolls of a width exceeding 15 cm of heading 48.02, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 48.02 or any other heading, except from heading 48.17 through 48.23; or

	A change to any other good of heading 48.02 from any other chapter.
48.03-48.07	A change to heading 48.03 through 48.07 from any other chapter.
48.08-48.09	A change to heading 48.08 through 48.09 from any heading outside that group.
48.10	A change to paper or paperboard in strips or rolls of a width not exceeding 15 cm of heading 48.10 from strips or rolls of a width exceeding 15 cm of heading 48.10 or any other heading, except from heading 48.17 through 48.23; A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 48.10 from strips or rolls of a width exceeding 15 cm of heading 48.10, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 48.10 or any other heading, except from heading 48.17 through 48.23; or A change to any other good of heading 48.10 from any other chapter.
48.11	A change to paper or paperboard in strips or rolls of a width not exceeding 15cm of heading 48.11 from strips or rolls of a width exceeding 15 cm of heading 48.11, floor coverings on a base of paper or paperboard of heading 48.11 or any other heading, except from heading 48.17 through 48.23; A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 48.11 from strips or rolls of a width exceeding 15 cm of heading 48.11, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 48.11, floor coverings on a base of paper or paperboard of heading 48.11 or any other heading, except from heading 48.17 through 48.23; A change to floor coverings on a base of paper or paperboard of heading 48.11 from any other good of heading 48.11 or any other heading, except from heading 48.14 or floor coverings on a base of paper or paperboard of subheading 4823.90; or

	A change to any other good of heading 48.11 from floor coverings on a base of paper or paperboard of heading 48.11 or any other chapter.
48.12-48.13	A change to heading 48.12 through 48.13 from any other chapter.
48.14	A change to heading 48.14 from any other heading, except from floor coverings on a base of paper or paperboard of heading 48.11.
48.16	A change to heading 48.16 from any other heading, except from heading 48.09.
48.17-48.22	A change to heading 48.17 through 48.22 from any heading outside that group, except from heading 48.23.
48.23	A change to strips or rolls of a width of 15 cm or less of heading 48.23 from strips or rolls of a width exceeding 15 cm of heading 48.23, other than strips or rolls of heading 48.23 which, but for their width, would be classified in heading 48.03, 48.09 or 48.14, floor coverings on a base of paper or paperboard of heading 48.23, or any other heading, except from heading 48.17 through 48.22; A change to strips or rolls of a width exceeding 15 cm of heading 48.23 from floor coverings on a base of paper or paperboard of heading 48.23, or any other heading, except from heading 48.17 through 48.22; A change to floor coverings on a base of paper or paperboard of heading 48.23 from any other good of heading 48.23 or any other heading, except from floor coverings on a base of paper or paperboard of heading 48.11 or 48.14; or A change to any other good of heading 48.23 from strip or rolls of a width exceeding 15 cm of heading 48.23, other than strips or rolls of heading 48.23 which but for their width would be classified in heading 48.03, 48.09 or 48.14, floor coverings on a base of paper or paperboard of heading 48.23, or any other heading, except from strip or rolls of a width exceeding 15 cm but not exceeding 36 cm or paper or paperboard in rectangular (including square) sheets with one side not exceeding 15 cm in the unfolded state of heading 48.02, 48.10 or 48.11, or from heading 48.17 through 48.22.

Chapter 49 Printed Books, Newspapers, Pictures and Other Products of the Printing Industry; Manuscripts, Typescripts and Plans

49.01-49.11	A change to heading 49.01 through 49.11 from any other chapter.

Section XI - Textiles and Textile Articles (Chapter 50-63)

Note: The textile and apparel rules should be read in conjunction with Chapter 6 (Textile and Apparel Goods). For purposes of these rules, the term "wholly" means that the good is made entirely or solely of the named material.

Note: A good classified in Chapters 50 through 63 shall be considered originating, notwithstanding the origin of the following inputs, provided that the good otherwise meets the applicable product specific rule:

(a) rayon filament, other than lyocell or acetate, of heading 54.03 or 54.05.

(b) rayon fiber, other than lyocell or acetate, of heading 55.02, 55.04, or 55.07.

Chapter 50	**Silk**
50.01 – 50.03	A change to heading 50.01 through 50.03 from any other chapter.
50.04 – 50.06	A change to heading 50.04 through 50.06 from any heading outside that group.
50.07	A change to heading 50.07 from any other heading.

Chapter 51	**Wool, Fine or Coarse Animal Hair; Horsehair Yarn and Woven Fabric**
51.01 – 51.05	A change to heading 51.01 through 51.05 from any other chapter.
51.06 – 51.10	A change to heading 51.06 through 51.10 from any heading outside that group.
51.11 – 51.13	For the purposes of trade between Canada and the United States, for 51.11 through 51.13: (a) a change to woven fabrics (other than tapestry fabrics or upholstery fabrics of a weight not exceeding 140 grams per square meter) of combed fine animal hair of subheading 5112.11 from yarn of combed camel hair or combed cashmere of subheading 5108.20 or any other heading (except from headings 51.06 through 51.07, any other good of heading 51.08, or headings 51.09 through 51.11, 52.05 through 52.06, 54.01 through 54.04, or 55.09 through 55.10).

	(b) a change to woven fabrics, other than tapestry or upholstery fabrics, of combed fine animal hair of subheading 5112.19 from yarn of combed camel hair or combed cashmere of subheading 5108.20 or any other heading (except from headings 51.06 through 51.07, any other good of heading 51.08 or headings 51.09 through 51.11, 52.05 through 52.06, 54.01 through 54.04 or 55.09 through 55.10). For any other trade between the Parties for 51.11 through 51.13, a change to heading 51.11 through 51.13 from any heading outside that group except from heading 51.06 through 51.10, 52.05 through 52.06, 54.01 through 54.04 or 55.09 through 55.10**.**
Chapter 52	**Cotton**
52.01 –52.07	A change to heading 52.01 through 52.07 from any other chapter, except from heading 54.01 through 54.05 or 55.01 through 55.07.
52.08 – 52.12	A change to heading 52.08 through 52.12 from any heading outside that group, except from heading 51.06 through 51.10, 52.05 through 52.06, 54.01 through 54.04 or 55.09 through 55.10.
Chapter 53	**Other Vegetable Textile Fibers; Paper Yarn and Woven Fabrics of Paper Yarn**
53.01 – 53.05	A change to heading 53.01 through 53.05 from any other chapter.
53.06 - 53.08	A change to heading 53.06 through 53.08 from any heading outside that group.
53.09 – 53.11	A change to heading 53.09 through 53.11 from any other heading.
Chapter 54	**Man-Made Filaments**
54.01 – 54.06	A change to heading 54.01 through 54.06 from any other chapter, except from heading 52.01 through 52.03 or 55.01 through 55.07.
54.07	A change to woven fabric of non-textured polyester filaments of subheading 5407.61 from yarns, with a twist of 900 or more turns per meter, wholly of polyesters other than partially oriented measuring no less than 75 decitex but not more than 80 decitex, and having 24 filaments per yarn of subheadings 5402.44, 5402.47 or 5402.52, or any other chapter, except from heading 51.06 through 51.10, 52.05 through 52.06 or 55.09 through 55.10.

	A change to any other good of heading 54.07 from any other chapter, except from heading 51.06 through 51.10, 52.05 through 52.06 or 55.09 through 55.10.
54.08	A change to heading 54.08 from any other chapter, except from heading 51.06 through 51.10, 52.05 through 52.06, or 55.09 through 55.10.

Chapter 55 Man-Made Staple Fibers

55.01-55.08	A change to heading 55.01 through 55.08 from any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05.
5509.11-5509.22	A change to subheading 5509.11 through 5509.22 from any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05.
5509.31	For the purposes of trade between Canada and the United States, a change to subheading 5509.31 from acid-dyeable acrylic tow of subheading 5501.30, or any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05. For all other trade between the Parties, a change to subheading 5509.31 from any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05.
5509.32-5509.99	A change to subheading 5509.32 through 5509.99 from any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05.
55.10-55.11	A change to heading 55.10 through 55.11 from any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05.
55.12 – 55.16	A change to heading 55.12 through 55.16 from any heading outside that group, except from heading 51.06 through 51.10, 52.05 through 52.06, 54.01 through 54.04 or 55.09 through 55.10.

Chapter 56 Wadding, Felt, and Nonwovens; Special Yarns; Twine, Cordage, Ropes, and Cables and Articles Thereof

56.01-56.05	A change to heading 56.01 through 56.05 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11 or Chapter 54 through 55.
56.06	A change to heading 56.06 from flat yarns of subheading 5402.45 (flat yarns means 7 denier/5 filament, 10 denier/7 filament or 12 denier/5 filament, all

	of nylon 66, untextured (flat) semi-dull yarns, multifilament, untwisted or with a twist not exceeding 50 turns per meter, of subheading 5402.45) or any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11 or Chapter 54 through 55. A change to any other good of heading 56.06 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, or Chapter 54 through 55.
56.07 – 56.09	A change to heading 56.07 through 56.09 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11 or Chapter 54 through 55.

Chapter 57 Carpets and Other Textile Floor Coverings

57.01 – 57.02	A change to heading 57.01 through 57.02 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or heading 55.08 through 55.16.
5703.10	A change to subheading 5703.10 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or heading 55.08 through 55.16.
5703.20-5703.30	For the purposes of trade between Mexico and the United States, a change to subheading 5703.20 through 5703.30 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or 55. For all other trade between the Parties, a change to subheading 5703.20 through 5703.30 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or heading 55.08 through 55.16.
5703.90	A change to subheading 5703.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or heading 55.08 through 55.16.
57.04	For the purposes of trade between Mexico and the United States, a change to heading 57.04 from any chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, or Chapter 54 or 55. For all other trade between the Parties, a change to heading 57.04 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or heading 55.08 through 55.16.

57.05	A change to heading 57.05 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.11, Chapter 54 or heading 55.08 through 55.16.

Chapter 58 — Special Woven Fabrics; Tufted Textile Fabrics; Lace; Tapestries; Trimmings; Embroidery

58.01 – 58.11 For the purposes of trade between Canada and the United States:

(a) a change to 5801.36 from any other chapter except heading 5106 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.01 through 55.02, subheading 5503.10 through 5503.20 or 5503.40 through 5503.90 or heading 55.04 through 55.16

(b) a change to warp pile fabrics, cut, of subheading 5801.37 (if such fabrics are fabrics with pile of dry-spun acrylic staple fibers of subheading 5503.30 and dyed in the piece to a single uniform color) from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 5311, Chapter 54, heading 55.01 through 55.02, subheading 5503.10 through 5503.20 or 5503.40 through 5503.90 or heading 55.04 through 55.16.

For all other trade between the Parties, a change to heading 58.01 through 58.11 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, or Chapter 54 through 55.

Chapter 59 — Impregnated, Coated, Covered, or Laminated Textile Fabrics; Textile Articles of a Kind Suitable For Industrial Use

59.01	A change to heading 59.01 from any other chapter, except from heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11, 54.07 through 54.08 or 55.12 through 55.16.
59.02	A change to heading 59.02 from any other heading, except from heading 51.06 through 51.13 52.04 through 52.12, 53.06 through 53.11 or Chapter 54 through 55.
59.03 – 59.08	A change to heading 59.03 through 59.08 from any other chapter, except from heading 51.11 through 51.13, 52.08 through 52.12,53.10 through 53.11, 54.07 through 54.08 or 55.12 through 55.16.

59.09	A change to heading 59.09 from any other chapter, except from heading 51.11 through 51.13, 52.08 through 52.12 or 53.10 through 53.11, Chapter 54 or heading 55.12 through 55.16.
59.10	A change to heading 59.10 from any other heading, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, or Chapter 54 through 55.
59.11	A change to heading 59.11 from any other chapter, except from heading 51.11 through 51.13, 52.08 through 52.12, 53.10 through 53.11,54.07 through 54.08 or 55.12 through 55.16.

Chapter 60 Knitted or Crocheted Fabrics

60.01 – 60.06	A change to heading 60.01 through 60.06 from any other chapter, except from heading 51.06 through 51.13, Chapter 52, heading 53.10 through 53.11, or Chapter 54 through 55.

Chapter 61 Articles of Apparel and Clothing Accessories, Knitted or Crocheted

Note 1:	For the purposes of determining the origin of a good of this chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.
Note 2:	Effective 18 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 1, a good of this chapter containing fabrics of subheading 5806.20 or heading 60.02 is originating only if such fabrics are both formed from yarn and finished in the territory of one or more of the Parties.
Note 3:	Effective 12 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 1, a good of this chapter containing sewing thread of heading 52.04, 54.01 or 55.08, or yarn of heading 54.02 used as sewing thread shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the Parties.
Note 4:	Effective 18 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 1, if a good of this chapter contains a pocket or pockets, the pocket bag fabric must be formed and finished in the territory of one or more of the Parties from yarn wholly formed in one or more of the Parties.

61.01-61.02	A change to heading 61.01 through 61.02 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6103.10-6103.22	A change to subheading 6103.10 through 6103.22 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6103.23	For the purposes of trade between Mexico and the United States, a change to sweaters classified in 6110.30 as part of an ensemble of subheading 6103.23, from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or 55 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties. For all other trade between the Parties, a change to sweaters classified in 6110.30 as part of an ensemble of subheading 6103.23, from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.08 through 55.16, or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6103.29-6103.49	A change to subheading 6103.29 through 6103.49 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6104.13-6104.22	A change to subheading 6104.13 through 6104.22 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6104.23	For the purposes of trade between Mexico and the United States, a change to sweaters classified in 6110.30 as part of an ensemble of subheading 6104.23, from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or 55 or 60.01

	through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties. For all other trade between the Parties, a change to sweaters classified in 6110.30 as part of an ensemble of subheading 6104.23, from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6104.29-6104.69	A change to subheading 6104.29 through 6104.69 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
61.05– 61.06	A change to heading 61.05 through 61.06 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6107.11 – 6107.19	A change to subheading 6107.11 through 6107.19 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6107.21	A change to subheading 6107.21 from (a) circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.21, circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.22, circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.23 or circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.24, provided that the good, exclusive of collar, cuffs, waistband or elastic, is wholly of such fabric and the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties, and such goods will not be subject to Notes 2 through 4 of this Chapter; or

(b) any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6107.22 – 6107.99 A change to subheading 6107.22 through 6107.99 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6108.11 – 6108.19 A change to subheading 6108.11 through 6108.19 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6108.21 A change to subheading 6108.21 from

(a) circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.21, circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.22, circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.23 or circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.24, provided that the good, exclusive of waistband, elastic or lace, is wholly of such fabric and the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties, and such goods will not be subject to Notes 2 through 4 of this Chapter; or

(b) any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6108.22 – 6108.29 A change to subheading 6108.22 through 6108.29 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided

that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6108.31 A change to subheading 6108.31 from

(a) circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.21, circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.22, circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.23 or circular knit fabric, wholly of cotton yarns exceeding 100 metric number per single yarn, of subheading 6006.24, provided that the good, exclusive of collar, cuffs, waistband, elastic or lace, is wholly of such fabric and the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties, and such goods will not be subject to Notes 2 through 4 of this Chapter; or

(b) any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6108.32-6108.99 A change to subheading 6108.32 through 6108.99 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

61.09 A change to heading 61.09 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6110.11-6110.20 A change to subheading 6110.11 through 6110.20 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19,provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6110.30	For the purposes of trade between Mexico and the United States, a change to sweaters of subheading 6110.30 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or 55 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties. For all other trade between the Parties, a change to sweaters of subheading 6110.30 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6110.90	A change to subheading 6110.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
61.11	A change to heading 61.11 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
6112.11-6112.49	A change to subheading 6112.11 through 6112.49 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
61.13 – 61.17	A change to heading 61.13 through 61.17 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.
Chapter 62	**Articles of Apparel and Clothing Accessories, Not Knitted or Crocheted**

Note 1: Apparel goods of this chapter shall be considered to originate if they are both cut and sewn or otherwise assembled in the territory of one or more of the Parties and if the fabric of the outer shell, exclusive of collars or cuffs, is wholly of one or more of the following:

(a) Velveteen fabrics of subheading 5801.23, containing 85 per cent or more by weight of cotton;

(b) Corduroy fabrics of subheading 5801.22, containing 85 per cent or more by weight of cotton and containing more than 7.5 wales per centimeter;

(c) Fabrics of subheading 5111.11 or 5111.19, if handwoven, with a loom width of less than 76 cm, woven in the United Kingdom in accordance with the rules and regulations of the Harris Tweed Authority, Ltd., and so certified by the Authority;

(d) Fabrics of subheading 5112.30, weighing not more than 340 grams per square meter, containing wool, not less than 20 per cent by weight of fine animal hair and not less than 15 per cent by weight of manmade staple fibers; or

(e) Batiste fabrics of subheading 5513.11 or 5513.21, of square construction, of single yarns exceeding 76 metric count, containing between 60 and 70 warp ends and filling picks per square centimeter, of a weight not exceeding 110 grams per square meter.

Such apparel goods shall not be subject to Notes 3 through 5 of this Chapter.

Note 2: For the purposes of determining the origin of a good of this chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good

Note 3: Effective 18 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 2, a good of this chapter containing fabrics of subheading 5806.20 or heading 60.02 is originating only if such fabrics are both formed and finished from yarn in the territory of one or more of the Parties.

Note 4: Effective 12 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 2, a good of this chapter containing sewing thread of heading 52.04, 54.01 or 55.08, or yarn of heading 54.02 used as

sewing thread shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the Parties.

Note 5: For apparel made of blue denim fabric of subheadings 5209.42, 5211.42, 5212.24, and 5514.30, effective 30 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 2, if such goods of this chapter contain a pocket or pockets, the pocket bag fabric must be formed and finished in the territory of one or more of the Parties from yarn wholly formed in one or more of the Parties.

For all other apparel, effective 18 months from the date of entry into force of the agreement, and notwithstanding Chapter Note 2, if a good of this chapter contains a pocket or pockets, the pocket bag fabric must be formed and finished in the territory of one or more of the Parties from yarn wholly formed in one or more of the Parties.

62.01- 62.04 A change to headings 62.01 through 62.04 from any other chapter, except from heading 51.06 through 51.13 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

6205.20 – 6205.30 **Note**: Men's or boys' shirts of cotton or manmade fibers shall be considered to originate if they are both cut and assembled in the territory of one or more of the Parties and if the fabric of the outer shell, exclusive of collars or cuffs, is wholly of one or more of the following:

(a) Fabrics of subheading 5208.21, 5208.22, 5208.29, 5208.31, 5208.32, 5208.39, 5208.41, 5208.42, 5208.49, 5208.51, 5208.52 or 5208.59, other than 3-thread or 4-thread twill, including cross twill, fabric of subheading 5208.59 of average yarn number exceeding 135 metric;

(b) Fabrics of subheading 5513.11 or 5513.21, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric;

(c) Fabrics of subheading 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric;

(d) Fabrics of subheading 5208.22 or 5208.32, not of square construction, containing more than 75 warp ends and filling picks per square centimeter, of average yarn number exceeding 65 metric;

(e) Fabrics of subheading 5407.81, 5407.82 or 5407.83, weighing less than 170 grams per square meter, having a dobby weave created by a dobby attachment;

(f) Fabrics of subheading 5208.42 or 5208.49, not of square construction, containing more than 85 warp ends and filling picks per square centimeter, of average yarn number exceeding 85 metric;

(g) Fabrics of subheading 5208.51, of square construction, containing more than 75 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number 95 or greater metric;

(h) Fabrics of subheading 5208.41, of square construction, with a gingham pattern, containing more than 85 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number 95 or greater metric, and characterized by a check effect produced by the variation in color of the yarns in the warp and filling; or

(i) Fabrics of subheading 5208.41, with the warp colored with vegetable dyes, and the filling yarns white or colored with vegetable dyes, of average yarn number greater than 65 metric.

Such apparel goods shall not be subject to Notes 3 through 5 of this Chapter.

For all other trade between the Parties, a change to subheading 6205.20 through 6205.30 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

6205.90 A change to subheading 6205.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

62.06 A change to heading 62.06 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

6207.11 Men's or boys' boxer shorts of cotton of subheading 6207.11 shall be considered to originate if they are both cut and sewn or in the territory of one or more of the Parties, and if the plain weave fabric of the outer shell, exclusive of waistbands, is wholly of one or more of the following:

(a) Fabrics of subheading 5208.41, yarn-dyed, with a fiber content of 100 percent cotton, 95 to 100 grams per square meter, of average yarn number 37 to 42 metric;

(b) Fabrics of subheading 5208.42, yarn-dyed, with a fiber content of 100 percent cotton, weighing not more than 105 grams per square meter, of average yarn number 47 to 53 metric;

(c) Fabrics of subheading 5208.51, printed, with a fiber content of 100 percent cotton, 93 to 97 grams per square meter, of average yarn number 38 to 42 metric;

(d) Fabrics of subheading 5208.52, printed, with a fiber content of 100 percent cotton, 112 to 118 grams per square meter, of average yarn number 38 to 42 metric;

(e) Fabrics of subheading 5210.11, greige, with a fiber content of 51 to 60 percent cotton, 49 to 40 percent polyester, 100 to 112 grams per square meter, of average yarn number 55 to 65 metric;

(f) Fabrics of subheading 5210.41, yarn-dyed, with a fiber content of 51 to 60 percent cotton, 49 to 40 percent polyester, 77 to 82 grams per square meter, of average yarn number 69 to 75 metric;

(g) Fabrics of subheading 5210.41, yarn-dyed, with a fiber content of 51 to 60 percent cotton, 49 to 40 percent polyester, 85 to 90 grams per square meter, of average yarn number 69 to 75 metric;

(h) Fabrics of subheading 5210.51, printed, with a fiber content of 51 to 60 percent cotton, 49 to 40 percent polyester, 107 to 113 grams per square meter, of average yarn number 33 to 37 metric;

(i) Fabrics of subheading 5210.51, printed, with a fiber content of 51 to 60 percent cotton, 49 to 40 percent polyester, 92 to 98 grams per square meter, of average yarn number 43 to 48 metric; or

(j) Fabrics of subheading 5210.51, printed, with a fiber content of 51 to 60 percent cotton, 49 to 40 percent polyester, 105 to 112 grams per square meter, of average yarn number 50 to 60 metric.

Such apparel goods shall not be subject to Notes 3 through 5 of this Chapter.

For all other goods of subheading 6207.11, a change to subheading 6207.11 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, or other made-up textile articles of heading 96.19, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

6207.19 - 6207.99 A change to heading 6207.19 through 6207.99 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

62.08 – 62.11 A change to heading 62.08 through 62.11 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

6212.10 A change to subheading 6212.10 from any other chapter, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties. Such goods shall not be subject to Notes 3 through 5 of this Chapter.

6212.20 – 6212.90 A change to subheading 6212.20 through 6212.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12,53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

62.13 – 62.17 A change to heading 62.13 through 62.17 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 or heading 55.08 through 55.16, 58.01 through 58.02 or

60.01 through 60.06, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.

Chapter 63 Other Made Up Textile Articles; Sets; Worn Clothing and Worn Textile Articles; Rags

Note 1: For the purposes of determining the origin of a good of this chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.

Note 2: Effective 18 months from the date of entry into force of the agreement, and not withstanding Chapter Note 1, for the purposes of determining the origin of a good of this chapter, a good of this chapter containing fabrics of heading 5903 shall be considered originating only if all fabrics used in the production of the fabrics of heading 5903 are formed and finished in the territory of one or more of the Parties. This note shall not apply to goods of heading 63.05, goods of subheadings 6306.12 or 6306.22, or goods of subheading 6307.90 that are not surgical drapes or national flags.

63.01 – 63.02 A change to heading 63.01 through 63.02 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12 53.10 through 53.11, Chapter 54 through 55, 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

63.03 A change to curtains of subheading 6303.92 made of fabrics wholly of non-textured polyester filaments from yarn, with a twist of 900 or more turns per meter, wholly of polyesters other than partially oriented, measuring not less than 75 decitex but not more than 80 decitex, and having 24 filaments per yarn of subheading 5402.44, 5402.47 or 5402.52, provided that the good is both cut and sewn or otherwise assembled in the territory of one or more of the Parties. .

A change to any other good of heading 63.03 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 through 55 or heading 58.01 through 58.02 or 60.01 through 60.06, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

63.04 – 63.10 A change to heading 63.04 through 63.10 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 through 55, 58.01 through 58.02 or 60.01 through 60.06,

or other made-up textile articles of heading 96.19, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the Parties.

Section XII - Footwear, Headgear, Umbrellas, Sun Umbrellas, Walking-Sticks, Seat-Sticks, Whips, Riding-Crops and Parts Thereof; Prepared Feathers and Articles Made Therewith; Artificial Flowers; Articles of Human Hair (Chapter 64-67)

Chapter 64 Footwear, Gaiters and the Like; Parts of Such Articles

64.01-64.05	A change to heading 64.01 through 64.05 from any heading outside that group, except from subheading 6406.10, provided there is a regional value content of not less than 55 percent under the net cost method.
6406.10	A change to subheading 6406.10 from any other subheading, except from heading 64.01 through 64.05, provided there is a regional value content of not less than 55 percent under the net cost method.
6406.20-6406.90	A change to subheading 6406.20 through 6406.90 from any other chapter.

Chapter 65 Headgear and Parts Thereof

65.01-65.02	A change to heading 65.01 through 65.02 from any other chapter.
65.04-65.07	A change to heading 65.04 through 65.07 from any heading outside that group.

Chapter 66 Umbrellas, Sun Umbrellas, Walking-Sticks, Seat-Sticks, Whips, Riding-Crops and Parts Thereof

66.01 A change to heading 66.01 from any other heading, except from a combination of both:

(a) subheading 6603.20; and

(b) heading 39.20 through 39.21, 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16, 56.02 through 56.03, 58.01 through 58.11, 59.01 through 59.11 and 60.01 through 60.06.

66.02	A change to heading 66.02 from any other heading.
66.03	A change to heading 66.03 from any other chapter.

Chapter 67 Prepared Feathers and Down and Articles Made of Feathers or of Down; Artificial Flowers; Articles of Human Hair

67.01	A change to heading 67.01 from any other heading; or A change to a good of feather or down of heading 67.01 from within that heading or any other heading.
67.02-67.04	A change to heading 67.02 from any other heading, including another heading within that group.

Section XIII - Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials; Ceramic Products; Glass and Glassware (Chapter 68-70)

Chapter 68 Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials
68.01-68.11 A change to heading 68.01 through 68.11 from any other chapter.

6812.80	A change to clothing, clothing accessories, footwear and headgear of subheading 6812.80 from any other subheading; A change to fabricated crocidolite fibers or mixtures with a basis of crocidolite or with a basis of crocidolite and magnesium carbonate of subheading 6812.80 from any other chapter; A change to yarn or thread of subheading 6812.80 from any other good of subheading 6812.80 or any other subheading; A change to cords or string, whether or not plaited, of subheading 6812.80 from any other good of subheading 6812.80 or any other subheading, except from woven or knitted fabric of subheading 6812.80; A change to woven or knitted fabric of subheading 6812.80 from any other good of subheading 6812.80 or any other subheading, except from cords or string, whether or not plaited, of subheading 6812.80; or A change to any other good of subheading 6812.80 from fabricated crocidolite fibers or mixtures with a basis of crocidolite and magnesium carbonate, yarn or thread, cords or string, whether or not plaited, or woven or knitted fabric of subheading 6812.80 or from any other subheading.
6812.91	A change to subheading 6812.91 from any other subheading.

6812.92-6812.99	A change to fabricated asbestos fibers or mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate of subheading 6812.99 from any other chapter; A change to yarn or thread of subheading 6812.99 from any other good of subheading 6812.99 or any other subheading; A change to cords or string, whether or not plaited, of subheading 6812.99 from any other good of subheading 6812.99 or any other subheading, except from woven or knitted fabric of subheading 6812.99; A change to woven or knitted fabric of subheading 6812.99 from any other good of subheading 6812.99 or any other subheading, except from cords or string, whether or not plaited, of subheading 6812.99; or A change to any other good of subheading 6812.92 through 6812.99 from fabricated asbestos fibers or mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate, yarn or thread, cords or string, whether or not plaited, or woven or knitted fabric of subheading 6812.99 or from any subheading outside that group.
68.13	A change to heading 68.13 from any other heading.
68.14-68.15	A change to heading 68.14 through 68.15 from any other chapter.

Chapter 69 Ceramic Products

69.01-69.14	A change to heading 69.01 through 69.14 from any other chapter.

Chapter 70 Glass and Glassware

70.01	A change to heading 70.01 from any other heading.
7002.10	A change to subheading 7002.10 from any other heading.
7002.20	A change to subheading 7002.20 from any other chapter.
7002.31	A change to subheading 7002.31 from any other heading.
7002.32-7002.39	A change to subheading 7002.32 through 7002.39 from any other chapter.

70.03-70.08[12]	A change to heading 70.03 through 70.08 from any heading outside that group, except from heading 70.09.
7009.10-7009.91[13]	A change to subheading 7009.10 through 7009.91 from any other heading, except from heading 70.03 through 70.08.
7009.92	A change to subheading 7009.92 from any other subheading.
70.10-70.18	A change to heading 70.10 through 70.18 from any other chapter.
70.19	A change to heading 70.19 from any other heading, except from heading 70.07 through 70.20.
70.20	A change to heading 70.20 from any other chapter.

Section XIV - Natural or Cultured Pearls, Precious or Semi-precious Stones, Precious Metals, Metals Clad with Precious Metal, and Articles Thereof; Imitation Jewellery; Coin (Chapter 71)

Chapter 71 Natural or Cultured Pearls, Precious or Semi-Precious Stones, Precious Metals, Metals Clad with Precious Metal, and Articles Thereof; Imitation Jewellery; Coin (Chapter 71)

71.01-71.05	A change to heading 71.01 through 71.05 from any other chapter.
7106.10-7106.92	A change to subheadings 7106.10 through 7106.92 from any other subheading, including another subheading within that group; or No required change in tariff classification to subheading 7106.91, whether or not there is also a change from another subheading, provided that the non-originating materials undergo electrolytic, thermal or chemical separation or alloying.
71.07	A change to heading 71.07 from any other chapter.
7108.11-7108.20	A change to subheadings 7108.11 through 7108.20 from any other subheading, including another subheading within that group; or

[12] If the good provided for in subheadings 7007.11 or 7007.21 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[13] If the good provided for in subheading 7009.10 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	No required change in tariff classification to subheading 7108.12, whether or not there is also a change from another subheading, provided that the non-originating materials undergo electrolytic, thermal or chemical separation or alloying.
71.09	A change to heading 71.09 from any other chapter.
7110.11-7110.49	A change to subheadings 7110.11 through 7110.49 from any other subheading, including another subheading within that group.
71.11	A change to heading 71.11 from any other chapter.
71.12	A change to heading 71.12 from any other heading.
71.13-71.18	A change to heading 71.13 through 71.18 from any heading outside that group.

Section XV - Base Metals and Articles of Base Metal (Chapter 72-83)

Chapter 72 Iron and Steel

72.01	A change to heading 72.01 from any other chapter.
7202.11-7202.60	A change to subheading 7202.11 through 7202.60 from any other chapter.
7202.70	A change to subheading 7202.70 from any other chapter, except from subheading 2613.10.
7202.80-7202.99	A change to subheading 7202.80 through 7202.99 from any other chapter.
72.03-72.05	A change to heading 72.03 through 72.05 from any other chapter.
72.06-72.07	A change to heading 72.06 through 72.07 from any heading outside that group.
72.08-72.16	A change to heading 72.08 through 72.16 from any heading outside that group.
72.17	A change to heading 72.17 from any other heading, except from heading 72.13 through 72.15.
72.18-72.22	A change to heading 72.18 through 72.22 from any heading outside that group.

72.23	A change to heading 72.23 from any other heading, except from heading 72.21 through 72.22.
72.24-72.28	A change to heading 72.24 through 72.28 from any heading outside that group.
72.29	A change to heading 72.29 from any other heading, except from heading 72.27 through 72.28.

Chapter 73 Articles of Iron or Steel

73.01-73.03	A change to heading 73.01 through 73.03 from any other chapter.
7304.11-7304.39	A change to subheading 7304.11 through 7304.39 from any other chapter.
7304.41	
7304.41.aa	A change to tariff item 7304.41.aa from subheading 7304.49 or any other chapter.
7304.41	A change to subheading 7304.41 from any other chapter.
7304.49-7304.90	A change to subheading 7304.49 through 7304.90 from any other chapter.

73.05-73.07

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2023 or three years after entry into force of this Agreement, whichever is later

73.05-73.07	A change to heading 73.05 through 73.07 from any other chapter.

Beginning on January 1 2023 or three years after entry into force of this Agreement, whichever is late, and thereafter

73.05-73.07	A change to heading 73.05 through 73.07 from any other heading, except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or A change to heading 73.05 through 73.07 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than:

(a) 75 percent where the transaction value method is used, or

(b) 65 percent where the net cost method is used.

7308

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2022 or two years after entry into force of this Agreement, whichever is later

73.08 A change to heading 73.08 from any other heading, except for changes resulting from the following processes performed on angles, shapes, or sections of heading 72.16:

(a) drilling, punching, notching, cutting, cambering, or sweeping, whether performed individually or in combination;

(b) adding attachments or weldments for composite construction;

(c) adding attachments for handling purposes;

(d) adding weldments, connectors or attachments to H-sections or I-sections, provided that the maximum dimension of the weldments, connectors, or attachments is not greater than the dimension between the inner surfaces of the flanges of the H-sections or I-sections;

(e) painting, galvanizing, or otherwise coating; or

(f) adding a simple base plate without stiffening elements, individually or in combination with drilling, punching, notching, or cutting, to create an article suitable as a column.

Beginning on January 1 2022 or two years after entry into force of this Agreement, whichever is later, and thereafter

7308.10 A change to 7308.10 from any other heading, except from headings 72.08, 72.11, 72.16, 72.25, and 72.26; or

A change to 7308.10 from headings 72.08, 72.11, 72.16, 72.25, or 72.26; provided that at least 70 percent by weight of the inputs of headings 72.08, 72.11, 72.16, 72.25, or 72.26 is originating; or

	No change in tariff classification is required provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7308.20	A change to 7308.20 from any other heading, except from headings 72.08, 72.11, 72.16, 72.25, and 72.26; or A change to 7308.20 from headings 72.08, 72.11, 72.16, 72.25, or 72.26; provided that at least 70 percent by weight of the inputs of headings 72.08, 72.11, 72.16, 72.25, or 72.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 65 percent where the transaction value method is used, or (b) 55 percent where the net cost method is used.
7308.30	A change to 7308.30 from any other heading, except from headings 72.08, 72.11, 72.16, 72.25, and 72.26; or A change to 7308.30 from headings 72.08, 72.11, 72.16, 72.25, or 72.26; provided that at least 70 percent by weight of the inputs of headings 72.08, 72.11, 72.16, 72.25, or 72.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7308.40	A change to 7308.40 from any other heading, except from headings 72.08, 72.11, 72.16, 72.25, and 72.26; or A change to 7308.40 from headings 72.08, 72.11, 72.16, 72.25, or 72.26; provided that at least 70 percent by weight of the inputs of headings 72.08, 72.11, 72.16, 72.25, or 72.26 is originating; or

No change in tariff classification is required provided that there is a regional value content of not less than:

(a) 65 percent where the transaction value method is used, or

(b) 55 percent where the net cost method is used.

7308.90 A change to 7308.90 from any other heading, except from headings 72.08, 72.11, 72.16, 72.25, and 72.26; or

A change to 7308.90 from headings 72.08, 72.11, 72.16, 72.25, or 72.26; provided that at least 70 percent by weight of the inputs of headings 72.08, 72.11, 72.16, 72.25, or 72.26 is originating; or

No change in tariff classification is required provided that there is a regional value content of not less than 65 percent where the net cost method is used.

73.09-73.11

73.09-73.11 A change to heading 73.09 through 73.11 from any heading outside that group.

73.12-73.14

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2023 or three years after entry into force of this Agreement, whichever is later

73.12-73.14 A change to heading 73.12 through 73.14 from any other heading, including another heading within that group.

Beginning on January 1 2023 or three years after entry into force of this Agreement, whichever is later, and thereafter

7312.10 A change to subheading 7312.10 from any other heading except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or
A change to subheading 7312.10 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or

No change in tariff classification is required provided that there is a regional value content of not less than:

	(a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7312.90	A change to subheading 7312.90 from any other heading.
7313	A change to heading 73.13 from any other heading except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or A change to heading 73.13 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7314.14	A change to subheading 7314.14 from any other heading
7314.19	A change to subheading 7314.19 from any other heading except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or A change to subheading 7314.19 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7314.20	A change to subheading 7314.20 from any other heading.
7314.31 – 7314.49	A change to subheading 7314.31 through 7314.49 from any other heading except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or

	A change to subheading 7314.31 through 7314.49 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7314.50	A change to subheading 7314.50 from any other heading.

73.15

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2023 or three years after entry into force of this Agreement, whichever is later

7315.11-7315.12	A change to subheading 7315.11 through 7315.12 from any other heading; or A change to subheading 7315.11 through 7315.12 from subheading 7315.19, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7315.19	A change to subheading 7315.19 from any other heading.
7315.20-7315.89	A change to subheading 7315.20 through 7315.89 from any other heading; or A change to subheading 7315.20 through 7315.89 from subheading 7315.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7315.90	A change to subheading 7315.90 from any other heading.

Beginning on January 1 2023 or three years after entry into force of this Agreement, whichever is later, and thereafter

7315.11 – 7315.12	A change to subheading 7315.11 through 7315.12 from any other heading; or A change to subheading 7315.11 through 7315.12 from subheading 7315.19, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7315.19	A change to subheading 7315.19 from any other heading.
7315.20-7315.81	A change to subheading 7315.20 through 7315.81 from any other heading; or A change to subheading 7315.20 through 7315.81 from subheading 7315.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7315.82-7315.89	A change to subheadings 7315.82 through 7315.89 from any other heading except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or A change to subheadings 7315.82 through 7315.89 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.
7315.90	A change to subheading 7314.20 from any other heading.

73.16

73.16	A change to heading 73.16 from any other heading, except from heading 73.12 or 73.15.

73.17

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2023 or three years after entry into force of this Agreement, whichever is later

73.17 A change to heading 73.17 from any other heading, except from heading 73.18

Beginning on January 1 2023 or three years after entry into force of this Agreement, whichever is later, and thereafter

73.17	A change to heading 73.17 from any other heading, except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or A change to heading 73.17 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification provided that there is a regional value content of not less than: (a) 75 percent where the transaction value method is used, or (b) 65 percent where the net cost method is used.

7318

73.18	A change to heading 73.18 from any other heading, except from heading 73.17

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73.19-73.20[14]	A change to heading 73.19 through 73.20 from any heading outside that group.

7321.11

[14] If the good provided for in subheadings 7320.10 or 7320.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

7321.11.aa	A change to tariff item 7321.11.aa from any other subheading, except from tariff item 7321.90.aa, 7321.90.bb or 7321.90.cc.
7321.11	A change to subheading 7321.11 from any other heading; or A change to subheading 7321.11 from subheading 7321.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7321.12-7321.89	A change to subheading 7321.12 through 7321.89 from any other heading; or A change to subheading 7321.12 through 7321.89 from subheading 7321.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7321.90	
7321.90.aa	A change to tariff item 7321.90.aa from any other tariff item.
7321.90.bb	A change to tariff item 7321.90.bb from any other tariff item.
7321.90.cc	A change to tariff item 7321.90.cc from any other tariff item.
7321.90	A change to subheading 7321.90 from any other heading.
73.22-73.23	A change to heading 73.22 through 73.23 from any heading outside that group.
7324.10-7324.29	A change to subheading 7324.10 through 7324.29 from any other heading; or A change to subheading 7324.10 through 7324.29 from subheading 7324.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

7324.90 A change to subheading 7324.90 from any other heading.

73.25-73.26 A change to heading 73.25 through 73.26 from any heading outside that group.

Chapter 74 Copper and Articles Thereof

74.01-74.03 A change to headings 74.01 through 74.03 from any other heading, including another heading within that group, except from heading 74.04; or

A change to headings 74.01 through 74.03 from heading 74.04, whether or not there is also a change from any other heading, including another heading within that group, provided there is a regional value content of not less than:

(a) 60 per cent where the transaction value method is used, or

(b) 50 per cent where the net cost method is used.

74.04 A change to a good of heading 74.04 from any other good within that heading or any other heading.

74.05-74.07 A change to heading 74.05 through 74.07 from any other chapter; or

A change to heading 74.05 through 74.07 from heading 74.01 through 74.02 or tariff item 7404.00.aa, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

7408.11

7408.11.aa A change to tariff item 7408.11.aa from any other chapter; or

	A change to tariff item 7408.11.aa from heading 74.01 through 74.02 or tariff item 7404.00.aa, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
7408.11	A change to subheading 7408.11 from any other heading, except from heading 74.07.
7408.19-7408.29	A change to subheading 7408.19 through 7408.29 from any other heading, except from heading 74.07.
74.09	A change to heading 74.09 from any other heading.
74.10	A change to heading 74.10 from any other heading, except from heading 74.09.
74.11	A change to heading 74.11 from any other heading, except from tariff item 7407.10.aa, 7407.21.aa or 7407.29.aa or heading 74.09.
74.12	A change to heading 74.12 from any other heading, except from heading 74.11.
74.13	A change to heading 74.13 from any other heading, except from heading 74.07 through 74.08; or A change to heading 74.13 from heading 74.07 through 74.08, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
74.15-74.18	A change to heading 74.15 through 74.18 from any other heading, including another heading within that group.
7419.10	A change to subheading 7419.10 from any other heading, except from heading 74.07.
7419.91	A change to subheading 7419.91 from any other heading.

7419.99	A change to a good of subheading 7419.99 from any other good within that subheading or any other heading.

Chapter 75 Nickel and Articles Thereof

75.01-75.04	A change to heading 75.01 through 75.04 from any other heading, including another heading within that group.
7505.11-7505.12	A change to subheading 7505.11 through 7505.12 from any other heading.
7505.21-7505.22	A change to subheading 7505.21 through 7505.22 from any other heading; or A change to subheading 7505.21 through 7505.22 from subheading 7505.11 through 7505.12, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.
75.06	
7506.10.aa	A change to tariff item 7506.10.aa from any other tariff item.
7506.20.aa	A change to tariff item 7506.20.aa from any other tariff item.
75.06	A change to heading 75.06 from any other heading.
7507.11-7508.90	A change to subheading 7507.11 through 7508.90 from any other subheading, including another subheading within that group.

Chapter 76 Aluminum and Articles Thereof

76.01	A change to heading 76.01 from any other chapter.
76.02	A change to heading 76.02 from any other heading.
76.03	A change to heading 76.03 from any other chapter.
76.04	A change to heading 76.04 from any other heading.
76.05	A change to heading 76.05 from any other heading, except from heading 76.04 or 76.06.
76.06	A change to heading 76.06 from any other heading.

76.07	A change to heading 76.07 from any other heading.
76.08-76.09	A change to heading 76.08 through 76.09 from any heading outside that group.
76.10-76.13	A change to heading 76.10 through 76.13 from any other heading, including another heading within that group.
76.14	A change to heading 76.14 from any other heading, except from heading 76.04 through 76.05.
76.15-76.16	A change to heading 76.15 through 76.16 from any other heading, including another heading within that group.

Chapter 78 Lead and Articles Thereof

78.01-78.02	A change to heading 78.01 through 78.02 from any other chapter.
7804.11-7804.20	A change to subheading 7804.11 through 7804.20 from any other subheading, including another subheading within that group; or A change to foil of a thickness not exceeding 0.15 mm (excluding backing) of subheading 7804.11 from within that subheading, whether or not there is also a change from any other subheading.
78.06	A change to a good of heading 78.06 from any other good within that heading or any other heading.

Chapter 79 Zinc and Articles Thereof

79.01-79.02	A change to heading 79.01 through 79.02 from any other chapter.
7903.10	A change to subheading 7903.10 from any other chapter.
7903.90	A change to subheading 7903.90 from any other heading.
79.04	A change to heading 79.04 from any other heading; or A change to wire of heading 79.04 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.
79.05	A change to heading 79.05 from any other heading; or

	A change to foil of a thickness not exceeding 0.15 mm (excluding backing) of heading 79.05 from within that heading, whether or not there is also a change from any other heading.
79.07	A change to a good of heading 79.07 from any other good within that heading or any other heading.

Chapter 80 Tin and Articles Thereof

80.01-80.02	A change to heading 80.01 through 80.02 from any other chapter.
80.03	A change to heading 80.03 from any other heading; or A change to wire of heading 80.03 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.
80.07	A change to a good of heading 80.07 from any other good within that heading or any other heading.

Chapter 81 Other Base Metals; Cermets; Articles Thereof

8101.10-8101.97	A change to subheading 8101.10 through 8101.97 from any other subheading, including another subheading within that group.
8101.99	A change to a good of subheading 8101.99 from any other good within that subheading or any other subheading.
8102.10-8107.90	A change to subheading 8102.10 through 8107.90 from any other subheading, including another subheading within that group.
8108.20	A change to subheading 8108.20 from any other chapter; or A change from any other subheading whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8108.30	A change to subheading 8108.30 from any other subheading.

8108.90	A change to subheading 8108.90 from any other chapter; or A change to subheading 8108.90 from any other subheading, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8109.20-8110.90	A change to subheading 8109.20 through 8110.90 from any other subheading, including another subheading within that group
81.11	A change to manganese powders or articles of manganese of heading 81.11 from any other good of heading 81.11; or A change to any other good of heading 81.11 from any other heading.
8112.12-8112.59	A change to subheading 8112.12 through 8112.59 from any other subheading, including another subheading within that group.
8112.92-8112.99:	A change to a good of any of subheading 8112.92 through 8112.99 from any other good within that subheading or any other subheading, including another subheading within that group.
81.13	A change to heading 81.13 from any other heading.

Chapter 82 Tools, Implements, Cutlery, Spoons and Forks, of Base Metal; Parts Thereof of Base Metal

82.01	A change to heading 82.01 from any other chapter.
8202.10-8202.20	A change to subheading 8202.10 through 8202.20 from any other chapter.
8202.31	A change to subheading 8202.31 from any other chapter; or A change to subheading 8202.31 from subheading 8202.39, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

8202.39-8202.99	A change to subheading 8202.39 through 8202.99 from any other chapter.
82.03-82.06	A change to heading 82.03 through 82.06 from any other chapter.
8207.13	A change to subheading 8207.13 from any other chapter; or A change to subheading 8207.13 from subheading 8207.19, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8207.19-8207.90	A change to subheading 8207.19 through 8207.90 from any other chapter.
82.08-82.10	A change to heading 82.08 through 82.10 from any other chapter.
8211.10	A change to subheading 8211.10 from any other chapter.
8211.91-8211.93	A change to subheading 8211.91 through 8211.93 from any other chapter; or A change to subheading 8211.91 through 8211.93 from subheading 8211.95, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8211.94-8211.95	A change to subheading 8211.94 through 8211.95 from any other chapter.
82.12-82.15	A change to heading 82.12 through 82.15 from any other chapter.

Chapter 83 Miscellaneous Articles of Base Metal

8301.10-8301.50[15]	A change to subheading 8301.10 through 8301.50 from any other chapter; or

[15] If the good provided for in subheading 8301.20 is for use in a motor vehicle of Chapter 87 as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	A change to subheading 8301.10 through 8301.50 from subheading 8301.60, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8301.60-8301.70	A change to subheading 8301.60 through 8301.70 from any other chapter.
83.02-83.04[16]	A change to heading 83.02 through 83.04 from any other heading, including another heading within that group.
8305.10-8305.20	A change to subheading 8305.10 through 8305.20 from any other chapter; or A change to subheading 8305.10 through 8305.20 from subheading 8305.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8305.90	A change to subheading 8305.90 from any other heading.
83.06-83.07	A change to heading 83.06 through 83.07 from any other chapter.
8308.10-8308.20	A change to subheading 8308.10 through 8308.20 from any other chapter; or A change to subheading 8308.10 through 8308.20 from subheading 8308.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8308.90	A change to subheading 8308.90 from any other heading.

[16] If the good provided for in subheading 8302.10 or 8302.30 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

83.09-83.10	A change to heading 83.09 through 83.10 from any other chapter.
8311.10-8311.30	A change to subheading 8311.10 through 8311.30 from any other chapter; or A change to subheading 8311.10 through 8311.30 from subheading 8311.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8311.90	A change to subheading 8311.90 from any other heading.

Section XVI - Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles (Chapter 84-85)

Chapter 84 Nuclear Reactors, Boilers, Machinery and Mechanical Appliances; Parts Thereof

Note 1: For purposes of this Chapter, the term “printed circuit assembly” means a good consisting of one or more printed circuits of heading 85.34 with one or more active elements assembled thereon, with or without passive elements. For purposes of this Note, “active elements” means diodes, transistors and similar semiconductor devices, whether or not photosensitive, of heading 85.41 and integrated circuits of heading 85.42 and microassemblies of heading 85.43 or 85.48.

Note 2: For purposes of subheading 8471.49, the origin of each unit presented within a system shall be determined in accordance with the rule that would be applicable to such unit if it were presented separately and the rate of duty applicable to each unit presented within a system shall be:

(a) in the case of Mexico, the rate that would be applicable to such unit if it were presented separately; and

(b) in the case of Canada and the United States, the rate that is applicable to such unit under the appropriate tariff item within subheading 8471.49.

For purposes of this Note, the term "unit presented within a system" shall mean:

(a) a separate unit as described in Note 5(B) to Chapter 84 of the Harmonized System; or
(b) any other separate machine that is presented and classified with a system under subheading 8471.49.

Note 3: The following are parts for those goods of subheading 8443.31 or 8443.32:

(a) control or command assemblies, incorporating more than one of the following: printed circuit assembly; hard or flexible (floppy) disc drive; keyboard; user interface;
(b) light source assemblies, incorporating more than one of the following: light emitting diode assembly; gas laser; mirror polygon assembly; base casting;
(c) laser imaging assemblies, incorporating more than one of the following: photoreceptor belt or cylinder; toner receptable unit; toner developing unit; charge/discharge unit; cleaning unit;
(d) image fixing assemblies, incorporating more than one of the following: fuser; pressure roller; heating element; release oil dispenser; cleaning unit; electrical control;
(e) ink-jet marking assemblies, incorporating more than one of the following: thermal print head; ink dispensing unit; nozzle and reservoir unit; ink heater;
(f) maintenance/sealing assemblies, incorporating more than one of the following: vacuum unit; ink-jet covering unit; sealing unit; purging unit;
(g) paper handling assemblies, incorporating more than one of the following: paper transport belt; roller; print bar; carriage; gripper roller; paper storage unit; exit tray;
(h) thermal transfer imaging assemblies, incorporating more than one of the following: thermal print head, cleaning unit; supply or take-up roller;
(i) ionographic imaging assemblies, incorporating more than one of the following: ion generation and emitting unit; air assist unit; printed circuit assembly; charge receptor belt or cyclinder; toner receptacle unit; toner distribution unit; developer receptacle and distribution unit; developing unit; charge/discharge unit; cleaning unit; or
(j) combinations of the above specified assemblies.

Note 4: The following are parts for facsimile machines:

(a) control or command assemblies, incorporating more than one of the following: printed circuit assembly; modem; hard or flexible (floppy) disc drive; keyboard; user interface;
(b) optics module assemblies, incorporating more than one of the following: optics lamp; charge couples device and appropriate optics; lenses; mirror;
(c) laser imaging assemblies, incorporating more than one of the following: photoreceptor belt or cylinder; toner receptacle unit; toner developing unit; charge/discharge unit; cleaning unit;

(d) ink-jet marking assemblies, incorporating more than one of the following: thermal print head; ink dispensing unit; nozzle and reservoir unit; ink heater;
(e) thermal transfer imaging assemblies, incorporating more than one of the following: thermal print head, cleaning unit; supply or take-up roller;
(f) ionographic imaging assemblies, incorporating more than one of the following: ion generation and emitting unit; air assist unit; printed circuit assembly; charge receptor belt or cyclinder; toner receptacle unit; toner distribution unit; developer receptacle and distribution unit; developing unit; charge/discharge unit; cleaning unit;
(g) image fixing assemblies, incorporating more than one of the following: fuser; pressure roller; heating element; release oil dispenser; cleaning unit; electrical control;
(h) paper handling assemblies, incorporating more than one of the following: paper transport belt; roller; print bar; carriage; gripper roller; paper storage unit; exit tray; or
(i) combinations of the above specified assemblies.

Note 5: The following are parts for photocopying apparatus of subheading 8443.32 and 8443.39 which refer to this Note:

(a) imaging assemblies, incorporating more than one of the following: photoreceptor belt or cylinder; toner receptacle unit; toner distribution unit; developer receptacle unit; developer distribution unit; charge/discharge unit; cleaning unit;
(b) optics assemblies, incorporating more than one of the following: lens; mirror; illumination source; document exposure glass;
(c) user control assemblies incorporating more than one of the following: printed circuit assembly; power supply; user input keyboard; wiring harness; display unit (cathode-ray type or flat panel);
(d) image fixing assemblies, incorporating more than one of the following: fuser; pressure roller; heating element; release oil dispenser; cleaning unit; electrical control;
(e) paper handling assemblies incorporating more than one of the following: paper transport belt; roller; print bar; carriage; gripper roller; paper storage unit; exit tray;
(f) or combinations of the above specified assemblies.

8401.10-8401.30 A change to subheading 8401.10 through 8401.30 from any other heading; or

A change to subheading 8401.10 through 8401.30 from subheading 8401.40, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8401.40 A change to subheading 8401.40 from any other heading.

8402.11-8402.20 A change to subheading 8402.11 through 8402.20 from any other heading; or

A change to subheading 8402.11 through 8402.20 from subheading 8402.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8402.90 A change to subheading 8402.90 from any other heading; or

No required change in tariff classification to subheading 8402.90, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8403.10 A change to subheading 8403.10 from any other heading; or

A change to subheading 8403.10 from subheading 8403.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8403.90 A change to subheading 8403.90 from any other heading.

8404.10-8404.20 A change to subheading 8404.10 through 8404.20 from any other heading; or

A change to subheading 8404.10 through 8404.20 from subheading 8404.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8404.90	A change to subheading 8404.90 from any other heading.
8405.10	A change to subheading 8405.10 from any other heading; or A change to subheading 8405.10 from subheading 8405.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8405.90	A change to subheading 8405.90 from any other heading.
8406.10	A change to subheading 8406.10 from any other subheading.
8406.81-8406.82	A change to subheading 8406.81 through 8406.82 from any subheading outside that group.
8406.90	A change to subheading 8406.90 from any other heading.
8406.90.aa	A change to tariff item 8406.90.aa from tariff item 8406.90.cc or any other heading; or A change to tariff item 8406.90.aa from any other good within subheading 8406.90, whether or not there is also a change from tariff item 8406.90.cc or any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8406.90.bb	A change to tariff item 8406.90.bb from any other tariff item; or No required change in tariff classification to tariff item 8406.90.bb, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8406.90	A change to subheading 8406.90 from any other heading.

8407.10 – 8407.34[17]	A change to subheading 8407.10 through 8407.34 from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8407.90[18]	A change to subheading 8407.90 from any other subheading.
8408.10[19]	A change to subheading 8408.10 from any other subheading.
8408.20[20]	A change to subheading 8408.20 from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8408.90[21]	A change to subheading 8408.90 from any other subheading.
8409.10	A change to subheading 8409.10 from any other heading.

[17] If the good is for use in a passenger vehicle or light truck as defined in the Appendix to this Annex, then Articles 3.2 and 3.3 of the Appendix shall apply. If the good is for use in a heavy truck as defined in the Appendix to this Annex, Articles 4.2 and 4.4 of the Appendix shall apply. If the good is for use in another vehicle of Chapter 87, Articles 10.1 and 10.2 of the Appendix to this Annex shall apply.

[18] If the good is for use in a passenger vehicle or light truck as defined in the Appendix to this Annex, then Articles 3.2 and 3.3 of the Appendix shall apply. If the good is for use in a heavy truck as defined in the Appendix to this Annex, Articles 4.2 and 4.4 of the Appendix shall apply. If the good is for use in another vehicle of Chapter 87, Articles 10.1 and 10.2 of the Appendix to this Annex shall apply.

[19] If the good is for use in a passenger vehicle or light truck as defined in the Appendix to this Annex, then Articles 3.2 and 3.3 of the Appendix shall apply. If the good is for use in a heavy truck as defined in the Appendix to this Annex, Articles 4.2 and 4.4 of the Appendix shall apply. If the good is for use in another vehicle of Chapter 87, Articles 10.1 and 10.2 of the Appendix to this Annex shall apply.

[20] If the good is for use in a passenger vehicle or light truck as defined in the Appendix to this Annex, then Articles 3.2 and 3.3 of the Appendix shall apply. If the good is for use in a heavy truck as defined in the Appendix to this Annex, Articles 4.2 and 4.4 of the Appendix shall apply. If the good is for use in another vehicle of Chapter 87, Articles 10.1 and 10.2 of the Appendix to this Annex shall apply.

[21] If the good is for use in a passenger vehicle or light truck as defined in the Appendix to this Annex, then Articles 3.2 and 3.3 of the Appendix shall apply. If the good is for use in a heavy truck as defined in the Appendix to this Annex, Articles 4.2 and 4.4 of the Appendix shall apply. If the good is for use in another vehicle of Chapter 87, Articles 10.1 and 10.2 of the Appendix to this Annex shall apply.

8409.91[22]	A change to subheading 8409.91 from any other heading; or No required change in tariff classification to subheading 8409.91, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8409.99[23]	A change to subheading 8409.99 from any other heading; or No required change in tariff classification to subheading 8409.99, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8410.11-8410.13	A change to subheading 8410.11 through 8410.13 from any other heading; or A change to subheading 8410.11 through 8410.13 from subheading 8410.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8410.90	A change to subheading 8410.90 from any other heading.
8411.11-8411.82	A change to subheading 8411.11 through 8411.82 from any subheading outside that group.
8411.91	A change to subheading 8411.91 from any other heading.
8411.99	A change to subheading 8411.99 from any other heading; or No required change in tariff classification to subheading 8411.99, provided there is a regional value content of not less than:

[22] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[23] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8412.10-8412.80	A change to subheading 8412.10 through 8412.80 from any other subheading, including another subheading within that group.
8412.90	A change to subheading 8412.90 from any other heading.
8413.11-8413.82[24]	A change to subheading 8413.11 through 8413.82 from any other heading; or A change to subheading 8413.11 through 8413.82 from subheading 8413.91 through 8413.92, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8413.91[25]	A change to subheading 8413.91 from any other heading.
8413.92	A change to subheading 8413.92 from any other heading; or No required change in tariff classification to subheading 8413.92, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8414.10-8414.20	A change to subheading 8414.10 through 8414.20 from any other heading; or A change to subheading 8414.10 through 8414.20 from subheading 8414.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

[24] If the good provided for in subheadings 8413.30 or 8413.50 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[25] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8414.30[26]	A change to subheading 8414.30 from any other subheading, except from tariff item 8414.90.aa.
8414.40	A change to subheading 8414.40 from any other heading; or A change to subheading 8414.40 from subheading 8414.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8414.51	A change to subheading 8414.51 from any other subheading.
8414.59-8414.80[27]	A change to subheadings 8414.59 through 8414.80 from any other heading; or A change to subheadings 8414.59 through 8414.80 from subheading 8414.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 per cent where the transaction value method is used, or (b) 50 per cent where the net cost method is used.
8414.90	A change to subheading 8414.90 from any other heading; or No required change in tariff classification to subheading 8414.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

[26] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[27] If the good provided for in subheading 8414.59 or 8414.80 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

8415.10	A change to self-contained window or wall type air conditioning machines of subheading 8415.10 from any other subheading, except from tariff item 8415.90.aa or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing; A change to "split-systems" of subheading 8415.10 from any other subheading, except from subheading 8415.20 through 8415.83, tariff item 8415.90.aa or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing; or A change to "split-systems" of subheading 8415.10 from tariff item 8415.90.aa or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing, whether or not there is also a change from subheading 8415.20 through 8415.83, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8415.20-8415.83[28]	A change to subheading 8415.20 through 8415.83 from any subheading outside that group, except from "split-systems" of subheading 8415.10, tariff item 8415.90.aa or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing; or A change to subheading 8415.20 through 8415.83 from tariff item 8415.90.aa or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing, whether or not there is also a change from any subheading outside that group, except from "split-systems" of subheading 8415.10, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8415.90[29]	
8415.90.aa	A change to tariff item 8415.90.aa from any other tariff item.

[28] If the good provided for in subheading 8415.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[29] If the good provided for in subheading 8415.90 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

8415.90	A change to subheading 8415.90 from any other heading.
8416.10-8416.30	A change to subheading 8416.10 through 8416.30 from any other heading; or A change to subheading 8416.10 through 8416.30 from subheading 8416.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8416.90	A change to subheading 8416.90 from any other heading.
8417.10-8417.80	A change to subheading 8417.10 through 8417.80 from any other heading; or A change to subheading 8417.10 through 8417.80 from subheading 8417.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8417.90	A change to subheading 8417.90 from any other heading.
8418.10-8418.21	A change to subheading 8418.10 through 8418.21 from any subheading outside that group, except from subheading 8418.91, tariff item 8418.99.aa or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing.
8418.29	A change to absorption-type electrical household refrigerators of subheading 8418.29 from any other heading; A change to absorption-type electrical household refrigerators of subheading 8418.29 from subheading 8418.91 through 8418.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used; or A change to any other good of subheading 8418.29 from any other subheading, except from subheading 8418.30, 8418.40 or 8418.91, door

	assemblies incorporating more than one of the following: inner panel, outer panel, insulation, hinges, handles of subheading 8418.99 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing.
8418.30-8418.40	A change to subheading 8418.30 through 8418.40 from any subheading outside that group, except from any good, other than absorption-type electrical household refrigerators, of subheading 8418.29 or 8418.91, door assemblies incorporating more than one of the following: inner panel, outer panel, insulation, hinges, handles of subheading 8418.99 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing.
8418.50-8418.69	A change to subheading 8418.50 through 8418.69 from any other heading; or A change to subheading 8418.50 through 8418.69 from subheading 8418.91 through 8418.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8418.91	A change to subheading 8418.91 from any other subheading.
8418.99	
8418.99.aa	A change to tariff item 8418.99.aa from any other tariff item.
8418.99	A change to subheading 8418.99 from any other heading.
8419.11-8419.89	A change to subheading 8419.11 through 8419.89 from any other heading; or A change to subheading 8419.11 through 8419.89 from subheading 8419.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8419.90	A change to subheading 8419.90 from any other heading; or

No required change in tariff classification to subheading 8419.90, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8420.10	A change to subheading 8420.10 from any other heading; or A change to subheading 8420.10 from subheading 8420.91 through 8420.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8420.91-8420.99	A change to subheading 8420.91 through 8420.99 from any other heading.
8421.11	A change to subheading 8421.11 from any other heading; or A change to subheading 8421.11 from subheading 8421.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8421.12	A change to subheading 8421.12 from any other subheading, except from tariff item 8421.91.aa, 8421.91.bb or 8537.10.aa.
8421.19-8421.39[30]	A change to subheading 8421.19 through 8421.39 from any other heading; or A change to subheading 8421.19 through 8421.39 from subheading 8421.91 through 8421.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8421.91	
8421.91.aa	A change to tariff item 8421.91.aa from any other tariff item.

[30] If the good provided for in subheading 8421.39 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

8421.91.bb	A change to tariff item 8421.91.bb from any other tariff item.
8421.91	A change to subheading 8421.91 from any other heading.
8421.99	A change to subheading 8421.99 from any other heading; or

No required change in tariff classification to subheading 8421.99, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8422.11	A change to subheading 8422.11 from any other subheading, except from tariff item 8422.90.aa, 8422.90.bb, 8537.10.aa or water circulation systems incorporating a pump, whether or not motorized, and auxiliary apparatus for controlling, filtering, or dispersing a spray.
8422.19-8422.40	A change to subheading 8422.19 through 8422.40 from any other heading; or A change to subheading 8422.19 through 8422.40 from subheading 8422.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8422.90	
8422.90.aa	A change to tariff item 8422.90.aa from any other tariff item.
8422.90.bb	A change to tariff item 8422.90.bb from any other tariff item.
8422.90	A change to subheading 8422.90 from any other heading.
8423.10-8423.89	A change to subheading 8423.10 through 8423.89 from any other heading; or A change to subheading 8423.10 through 8423.89 from subheading 8423.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or

	(b) 50 percent where the net cost method is used.
8423.90	A change to subheading 8423.90 from any other heading.
8424.10-8424.89	A change to subheading 8424.10 through 8424.89 from any other subheading, including another subheading within that group.
8424.90	A change to subheading 8424.90 from any other heading.
84.25-84.26[31]	A change to heading 84.25 through 84.26 from any other heading, including another heading within that group, except from heading 84.31; or A change to heading 84.25 through 84.26 from heading 84.31, whether or not there is also a change from any other heading, including another heading within that group, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8427.10	
8427.10.aa	A change to tariff item 8427.10.aa from any other heading, except from subheading 8431.20 or 8483.40 or heading 85.01; or A change to tariff item 8427.10.aa from subheading 8431.20 or 8483.40 or heading 85.01, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8427.10	A change to subheading 8427.10 from any other heading, except from subheading 8431.20; or

[31] If the good provided for in subheadings 8425.49 or 8426.91 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	A change to subheading 8427.10 from subheading 8431.20, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8427.20	A change to subheading 8427.20 from any other subheading.
8427.90	A change to subheading 8427.90 from any other heading, except from subheading 8431.20; or A change to subheading 8427.90 from subheading 8431.20, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8428.10-8430.69	A change to subheading 8428.10 through 8430.69 from any other subheading, including another subheading within that group.
8431.10-8431.49[32]	A change to subheading 8431.10 through 8431.49 from any other heading; or No required change in tariff classification to any of subheading 8431.10 through 8431.49, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8432.10-8432.80	A change to subheading 8432.10 through 8432.80 from any other subheading, including another subheading within that group.
8432.90	A change to subheading 8432.90 from any other heading.
8433.11-8433.60	A change to subheading 8433.11 through 8433.60 from any other subheading, including another subheading within that group.

[32] If the good provided for in subheading 8431.10 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

8433.90	A change to subheading 8433.90 from any other heading.
8434.10-8434.20	A change to subheading 8434.10 through 8434.20 from any other heading; or A change to subheading 8434.10 through 8434.20 from subheading 8434.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8434.90	A change to subheading 8434.90 from any other heading.
8435.10	A change to a good of subheading 8435.10 from any other good within that subheading or any other subheading.
8435.90	A change to subheading 8435.90 from any other heading.
8436.10–8436.80	A change to subheading 8436.10 through 8436.80 from any other subheading, including another subheading within that group.
8436.91-8436.99	A change to subheading 8436.91 through 8436.99 from any other heading.
8437.10-8437.80	A change to subheading 8437.10 through 8437.80 from any other heading; or A change to subheading 8437.10 through 8437.80 from subheading 8437.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8437.90	A change to subheading 8437.90 from any other heading.
8438.10-8438.80	A change to subheading 8438.10 through 8438.80 from any other heading; or A change to subheading 8438.10 through 8438.80 from subheading 8438.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8438.90	A change to subheading 8438.90 from any other heading.
8439.10-8439.30	A change to subheading 8439.10 through 8439.30 from any other heading; or A change to subheading 8439.10 through 8439.30 from subheading 8439.91 through 8439.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8439.91-8439.99	A change to subheading 8439.91 through 8439.99 from any other heading.
8440.10	A change to subheading 8440.10 from any other heading; or A change to subheading 8440.10 from subheading 8440.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8440.90	A change to subheading 8440.90 from any other heading.
8441.10-8441.80	A change to subheading 8441.10 through 8441.80 from any other heading; or A change to subheading 8441.10 through 8441.80 from subheading 8441.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8441.90	A change to subheading 8441.90 from any other heading; or No required change in tariff classification to subheading 8441.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

8442.30	A change to subheading 8442.30 from any other heading; or A change to subheading 8442.30 from subheading 8442.40 through 8442.50, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8442.40-8442.50	A change to subheading 8442.40 through 8442.50 from any other heading.
8443.11-8443.19	A change to subheading 8443.11 through 8443.19 from any other heading; or A change to subheading 8443.11 through 8443.19 from any other subheading within that group or subheading 8443.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used.
8443.31-8443.39	A change to a good of any of subheading 8443.31 through 8443.39 from any other good within that subheading or any other subheading, including another subheading within that group.
8443.91	A change to subheading 8443.91 from any other subheading; or A change to a good of subheading 8443.91 from any other good within that subheading, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used.
8443.99	A change to a good of subheading 8443.99 from any other good within that subheading or any other subheading.
84.44-84.47	A change to heading 84.44 through 84.47 from any heading outside that group, except from heading 84.48; or

	A change to heading 84.44 through 84.47 from heading 84.48, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8448.11-8448.19	A change to subheading 8448.11 through 8448.19 from any other heading; or A change to subheading 8448.11 through 8448.19 from subheading 8448.20 through 8448.59, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8448.20-8448.59	A change to subheading 8448.20 through 8448.59 from any other heading.
84.49	A change to heading 84.49 from any other heading.
8450.11-8450.20	A change to subheading 8450.11 through 8450.20 from any subheading outside that group, except from tariff item 8450.90.aa, 8450.90.bb, 8537.10.aa or washer assemblies incorporating more than one of the following: agitator, motor, transmission, clutch.
8450.90	
8450.90.aa	A change to tariff item 8450.90.aa from any other tariff item.
8450.90.bb	A change to tariff item 8450.90.bb from any other tariff item.
8450.90	A change to subheading 8450.90 from any other heading.
8451.10	A change to subheading 8451.10 from any other heading; or A change to subheading 8451.10 from subheading 8451.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

8451.21-8451.29	A change to subheading 8451.21 through 8451.29 from any subheading outside that group, except from tariff item 8451.90.aa or 8451.90.bb or subheading 8537.10.
8451.30-8451.80	A change to subheading 8451.30 through 8451.80 from any other heading; or A change to subheading 8451.30 through 8451.80 from subheading 8451.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8451.90	
8451.90.aa	A change to tariff item 8451.90.aa from any other tariff item.
8451.90.bb	A change to tariff item 8451.90.bb from any other tariff item.
8451.90	A change to subheading 8451.90 from any other heading.
8452.10-8452.30:	A change to subheading 8452.10 through 8452.30 from any other heading; or A change to subheading 8452.10 through 8452.30 from subheading 8452.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8452.90:	A change to subheading 8452.90 from any other heading.
8453.10-8453.80	A change to subheading 8453.10 through 8453.80 from any other heading; or A change to subheading 8453.10 through 8453.80 from subheading 8453.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8453.90	A change to subheading 8453.90 from any other heading.

8454.10-8454.30	A change to subheading 8454.10 through 8454.30 from any other heading; or A change to subheading 8454.10 through 8454.30 from subheading 8454.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8454.90	A change to subheading 8454.90 from any other heading.
8455.10-8455.22	A change to subheading 8455.10 through 8455.22 from any subheading outside that group, except from tariff item 8455.90.aa.
8455.30	A change to subheading 8455.30 from any other heading; or A change to subheading 8455.30 from subheading 8455.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8455.90	A change to subheading 8455.90 from any other heading.
8456.10	A change to subheading 8456.10 from any other heading, except from more than one of the following: - tariff item 8466.93.aa, - subheading 8537.10, - subheading 9013.20.
8456.20-8456.30	A change to subheading 8456.20 through 8456.30 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.

8456.90:	A change to water-jet cutting machinery of subheading 8456.90 from any other good within that subheading, subheading 8456.10 through 8456.30 or any other heading, except from subheading 8466.93 or heading 84.79; A change to water-jet cutting machinery of subheading 8456.90 from subheading 8466.93, whether or not there is also a change from any other good within subheading 8456.90, subheading 8456.10 through 8456.30 or any other heading, except from heading 84.79, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used; or A change to any other good of subheading 8456.90 from water-jet cutting machinery within that subheading or any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
84.57 84.59	A change to heading 84.57 from any other heading, except from heading or more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8458.11	A change to subheading 8458.11 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8458.19	A change to subheading 8458.19 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8458.91	A change to subheading 8458.91 from any other heading, except from more than one of the following:

	- subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8458.99	A change to subheading 8458.99 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8459.10	A change to subheading 8459.10 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8459.21	A change to subheading 8459.21 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10; or A change to subheading 8459.21 from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8459.29	A change to subheading 8459.29 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8459.31	A change to subheading 8459.31 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10; or

	A change to subheading 8459.31 from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8459.39	A change to subheading 8459.39 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8459.40-8459.51	A change to subheading 8459.40 through 8459.51 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10; or A change to subheading 8459.40 through 8459.51 from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8459.59	A change to subheading 8459.59 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8459.61	A change to subheading 8459.61 from any other heading, except from more than one of the following:

- subheading 8413.50 through 8413.60,
- tariff item 8466.93.aa,
- subheading 8501.32 or 8501.52,
- subheading 8537.10; or

A change to subheading 8459.61 from more than one of the following:

- subheading 8413.50 through 8413.60,
- tariff item 8466.93.aa,
- subheading 8501.32 or 8501.52,
- subheading 8537.10,

whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8459.69 A change to subheading 8459.69 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.

8459.70

8459.70.aa A change to tariff item 8459.70.aa from any other heading, except from more than one of the following:

- subheading 8413.50 through 8413.60,
- tariff item 8466.93.aa,
- subheading 8501.32 or 8501.52,
- subheading 8537.10; or

A change to tariff item 8459.70.aa from more than one of the following:

- subheading 8413.50 through 8413.60,
- tariff item 8466.93.aa,
- subheading 8501.32 or 8501.52,
- subheading 8537.10;

whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8459.70	A change to subheading 8459.70 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8460.11	A change to subheading 8460.11 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8460.19	A change to subheading 8460.19 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8460.21	A change to subheading 8460.21 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8460.29	A change to subheading 8460.29 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8460.31	A change to subheading 8460.31 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8460.39	A change to subheading 8460.39 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8460.40	
8460.40.aa	A change to tariff item 8460.40.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa,

	- subheading 8501.32 or 8501.52, - subheading 8537.10.
8460.40	A change to subheading 8460.40 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8460.90	
8460.90.aa	A change to tariff item 8460.90.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8460.90	A change to subheading 8460.90 from any other heading, except from tariff item 8466.93.aa or subheading 8501.32 or 8501.52.
8461.20	
8461.20.aa	A change to tariff item 8461.20.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8461.20	A change to subheading 8461.20 from any other heading, except from tariff item 8466.93.aa.
8461.30	
8461.30.aa	A change to tariff item 8461.30.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8461.30	A change to subheading 8461.30 from any other heading, except from tariff item 8466.93.aa.

8461.40	A change to subheading 8461.40 from any other heading, except from tariff item 8466.93.aa.
8461.50	
8461.50.aa	A change to tariff item 8461.50.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8461.50	A change to subheading 8461.50 from any other heading, except from tariff item 8466.93.aa.
8461.90	
8461.90.aa	A change to tariff item 8461.90.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.93.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8461.90	A change to subheading 8461.90 from any other heading, except from tariff item 8466.93.aa.
8462.10	A change to subheading 8462.10 from any other heading, except from tariff item 8466.94.aa or 8483.50.aa.
8462.21	A change to subheading 8462.21 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.94.aa, - tariff item 8483.50.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8462.29	A change to subheading 8462.29 from any other heading, except from tariff item 8466.94.aa or 8483.50.aa.

8462.31	A change to subheading 8462.31 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.94.aa, - tariff item 8483.50.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8462.39	A change to subheading 8462.39 from any other heading, except from tariff item 8466.94.aa or 8483.50.aa.
8462.41	A change to subheading 8462.41 from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.94.aa, - tariff item 8483.50.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8462.49	A change to subheading 8462.49 from any other heading, except from tariff item 8466.94.aa or 8483.50.aa.
8462.91	A change to subheading 8462.91 from any other heading.
8462.99	
8462.99.aa	A change to tariff item 8462.99.aa from any other heading, except from more than one of the following: - subheading 8413.50 through 8413.60, - tariff item 8466.94.aa, - tariff item 8483.50.aa, - subheading 8501.32 or 8501.52, - subheading 8537.10.
8462.99	A change to subheading 8462.99 from any other heading, except from tariff item 8466.94.aa or 8483.50.aa.
84.63	A change to heading 84.63 from any other heading, except from tariff item 8466.94.aa or 8483.50.aa or subheading 8501.32 or 8501.52.

84.64	A change to heading 84.64 from any other heading, except from subheading 8466.91; or A change to heading 84.64 from subheading 8466.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
84.65	A change to heading 84.65 from any other heading, except from subheading 8466.92; or A change to heading 84.65 from subheading 8466.92, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
84.66	A change to heading 84.66 from any other heading.
8467.11-8467.19	A change to subheading 8467.11 through 8467.19 from any other heading; or A change to subheading 8467.11 through 8467.19 from subheading 8467.91 or 8467.92, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8467.21-8467.29	A change to subheading 8467.21 through 8467.29 from any subheading outside that group, except from housings of subheading 8467.91 or 8467.99 or heading 85.01; or A change to subheading 8467.21 through 8467.29 from housings of subheading 8467.91 or 8467.99 or heading 85.01, whether or not there is also a change from any subheading outside that group, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

8467.81-8467.89	A change to subheading 8467.81 through 8467.89 from any other heading; or A change to subheading 8467.81 through 8467.89 from subheading 8467.91 or 8467.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8467.91-8467.99	A change to subheading 8467.91 through 8467.99 from any other heading.
8468.10-8468.80	A change to subheading 8468.10 through 8468.80 from any other heading; or A change to subheading 8468.10 through 8468.80 from subheading 8468.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8468.90	A change to subheading 8468.90 from any other heading.
84.69	A change to word-processing machines of heading 84.69 from any other heading, except from heading 84.73; or A change to word-processing machines of heading 84.69 from heading 84.73, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method; A change to any other good of heading 84.69 from any other heading, except from heading 84.73; or A change to any other good of heading 84.69 from heading 84.73, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
84.70	A change to heading 84.70 from any other heading, except from heading 84.73; or

A change to heading 84.70 from heading 84.73, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8471.30 A change to a good of subheading 8471.30 from any other good within that subheading or any other subheading, except from subheading 8471.41 through 8471.50.

8471.41 A change to a good of subheading 8471.41 from any other good within that subheading or any other subheading, except from subheading 8471.30 or 8471.49 through 8471.50.

8471.49

Note: The origin of each unit presented within a system shall be determined as though each unit were presented separately and were classified under the appropriate tariff provision for that unit.

8471.50 A change to analogue or hybrid automatic data processing machines of subheading 8471.50 from any other heading, except from heading 84.73; or

A change to analogue or hybrid automatic data processing machines of subheading 8471.50 from heading 84.73, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used; or

A change to any other good of subheading 8471.50 from analogue or hybrid automatic data processing machines of subheading 8471.50 or any other subheading, except from subheading 8471.30 through 8471.49.

8471.60 A change to subheading 8471.60 from any other subheading, except from subheading 8471.49.

8471.70 A change to subheading 8471.70 from any other subheading, except from subheading 8471.49.

8471.80

8471.80.aa	A change to tariff item 8471.80.aa from any other tariff item, except from subheading 8471.49.
8471.80.cc	A change to tariff item 8471.80.cc from any other tariff item, except from subheading 8471.49.
8471.80	A change to any other tariff item within subheading 8471.80 from tariff item 8471.80.aa or 8471.80.cc or any other subheading, except from subheading 8471.49.
8471.90	A change to subheading 8471.90 from any other subheading.
84.72	A change to heading 84.72 from any other heading, except from heading 84.73; or A change to heading 84.72 from heading 84.73, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8473.10	
8473.10.aa	A change to tariff item 8473.10.aa from any other heading.
8473.10.bb	A change to tariff item 8473.10.bb from any other heading; or No required change in tariff classification to tariff item 8473.10.bb, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8473.10	A change to subheading 8473.10 from any other heading.
8473.21	A change to subheading 8473.21 from any other heading; or No required change in tariff classification to subheading 8473.21, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

8473.29	A change to subheading 8473.29 from any other heading; or No required change in tariff classification to subheading 8473.29, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8473.30	
8473.30.aa	A change to tariff item 8473.30.aa from any other tariff item.
8473.30.bb	A change to tariff item 8473.30.bb from any other tariff item.
8473.30	A change to subheading 8473.30 from any other heading; or No required change in tariff classification to subheading 8473.30, provided there is a regional value content of not less than: (a) 60 per cent where the transaction value method is used, or (b) 50 per cent where the net cost method is used.
8473.40	A change to subheading 8473.40 from any other heading; or No required change in tariff classification to subheading 8473.40, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8473.50	
8473.50.aa	A change to tariff item 8473.50.aa from any other tariff item.
8473.50.bb	A change to tariff item 8473.50.bb from any other tariff item.
8473.50	Note: The alternative rule which contains a regional value content requirement does not apply to a part or accessory provided for in subheading 8473.50 if that part or accessory is used in the production of a good provided for in subheading 8469.11 or heading 84.71. A change to subheading 8473.50 from any other heading; or

	No required change in tariff classification to subheading 8473.50, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8474.10-8474.80	A change to subheading 8474.10 through 8474.80 from any other heading; or A change to subheading 8474.10 through 8474.80 from subheading 8474.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8474.90	A change to subheading 8474.90 from any other heading; or No required change in tariff classification to subheading 8474.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8475.10-8475.29	A change to subheading 8475.10 through 8475.29 from any other heading; or A change to subheading 8475.10 through 8475.29 from subheading 8475.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8475.90	A change to subheading 8475.90 from any other heading.
8476.21-8476.89	A change to subheading 8476.21 through 8476.89 from any other heading; or A change to subheading 8476.21 through 8476.89 from subheading 8476.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or

	(b) 50 percent where the net cost method is used.
8476.90	A change to subheading 8476.90 from any other heading.
8477.10	A change to subheading 8477.10 from any other subheading, except from tariff item 8477.90.aa or more than one of the following: - tariff item 8477.90.bb, - subheading 8537.10.
8477.20	A change to subheading 8477.20 from any other subheading, except from tariff item 8477.90.aa or more than one of the following: - tariff item 8477.90.bb, - subheading 8537.10.
8477.30	A change to subheading 8477.30 from any other subheading, except from tariff item 8477.90.aa or more than one of the following: - tariff item 8477.90.cc, - subheading 8537.10.
8477.40-8477.80	A change to subheading 8477.40 through 8477.80 from any other heading; or A change to subheading 8477.40 through 8477.80 from subheading 8477.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8477.90	A change to subheading 8477.90 from any other heading.
8478.10	A change to subheading 8478.10 from any other heading; or A change to subheading 8478.10 from subheading 8478.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8478.90	A change to subheading 8478.90 from any other heading.

8479.10–8479.82	A change to subheading 8479.10 through 8479.82 from any other subheading, including another subheading within that group.
8479.89[33]	A change to trash compactors of subheading 8479.89 from any other good within that subheading or any other subheading; or A change to any other good of subheading 8479.89 from any other subheading.
8479.90	
8479.90.aa	A change to tariff item 8479.90.aa from any other tariff item.
8479.90.bb	A change to tariff item 8479.90.bb from any other tariff item.
8479.90.cc	A change to tariff item 8479.90.cc from any other tariff item.
8479.90.dd	A change to tariff item 8479.90.dd from any other tariff item.
8479.90	A change to subheading 8479.90 from any other heading.
84.80	A change to heading 84.80 from any other heading.
8481.10-8481.30[34]	A change to subheading 8481.10 through 8481.30 from any other heading; or A change to subheading 8481.10 through 8481.30 from subheading 8481.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8481.40–8481.80[35]	A change to subheading 8481.40 through 8481.80 from any other heading; or

[33] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[34] If the good provided for in subheading 8481.20 or 8481.30 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[35] If the good provided for in subheading 8481.80 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	A change to subheading 8481.40 through 8481.80 from subheading 8481.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.
8481.90	A change to subheading 8481.90 from any other heading.
8482.10-8482.80[36]	A change to subheading 8482.10 through 8482.80 from any subheading outside that group, except from tariff item 8482.99.aa; or A change to subheading 8482.10 through 8482.80 from tariff item 8482.99.aa, whether or not there is also a change from any subheading outside that group, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8482.91-8482.99[37]	A change to subheading 8482.91 through 8482.99 from any other heading.
8483.10[38]	A change to subheading 8483.10 from any other heading; or A change to subheading 8483.10 from subheading 8483.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

[36] If the good provided for in subheadings 8482.10, 8482,20, 8482,30, 8482.40, 8482.50 or 8482.80 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[37] If the good provided for in subheading 8482.91 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[38] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

8483.20[39]	A change to subheading 8483.20 from any other subheading, except from subheading 8482.10 through 8482.80, tariff item 8482.99.aa, or subheading 8483.90; or A change to subheading 8483.20 from subheading 8482.10 through 8482.80, tariff item 8482.99.aa or subheading 8483.90, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8483.30[40]	A change to subheading 8483.30 from any other heading; or A change to subheading 8483.30 from subheading 8483.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8483.40 -8483.90[41]	A change to subheading 8483.40 through 8483.90 from any other subheading, including another subheading within that group.
84.84	A change to heading 84.84 from any other heading.
8486.10-8486.90	A change to a good of any of subheading 8486.10 through 8486.90 from any other good within that subheading or any other subheading, including another subheading within that group.
84.87	A change to heading 84.87 from any other heading.

Chapter 85 Electrical Machinery and Equipment and Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles

[39] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[40] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[41] If the good provided for in subheadings 8483.40, 8483.50, 8483.60 or 8483.90 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

Note 1: For purposes of this Chapter, the term “printed circuit assembly” means a good consisting of one or more printed circuits of heading 85.34 with one or more active elements assembled thereon, with or without passive elements. For purposes of this Note, “active elements” means diodes, transistors and similar semiconductor devices, whether or not photosensitive, of heading 85.41 and integrated circuits of heading 85.42 and microassemblies of heading 85.43 or 85.48.

Note 2: For purposes of this Chapter:

(a) references to "high definition" as it applies to television receivers and cathode-ray tubes refers to goods having
  (i) an aspect ratio of the screen equal to or greater than 16:9, and
  (ii) a viewing screen capable of displaying more than 700 scanning lines; and
(b) the video display diagonal is determined by measuring the maximum straight line dimension across the visible portion of the face plate used for displaying video.

Note 3: Tariff item 8529.90.cc covers the following parts of television receivers, video monitors and video projectors:

(a) Video intermediate (IF) amplifying and detecting systems;
(b) Video processing and amplification systems;
(c) Synchronizing and deflection circuitry;
(d) Tuners and tuner control systems;
(e) Audio detection and amplification systems.

Note 4: For purposes of tariff item 8540.91.aa, the term "front panel assembly" refers to:

(a) with respect to a monochrome cathode-ray television picture tube, video monitor tube or video projector tube, an assembly which consists of either a glass panel or a glass envelope, which is suitable for incorporation into a monochrome cathode-ray television picture tube, video monitor tube or video projector tube and which has undergone the necessary chemical and physical processes for imprinting phosphors on the glass panel or glass envelope with sufficient precision to render a video image when excited by a stream of electrons; or.
(b) with respect to a color cathode-ray television picture tube, video monitor tube or video projector tube, an assembly which consists of a glass panel and a shadow mask or aperture grille, attached for ultimate use, which is suitable for incorporation into a color cathode-ray television picture tube, video monitor tube or video projector tube and which has undergone the necessary chemical and physical processes for imprinting phosphors on the glass panel with sufficient precision to render a video image when excited by a stream of electrons.

Note 5: The origin of a television combination unit shall be determined in accordance with the rule that would be applicable to such unit if it were solely a television receiver.

85.01[42]	A change to heading 85.01 from any other heading, except from tariff item 8503.00.aa; or A change to heading 85.01 from tariff item 8503.00.aa, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
85.02	A change to heading 85.02 from any other heading, except from heading 84.06, 84.11, 85.01 or 85.03; or A change to heading 85.02 from heading 84.06, 84.11, 85.01 or 85.03, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
85.03	A change to heading 85.03 from any other heading.
8504.10	A change to subheading 8504.10 from any other subheading.

8504.21-8504.34

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2025 or five years after entry into force of this Agreement, whichever is later

8504.21-8504.34	A change to subheading 8504.21 through 8504.34 from any other heading; or A change to subheading 8504.21 through 8504.34 from subheading 8504.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or

[42] If the good provided for in subheading 8501.10, 8501.20, or 8501.31 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply. If the good provided for in subheadings 8501.32 or 8501.33 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

(b) 50 percent where the net cost method is used.

Beginning on January 1 2025 or five years after entry into force of this Agreement, whichever is later, and thereafter

8504.21-8504.34	A change to subheadings 8504.21 through 8504.34 from any other heading except from headings 72.25, 72.26, or 73.26; or No required change in tariff classification to subheadings 8504.21 through 8504.34 provided there is a regional value content of not less than: (a) 65 percent where the transaction value method is used, or (b) 55 percent where the net cost method is used.

8504.40

8504.40.aa	A change to tariff item 8504.40.aa from any other subheading, except from subheading 8471.49.
8504.40.bb	A change to tariff item 8504.40.bb from any other subheading.
8504.40	A change to subheading 8504.40 from any other subheading.

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8504.50	A change to subheading 8504.50 from any other heading; or A change to subheading 8504.50 from subheading 8504.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

8504.90

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2025 or five years after entry into force of this Agreement, whichever is later

8504.90

8504.90.aa	A change to tariff item 8504.90.aa from any other tariff item.
8504.90.bb	A change to tariff item 8504.90.bb from any other tariff item.
8504.90	A change to subheading 8504.90 from any other heading; or

No required change in tariff classification to subheading 8504.90, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

Beginning on January 1 2025 or five years after entry into force of this Agreement, whichever is later, and thereafter

8504.90	A change to subheading 8504.90 from any other heading except from headings 72.25, 72.26, or 73.26; or No required change in tariff classification provided there is a regional value content of not less than: (a) 65 percent where the transaction value method is used, or (b) 55 percent where the net cost method is used.
8505.11-8505.20	
8505.11-8505.20[43]	A change to subheading 8505.11 through 8505.20 from any other heading; or A change to subheading 8505.11 through 8505.20 from subheading 8505.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8505.90[44]	A change to subheading 8505.90 from any other heading; or No required change in tariff classification to subheading 8505.90, provided there is a regional value content of not less than:

[43] If the good provided for in subheading 8505.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[44] If the good is for use in a vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8506.10–8506.40	A change to subheading 8506.10 through 8506.40 from any other subheading, including another subheading within that group.
8506.50–8506.80	A change to subheading 8506.50 through 8506.80 from any subheading outside that group.
8506.90	A change to a good of subheading 8506.90 from within that subheading or any other subheading.
8507.10-8507.50[45]	A change to subheading 8507.10 through 8507.80 from any other heading, except from tariff item 8548.10.aa, or A change to subheading 8507.10 through 8507.80 from subheading 8507.90, whether or not there is also a change from any other heading, except from tariff item 8548.10.aa, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8507.60[46]	A change to a battery of a kind used as the primary source of electrical power for the propulsion of an electric passenger vehicle or light truck from any other subheading, excluding battery cells under 8507.90; or No change in tariff classification required for a battery used as the primary source of electrical power for the propulsion of an electric passenger vehicle or light truck provided that the regional value content is (a) 85 percent where the transaction value method is used, or (b) 75 percent where the net cost method is used; or A change to any other good of subheading 8507.60 from any other heading; or

[45] If the good provided for in subheading 8507.10, 8507.20, 8507.30, 8507.40, 8507.50, or 8507.80 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply. If the good provided for in subheading 8507.60 is for use in a motor vehicle of Chapter 87 as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[46] If the good is for use in a passenger vehicle or light truck of Chapter 87 as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	A change to any other good of subheading 8507.60 from subheading 8507.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used
8507.90[47]	A change to subheading 8507.90 from any other heading, except from tariff item 8548.10.aa; or No required change in tariff classification to subheading 8507.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8508.11	A change to subheading 8508.11 from any other subheading, except from heading 85.01, subheading 8508.19 or housings of subheading 8508.70; or A change to subheading 8508.11 from heading 85.01, subheading 8508.19 or housings of subheading 8508.70, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used.
8508.19	A change to domestic vacuum cleaners of subheading 8508.19 from any other subheading, except from heading 85.01, subheading 8508.11 or housings of subheading 8508.70; or A change to domestic vacuum cleaners of subheading 8508.19 from heading 85.01, subheading 8508.11 or housings of subheading 8508.70, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used;

[47] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

	A change to any other good of subheading 8508.19 from any other heading, except from heading 84.79; or A change to any other good of subheading 8508.19 from subheading 8508.70, whether or not there is also a change from any other heading, except from heading 84.79, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used.
8508.60	A change to subheading 8508.60 from any other heading, except from heading 84.79; or A change to subheading 8508.60 from subheading 8508.70, whether or not there is also a change from any other heading, except from heading 84.79, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used.
8508.70	A change to parts of domestic vacuum cleaners of subheading 8508.70 from any other heading, except from heading 85.09; or No required change in tariff classification to parts of domestic vacuum cleaners of subheading 8508.70, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used; or (b) 50 percent where the net cost method is used; or A change to any other good of subheading 8508.70 from parts of domestic vacuum cleaners of subheading 8508.70 or any other heading, except from heading 84.79.
8509.40	A change to subheading 8509.40 from any other subheading.
8509.80	A change to a good of subheading 8509.80 from any other good within that subheading or any other subheading.
8509.90	A change to subheading 8509.90 from any other heading; or No required change in tariff classification to subheading 8509.90, provided there is a regional value content of not less than:

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8510.10-8510.30	A change to subheading 8510.10 through 8510.30 from any other heading; or A change to subheading 8510.10 through 8510.30 from subheading 8510.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8510.90	A change to subheading 8510.90 from any other heading.
8511.10–8511.80[48]	A change to subheading 8511.10 through 8511.80 from any other subheading, including another subheading within that group.
8511.90[49]	A change to subheading 8511.90 from any other heading; or No required change in tariff classification to subheading 8511.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8512.10-8512.40[50]	A change to subheading 8512.10 through 8512.40 from any other heading; or A change to subheading 8512.10 through 8512.40 from subheading 8512.90, whether or not there is also a change from any other heading, provided there is also a regional value content of not less than:

[48] If the good provided for in subheading 8511.10, 8511.20, or 8511.30 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply. If the good provided for in subheadings 8511.40, 8511.50 or 8511.80 is for use in a motor vehicle of Chapter 87 as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[49] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[50] If the good provided for in subheadings 8512.20, 8512.30, or 8512.40 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8512.90[51]	A change to subheading 8512.90 from any other heading.
8513.10	A change to subheading 8513.10 from any other heading; or A change to subheading 8513.10 from subheading 8513.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8513.90	A change to subheading 8513.90 from any other heading.
8514.10-8514.30	A change to subheading 8514.10 through 8514.30 from any other subheading, including another subheading within that group.
8514.40	A change to subheading 8514.40 from any other heading; or A change to subheading 8514.40 from subheading 8514.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8514.90	A change to subheading 8514.90 from any other heading; or No required change in tariff classification to subheading 8514.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8515.11-8515.80	A change to subheading 8515.11 through 8515.80 from any other heading; or

[51] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

	A change to subheading 8515.11 through 8515.80 from subheading 8515.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8515.90	A change to subheading 8515.90 from any other heading.
8516.10-8516.80	A change to subheading 8516.10 through 8516.80 from any other subheading, including another subheading within that group.
8516.90	
8516.90.cc	A change to tariff item 8516.90.cc from any other tariff item.
8516.90.dd	A change to tariff item 8516.90.dd from any other tariff item.
8516.90.ee	A change to tariff item 8516.90.ee from any other tariff item.
8516.90.ff	A change to tariff item 8516.90.ff from any other tariff item.
8516.90.gg	A change to tariff item 8516.90.gg from any other tariff item.
8516.90	A change to subheading 8516.90 from any other heading; or No required change in tariff classification to subheading 8516.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8517.11	A change to subheading 8517.11 from any other subheading.
8517.12-8517.61	A change to subheading 8517.12 through 8517.61 from any other subheading, including another subheading within that group.
8517.62-8517.70	A change to a good of any of subheading 8517.62 through 8517.70 from any other good within that subheading or any other subheading, including another subheading within that group.
8518.10-8518.30	A change to a good of any of subheading 8518.10 through 8518.30 from any other good within that subheading or any other subheading, including another subheading within that group.

8518.40-8518.50[52]	A change to subheading 8518.40 through 8518.50 from any other heading; or A change to subheading 8518.40 through 8518.50 from subheading 8518.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8518.90	A change to subheading 8518.90 from any other heading; or A change to subheading 8518.90 from any other subheading within heading 85.18, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 30 percent where the transaction value method is used, or (b) 25 percent where the net cost method is used.
8519.20-8519.89[53]	A change to a good of any of subheading 8519.20 through 8519.89 from any other good within that subheading or any other subheading, including another subheading within that group.
8521.10-8521.90	A change to subheading 8521.10 through 8521.90 from any other subheading, including another subheading within that group, except from tariff item 8522.90.aa.
85.22	A change to heading 85.22 from any other heading.
8523.21-8523.51	A change to a good of any of subheading 8523.21 through 8523.51 from any other good within that subheading or any other subheading, including another subheading within that group.
8523.52	Note: Notwithstanding Article 4.18 (Transit and Transshipment), "smart cards" of subheading 8523.52 qualifying under the rule below as an originating good may undergo further production outside the territory of the Parties and, when imported into the territory of a Party, will originate

[52] If the good provided for in subheading 8518.40 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[53] If the good provided for in subheading 8519.81 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	in the territory of a Party, provided that such further production did not result in a change to any other subheading. No required change in tariff classification to "smart cards" which contain a single integrated circuit or parts of such "smart cards" of subheading 8523.52; A change to other "smart cards" of subheading 8523.52 from any other good of subheading 8523.52, except from parts of other "smart cards" of subheading 8523.52, or any other heading; or A change to other "smart cards" of subheading 8523.52 from parts of other "smart cards" of subheading 8523.52, whether or not there is also a change from any other good of subheading 8523.52 or any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used. A change to parts of other "smart cards" of subheading 8523.52 from any other heading; or No required change in tariff classification to parts of other "smart cards" of subheading 8523.52, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8523.59-8523.80	A change to a good of any of subheading 8523.59 through 8523.80 from any other good within that subheading or any other subheading, including another subheading within that group.
8525.50-8525.60	A change to subheading 8525.50 through 8525.60 from any subheading outside that group, provided that, with respect to printed circuit assemblies (PCAs) of subheading 8529.90: (a) except as provided in subparagraph (b), for each multiple of nine PCAs, or any portion thereof, that is contained in the good, only one PCA may be a non-originating PCA; and (b) if the good contains less than three PCAs, all of the PCAs must be originating PCAs.

8525.80[54]	A change to gyrostabilized television cameras of subheading 8525.80 from any other good of subheading 8525.80 or any other subheading, except from studio television cameras, other than shoulder-carried cameras and other portable cameras, of subheading 8525.80; A change to other television cameras of subheading 8525.80 from any other good of subheading 8525.80 or any other subheading, except from gyrostabilized television cameras of subheading 8525.80; or A change to any other good of subheading 8525.80 from television cameras of subheading 8525.80 or any other subheading.
8526.10–8526.92[55]	A change to subheading 8526.10 through 8526.92 from any other subheading, including another subheading within that group.
8527.12-8527.99[56]	A change to subheading 8527.12 through 8527.99 from any other subheading, including another subheading within that group, except from printed circuit assemblies (PCAs) of subheading 8529.90.
85.28[57]	A change to heading 85.28 from any other heading; or No tariff change is required provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8529.10[58]	A change to subheading 8529.10 from any other heading; or

[54] If the good provided for in subheading 8525.80 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[55] If the good provided for in subheadings 8526.91 or 8526.92 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[56] If the good provided for in subheading 8527.21 or 8527.29 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[57] If the good provided for in subheading 8528.59 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[58] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

	No required change in tariff classification to subheading 8529.10, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8529.90[59]	A change of subheading 8529.90 from any other good within the same subheading; or No required change in tariff classification to subheading 8529.90, provided there is a regional value content of not less than: (a) 40 percent where the transaction value method is used, or (b) 30 percent where the net cost method is used.
8530.10-8530.80	A change to subheading 8530.10 through 8530.80 from any other heading; or A change to subheading 8530.10 through 8530.80 from subheading 8530.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8530.90	A change to subheading 8530.90 from any other heading; or No required change in tariff classification to subheading 8530.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8531.10	A change to subheading 8531.10 from any other subheading.
8531.20	A change to a good of subheading 8531.20 from any other good within that subheading or any other subheading.
8531.80[60]	A change to subheading 8531.80 from any other subheading.

[59] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[60] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

8531.90	A change to a good of subheading 8531.90 from any other good within that subheading or any other subheading.
8532.10-8532.90	A change to a good of any of subheading 8532.10 through 8532.90 from any other good within that subheading or any other subheading, including another subheading within that group.
8533.10-8533.39	A change to subheading 8533.10 through 8533.39 from any other subheading, including another subheading within that group.
8533.40	A change to subheading 8533.40 from any other subheading, except from tariff item 8533.90.aa.
8533.90	A change to a good of subheading 8533.90 from any other good within that subheading or any other subheading.
85.34	A change to heading 85.34 from any other heading.
85.35	
8535.90.aa	A change to tariff item 8535.90.aa from any other tariff item, except from tariff item 8538.90.aa; or A change to tariff item 8535.90.aa from tariff item 8538.90.aa, whether or not there is also a change from any other tariff item, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
85.35	A change to heading 85.35 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or A change to heading 85.35 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.10-8536.20	A change to subheading 8536.10 through 8536.20 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or

	A change to subheading 8536.10 through 8536.20 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.30	
8536.30.aa	A change to tariff item 8536.30.aa from any other tariff item, except from tariff item 8538.90.aa; or A change to tariff item 8536.30.aa from tariff item 8538.90.aa, whether or not there is also a change from any other tariff item, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.30	A change to any other good of subheading 8536.30 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or A change to any other good of subheading 8536.30 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.41-8536.49[61]	A change to subheading 8536.41 through 8536.49 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or A change to subheading 8536.41 through 8536.49 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

[61] If the good provided for in subheading 8536.41 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

8536.50[62]

8536.50.aa	A change to tariff item 8536.50.aa from any other tariff item, except from tariff item 8538.90.aa; or A change to tariff item 8536.50.aa from tariff item 8538.90.aa, whether or not there is also a change from any other tariff item, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.50	A change to any other good of subheading 8536.50 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or A change to any other good of subheading 8536.50 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.61-8536.69	A change to subheading 8536.61 through 8536.69 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or A change to subheading 8536.61 through 8536.69 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8536.70	A change to plastic connectors of subheading 8536.70 from any other good of subheading 8536.70 or any other subheading, except from heading 39.26, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

[62] If the good provided for in subheading 8536.50 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	A change to ceramic connectors of subheading 8536.70 from any other good of subheading 8536.70 or any other subheading, except from Chapter 69; or A change to copper connectors of subheading 8536.70 from any other good of subheading 8536.70 or any other subheading, except from heading 74.19.
8536.90[63]	A change to subheading 8536.90 from any other heading, except from tariff item 8538.90.bb or 8538.90.cc; or A change to subheading 8536.90 from tariff item 8538.90.bb or 8538.90.cc, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
85.37[64]	A change to heading 85.37 from any other heading, except from printed circuit assemblies of subheading 8538.90 or moulded parts of subheading 8538.90; or A change to heading 85.37 from printed circuit assemblies of subheading 8538.90 or moulded parts of subheading 8538.90 or, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 50 percent where the transaction value method is used, or (b) 40 percent where the net cost method is used.
8538.10-8538.90	A change to subheadings 8538.10 through 8538.90 from any other heading; or A change to subheadings 8538.10 through 8538.90 from any other subheading within that group, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

[63] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[64] If the good provided for in subheading 8537.10 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8539.10 – 8539.49[65]	A change to subheading 8539.10 through 8539.49 from any other subheading, except from any subheading within that group.
8539.90	A change to subheading 8539.90 from any other heading.
8540.11	
8540.11.aa	A change to tariff item 8540.11.aa from any other subheading, except from more than one of the following: - tariff item 7011.20.aa, - tariff item 8540.91.aa.
8540.11.bb	A change to tariff item 8540.11.bb from any other subheading, except from more than one of the following: - tariff item 7011.20.aa, - tariff item 8540.91.aa.
8540.11.cc	A change to tariff item 8540.11.cc from any other subheading, except from tariff item 8540.91.aa.
8540.11.dd	A change to tariff item 8540.11.dd from any other subheading, except from tariff item 8540.91.aa.
8540.11	A change to subheading 8540.11 from any other heading; or A change to subheading 8540.11 from subheading 8540.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8540.12	

[65] If the good provided for in subheading 8539.10 or 8539.21 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

Note: The following rule applies to a good of tariff item 8540.12.aa incorporating a glass panel referred to in subparagraph (b) of Note 5 of Chapter 85 and a glass cone provided for in tariff item 7011.20.aa:

8540.12.aa	A change to tariff item 8540.12.aa from any other subheading, except from more than one of the following: a. tariff item 7011.20.aa, b. tariff item 8540.91.aa.

Note: The following rule applies to a good of tariff item 8540.12.aa incorporating a glass envelope referred to in subparagraph (b) of Note 5 of Chapter 85:

8540.12.aa	A change to tariff item 8540.12.aa from any other subheading, except from tariff item 8540.91.aa.
8540.12.bb	A change to tariff item 8540.12.bb from any other subheading, except from tariff item 8540.91.aa.
8540.12	A change to subheading 8540.12 from any other heading; or A change to subheading 8540.12 from subheading 8540.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8540.20	A change to subheading 8540.20 from any other heading; or A change to subheading 8540.20 from subheading 8540.91 through 8540.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8540.40–8540.60	A change to subheading 8540.40 through 8540.60 from any subheading outside that group.
8540.71-8540.89	A change to subheading 8540.71 through 8540.89 from any other subheading, including another subheading within that group.

8540.91	
8540.91.aa	A change to tariff item 8540.91.aa from any other tariff item.
8540.91	A change to subheading 8540.91 from any other heading; or No required change in tariff classification to subheading 8540.91, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8540.99	
8540.99.aa	A change to tariff item 8540.99.aa from any other tariff item.
8540.99	A change to subheading 8540.99 from any other heading; or No required change in tariff classification to subheading 8540.99, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8541.10-8542.90	Note: Notwithstanding Article 411 (Transshipment), a good provided for in subheading 8541.10 through 8541.60 or 8542.10 through 8542.39 qualifying under the rule below as an originating good may undergo further production outside the territory of the Parties and, when imported into the territory of a Party, will originate in the territory of a Party, provided that such further production did not result in a change to a subheading outside of that group. No required change in tariff classification to subheading 8541.10 through 8542.90.
8543.10	A change to subheading 8543.10 from any other subheading, except from subheading 8486.20.
8543.20 –8543.30	A change to subheading 8543.20 through 8543.30 from any other subheading, including another subheading within that group.

8543.70[66]	A change to subheading 8543.70 from any other subheading, except from "smart" cards, other than those containing a single integrated circuit, of subheading 8523.59.
8543.90	Note: Notwithstanding Article 4.18 (Transit and Transshipment), electronic microassemblies of subheading 8543.90 qualifying under the rule below as an originating good may undergo further production outside the territory of the Parties and, when imported into the territory of a Party, will originate in the territory of a Party, provided that such further production did not result in a change to any other subheading. No required change in tariff classification to electronic microassemblies of subheading 8543.90; A change to any other good of subheading 8543.90 from electronic microassemblies of subheading 8543.90 or any other heading; or No required change in tariff classification to any other good of subheading 8543.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8544.11-8544.60[67]	A change to subheading 8544.11 through 8544.60 from any subheading outside that group, except from heading 74.08, 74.13, 76.05 or 76.14; or A change to subheading 8544.11 through 8544.60 from any other subheading within that group or heading 74.08, 74.13, 76.05 or 76.14, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8544.70	A change to subheading 8544.70 from any other subheading, except from heading 70.02 or 90.01; or

[66] If the good provided for in subheading 8543.70 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[67] If the good provided for in subheading 8544.30 or 8544.42 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

	A change to subheading 8544.70 from heading 70.02 or 90.01, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8545.11–8545.90[68]	A change to subheading 8545.11 through 8545.90 from any other subheading, including another subheading within that group.
85.46	A change to heading 85.46 from any other heading.
8547.10–8547.90	A change to subheading 8547.10 through 8547.90 from any other subheading, including another subheading within that group.
8548.10	A change to subheading 8548.10 from any other chapter.
8548.90	Note: Notwithstanding Article 4.18 (Transit and Transshipment), electronic microassemblies of subheading 8548.90 qualifying under the rule below as an originating good may undergo further production outside the territory of the Parties and, when imported into the territory of a Party, will originate in the territory of a Party, provided that such further production did not result in a change to any other subheading. No required change in tariff classification to electronic microassemblies of subheading 8548.90; or A change to any other good of subheading 8548.90 from electronic microassemblies of subheading 8548.90 or any other heading.

Section XVII - Vehicles, Aircraft, Vessels and Associated Transport Equipment (Chapter 86-89)

<u>Chapter 86 Railway or Tramway Locomotives, Rolling-Stock and Parts Thereof; Railway or Tramway Track Fixtures and Fittings and Parts Thereof; Mechanical (Including Electro-Mechanical) Traffic Signalling Equipment of all Kinds</u>

86.01-86.02	A change to heading 86.01 through 86.02 from any other heading, including another heading within that group.

[68] If the good provided for in subheading 8545.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

86.03-86.06 A change to heading 86.03 through 86.06 from any other heading, including another heading within that group, except from heading 86.07; or

A change to heading 86.03 through 86.06 from heading 86.07, whether or not there is also a change from any other heading, including another heading within that group, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8607

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2023 or three years after entry into force of this Agreement, whichever is later:

8607.11-8607.12 A change to subheading 8607.11 through 8607.12 from any subheading outside that group.

8607.19

8607.19.aa A change to tariff item 8607.19.aa from any other heading; or

A change to tariff item 8607.19.aa from tariff item 8607.19.bb, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8607.19.cc A change to tariff item 8607.19.cc from any other heading; or

A change to tariff item 8607.19.cc from tariff item 8607.19.bb or 8607.19.dd, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8607.19 A change to subheading 8607.19 from any other heading.

8607.21-8607.99	A change to subheading 8607.21 through 8607.99 from any other heading; or No required change in tariff classification to subheading 8607.21 through 8607.99, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

Beginning on January 1 2023 or three years after entry into force of this Agreement, whichever is later, and thereafter:

8607.11-8607.12	A change to subheadings 8607.11 through 8607.12 from any other heading, except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or A change to subheading 8607.11 through 8607.12 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or No change in tariff classification is required provided that there is a regional value content of not less than: (a) 70 percent where the transaction value method is used, or (b) 60 percent where the net cost method is used.
8607.19	
8607.19.aa	A change to tariff item 8607.19.aa from any other heading; or A change to tariff item 8607.19.aa from tariff item 8607.19.bb, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8607.19.cc	A change to tariff item 8607.19.cc from any other heading; or

A change to tariff item 8607.19.cc from tariff item 8607.19.bb or 8607.19.dd, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8607.19 A change to subheading 8607.19 from any other heading.

8607.21 A change to subheading 8607.21 from any other heading; or

No required change in tariff classification to subheading 8607.21, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8607.29 A change to subheading 8607.29 from any other heading, except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or

A change to subheading 8607.29 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or

No change in tariff classification is required provided that there is a regional value content of not less than:

(a) 70 percent where the transaction value method is used, or
(b) 60 percent where the net cost method is used.

8607.30 A change to subheading 8607.30 from any other heading; or

No required change in tariff classification to any of subheading 8607.30, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

8607.91

A change to subheading 8607.91 from any other heading, except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or

A change to subheading 8607.91 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70 percent by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or

No change in tariff classification is required provided that there is a regional value content of not less than:

(a) 70 percent where the transaction value method is used, or
(b) 60 percent where the net cost method is used

8607.99 A change to subheading 8607.99 from any other heading; or

No required change in tariff classification to any of subheading 8607.99, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

86.08

86.08 A change to heading 86.08 from any other heading, including another heading within that group.

86.09

Beginning on January 1 2020 or the date of entry into force of the Agreement, whichever is later, until January 1 2023 or three years after entry into force of this Agreement, whichever is later

86.09 A change to heading 86.09 from any other heading, including another heading within that group.

Beginning on January 1 2023 or three years after entry into force of this Agreement, whichever is later, and thereafter

86.09 A change to heading 86.09 from any other heading, except from headings 72.08 through 72.29 or headings 73.01 through 73.26; or

A change to heading 86.09 from headings 72.08 through 72.29 or headings 73.01 through 73.26, provided that at least 70% by weight of the inputs of headings 72.08 through 72.29 and headings 73.01 through 73.26 is originating; or

No change in tariff classification is required provided that there is a regional value content of not less than:

(a) 70 percent where the transaction value method is used, or
(b) 60 percent where the net cost method is used

Chapter 87 Vehicles Other Than Railway or Tramway Rolling-Stock, and Parts and Accessories Thereof

The product-specific rules for a good of headings 8701-8708 are in Appendix 4-B: Provisions Related to the Product-Specific Rules of Origin for Automotive Goods

8709.11-8709.19	A change to subheading 8709.11 through 8709.19 from any other heading; or A change to subheading 8709.11 through 8709.19 from subheading 8709.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8709.90	A change to subheading 8709.90 from any other heading.
87.10	A change to heading 87.10 from any other heading.
87.11-87.13	A change to heading 87.11 through 87.13 from any other heading, including another heading within that group, except from heading 87.14; or A change to heading 87.11 through 87.13 from heading 87.14, whether or not there is also a change from any other heading, including another heading within that group, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
87.14-87.15	A change to heading 87.14 through 87.15 from any other heading, including another heading within that group.

8716.10-8716.80	A change to subheading 8716.10 through 8716.80 from any other heading; or A change to subheading 8716.10 through 8716.80 from subheading 8716.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
8716.90[69]	A change to subheading 8716.90 from any other heading; or No required change in tariff classification to subheading 8716.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

Chapter 88 Aircraft, Spacecraft, and Parts Thereof

88.01	A change to gliders or hang gliders of heading 88.01 from any other good of heading 88.01 or any other heading; or A change to any other good of heading 88.01 from gliders or hang gliders of heading 88.01 or any other heading.
8802.11-8803.90	A change to subheading 8802.11 through 8803.90 from any other subheading, including another subheading within that group.
88.04-88.05	A change to heading 88.04 through 88.05 from any other heading, including another heading within that group.

Chapter 89 Ships, Boats and Floating Structures

89.01-89.02	A change to heading 89.01 through 89.02 from any other chapter; or A change to heading 89.01 through 89.02 from any other heading within Chapter 89, including another heading within that group, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

[69] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

89.03 A change to heading 89.03 from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

89.04-89.05 A change to heading 89.04 through 89.05 from any other chapter; or

A change to heading 89.04 through 89.05 from any other heading within Chapter 89, including another heading within that group, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

89.06-89.08 A change to heading 89.06 through 89.08 from any other heading, including another heading within that group.

Section XVIII- Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus; Clocks and Watches; Musical Instruments; Parts and Accessories Thereof (Chapter 90-92)

Chapter 90 Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus; Parts and Accessories Thereof

Note 1: For purposes of this Chapter, the term "printed circuit assembly" means a good consisting of one or more printed circuits of heading 85.34 with one or more active elements assembled thereon, with or without passive elements. For purposes of this Note, "active elements" means diodes, transistors and similar semiconductor devices, whether or not photosensitive, of heading 85.41 and integrated circuits of heading 85.42 and microassemblies of heading 85.43 or 85.48.

Note 2: The origin of the goods of Chapter 90 shall be determined without regard to the origin of any automatic data processing machines or units thereof of heading 84.71, or parts and accessories thereof of heading 84.73, which may be included therewith.

9001.10 A change to subheading 9001.10 from any other chapter, except from pre-forms of heading 70.02; or

	A change to subheading 9001.10 from any other good of heading 70.02 except pre-forms, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9001.20-9001.90	A change to subheading 9001.20 through 9001.90 from any other heading.
90.02	A change to heading 90.02 from any other heading, except from heading 90.01.
9003.11–9003.19	A change to subheading 9003.11 through 9003.19 from any other subheading, including another subheading within that group, except from subheading 9003.90; or A change to subheading 9003.11 through 9003.19 from subheading 9003.90, whether or not there is also a change from any other subheading, including another subheading within that group, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9003.90	A change to subheading 9003.90 from any other heading.
9004.10	A change to subheading 9004.10 from any other subheading.
9004.90	A change to subheading 9004.90 from any other chapter; or A change to subheading 9004.90 from any other heading within Chapter 90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9005.10-9005.80	A change to subheading 9005.10 through 9005.80 from any subheading outside that group, except from heading 90.01 through 90.02 or tariff item 9005.90.aa.
9005.90	

9005.90.aa	A change to tariff item 9005.90.aa from any other heading, except from heading 90.01 through 90.02.
9005.90	A change to subheading 9005.90 from any other heading; or No required change in tariff classification to subheading 9005.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9006.10-9006.69	A change to subheading 9006.10 through 9006.69 from any other heading; or A change to subheading 9006.10 through 9006.69 from subheading 9006.91 or 9006.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9006.91-9006.99	A change to subheading 9006.91 through 9006.99 from any other heading; or A change to a good of any of subheadings 9006.91 through 9006.99 from within that subheading, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9007.10	A change to gyrostabilized cameras of subheading 9007.10 from any other good within that subheading or any other subheading; A change to any other good of subheading 9007.10 from any other heading; or A change to any other good of subheading 9007.10 from subheading 9007.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

9007.20	A change to subheading 9007.20 from any other heading; or A change to subheading 9007.20 from subheading 9007.92, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost is used.
9007.91	A change to subheading 9007.91 from any other heading; or No required change in tariff classification to subheading 9007.91, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9007.92	A change to subheading 9007.92 from any other heading; or No required change in tariff classification to subheading 9007.92, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9008.50:	A change to subheading 9008.50 from any other heading; or A change to subheading 9008.50 from subheading 9008.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9008.90	A change to subheading 9008.90 from any other heading; or No required change in tariff classification to subheading 9008.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9010.10-9010.60	A change to subheading 9010.10 through 9010.60 from any other heading; or

	A change to subheading 9010.10 through 9010.60 from subheading 9010.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9010.90	A change to subheading 9010.90 from any other heading; or No required change in tariff classification to subheading 9010.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9011.10-9011.80	A change to subheading 9011.10 through 9011.80 from any other heading; or A change to subheading 9011.10 through 9011.80 from subheading 9011.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9011.90	A change to subheading 9011.90 from any other heading.
9012.10	A change to subheading 9012.10 from any other heading; or A change to subheading 9012.10 from subheading 9012.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9012.90	A change to subheading 9012.90 from any other heading.
9013.10-9013.20	A change to subheading 9013.10 through 9013.20 from any other heading; or

A change to subheading 9013.10 through 9013.20 from subheading 9013.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

9013.80 A change to Liquid Crystal Display Assemblies of subheading 9013.80 from any other subheading; or

No required tariff change to Liquid Crystal Display Assemblies of subheading 9013.80 provided there is a regional value content of not less than:

(a) 40 percent where the transaction value method is used, or
(b) 30 percent where the net cost method is used.

A change to any other good of subheading 9013.80 from any other heading; or

No required tariff change to any other good of subheading 9013.80 provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

9013.90 A change to subheading 9013.90 from any other heading; or

No required change in tariff classification to subheading 9013.90, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

9014.10-9014.80 A change to subheading 9014.10 through 9014.80 from any other heading; or

A change to subheading 9014.10 through 9014.80 from subheading 9014.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

9014.90	A change to subheading 9014.90 from any other heading; or No required change in tariff classification to subheading 9014.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9015.10-9015.80	A change to subheading 9015.10 through 9015.80 from any other heading; or A change to subheading 9015.10 through 9015.80 from subheading 9015.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9015.90	A change to subheading 9015.90 from any other heading; or No required change in tariff classification to subheading 9015.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
90.16	A change to heading 90.16 from any other heading.
9017.10-9017.80	A change to subheading 9017.10 through 9017.80 from any other heading; or A change to subheading 9017.10 through 9017.80 from subheading 9017.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9017.90	A change to subheading 9017.90 from any other heading.
9018.11	
9018.11.aa	A change to tariff item 9018.11.aa from any other tariff item, except from tariff item 9018.11.bb.

9018.11	A change to subheading 9018.11 from any other heading.
9018.12-9018.14	A change to subheading 9018.12 through 9018.14 from any other heading.
9018.19	
9018.19.aa	A change to tariff item 9018.19.aa from any other tariff item, except from tariff item 9018.19.bb.
9018.19	A change to subheading 9018.19 from any other heading.
9018.20-9018.50	A change to subheading 9018.20 through 9018.50 from any other heading.
9018.90	
9018.90.aa	A change to tariff item 9018.90.aa from any other tariff item, except from tariff item 9018.90.bb.
9018.90	A change to subheading 9018.90 from any other heading.
9019.10-9019.20	A change to subheading 9019.10 through 9019.20 from any other subheading, including another subheading within that group; or No required change in tariff classification to any of subheading 9019.10 through 9019.20, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
90.20	A change to heading 90.20 from any other heading.
9021.10-9021.90	A change to subheading 9021.10 through 9021.90 from any other subheading, including another subheading within that group; or No required change in tariff classification to any of subheading 9021.10 through 9021.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9022.12–9022.30	A change to subheading 9022.12 through 9022.30 from any other

	subheading, including another subheading within that group; or No required change in tariff classification to any of subheading 9022.12 through 9022.30, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9022.90	
9022.90.aa	A change to tariff item 9022.90.aa from any other tariff item.
9022.90	A change to subheading 9022.90 from any other heading; or No required change in tariff classification to subheading 9022.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
90.23	A change to heading 90.23 from any other heading.
9024.10-9024.80	A change to subheading 9024.10 through 9024.80 from any other heading; or A change to subheading 9024.10 through 9024.80 from subheading 9024.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9024.90	A change to subheading 9024.90 from any other heading; or No required change in tariff classification to subheading 9024.90, provided there is a regional value content of not less than: (a) 60 per cent where the transaction value method is used, or (b) 50 per cent where the net cost method is used.

9025.11-9025.80[70]	A change to subheading 9025.11 through 9025.80 from any other heading; or A change to subheading 9025.11 through 9025.80 from subheading 9025.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.
9025.90	A change to subheading 9025.90 from any other heading.
9026.10-9026.80[71]	A change to subheading 9026.10 through 9026.80 from any other heading; or A change to subheading 9026.10 through 9026.80 from subheading 9026.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9026.90	A change to subheading 9026.90 from any other heading; or No required change in tariff classification to subheading 9026.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9027.10-9027.50[72]	A change to subheading 9027.10 through 9027.50 from any other subheading, including another subheading within that group.
9027.80	A change to a good of subheading 9027.80 from any other good within that subheading or any other subheading.

[70] If the good provided for in subheading 9025.19 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[71] If the good provided for in subheading 9026.10 or 9026.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[72] If the good provided for in subheading 9027.10 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

9027.90	A change to subheading 9027.90 from any other heading; or No required change in tariff classification to subheading 9027.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9028.10-9028.30	A change to subheading 9028.10 through 9028.30 from any other heading; or A change to subheading 9028.10 through 9028.30 from subheading 9028.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9028.90	A change to subheading 9028.90 from any other heading.
9029.10-9029.20[73]	A change to subheading 9029.10 through 9029.20 from any other heading; or A change to subheading 9029.10 through 9029.20 from subheading 9029.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9029.90[74]	A change to subheading 9029.90 from any other heading; or No required change in tariff classification to subheading 9029.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9030.10	A change to subheading 9030.10 from any other subheading.

[73] If the good provided for in subheading 9029.10 or 9029.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[74] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

9030.20	A change to cathode-ray oscilloscopes or cathode-ray oscillographs of subheading 9030.20 from any other good within that subheading or any other subheading; or A change to any other good of subheading 9030.20 from any other subheading.
9030.31	A change to subheading 9030.31 from any other subheading.
9030.32	A change to subheading 9030.32 from any other heading; or A change to subheading 9030.32 from subheading 9030.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9030.33	A change to subheading 9030.33 from any other subheading, except from printed circuit assemblies (PCAs) of subheading 9030.90.
9030.39	A change to subheading 9030.39 from any other subheading.
9030.40-9030.82	A change to subheading 9030.40 through 9030.82 from any other heading; or A change to subheading 9030.40 through 9030.82 from subheading 9030.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9030.84-9030.89	A change to subheading 9030.84 through 9030.89 from any other subheading, including another subheading within that group.
9030.90	A change to subheading 9030.90 from any other heading; or No required change in tariff classification to subheading 9030.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

9031.10-9031.20	A change to subheading 9031.10 through 9031.20 from any other subheading, including another subheading within that group.
9031.41	A change to subheading 9031.41 from any other heading; or A change to subheading 9031.41 from subheading 9031.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9031.49[75]	
9031.49.aa	A change to tariff item 9031.49.aa from any other tariff item.
9031.49	A change to subheading 9031.49 from any other subheading.
9031.80[76]	A change to subheading 9031.80 from any other heading; or A change to subheading 9031.80 from subheading 9031.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9031.90	A change to a good of 9031.90 from any other good within that subheading or any other subheading.
9032.10	A change to subheading 9032.10 from any other heading; or A change to a good of subheading 9032.10 from within that subheading or subheading 9032.89 through 9032.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.

[75] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[76] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

9032.20-9032.81	A change to subheading 9032.20 through 9032.81 from any other subheading, including another subheading within that group.
9032.89[77]	A change to subheading 9032.89 from any other heading; or A change to subheading 9032.89 from subheading 9032.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.
9032.90[78]	A change to subheading 9032.90 from any other heading; or No required change in tariff classification to subheading 9032.90, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
90.33	A change to heading 90.33 from any other heading; or No required change in tariff classification to heading 90.33, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

Chapter 91 Clocks and Watches and Parts Thereof

91.01-91.06[79]	A change to heading 91.01 through 91.06 from any other chapter; or A change to heading 91.01 through 91.06 from heading 91.14, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

[77] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[78] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

[79] If the good provided for in subheading 9104.00 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

(a) 60 percent where the transaction value method is used, or
(b) 50 percent where the net cost method is used.

91.07	A change to heading 91.07 from any other chapter; or A change to heading 91.07 from heading 91.14, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.
91.08-91.10	A change to heading 91.08 through 91.10 from any other heading, including another heading within that group, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9111.10-9111.80	A change to subheading 9111.10 through 9111.80 from subheading 9111.90 or any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9111.90	A change to subheading 9111.90 from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9112.20	A change to subheading 9112.20 from subheading 9112.90 or any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9112.90	A change to subheading 9112.90 from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.

91.13	A change to heading 91.13 from any other heading, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
91.14	A change to heading 91.14 from any other heading.

Chapter 92 Musical Instruments; Parts and Accessories of Such Articles

92.01-92.08	A change to heading 92.01 through 92.08 from any other chapter; or A change to heading 92.01 through 92.08 from heading 92.09, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
92.09	A change to heading 92.09 from any other heading.

Section XIX - Arms and Ammunition; Parts and Accessories Thereof (Chapter 93)

Chapter 93 Arms and Ammunition; Parts and Accessories Thereof

93.01-93.04	A change to heading 93.01 through 93.04 from any other chapter; or A change to heading 93.01 through 93.04 from heading 93.05, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
93.05	A change to heading 93.05 from any other heading.
93.06-93.07	A change to heading 93.06 through 93.07 from any other chapter.

Section XX - Miscellaneous Manufactured Articles (Chapter 94-96)

Chapter 94 Furniture; Bedding, Mattresses, Mattress Supports, Cushions and Similar Stuffed Furnishings; Lamps and Lighting Fittings, Not Elsewhere Specified or Included; Illuminated Signs, Illuminated Name-Plates and the Like; Prefabricated Buildings

9401.10-9401.80[80]	A change to subheading 9401.10 through 9401.80 from any other chapter; or A change to subheading 9401.10 through 9401.80 from subheading 9401.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9401.90[81]	A change to subheading 9401.90 from any other heading.
9402.10-9402.90	A change to subheading 9402.10 through 9402.90 from any other subheading, including another subheading within that group.
9403.10-9403.89	A change to subheading 9403.10 through 9403.89 from any other chapter; or A change to subheading 9403.10 through 9403.89 from subheading 9403.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9403.90	A change to subheading 9403.90 from any other heading.
9404.10-9404.30	A change to subheading 9404.10 through 9404.30 from any other chapter.
9404.90	A change to subheading 9404.90 from any other chapter, except from heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08 or 55.12 through 55.16.
9405.10 – 9405.40	A change to subheading 9405.10 through 9405.40 from any subheading outside that group.
9405.50	A change to subheading 9405.50 from any other chapter; or

[80] If the good provided for in subheading 9401.20 is for use in a motor vehicle of Chapter 87, as defined in the Appendix to this Annex, then the provisions in the Appendix to this Annex shall apply.

[81] If the good is for use in a vehicle of Chapter 87, then the provisions in the Appendix to this Annex shall apply.

	A change to subheading 9405.50 from subheading 9405.91 through 9405.99, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9405.60	A change to subheading 9405.60 from any other subheading.
9405.91-9405.99	A change to subheading 9405.91 through 9405.99 from any other heading.
94.06	A change to heading 94.06 from any other chapter.

Chapter 95 Toys, Games and Sports Requisites; Parts and Accessories Thereof

9503.00-9505.90	A change to subheading 9503.00 through 9505.90 from any other subheading, including another subheading within that group; or No required change in tariff classification to any of subheading 9503.00 through 9505.90, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.
9506.11-9506.29	A change to subheading 9506.11 through 9506.29 from any other chapter.
9506.31	A change to subheading 9506.31 from any other chapter; or A change to subheading 9506.31 from subheading 9506.39, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9506.32-9506.39	A change to subheading 9506.32 through 9506.39 from any other chapter.
9506.40-9506.99	A change to subheading 9506.40 through 9506.99 from any other chapter.
95.07-95.08	A change to heading 95.07 through 95.08 from any other chapter.

Chapter 96 Miscellaneous Manufactured Articles

96.01-96.05	A change to heading 96.01 through 96.05 from any other chapter.
9606.10	A change to subheading 9606.10 from any other chapter.
9606.21-9606.29	A change to subheading 9606.21 through 9606.29 from any other chapter; or A change to subheading 9606.21 through 9606.29 from subheading 9606.30, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9606.30	A change to subheading 9606.30 from any other heading.
9607.11-9607.19	A change to subheading 9607.11 through 9607.19 from any other chapter; or A change to subheading 9607.11 through 9607.19 from subheading 9607.20, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9607.20	A change to subheading 9607.20 from any other heading.
9608.10-9608.50	A change to subheading 9608.10 through 9608.50 from any other chapter; or A change to subheading 9608.10 through 9608.50 from subheading 9608.60 through 9608.99, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9608.60-9608.99	A change to subheading 9608.60 through 9608.99 from any other heading.
96.09-96.12	A change to heading 96.09 through 96.12 from any other chapter.
9613.10-9613.80	A change to subheading 9613.10 through 9613.80 from any other chapter; or

	A change to subheading 9613.10 through 9613.80 from subheading 9613.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 45 percent where the transaction value method is used, or (b) 35 percent where the net cost method is used.
9613.90	A change to subheading 9613.90 from any other heading.
96.14	A change to a good of heading 96.14 from any other good within that heading or any other heading.
9615.11-9615.19	A change to subheading 9615.11 through 9615.19 from any other chapter; or A change to subheading 9615.11 through 9615.19 from subheading 9615.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: (a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.
9615.90	A change to subheading 9615.90 from any other heading.
96.16-96.18	A change to heading 96.16 through 96.18 from any other chapter.
96.19	A good classified in 96.19 shall be considered originating, notwithstanding the origin of the following inputs, provided that the good otherwise meets the applicable product specific rule: -- rayon filament, other than lyocell or acetate, of heading 54.03 or 54.05. -- rayon fiber, other than lyocell or acetate, of heading 55.02, 55.04, or 55.07. A change to sanitary towels or tampons of heading 96.19 from any other chapter, except from headings 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 through 55. A change to a good of textile wadding of heading 96.19 from any other heading, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54 through 56 or Chapter 61 through 62;

	A change to any other good of textile material of heading 96.19 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.10 through 53.11, Chapter 54, heading 55.08 through 55.16, 60.01 through 60.06, or Chapter 61 through 62, provided the good is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the Parties.
	A change to any other good of heading 96.19 from any other heading.

Section XXI - Works of Art, Collectors' Pieces and Antiques

Chapter 97 Works of Art, Collectors' Pieces and Antiques

97.01-97.06	A change to heading 97.01 through 97.06 from any other chapter.

REVISED TARIFF ITEMS (HS 2012)

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
1806.10.aa	1806.10.10	1806.10.43 1806.10.45 1806.10.55 1806.10.65 1806.10.75	1806.10.01	Containing 90 percent or more by weight of sugar
1901.10.aa	1901.10.20	1901.10.05 1901.10.15 1901.10.30 1901.10.35 1901.10.40 1901.10.45	1901.10.01	Containing over 10 percent by weight of milk solids
1901.20.aa	1901.20.11 1901.20.12 1901.20.21 1901.20.22	1901.20.02 1901.20.05 1901.20.15 1901.20.20 1901.20.25 1901.20.30 1901.20.35 1901.20.40	1901.20.01 1901.20.02	Containing over 25 percent by weight of butterfat, not put up for retail sale

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
1901.90.aa	1901.90.31 1901.90.32 1901.90.33 1901.90.34 1901.90.39 1901.90.51 1901.90.52 1901.90.53 1901.90.54 1901.90.59	1901.90.32 1901.90.33 1901.90.34 1901.90.36 1901.90.38 1901.90.42 1901.90.43	1901.90.03 1901.90.04 1901.90.05	Dairy preparations containing over 10 percent by weight of milk solids
2101.11.aa	2101.11.10	2101.11.21	2101.11.01	Instant coffee, not flavoured
2103.20.aa	2103.20.10	2103.20.20	2103.20.01	Ketchup

2106.90.aa				
2106.90.bb	2106.90.91	2106.90.48	2106.90.06	Concentrated fruit or vegetable juices, fortified with minerals or vitamins:
		2106.90.52		Of any single fruit or vegetable
				Of mixtures of fruit or vegetable juices
2106.90.cc	2106.90.92	2106.90.54	2106.90.07	Containing over 10 percent by weight of milk solids
2106.90.dd	2106.90.31	2106.90.03	2106.90.08	
	2106.90.32	2106.90.06		
	2106.90.33	2106.90.09		
	2106.90.34	2106.90.22		
	2106.90.35	2106.90.24		
	2106.90.93	2106.90.26		
	2106.90.94	2106.90.28		
	2106.90.95	2106.90.62		
		2106.90.64		
		2106.90.66		
		2106.90.68		
		2106.90.72		
		2106.90.74		
		2106.90.76		
		2106.90.78		
		2106.90.80		
		2106.90.82		Compound preparations, with an alcoholic strength exceeding 0.5 percent by volume, of a kind used in the manufacture of beverages
2106.90.ee	2106.90.96	2106.90.12	2106.90.10	
		2106.90.15	2106.90.11	
		2106.90.18		

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
2106.90.ff		2106.90.42 2106.90.44 2106.90.46	2106.90.05	Syrups derived from cane or beet sugar, containing added coloring but not added flavoring matter
				Fruit or vegetable juices, fortified with minerals or vitamins:
2202.90.aa	2202.90.31	2202.90.30 2202.90.35 2202.90.36	2202.90.02	Of any single fruit or vegetable
2202.90.bb	2202.90.32	2202.90.37	2202.90.03	Of mixtures of fruit or vegetable juices
2202.90.cc	2202.90.41 2202.90.42 2202.90.43 2202.90.49	2202.90.10 2202.90.22 2202.90.24 2202.90.28	2202.90.04	Beverages containing milk
2309.90.aa	2309.90.31 2309.90.32 2309.90.33 2309.90.35 2309.90.36	2309.90.22 2309.90.24 2309.90.28	2309.90.10 2309.90.11	Containing over 10 percent by weight of milk solids
2401.10.aa	2401.10.10	2401.10.21	2401.10.01	Wrapper tobacco

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
2401.20.aa	2401.20.10	2401.20.14	2401.20.02	Wrapper tobacco
2403.91.aa	2403.91.10	2403.91.20	2403.91.01	Of a kind used as wrapper tobacco
4016.99.aa	4016.99.30	4016.99.30 4016.99.55	4016.99.10	Vibration control goods of a kind used in the vehicles of heading 87.01 through 87.05
4105.10.aa	4105.10.21 4105.10.29	4105.10.10	4105.10.03	Wet blue
7011.20.aa	7011.20.10	7011.20.10	7011.20.02 7011.20.03	Cones
7304.41.aa	7304.41.11 7304.41.19	7304.41.30	7304.41.02	Of an external diameter of less than 19 mm
7321.11.aa	7321.11.10	7321.11.30	7321.11.0173 21.11.02	Stoves or ranges (other than portable)

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
				Parts:
				Of stoves or ranges (other than portable):
7321.90.aa	7321.90.21	7321.90.10	7321.90.05	Cooking chambers, whether or not assembled
7321.90.bb	7321.90.22	7321.90.20	7321.90.06	Top surface panels with or without burners or control
7321.90.cc	7321.90.23	7321.90.40	7321.90.07	Door assemblies, incorporating more than one of the following: inner panel, outer panel, window, insulation
7404.00.aa	7404.00.10 7404.00.20 7404.00.91	7404.00.30	7404.00.02	Spent anodes; waste and scrap with a copper content of less than 94 percent by weight
7407.10.aa	7407.10.11 7407.10.12	7407.10.15	7407.10.02	Hollow profiles
7407.21.aa	7407.21.21 7407.21.22	7407.21.15	7407.21.02	Hollow profiles
7407.29.aa	ex. 7407.29.21 ex. 7407.29.29 7407.29.90	7407.29.16	7407.29.02 7407.29.03	Hollow profiles

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
7408.11.aa	7408.11.11 7408.11.12	7408.11.60	7408.11.01	With a maximum cross-sectional dimension not exceeding 9.5 mm
7506.10.aa	7506.10.10	7506.10.05	7506.10.01	Foil, not exceeding 0.15 mm in thickness
7506.20.aa	7506.20.10	7506.20.05	7506.20.01	Foil, not exceeding 0.15 mm in thickness
8406.90.aa	8406.90.22 8406.90.33 8406.90.34	8406.90.20 8406.90.50	8406.90.01	Rotors, finished for final assembly
8406.90.bb	8406.90.23 8406.90.36 8406.90.37	8406.90.40 8406.90.70	8406.90.02	Blades, rotating or stationary
8406.90.cc	8406.90.21 8406.90.31 8406.90.32	8406.90.30 8406.90.60	8406.90.03	Rotors, not further advanced than cleaned or machined for removal of fins, gates, sprues, and risers, or to permit location in finishing machinery
8414.90.aa	8414.90.10	8414.90.30	8414.90.04	Stators and rotors of goods of subheading 8414.30
8415.90.aa	8415.90.11 8415.90.21 8415.90.22	8415.90.40	8415.90.01	Chassis, chassis bases and outer cabinets

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8418.99.aa	8418.99.10	8418.99.40	8418.99.04	Door assemblies incorporating more than one of the following: inner panel; outer panel; insulation; hinges; handles
8421.91.aa	8421.91.10	8421.91.20	8421.91.02	Drying chambers for the goods of subheading 8421.12 and other parts of clothes-dryers incorporating drying chambers
8421.91.bb	8421.91.20	8421.91.40	8421.91.03	Furniture designed to receive the goods of subheading 8421.12
8422.90.aa	8422.90.10	8422.90.02	8422.90.03	Water containment chambers for the goods of subheading 8422.11 and other parts of dishwashing machines of the household type incorporating water containment chambers
8422.90.bb	8422.90.20	8422.90.04	8422.90.04	Door assemblies for the goods of subheading 8422.11
8427.10.aa	8427.10.10	8427.10.40	8427.10.01 8427.10.02	Rider-type, counterbalanced fork-lift trucks
8450.90.aa	8450.90.10	8450.90.20	8450.90.01	Tubs and tub assemblies
8450.90.bb	8450.90.20	8450.90.40	8450.90.02	Furniture designed to receive the goods of subheading 8450.11 through 8450.20

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8451.90.aa	8451.90.10	8451.90.30	8451.90.01	Drying chambers for the goods of subheading 8451.21 or 8451.29 and other parts of drying machines incorporating drying chambers
8451.90.bb	8451.90.20	8451.90.60	8451.90.02	Furniture designed to receive the goods of subheading 8451.21 or 8451.29
8455.90.aa	8455.90.10	8455.90.40	8455.90.01	Castings or weldments, individually weighing less than 90 tons, for the machines of heading 84.55
8459.70.aa	8459.70.10	8459.70.40	8459.70.02	Numerically controlled
8460.40.aa	8460.40.10	8460.40.40	8460.40.02	Numerically controlled
8460.90.aa	8460.90.10	8460.90.40	8460.90.01	Numerically controlled
8461.20.aa	8461.20.10	8461.20.40	8461.20.01	Numerically controlled
8461.30.aa	8461.30.10	8461.30.40	8461.30.01	Numerically controlled
8461.50.aa	8461.50.11 8461.50.19	8461.50.40	8461.50.01	Numerically controlled

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8461.90.aa	8461.90.10	8461.90.30	8461.90.02	Numerically controlled
8462.99.aa	8462.99.11 8462.99.19	8462.99.40	8462.99.01	Numerically controlled
8466.93.aa	8466.93.10	8466.93.15 8466.93.30 8466.93.53	8466.93.04	Bed, base, table, head, tail, saddle, cradle, cross slide, column, arm, saw arm, wheelhead, tailstock, headstock, ram, frame, work-arbor support, and C-frame castings, weldments or fabrications
8466.94.aa	8466.94.10	8466.94.20 8466.94.65	8466.94.01	Bed, base, table, column, cradle, frame, bolster, crown, slide, rod, tailstock and headstock castings, weldments or fabrications
8471.80.aa	8471.80.10	8471.80.10	8471.80.03	Control or adapter units
8471.80.cc	8471.80.91	8471.80.40	8471.80.01	Other units suitable for physical incorporation into automatic data processing machines or units thereof
8473.10.aa	8473.10.00	8473.10.20 8473.10.40	8473.10.01	Parts for word processing machines of heading 84.69
8473.10.bb		8473.10.60	8473.10.99	Parts of other machines of heading 84.69

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8473.30.aa	8473.30.20	8473.30.10	8473.30.02	Printed circuit assemblies
8473.30.bb	8473.30.30	8473.30.20	8473.30.03	Parts and accessories, including face plates and lock latches, of printed circuit assemblies
8473.50.aa	8473.50.10	8473.50.30	8473.50.01	Printed circuit assemblies
8473.50.bb	8473.50.20	8473.50.60	8473.50.02	Parts and accessories, including face plates and lock latches, of printed circuit assemblies
8477.90.aa	8477.90.10	8477.90.25	8477.90.01	Base, bed, platen, clamp cylinder, ram and injection castings, weldments, and fabrications
8477.90.bb	8477.90.20	8477.90.45	8477.90.02	Barrel screws
8477.90.cc	8477.90.30	8477.90.65	8477.90.03	Hydraulic assemblies incorporating more than one of the following: manifold, valves, pump, oil cooler

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8479.90.aa	8479.90.11	8479.90.45	8479.90.17	Frame assemblies incorporating more than one of the following: baseplate, side frames, power screws, front plates
8479.90.bb	8479.90.12	8479.90.55	8479.90.15	Ram assemblies incorporating a ram wrapper and/or ram cover
8479.90.cc	8479.90.13	8479.90.65	8479.90.07	Container assemblies incorporating more than one of the following: container bottom, container wrapper, slide track, container front
8479.90.dd	8479.90.14	8479.90.75	8479.90.04	Cabinet or cases
8482.99.aa	8482.99.11 8482.99.19	8482.99.05 8482.99.15 8482.99.25	8482.99.01 8482.99.02 8482.99.03	Inner or outer rings or races
8503.00.aa	8503.00.10	8503.00.35 8503.00.45 8503.00.65	8503.00.01 8503.00.03 8503.00.05	Stators and rotors for the goods of heading 85.01.
8504.40.aa	8504.40.30	8504.40.60 8504.40.70	8504.40.10 8504.40.12 8504.40.14	Power supplies for the automatic data processing machines of heading 84.71
8504.40.bb	8504.40.40	8504.40.40	8504.40.13	Speed drive controllers for electric motors

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8516.90.cc	8516.90.30	8516.90.35	8516.90.06	Assemblies for the goods of subheading 8516.50, incorporating more than one of the following: cooking chamber; structural supporting chassis; door; outer case
8516.90.dd	8516.90.40	8516.90.45	8516.90.07	Printed circuit assemblies for the goods of subheading 8516.50 For the goods of tariff item 8516.60.aa: Cooking chambers whether or not assembled
8516.90.ee	8516.90.50	8516.90.55	8516.90.08	Top surface panels with or without heating elements or controls
8516.90.ff	8516.90.60	8516.90.65	8516.90.09	Door assemblies incorporating more than one of the following: inner panel; outer panel; window; insulation
8516.90.gg	8516.90.70	8516.90.75	8516.90.10	
8522.90.aa	8522.90.10	8522.90.25 8522.90.45 8522.90.65	8522.90.07	Printed circuit assemblies for the apparatus provided for in headings 85.19 and 85.21

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8533.90.aa	8533.90.10	8533.90.40	8533.90.02	For the goods of subheading 8533.40, of ceramic or metallic materials, electrically or mechanically reactive to changes in temperature
8535.90.aa	8535.90.30	8535.90.40	8535.90.08 8535.90.20	Motor starters and motor overload protectors
8536.30.aa	8536.30.10 8536.30.20	8536.30.40	8536.30.05	Motor overload protectors
8536.50.aa	8536.50.11 8536.50.12 8536.50.19	8536.50.40	8536.50.13 8536.50.14	Motor starters
8537.10.aa	8537.10.11 8537.10.91	8537.10.30	8537.10.05	Assembled with outer housing or supports, for the goods of heading 84.21, 84.22, 84.50 or 85.16

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8538.90.aa	8538.90.10	8538.90.40	8538.90.04	For the goods of tariff item 8535.90.aa, 8536.30.aa or 8536.50.aa, of ceramic or metallic materials, electrically or mechanically reactive to changes in temperature
				Printed circuit assemblies
8538.90.bb	8538.90.20	8538.90.10 8538.90.30	8538.90.05	Moulded parts
8538.90.cc	8538.90.31 8538.90.39	8538.90.60	8538.90.01	
8540.11.aa	8540.11.22	8540.11.10	8540.11.03 8540.11.05	Non-high definition, non-projection, having a video display diagonal exceeding 14 inches (35.56 cm)
8540.11.bb	8540.11.21	8540.11.24 8540.11.28	8540.11.04	Non-high definition, non-projection, having a video display diagonal not exceeding 14 inches (35.56 cm)
				High definition, having a video display diagonal exceeding 14 inches (35.56 cm)
8540.11.cc	8540.11.12	8540.11.30	8540.11.01 8540.11.05	High definition, having a video display diagonal not exceeding 14 inches (35.56 cm)
8540.11.dd	8540.11.11	8540.11.44 8540.11.48	8540.11.02	

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8540.12.aa	8540.12.91 8540.12.99	8540.12.10 8540.12.50	8540.12.99	Non-high definition
8540.12.bb	8540.12.11 8540.12.19	8540.12.20 8540.12.70	8540.12.01	High definition
8540.91.aa	8540.91.10	8540.91.15	8540.91.01	Front panel assemblies
8540.99.aa	8540.99.10	8540.99.40	8540.99.03	Electron guns; radio frequency (RF) interaction structures for microwave tubes of subheading 8540.71 through 8540.79
8548.10.aa	8548.10.10	8548.10.05 8548.10.15	8548.10.01	Spent primary cells, spent primary batteries and spent electric accumulators
8607.19.aa	8607.19.11 8607.19.19	8607.19.03	8607.19.01 8607.19.99	Axles
8607.19.bb	8607.19.30	8607.19.06	8607.19.06	Parts of axles
8607.19.cc	8607.19.21 8607.19.29	8607.19.12	8607.19.02 8607.19.03	Wheels, whether or not fitted with axles
8607.19.dd	8607.19.30 8607.19.40	8607.19.15	8607.19.04 8607.19.05 8607.19.06	Parts of wheels

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
8702.10.aa	8702.10.10	8702.10.30	8702.10.03 8702.10.04	Designed for the transport of 16 or more persons, including the driver
8702.10.bb	8702.10.20	8702.10.60	8702.10.01 8702.10.02	Other
8706.00.aa	8706.00.20	8706.00.03 8706.00.15	8706.00.01 8706.00.02	Chassis of vehicles of heading 87.03 and subheadings 8704.21 and 8704.31
8706.00.bb	8706.00.10 8706.00.90	8706.00.05 8706.00.25 8706.00.30 8706.00.50	8706.00.99	Chassis for other vehicles
9005.90.aa	9005.90.11 9005.90.91	9005.90.40	9005.90.01	Incorporating goods of heading 90.01 or 90.02
9018.11.aa	9018.11.10	9018.11.30	9018.11.01	Electrocardiographs
9018.11.bb	9018.11.91	9018.11.60	9018.11.02	Printed circuit assemblies
9018.19.aa	9018.19.10	9018.19.55	9018.19.05	Patient monitoring systems
9018.19.bb	9018.19.20	9018.19.75	9018.19.10	Printed circuit assemblies for parameter acquisition modules

TARIFF ITEM	CANADA (HS 2012)	USA (HS 2012)	MEXICO (HS 2012)	DESCRIPTION
9018.90.aa	9018.90.10	9018.90.64	9018.90.18	Defibrillators
9018.90.bb	9018.90.20	9018.90.68	9018.90.24	Printed circuit assemblies for the goods of tariff item 9018.90.aa
9022.90.aa	9022.90.10	9022.90.05	9022.90.01	Radiation generator units
9031.49.aa	9031.49.10	9031.49.40	9031.49.01	Coordinate-measuring machines

APPENDIX TO ANNEX 4-B:

PROVISIONS RELATED TO THE PRODUCT-SPECIFIC RULES OF ORIGIN FOR AUTOMOTIVE GOODS

Article 4-B.1: Definitions

For purposes of this Appendix:

Advanced Technology Vehicle means:

(a) an electric vehicle, fuel cell vehicle, or other type of advanced propulsion vehicle (e.g., zero emission vehicle), or

(b) an advanced autonomous vehicle of heading 8703 or 8704 classified as a Level 4 or Level 5 automated vehicle in accordance with SAE International SAEJ3016-2016 (Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles);

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

(a) motor vehicles of subheading 8701.20, motor vehicles for the transport of 16 or more persons of subheading 8702.10 or 8702.90, or motor vehicles of subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87.06;

(b) motor vehicles of subheading 8701.10 or 8701.30 through 8701.90

(c) motor vehicles for the transport of 15 or fewer persons of subheading 8702.10 or 8702.90, or motor vehicles of subheading 8704.21 or 8704.31; or

(d) motor vehicles of subheading 8703.21 through 8703.90;

passenger vehicle means a vehicle of subheading 8703.21 through 8703.90, except for a vehicle with a compression-ignition engine as the primary motor of propulsion, a three or four-wheeled motorcycle, a motorhome or entertainer coach[82], or a vehicle that is solely or principally designed for off-road use[83];

[82] A motorhome or entertainer coach is defined as a recreational vehicle built on a self-propelled motor vehicle chassis that is solely or principally designed as temporary living quarters for recreational, camping, entertainment, or seasonal use. The Parties shall develop any additional description or other modification, if necessary.

[83] A vehicle solely or principally designed for off-road use is defined as a vehicle that does not meet U.S. federal safety and emissions standards permitting unrestricted on-road use or the equivalent Mexican and Canadian on-road standards. The Parties shall develop any additional description or other modification, if necessary.

light truck means a vehicle of subheading 8704.21 or 8704.31, except for a vehicle that is solely or principally designed for off-road use;

heavy truck means a vehicle of subheading 8701.20, 8704.22, 8704.23, 8704.32, 8704.90, or 8706[84], except for a vehicle that is solely or principally designed for off-road use;

marque means the trade name used by a separate marketing division of a motor vehicle assembler;

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

motor vehicle assembler means a producer of motor vehicles and any related persons or joint ventures in which the producer participates;

new building means a new construction, including at least the pouring or construction of new foundation and floor, the erection of a new structure and roof, and installation of new plumbing, electrical and other utilities to house a complete vehicle assembly process;

refit means a plant closure, for purposes of plant conversion or retooling, that lasts at least three months; and

super-core means the parts listed under the left column of Table A.1 of this Appendix, which are considered as a single part for the purposes of calculations in accordance with Article 4-B.5.2.

Article 4-B.2: Product-Specific Rules of Origin for Vehicles

Each Party shall provide that the product-specific rules for a goods of headings 8701 through 8706 are:

8701.10	A change to a good of subheading 8701.10 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method.
8701.20	A change to a heavy truck of subheading 8701.20 from any other heading, provided there is a regional value content of not less than 70 percent under the net cost method; or A change to any other good of subheading 8701.20 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method.

[84] Heading 8706 defined here as a chassis fitted with engines for a vehicle under subheading 8701.20, 8704.22, 8704.23, 8704.32, 8704.90, except for a vehicle that is solely or principally designed for off-road use.

8701.30 – 8701.90: A change to a good of subheading 8701.30 through 8701.90 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method.

8702.10 A change to a motor vehicle for the transport of 15 or fewer persons of subheading 8702.10 from any other heading, provided there is a regional value content of not less than 62.5 percent under the net cost method;

A change to a motor vehicle for the transport of 16 or more persons of subheading 8702.10 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method; or

A change to any other good of subheading 8702.10 from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.

8702.90 A change to a motor vehicle for the transport of 15 or fewer persons of subheading 8702.90 from any other heading, provided there is a regional value content of not less than 62.5 percent under the net cost method;

A change to a motor vehicle for the transport of 16 or more persons of subheading 8702.90 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method; or

A change to any other good of subheading 8702.90 from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.

8703.10 A change to subheading 8703.10 from any other heading, provided there is a regional value content of not less than:

(a) 60 percent where the transaction value method is used, or

(b) 50 percent where the net cost method is used.

8703.21-8703.90 A change to a motor vehicle with a compression-ignition engine, a three or four-wheeled motorcycle, a motorhome or motorhome entertainer, or a vehicle solely or principally for off-road use of subheading 8703.21 through 8703.90 from any other heading, provided there is a regional value content of not less than 62.5 percent under the net cost method; or

A change to any other good of subheading 8703.21 through 8703.90 from any other heading, provided there is a regional value content of not less than 75 percent under the net cost method.

8704.10	A change to a good of subheading 8704.10 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method.
8704.21	A change to a motor vehicle solely or principally for off-road use of subheading 8704.21 from any other heading, provided there is a regional value content of not less than 62.5 percent under the net cost method; or A change to any other good of subheading 8704.21 from any other heading, provided there is a regional value content of not less than 75 percent under the net cost method.
8704.22 - 8704.23	A change to a vehicle that is solely or principally for off-road use of subheading 8704.22 through 8704.23 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method; or A change to any other good of subheading 8704.22 through 8704.23 from any other heading, provided there is a regional value content of not less than 70 percent under the net cost method.
8704.31	A change to a motor vehicle solely or principally for off-road use of subheading 8704.31 from any other heading, provided there is a regional value content of not less than 62.5 percent under the net cost method; or A change to any other good of subheading 8704.31 from any other heading, provided there is a regional value content of not less than 75 percent under the net cost method.
8704.32 - 8704.90	A change to a vehicle that is solely or principally for off-road use of subheading 8704.32 through 8704.90 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method; or A change to any other good of subheading 8704.32 through 8704.90 from any other heading, provided there is a regional value content of not less than 70 percent under the net cost method.
87.05	A change to heading 87.05 from any other heading, provided there is a regional value content of not less than 60 percent under the net cost method.
87.06	A change to a good of heading 87.06 for a passenger vehicle or light truck, provided there is a regional value content of not less than 75 percent under the net cost method; or

	A change to a good of heading 87.06 for a heavy truck, provided there is a regional value content of not less than 70 percent under the net cost method; or A change to any other good of heading 87.06, provided there is a regional value content of not less than 60 percent under the net cost method;
87.07[85]	A change to heading 87.07 from any other chapter; or A change to heading 87.07 from heading 87.08, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.10[86]	A change to subheading 8708.10 from any other heading; or A change to subheading 8708.10 from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.21[87]	A change to subheading 8708.21 from any other heading; or A change to subheading 8708.21 from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.29[88]	A change to subheading 8708.29 from any other heading; or No required change in tariff classification to subheading 8708.29, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.30[89]	A change to mounted brake linings of subheading 8708.30 from any other heading; or

[85] If the good is for use in a passenger vehicle or light truck, Articles 4-B.3.2 and 4-B.3.3 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.
[86] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.
[87] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[88] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[89] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

	A change to mounted brake linings of subheading 8708.30 from parts of mounted brake linings, brakes or servo-brakes of subheading 8708.30 or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method; A change to any other good of subheading 8708.30 from any other heading; or A change to any other good of subheading 8708.30 from mounted brake linings or parts of brakes or servo-brakes of subheading 8708.30, or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.40[90]	A change to gear boxes of subheading 8708.40 from any other heading; or A change to gear boxes of subheading 8708.40 from any other good of subheading 8708.40 or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method; A change to any other good of subheading 8708.40 from any other heading; or No required change in tariff classification to any other good of subheading 8708.40, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.50[91]	A change to drive-axles with differential, whether or not provided with other transmission components, for vehicles of heading 87.03, of subheading 8708.50 from any other heading, except from subheading 8482.10 through 8482.80; or A change to drive-axles with differential, whether or not provided with other transmission components, for vehicles of heading 87.03, of subheading 8708.50 from subheading 8482.10 through 8482.80 or parts of drive-axles of subheading 8708.50, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method;

[90] If the good is for use in a passenger vehicle or light truck, Articles 4-B.3.2 and 4-B.3.3 shall apply. If the good is for use in a heavy truck, Articles 4-B.4.2 and 4-B.4.4 shall apply.

[91] If the good is for use in a passenger vehicle or light truck, Articles 4-B.3.2 and 4-B.3.3 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

	A change to other drive-axles with differential, whether or not provided with other transmission components, of subheading 8708.50 from any other heading; or
	A change to other drive-axles with differential, whether or not provided with other transmission components, of subheading 8708.50 from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method;
	A change to non-driving axles and parts thereof, for vehicles of heading 87.03, of subheading 8708.50 from any other heading, except from subheading 8482.10 through 8482.80; or
	A change to non-driving axles and parts thereof, for vehicles of heading 87.03, of subheading 8708.50 from subheading 8482.10 through 8482.80 or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method;
	A change to other non-driving axles and parts thereof of subheading 8708.50 from any other heading; or
	A change to other non-driving axles and parts thereof of subheading 8708.50 from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method;
	A change to any other good of subheading 8708.50 from any other heading; or
	No required change in tariff classification to any other good of subheading 8708.50, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.70[92]	A change to subheading 8708.70 from any other heading; or
	A change to subheading 8708.70 from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.

[92] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

8708.80[93]	A change to McPherson struts of subheading 8708.80 from parts thereof of subheading 8708.80 or any other subheading, provided there is a regional value content of not less than 50 percent under the net cost method; A change to any other good subheading 8708.80 from any other heading; A change to suspension systems (including shock absorbers) of subheading 8708.80 from parts thereof of subheading 8708.80 or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method; or No required change in tariff classification to parts of suspension systems (including shock absorbers) of subheading 8708.80, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.91[94]	A change to radiators of subheading 8708.91 from any other heading; A change to radiators of subheading 8708.91 from any other good of subheading 8708.91, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method; or No required change in tariff classification to any other good of subheading 8708.91, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.92[95]	A change to silencers (mufflers) or exhaust pipes of subheading 8708.92 from any other heading; or A change to silencers (mufflers) or exhaust pipes of subheading 8708.92 from any other good of subheading 8708.92, whether or not there is also a change from any other heading, provided there is regional value content of not less than 50 percent under the net cost method; or

[93] If the good is for use in a passenger vehicle or light truck, Articles 4-B.3.2 and 4-B.3.3 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[94] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[95] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

	No required change in tariff classification to any other good of subheading 8708.92, provided there is a regional value content of not less than 50 percent under the net cost method
8708.93[96]	A change to subheading 8708.93 from any other heading; or
	A change to subheading 8708.93 from subheading 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.94[97]	A change to subheading 8708.94 from any other heading;
	A change to steering wheels, steering columns or steering boxes of subheading 8708.94 from parts thereof of subheading 8708.94 or 8708.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 percent under the net cost method;
	No required change in tariff classification to parts of steering wheels, steering columns or steering boxes of subheading 8708.94, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.95[98]	A change to subheading 8708.95 from any other heading; or
	No required change in tariff classification to subheading 8708.95, provided there is a regional value content of not less than 50 percent under the net cost method.
8708.99[99]	
8708.99.aa	A change to tariff item 8708.99.aa from any other subheading, provided there is a regional value content of not less than 50 per cent under the net cost method.

[96] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[97] If the good is for use in a passenger vehicle or light truck, Articles 4-B.3.2 and 4-B.3.3 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[98] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Article 4-B.4.2 shall apply.

[99] If the good is for use in a passenger vehicle or light truck, Article 4-B.3.4 shall apply. If the good is for use in a heavy truck, Articles 4-B.4.2 shall apply. If the good is a chassis for use in a heavy truck, Articles 4-B.4.2 and 4-B.4.4 shall apply.

8708.99.bb	A change to tariff item 8708.99.bb from any other heading, except from subheading 8482.10 through 8482.80 or tariff item 8482.99.aa; or A change to tariff item 8708.99.bb from subheadings 8482.10 through 8482.80 or tariff item 8482.99.aa, whether or not there is also a change from any other heading, provided there is a regional value content of not less than 50 per cent under the net cost method.
8708.99	A change to subheading 8708.99 from any other heading; or No required change in tariff classification to subheading 8708.99, provided there is a regional value content of not less than 50 percent under the net cost method.

Article 4-B.3: Regional Value Content for Passenger Vehicles, Light Trucks, and Parts Thereof

1. Notwithstanding Article 4-B.2, each Party shall provide that the regional value-content requirement for a passenger vehicle or a light truck is:

(a) 66 percent under the net cost method, beginning on January 1, 2020, or the date of entry into force of the Agreement, whichever is later;

(b) 69 percent under the net cost method, beginning on January 1, 2021, or one year after the date of entry into force of the Agreement, whichever is later;

(c) 72 percent under the net cost method, beginning on January 1, 2022, or two years after the date of entry into force of the Agreement, whichever is later; and

(d) 75 percent under the net cost method, beginning on January 1, 2023, or three years after the date of entry into force of the Agreement, whichever is later, and thereafter.

2. Notwithstanding Article 4-B.2 and the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement for a part listed in Table A.1 of this Appendix that is for use in a passenger vehicle or light truck is:

(a) 66 percent under the net cost method or 76 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1 2020, or the date of entry into force of the Agreement, whichever is later;

(b) 69 percent under the net cost method or 79 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning

on January 1 2021, or one year after the date of entry into force of the Agreement, whichever is later;

(c) 72 percent under the net cost method or 82 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1 2022, or two years after the date of entry into force of the Agreement, whichever is later; or

(d) 75 percent under the net cost method or 85 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1 2023, or three years after the date of entry into force of the Agreement, whichever is later, and thereafter.

3. Notwithstanding Article 4-B.2 and the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that a part listed in Table A.1 of this Appendix that is for use in a passenger vehicle or light truck is originating only if it satisfies the regional value content requirement in paragraph 2, except for batteries of subheading 8507.60 that are used as the primary source of electrical power for the propulsion of an electric passenger vehicle or light truck.

4. Notwithstanding Article 4-B.2 and the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement for a part listed in Table B of this Appendix that is for use in a passenger vehicle or light truck is:

(a) 62.5 percent under the net cost method or 72.5 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2020 or the date of entry into force of the Agreement, whichever is later;

(b) 65 percent under the net cost method or 75 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2021 or one year after the date of entry into force of the Agreement, whichever is later;

(c) 67.5 percent under the net cost method or 77.5 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2022 or two years after the date of entry into force of the Agreement, whichever is later; or

(d) 70 percent under the net cost method or 80 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2023 or three years after the date of entry into force of the Agreement, whichever is later, and thereafter.

5. Notwithstanding the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement for a part listed in Table C of this Appendix that is for use in a passenger vehicle or light truck is:

(a) 62 percent under the net cost method or 72 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2020 or the date of entry into force of the Agreement, whichever is later;

(b) 63 percent under the net cost method or 73 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2021 or one year after the date of entry into force of the Agreement, whichever is later;

(c) 64 percent under the net cost method or 74 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2022 or two years after the date of entry into force of the Agreement, whichever is later; or

(d) 65 percent under the net cost method or 75 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2023 or three years after the date of entry into force of the Agreement, whichever is later, and thereafter.

6. For the purposes of calculating the regional value content under paragraphs 1 through 4 of this Article, Articles 4.5 through 4.8 apply.

7. Each Party shall provide that a passenger vehicle or light truck is originating only if the parts under Column 1 of Table A.2 of this Appendix used in the production of a passenger vehicle or light truck are originating. The Parties shall endeavor to provide, as appropriate, any additional description or other clarification to the list of the parts and components under Table A.2 of this Appendix, such as by tariff provision or product description, to facilitate implementation of this requirement.

8. Each Party shall provide that for the purposes of calculating the regional value content under Article 5 of Chapter 4 for a part under Column 1 of Table A.2 of this Appendix, the value of non-originating materials (VNM) is, at the vehicle producer's option,:

(a) the value of all non-originating materials used in the production of the part; or

(b) the value of any non-originating components used in the production of the part that are listed under Column 2 of Table A.2 of this Appendix.

9. Further to paragraph 8 of this Article, each Party shall provide that the regional value content may also be calculated, at the producer's option, for all parts under Column 1 of Table A.2 of this Appendix as a single part, using the sum of the net cost of each part listed under Column 1 of Table A.2 of this Appendix, and when calculating the VNM, at the producer's option:

(a) the sum of value of all non-originating materials used in the production of each part; or

(b) the value of only those non-originating components under Column 2 of Table A.2 of this Appendix, used in the production of each part.

If this regional value content meets the required threshold under paragraph 2 of this Appendix, then each Party shall provide that all parts under Table A.2 of this Appendix are originating and the passenger vehicle or light truck will be considered to have met the requirement under paragraph 7.

10. The Parties are encouraged to develop any additional description or other modification to the list of the parts and components of the parts and components in Table A.2 of this Appendix for a passenger vehicle or light truck that is an Advanced Technology Vehicle. Upon request of one of the Parties, the Parties shall discuss and agree on any appropriate modifications to Table A.2 of this Appendix for such a vehicle to ensure that the requirements in paragraph 7 remain relevant in light of technological changes and to facilitate the use of originating core parts.

Article 4-B.4: Regional Value Content for Heavy Trucks and Parts Thereof

1. Notwithstanding Article 4-B.2, each Party shall provide that the regional value-content requirement for a heavy truck is:

(a) 60 percent under the net cost method, beginning on January 1, 2020, or the date of entry into force of the Agreement, whichever is later;

(b) 64 percent under the net cost method, beginning on January 1, 2024, or four years after the date of entry into force of the Agreement, whichever is later; or

(c) 70 percent under the net cost method, beginning on January 1, 2027, or seven years after the date of entry into force of the Agreement, whichever is later, and thereafter.

2. Notwithstanding Article 4-B.2 and the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement for a part listed in Table D of this Appendix that is for use in a heavy truck is

(a) 60 percent under the net cost method or 70 percent under the transaction value method, if the corresponding rule includes a transaction value method. beginning on January 1, 2020, or the date of entry into force of the Agreement, whichever is later;

(b) 64 percent under the net cost method or 74 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2024, or four years after the date of entry into force of the Agreement, whichever is later; and

(c) 70 percent under the net cost method or 80 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2027, or seven years after the date of entry into force of the Agreement, whichever is later, and thereafter.

3. Notwithstanding the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement for a part listed in Table E of this Appendix that is for use in a heavy truck is

(a) 54 percent under the net cost method or 64 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2020, or the date of entry into force of the Agreement, whichever is later;

(b) 57 percent under the net cost method or 67 percent under the transaction value method, if the corresponding rule includes a transaction value method beginning on January 1, 2024, or four years after the date of entry into force of the Agreement, whichever is later; and

(c) 60 percent under the net cost method or 70 percent under the transaction value method, if the corresponding rule includes a transaction value method, beginning on January 1, 2027, or seven years after the date of entry into force of the Agreement, whichever is later, and thereafter.

4. Notwithstanding Article 4-B.2 or the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that a part of heading 84.07 or 84.08 or subheading 8708.40, or a chassis classified in 8708.99, that is for use in a heavy truck, is originating only if it satisfies the applicable regional value content requirement in paragraph 2 of this Article.

Article 4-B.5: Averaging

1. Each Party shall provide that, for the purposes of calculating the regional value content of a passenger vehicle, light truck, or heavy truck, the calculation may be averaged over the producer's fiscal year, using any one of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of one or more of the other Parties:

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

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

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

(d) any other category as the Parties may decide.

2. Each Party shall provide, that for the purposes of calculating the regional value content for an automotive good of subheading 8407.31 through 8407.34 or 8408.20 or heading 84.09, 87.06, 87.07, or 87.08, produced in the same plant, or a super-core for a passenger vehicle or light truck, the calculation may be averaged:

(a) over the fiscal year of the motor vehicle producer to whom the good is sold;

(b) over any quarter or month; or

(c) over the fiscal year of the producer of the automotive material;

provided that the good was produced during the fiscal year, quarter or month forming the basis for the calculation, in which:

(i) the average in subparagraph (a) is calculated separately for those goods sold to one or more motor vehicle producers; or

(ii) the average in subparagraph (a) or (b) is calculated separately for those goods that are exported to the territory of another Party.

Article 4-B.6: Steel and Aluminum

1. In addition to the Product-Specific Rules of Origin in Annex 4-B or other requirements in this Appendix, each Party shall provide that a passenger vehicle, light truck, or heavy truck is originating only if, during the previous year, at least 70 percent of:

(a) the vehicle producer's purchases of steel in North America[100]; and

(b) the vehicle producer's purchases of aluminum in North America,

are originating[101].

2. Each Party shall provide that when a vehicle producer certifies that its purchases of steel and aluminum meet the requirement under paragraph 1 of this Article on an annual basis and that relevant records are kept as part of the Record Keeping Requirements under Article 5.9, a certification during one year applies to vehicles produced or exported in the following year; that is, the requirement in paragraph 1 will be considered to be met for all vehicles produced by that

[100] For greater certainty, North American includes the United States, Mexico, and Canada.

[101] This requirement will apply to a vehicle producer's purchases throughout North America if the producer has more than one location in a Party where steel and aluminum is purchased. Purchases of steel and aluminum includes both direct purchases, purchases through a services center, and purchases contracted through a supplier.

producer in the territory of a Party or exported by that producer from the territory of a Party in the following year.

3. The Parties shall endeavor to develop any additional description or other modification of steel and aluminum subject to paragraph 1, if needed, to facilitate implementation of this requirement. Upon request of one of the Parties, the Parties shall discuss and agree on any appropriate modifications to the description of steel and aluminum.

4. The Parties shall include any certification or verification provisions for this requirement in *Uniform Regulations* provided for in Article 5.17.

Article 4-B.7: Labor Value Content

1. In addition to the Product-Specific Rules of Origin in Annex 4-B or other requirements in this Appendix, each Party shall provide that a passenger vehicle is originating only if the vehicle producer certifies, on an annual basis, that its production meets a Labor Value Content (LVC) of:

(a) 30 percent, consisting of at least 15 percentage points of high-wage material and manufacturing expenditures, no more than 10 percentage points of high-wage technology expenditures, and no more than 5 percentage points of high-wage assembly expenditures, beginning on January 1 2020, or the date of entry into force of the Agreement, whichever is later;

(b) 33 percent, consisting of at least 18 percentage points of high wage material and manufacturing expenditures, no more than 10 percentage points of technology expenditures, and no more than 5 percentage points of assembly expenditures, beginning on January 1, 2021, or one year after the date of entry into force of the Agreement, whichever is later;

(c) 36 percent, consisting of at least 21 percentage points of high wage material and manufacturing expenditures, no more than 10 percentage points of technology expenditures, and no more than 5 percentage points of assembly expenditures, beginning on January 1, 2022, or two years after the date of entry into force of the Agreement, whichever is later;

(d) 40 percent, consisting of at least 25 percentage points of high wage material and manufacturing expenditures, no more than 10 percentage points of technology expenditures, and no more than 5 percentage points of assembly expenditures, beginning on January 1, 2023, or three years after the date of entry into force of the Agreement, whichever is later, and thereafter.

2. Each Party shall provide that a light truck or heavy truck is originating only if the vehicle producer certifies that its production meets an LVC requirement consisting of at least 30 percentage points of high wage material and manufacturing expenditures, no more than 10

percentage points of technology expenditures, and no more than 5 percentage points of assembly expenditures.

3. Each Party shall provide that high-wage material or manufacturing expenditures, high-wage technology expenditures, and high-wage assembly expenditures described under paragraphs 1 and 2 are calculated as follows:

(a) For high wage material and manufacturing expenditures, the Annual Purchase Value (APV) [102] of purchased parts or materials[103] produced in a plant or facility, and any labor costs in the vehicle assembly plant or facility, that is located in North America with a production wage rate that is at least US$16/hour[104] as a percentage of the net cost of the vehicle, or the total vehicle plant assembly APV, including any labor costs in the vehicle assembly plant or facility;

(b) For high wage technology expenditures, the annual vehicle producer expenditures in North America on wages for research and development (R&D)[105] or information technology (IT)[106] as a percentage of total annual vehicle producer expenditures on production wages in North America; and

(c) For high wage assembly expenditures, a credit of no more than 5 percentage points if the vehicle producer demonstrates that it has an engine assembly, transmission assembly, or an advanced battery assembly plant, or has long term contracts with such a plant[107], located in North America with an average production wage of at least US$16 per hour.

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[102] High-wage transportation or related costs for shipping a part or component may be used to calculate high wage material and manufacturing costs if those costs are not otherwise included in the APV.

[103] These parts or materials include parts or materials used in the production of a vehicle or in the production of an auto part or material that is used in the production of an intermediate or self-produced part that is used in the production of a vehicle.

[104] The production wage rate is the average hourly base wage rate, not including benefits, of employees directly involved in the production of the part or component used to calculate the LVC, and does not include salaries of management, R&D, engineering, or other workers who are not involved in the direct production of the parts or in the operation of production lines.

[105] R&D expenditures include expenditures on research and development including prototype development, design, engineering, testing, or certifying operations.

[106] IT expenditures include expenditures on software development, technology integration, vehicle communications, and information technology support operations.

[107] In the case of a passenger vehicle or light truck, a high wage engine assembly or transmission assembly plant must have a production capacity of at least 100,000 originating engines or transmissions and an advanced battery assembly plant must have a production capacity of at least 25,000 originating assembled advanced battery packs, in order to receive this credit. In the case of a heavy truck a high wage engine, transmission, or battery assembly plant must have a production capacity of at least 20,000 originating engines, transmission, or assembled advanced battery packs to receive this credit.

4. Each Party shall provide that, for the purposes of calculating the LVC of a passenger vehicle, light truck, or heavy truck, the calculation may be averaged using any one of the following categories, on the basis of either all motor vehicles in the category or only those vehicles in the category that are exported to the territory of one or more of the other Parties:

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

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

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

(d) any other category as the Parties may decide.

5. Each Party shall provide, that when the LVC is certified by the vehicle producer on an annual basis and that relevant records are kept as part of the Record Keeping Requirements under Article 5.9, a certification during one year applies to vehicles produced or exported in the following year; that is, the requirement in paragraph 1 or 2 will be considered to be met for all vehicles produced by that producer in the territory of a Party or exported by that producer from the territory of a Party in the following year.

6. Each Party shall provide that for the period ending January 1, 2027 or seven years after entry into force of this Agreement, whichever is later, if a vehicle producer certifies a Labor Value Content for a heavy truck that is higher than 45 percent by increasing the amount of high wage material and manufacturing expenditures above 30 percentage points, the producer may use the points above 30 percentage points as a credit towards the regional value content percentages under Article 4-B.4.1 of this Appendix, provided that the regional value content percentage is not below 60 percent.

7. The Parties shall include any additional certification or verification provisions for this Article in the *Uniform Regulations* provided for in Article 5.17.

Article 4-B.8: Transitions

1. Each Party shall provide that for a period ending no later than January 1, 2025 or five years after entry into force of this Agreement, whichever is later, a passenger vehicle or light truck may be originating pursuant to an alternative staging regime, subject to paragraphs 2 and 3, to the above requirements.

2. An alternative staging regime for eligible passenger vehicles or light trucks must meet the following requirements:

(a) The regional value content for such vehicles must not be lower than 62.5 percent, under the net cost method, for vehicles and must be 75 percent by no later than January 1, 2025 or five years after entry into force of this Agreement, whichever is later;

(b) The regional value content for a good listed in Table A.1 of this Appendix that is for use in a passenger vehicle or light truck must not be lower than 62.5 percent under the net cost method or 72.5 percent under the transaction value method, if the corresponding rule includes a transaction value method, and must be 75 percent under the net cost method or 85 percent under the transaction value method, if the corresponding rule includes a transaction value method by no later than January 1, 2025 or five years after entry into force of this Agreement, whichever is later;

(c) The steel and aluminum requirement under Article 4-B.5 must be met, unless the Parties agree to amend that requirement for vehicles subject to this alternative regime; and

(d) The LVC requirements under paragraph 4-B.7.1 or 4-B-7.2 must not be reduced by more than 5 percentage points for high wage material and manufacturing expenditures unless the Parties agree to amend that requirement for vehicles subject to this alternative staging regime.

3. The quantities of passenger vehicles or light trucks eligible for the alternative staging regime in paragraph 2 shall be limited to not more than ten percent of a producer's total North American passenger vehicle or light truck production during the complete 12 month period prior to entry into force of the Agreement, or the average of such production during the complete 36 month period prior to entry into force of the Agreement, whichever is greater. The Parties may decide to increase the number of eligible vehicles for a producer if a vehicle producer can demonstrate, to the satisfaction of the Parties, a detailed and credible plan to ensure these vehicles will meet all the requirements set out in Articles 4-B.1 through 4-B.7 within five years from entry into force of this Agreement.

4. Each Party shall provide that for a period ending no later than January 1, 2027 or seven years after entry into force of this Agreement, whichever is later, a heavy truck may be originating pursuant to an alternative staging regime to the requirements set out in Articles 4-B.1 through 4-B.7, if applicable.

5. An alternative staging regime described in this Article may apply on a producer-by-producer basis. Upon request of one of the Parties, the Parties shall discuss and agree on any appropriate extensions or other modifications to the alternative staging regime described in paragraphs 1-4 if the Parties consider that such an extension or modification would result in new investment for vehicle or parts production in North America.

Article 4-B.9: Review and Transitional Arrangements

1. The Parties shall, upon request of a Party, review the requirements in this Appendix for passenger vehicles, light truck, and heavy trucks to ensure that they reflect the composition of these vehicles, especially Advanced Technology Vehicles, and in light of technological developments

2. Notwithstanding Article 4-B.5, a Party may allow averaging for a producer over a partial fiscal year or partial calendar year if the beginning of the producer's fiscal year does not coincide with the date of entry into force of this Agreement, or if the date of entry into force of this Agreement does not fall at the beginning of a calendar year, in order to facilitate implementation of the requirements in this Appendix.

Article 4-B.10: Regional Value Content for Other Vehicles

1. Notwithstanding the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement is 62.5 percent under the net cost method for:

(a) a motor vehicle for the transport of 15 or fewer persons of subheading 8702.10 or 8702.90; a motor vehicle with a compression-ignition engine as the primary motor of propulsion, a three or four-wheeled motorcycle, a motorhome or entertainer coach, or a vehicle solely or principally for off-road use of subheading 8703.21 through 8703.90; or a vehicle of subheading 8704.21 or 8407.31 that is solely or principally for off-road use; and

(b) a good of heading 84.07 or 84.08, or subheading 8708.40, that is for use in a motor vehicle in subparagraph (a).

2. Notwithstanding the Product-Specific Rules of Origin in Annex 4-B, each Party shall provide that the regional value-content requirement is 60 percent under the net cost method for:

(a) a good that is a motor vehicle of heading 8701, except for subheading 8701.20; a motor vehicle of subheading 8704.10, a motor vehicle of subheading 8704.21 through 8704.90 that is solely or principally for off-road use; a motor vehicle of heading 87.05; or a good of heading 87.06 that is not for use in a passenger vehicle, light truck, or heavy truck;

(b) a good of heading 84.07 or 84.08, or subheading 8708.40, that is for use in a motor vehicle in subparagraph (a).

(c) except for a good in paragraph 2(b) or of subheading 8482.10 through 8482.80, 8483.20, or 8483.30, a good in Table F of this Appendix that is subject to a regional value content requirement and that is for use in a motor vehicle in paragraphs 1(a) or 2(a).

3. Each Party shall provide that, for the purposes of calculating the regional value content under the net cost method for:

(a) a good that is a motor vehicle provided for in paragraph 1(a), or

(b) a good listed in Table F of this Appendix, if the good is subject to a regional value-content requirement and is for use as original equipment in the production of a good provided for paragraph 1(a)

the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of non-originating materials listed in Table F, determined in accordance with Article 4.6, at the time the non-originating materials are received by the first person in the territory of a Party who takes title to them, that are imported from outside the territories of the Parties and are used in the production of the good or that are used in the production of a material used in the production of the good.

4. Each Party shall provide that, for purposes of calculating the regional value content under the net cost method for a good that is a motor vehicle provided for in paragraph 2(a), or a component listed in Table G of this Appendix for use as original equipment in the production of the motor vehicle in paragraph 2(a), the value of non-originating materials used by the producer in the production of the good shall be the sum of:

(a) for each material used by the producer listed in Table G, whether or not produced by the producer, at the choice of the producer and determined in accordance with Article 4.5, either

(i) the value of such material that is non-originating, or

(ii) the value of non-originating materials used in the production of such material; and

(b) the value of any other non-originating material used by the producer that is not listed in Table G of this Appendix, determined in accordance with Article 4.5.

5. Each Party shall provide that, for purposes of calculating the regional value content of a motor vehicle covered by paragraph 1 or 2, the producer may average its calculation over its fiscal year, using any one of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of one or more of the other Parties:

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

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

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

6. Each Party shall provide that, for purposes of calculating the regional value content for a good listed in Table F of this Appendix, or a component or material listed in Table G of this Appendix, produced in the same plant, the producer of the good may:

(a) average its calculation:

(i) over the fiscal year of the motor vehicle producer to whom the good is sold,

(ii) over any quarter or month, or

(iii)over its fiscal year, if the good is sold as an aftermarket part;

(b) calculate the average referred to in subparagraph (a) separately for a good sold to one or more motor vehicle producers; or

(c) with respect to any calculation under this paragraph, calculate the average separately for goods that are exported to the territory of one or more of the Parties.

7. The regional value-content requirement for a motor vehicle identified in paragraph 1 or 2 of this Article shall be:

(a) 50 percent for five years after the date on which the first motor vehicle prototype is produced in a plant by a motor vehicle assembler, if:

(i) it is a motor vehicle of a class, or marque, or, except for a motor vehicle identified in paragraph 2, size category and underbody, not previously produced by the motor vehicle assembler in the territory of any of the Parties,

(ii) the plant consists of a new building in which the motor vehicle is assembled, and

(iii) the plant contains substantially all new machinery that is used in the assembly of the motor vehicle; or

(b) 50 percent for two years after the date on which the first motor vehicle prototype is produced at a plant following a refit, if it is a different motor vehicle of a class, or marque, or, except for a motor vehicle identified in paragraph 2, size category and underbody, than was assembled by the motor vehicle assembler in the plant before the refit.

TABLE A.1
CORE PARTS FOR PASSENGER VEHICLES AND LIGHT TRUCKS

HS 2012	DESCRIPTION
840731	Spark-Ignition Piston Engine for Vehicle Ex Railway Not Over 50 Cc
840732	Spark-Ignition Reciprocating Piston Engine Etc Nov 250Cc
840733	Spark-Ignition Reciprocating Piston Engine Etc >250 Nov1000Cc
840734	Spark-Ignition Reciprocating Piston Engine Etc > 1000 Cc
840820	Compression-Ignition Internal Combustion Piston Engine Etc
840991	Spark-Ignition Internal Combustion Piston Engine Parts Nesoi
840999	Spark-Ignition Reciprocating Internal Combustion Piston Engine Parts
850760	Lithium Ion Batteries
870600	Chassis W Engine for Trac, Motor Vehicle for Pass/Good & Special Purpose
870710	Bodies for Motor Cars/Vehicles for Transporting Persons
870790	Bodies for Road Tractors and Motor Vehicles (Pub Tran, Etc)
870840	Gear Boxes for Motor Vehicles
870850	Drive Axles with Differential for Motor Vehicles
870880	Suspension Shock Absorbers for Motor Vehicles
870894	Steering Wheels, Columns & Boxes for Motor Vehicles

TABLE A.2
PARTS AND COMPONENTS FOR PASSENGER VEHICLES AND LIGHT TRUCKS

Column 1	Column 2
PARTS	**COMPONENTS**
ENGINE	Heads, Blocks, Crankshafts, Crankcases, Pistons, Rods, Head subassembly
TRANSMISSION	Transmission cases, Torque converters, Torque converter housings, Gears and gear blanks, Clutches, Valve body assembly
BODY AND CHASSIS	Major body panels, Secondary panels, Structural panels, Frames
AXLE	Axle shafts, Axle housings, Axle hubs, Carriers, Differentials
SUSPENSION SYSTEM	Shock absorbers, Struts, Control arms, Sway bars, Knuckles, Coil springs, Leaf springs
STEERING SYSTEM	Steering columns, Steering gears/racks, Control units
ADVANCED BATTERY	Cells, Modules/arrays, Assembled packs

TABLE B
PRINCIPAL PARTS FOR PASSENGER VEHICLES AND LIGHT TRUCKS

HS 2012	DESCRIPTION
401110	New Pneumatic Tires of Rubber, for Motor Cars
401120	New Pneumatic Tires of Rubber, for Buses or Trucks
401211	Retreaded Tires of Rubber, for Use on Motor Cars
401212	Retreaded Tires of Rubber, for Use on Trucks
401219	Retreaded Tires of Rubber, Nesoi
401310	Inner Tubes of Rubber for Mot Cars, Buses & Trucks
700711	toughened Safety Glass of Size a Shape for Vehicles Etc
700721	Laminated Safety Glass for Vehicles, Aircraft Etc.
700910	Rear-View Mirrors for Vehicles
841330	Fuel, Lub/Cooling Med Pumps for Internal Comb Piston Engine
841350	Hydraulic Fluid power Pumps
841391	Parts of hydraulic fluid power pumps
841430	Compressors Used In Refrigerating Equipment
841459	Fans, Nesoi (turbochargers and superchargers)
841480	Air/Gas Pumps, Compressors and Fans Etc, Nesoi
841520	Automotive Air Conditioners
841590	Parts, Nesoi, of Air Conditioning Machines
847989	Electronic brake systems incl. ABS and ESC systems
848210	Ball Bearings
848220	Tapered Roll Bearings, Including Cone & Roller Assemblies
848230	Spherical Roller Bearings
848240	Needle Roller Bearings
848250	Cylindrical Roller Bearing Nesoi
848280	Other Ball or Roll Bearings, Inc Comb Ball/Roll Bearings
848291	Balls, Needles and Rollers for Bearings
848310	Transmission Shafts (Inc Cam-& Crank-Shaft), Etc.
848320	Housed Bearings, Incorp Ball or Roller Bearings
848330	Bearing Housings; Plain Shaft Bearings
848340	Gears; Ball or Roller Screws; Gear Boxes, Etc
848350	Flywheels and Pulleys, Including Pulley Blocks
848360	Clutches and Shaft Couplings (Incl. Universal Joints)
848390	Toothed Wheels, Chain Sprockets & Other Trans Elem; Pts
850132	Dc Motors & Generators W Output > 750W; N Over 75 Kw

TABLE B
PRINCIPAL PARTS FOR PASSENGER VEHICLES AND LIGHT TRUCKS

Continued

850133	Dc Motors & Generators W Output > 75Kw; N Over 375Kw
850520	Electromagnetic couplings, clutches and brakes
850590	Other Electromagnets and permanent magnets, including parts
851140	Internal Combustion Engine Starter Motors
851150	Internal Combustion Engine Generators, Nesoi
851180	Elect Ignition/Start Equipment for Spark/Comp Engine; Generator Nesoi
851190	Pts Elect Ignition/Start Equip; Generators & Cut-Outs
853710	Controls Etc W Elect Appr for Elect Cont Nov 1000 V
870810	Bumpers and Parts, for Motor Vehicles
870821	Safety Seat Belts for Motor Vehicles
870829	Parts & Accessories of Bodies of Motor Vehicles, Nesoi
870830	Brakes and Servo-Breaks; Parts Thereof
870870	Road Wheels & Pts & Accessories for Motor Vehicles
870891	Radiators for Motor Vehicles
870892	Mufflers and Exhaust Pipes for Motor Vehicles
870893	Clutches and Parts Thereof for Motor Vehicles
870895	Safety Airbags with Inflator System; Parts Thereof
870899	Parts and Accessories of Motor Vehicles, Nesoi
940120	Seats of a Kind Used for Motor Vehicles
940190	Parts of Seats (Ex Medical, Barber, Dental Etc)

TABLE C
COMPLEMENTARY PARTS FOR PASSENGER VEHICLES AND LIGHT TRUCKS

HS 2012	DESCRIPTION
400912	Pipe, Not Reinforced/Comb. W/ Materials W/ Fittings
400922	Pipes, Vulc Rub, Reinforced/Combo With Metal,W/ Fitting
400932	Pipe of Vul Rub, Reinforced W/ Text Only Mat,W/Fittings
400942	Pipe, Reinforced/Comb W/Other Textile Mat,W/Fittings
830120	Locks of a Kind Used On Motor Vehicles, Base Metal
842139	Catalytic converters
848120	Valves for Oleohydraulic or Pneumatic Transmissions
848130	Check Valves
848180	Taps Cocks Etc for Pipe Vat Inc Thermo Control Nesoi
850110	Electric Motors of an Output Not Exceeding 37.5 W
850120	Universal Ac/Dc Motors of an Output > 37.5 W
850131	Dc Motors & Generators W Output N Over 750 W
850720	Lead-Acid Storage Batteries Nesoi
850730	Nickel-Cadmium Storage Batteries
850740	Nickel-Iron Storage Batteries
850750	Nickel-metal Hydride Batteries
850780	Storage Batteries Nesoi
851130	Distributors; Ignition Coils
851220	Elect Lighting/Visual Signaling Equipment Ex for Bicycles
851240	Windshield Wiper Defroster & Demister for Cycle/Motor Vehicle
851981	Sound Recording/Reproducing App Magnetic/Optical/Semiconductor Nesoi
853650	Elect Switches for Voltage Not Over 1000 V, Nesoi
853690	Elect Apparatus for Protect to Elect Circuit Nov 1000 V Nesoi
853910	Sealed Beam Electric Lamp Units
853921	Tungsten Halogen Electric Filament Lamps
854430	Insulated Wiring Sets for Vehicles Ships Aircraft
903180	Measuring & Checking Instrument, Appliances & Mach Nesoi
903289	Auto Regulating Ins & Appr Ex Thermostat, Mnstat, Etc

TABLE D
PRINCIPAL PARTS FOR HEAVY TRUCKS

840731	Spark-Ignition Piston Engine for Vehicle Ex Railway Not Over 50 Cc
840732	Spark-Ignition Reciprocating Piston Engine Etc Nov 250Cc
840733	Spark-Ignition Reciprocating Piston Engine Etc >250 Nov1000Cc
840734	Spark-Ignition Reciprocating Piston Engine Etc > 1000 Cc
840820	Compression-Ignition Internal Combustion Piston Engine Etc
840991	Spark-Ignition Internal Combustion Piston Engine Parts Nesoi
840999	Spark-Ignition Reciprocating Internal Combustion Piston Engine Parts
841330	Fuel, Lub/Cooling Med Pumps for Internal Comb Piston Engine
841459	Fans, Nesoi (turbochargers and superchargers)
841480	Air/Gas Pumps, Compressors and Fans Etc, Nesoi
841520	Automotive Air Conditioners
848280	Other Ball or Roll Bearings, Inc Comb Ball/Roll Bearings
848310	Transmission Shafts (Inc Cam-& Crank-Shaft), Etc.
848340	Gears; Ball or Roller Screws; Gear Boxes, Etc
848350	Flywheels and Pulleys, Including Pulley Blocks
850132	Dc Motors & Generators W Output > 750W; N Over 75 Kw
850133	Dc Motors & Generators W Output > 75Kw; N Over 375Kw
851140	Internal Combustion Engine Starter Motors
851150	Internal Combustion Engine Generators, Nesoi
853710	Controls Etc W Elect Appr for Elect Cont Nov 1000 V
870600	Chassis W Engine for Trac, Motor Vehicle for Pass/Good & Special Purpose
870710	Bodies for Motor Cars/Vehicles for Transporting Persons
870790	Bodies for Road Tractors and Motor Vehicles (Pub Tran, Etc)
870810	Bumpers and Parts, for Motor Vehicles
870821	Safety Seat Belts for Motor Vehicles
870829	Parts & Accessories of Bodies of Motor Vehicles, Nesoi
870830	Brakes and Servo-Breaks; Parts Thereof
870840	Gear Boxes for Motor Vehicles
870850	Drive Axles with Differential for Motor Vehicles
870870	Road Wheels & Pts & Accessories for Motor Vehicles
870880	Suspension Shock Absorbers for Motor Vehicles
870891	Radiators for Motor Vehicles
870892	Mufflers and Exhaust Pipes for Motor Vehicles
870893	Clutches and Parts Thereof for Motor Vehicles
870894	Steering Wheels, Columns & Boxes for Motor Vehicles
870895	Safety Airbags with Inflator System; Parts Thereof
870899	Parts and Accessories of Motor Vehicles, Nesoi
940120	Seats of a Kind Used for Motor Vehicles

TABLE E

COMPLEMENTARY PARTS FOR HEAVY TRUCKS

841350	Hydraulic Fluid power Pumps
847989	Electronic brake systems incl. ABS and ESC systems
848210	Ball Bearings
848220	Tapered Roll Bearings, Including Cone & Roller Assemblies
848230	Spherical Roller Bearings
848240	Needle Roller Bearings
848250	Cylindrical Roller Bearing Nesoi
848320	Housed Bearings, Incorp Ball or Roller Bearings
848330	Bearing Housings; Plain Shaft Bearings
848360	Clutches and Shaft Couplings (Incl. Universal Joints)
850520	Electromagnetic couplings, clutches and brakes
850590	Other Electromagnets and permanent magnets, including parts
850760	Lithium Ion Batteries
851180	Elect Ignition/Start Equipment for Spark/Comp Engine; Generator Nesoi
851190	Pts Elect Ignition/Start Equip; Generators & Cut-Outs

TABLE F

LIST OF TARIFF PROVISIONS FOR OTHER VEHICLES

40.09	(tubes, pipes and hoses)
4010.10	(rubber belts)
40.11	(tires)
4016.93.aa	(rubber, gaskets, washers and other seals for automotive goods)
4016.99.aa	(vibration control goods)
7007.11 and 7007.21	(laminated safety glass)
7009.10	(rearview mirrors)
8301.20	(locks for the kind used on motor vehicles)
8407.31	(engines of a cylinder capacity not exceeding 50cc)
8407.32	(engines of a cylinder capacity exceeding 50cc but not exceeding 250cc)
8407.33	(engines of a cylinder capacity exceeding 250cc but not exceeding 1000cc)
8407.34.aa	(engines of a cylinder capacity exceeding 1000cc but not exceeding 2000cc);
8407.34.bb	(engines of a cylinder capacity exceeding 2000cc)
8408.20	(diesel engines for vehicles of Chapter 87)
84.09	(parts of engines)
8413.30	(pumps)
8414.80.22	(turbochargers and superchargers for motor vehicles, where not provided for under subheading 8414.59)
8414.59.aa	(turbochargers and superchargers for motor vehicles, where not provided for under subheading 8414.80)
8415.81 through 8415.83	(air conditioners)
8421.39.aa	(catalytic convertors)
8481.20, 8481.30 and 8481.80	(valves)
8482.10 through 8482.80	(ball bearings)
8483.10 through 8483.40	(transmission shafts and housed ball bearings)

8483.50	(flywheels)
8501.10	(electric motors)
8501.20	(electric motors)
8501.31	(electric motors)
8501.32.aa	(electric motors that provide primary source for electric powered vehicles of subheading 8703.90)
8507.20.aa, 8507.30.aa, 8507.40.aa and 8507.80.aa	(batteries that provide primary source for electric cars)
8511.30	(distributors)
8511.40	(starter motors)
8511.50	(other generators)
8512.20	(other lighting or visual signalling equipment)
8512.40	(windscreen wipers, defrosters)
8519.91	(cassette decks)
8527.21	(radios combined with cassette players)
8527.29	(radios)
8536.50	(switches)
8536.90	(junction boxes)
8537.10.aa	(motor control centers)
8539.10	(seal beamed headlamps)
8539.21	(tungsten halogen headlamps)
8544.30	(wire harnesses)
87.06	(chassis)
87.07	(bodies)
8708.10.aa	(bumpers but not parts thereof)
8708.21	(safety seat belts)
8708.29.aa	(body stampings)
8708.29.bb	(inflators and modules for airbags)
8708.29.cc	(door assemblies)
8708.29.dd	(airbags for use in motor vehicles, where not provided for under subheading 8708.99)
8708.39	(brakes and servobrakes, and parts thereof)
8708.40	(gear boxes, transmissions)

8708.50	(drive axles with differential, whether or not provided with other transmission components)
8708.60	(nondriving axles, and parts thereof)
8708.70.aa	(road wheels, but not parts or accessories thereof)
8708.80	(suspension shockabsorbers)
8708.91	(radiators)
8708.92	(silencers (mufflers) and exhaust pipes)
8708.93.aa	(clutches, but not parts thereof)
8708.94	(steering wheels, steering columns and steering boxes)
8708.99.aa	(vibration control goods containing rubber)
8708.99.bb	(double flanged wheel hub units)
8708.99.cc	(airbags for use in motor vehicles, where not provided for under subheading 8708.29)
8708.99.dd	(halfshafts and drive shafts)
8708.99.ee	(other parts for powertrains)
8708.99.ff	(parts for suspension systems)
8708.99.gg	(parts for steering systems)
8708.99.hh	(other parts and accessories not provided for elsewhere in subheading 8708.99)
9031.80	(monitoring devices)
9032.89	(automatic regulating instruments)
9401.20	(seats)

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

TABLE G

LIST OF COMPONENTS AND MATERIALS FOR OTHER VEHICLES

1. Component: Engines provided for in heading 84.07 or 84.08

Materials: cast block, cast head, fuel nozzle, fuel injector pumps, glow plugs, turbochargers and superchargers, electronic engine controls, intake manifold, exhaust manifold, intake/exhaust valves, crankshaft/camshaft, alternator, starter, air cleaner assembly, pistons, connecting rods and assemblies made therefrom (or rotor assemblies for rotary engines), flywheel (for manual transmissions), flexplate (for automatic transmissions), oil pan, oil pump and pressure regulator, water pump, crankshaft and camshaft gears, and radiator assemblies or charge-air coolers.

2. Component: Gear boxes (transmissions) provided for in subheading 8708.40

Materials: (a) for manual transmissions - transmission case and clutch housing; clutch; internal shifting mechanism; gear sets, synchronizers and shafts; and (b) for torque convertor type transmissions - transmission case and convertor housing; torque convertor assembly; gear sets and clutches; and electronic transmission controls.

CHAPTER 5

ORIGIN PROCEDURES

Article 5.1: Definitions

For the purposes of this Chapter:

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

identical goods means goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods under Chapter 4 (Rules of Origin) or Chapter 6 (Textiles and Apparel);

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

value means value of a good or material for purposes of calculating customs duties or for purposes of applying Chapter 4 (Rules of Origin) or Chapter 6 (Textiles and Apparel).

Article 5.2: Claims for Preferential Tariff Treatment

1. Each Party shall provide that an importer may make a claim for preferential tariff treatment, based on a certification of origin completed by the exporter, producer, or importer[1] for the purpose of certifying that a good being exported from the territory of a Party into the territory of another Party qualifies as an originating good.

1bis. An importing Party may:

(a) require that an importer who completes a certification of origin provide documents or other information to support the certification;

(b) establish in its law conditions that an importer shall meet to complete a certification of origin;

[1] For Mexico, implementation of paragraph 1 with respect to a certification of origin by the importer shall be no later than three years and six months after the date of entry into force of this Agreement.

(c) if an importer fails to meet or no longer meets the conditions established under subparagraph (b), prohibit that importer from providing its own certification as the basis of a claim for preferential tariff treatment; or

(d) if a claim for preferential tariff treatment is based on a certification of origin completed by an importer, prohibit that importer from:

(i) issuing a certification, based on a certification of origin or a written representation completed by the exporter or producer; and

(ii) making a subsequent claim for preferential tariff treatment for the same importation, based on a certification of origin completed by the exporter or producer.

2. Each Party shall provide that a certification of origin:

(a) need not follow a prescribed format;

(b) may be provided on an invoice or any other document;

(c) specifies that the good is both originating and meets the requirements of this Chapter;

(d) describes the originating good in sufficient detail to enable its identification; and

(e) meets the requirements as set out in the Uniform Regulations.

3. A Party shall not reject a claim for preferential tariff treatment for the sole reason that the invoice was issued in a non-Party. However, the certification of origin shall not be stated in an invoice or any other commercial document, issued in a non-Party.

4. Each Party shall provide that the certification of origin for a good imported into its territory may be completed in English, French or Spanish. If the certification of origin is not in a language of the importing Party, the importing Party may require an importer to submit, upon request, a translation into such a language.

5. Each Party shall allow a certification of origin to be completed and submitted in an electronic manner and shall accept the certification of origin with an electronic or digital signature.

Article 5.3: Basis of a Certification of Origin

1. Each Party shall provide that if a producer certifies the origin of a good, the certification of origin is completed on the basis of the producer having information, including documents, that the good is originating.

2. Each Party shall provide that if the exporter is not the producer of the good, the certification of origin may be completed by the exporter of the good on the basis of:

(a) having information, including documents, that the good is originating; or

(b) reasonable reliance on the producer's written representation, such as in a certification of origin, that the good is originating.

3. Each Party shall provide that a certification of origin may be completed by the importer of the good on the basis of the importer having information, including documents, that demonstrate that the good is originating.

4. For greater certainty, nothing in paragraph 1 or 2 shall be construed to allow a Party to require an exporter or producer to complete a certification of origin or provide a certification of origin or a written representation to another person.

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

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

(b) multiple shipments of identical goods within any period specified in the certification of origin, but not exceeding 12 months.

6. Each Party shall provide that a certification of origin for a good imported into its territory be accepted by its customs administration for four years after the date the certification of origin was completed.

Article 5.4: Obligations Regarding Importations

1. Except as otherwise provided for in this Chapter, each Party shall provide that, for the purpose of claiming preferential tariff treatment, the importer shall:

(a) make a statement forming part of the import documentation based on a valid certification of origin that the good qualifies as an originating good;

(b) have a valid certification of origin in its possession at the time the statement referred to in subparagraph (a) is made;

(c) provide, on the request of the importing Party's customs administration, a copy of the certification of origin, in accordance with its laws and regulations;

(d) if a certification by the importer forms the basis for the claim, demonstrate, on request of the importing Party, that the good is originating under Article 3.3; and

(e) if the claim for preferential tariff treatment is based on a certification of origin completed by a producer, that is not the exporter of the good, demonstrate on the request of the importing Party, that the good certified as originating did not undergo further production or any other operation other than unloading, reloading or any other necessary to preserve it in good condition or to transport the good into the territory of the importing Party.

2. Each Party shall provide that, if the importer has reason to believe that the certification of origin is based on incorrect information that could affect the accuracy or validity of the certification of origin, the importer shall promptly correct the importation document and pay any duties owing. The importer shall not be subject to penalties for the making of an incorrect statement that formed part of the import documentation, if it promptly corrects the importation document and pays any duties owing.

3. Each Party may require an importer to demonstrate that a good for which the importer claims preferential tariff treatment was shipped in accordance with Article 4.17 (Rules of Origin – Transit and Transhipment) by providing:

(a) transportation documents, including the multimodal or combined transportation documents, such as bills of lading or waybills, indicating the shipping route and all points of shipment and transhipment prior to the importation of the good; and

(b) if the good is shipped through or transhipped outside the territories of the Parties, provide relevant documents, such as in the case of storage, storage documents or a copy of the customs control documents demonstrating that the good remained under customs control while outside the territories of the Parties.

Article 5.5: Exceptions to Certification of Origin

Each Party shall provide that a certification of origin shall not be required if:

(a) the value of the importation does not exceed US $1,000 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish. A Party may require a written representation certifying that the good qualifies as an originating good; or

(b) it is an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a certification of origin,

provided that the importation does not form part of a series of importations that mayreasonably be considered to have been undertaken or arranged for the purpose of evading compliance with the importing Party's laws, regulations, or procedures governing claims for preferential tariff treatment.

Article 5.6: Obligations Regarding Exportations

1. Each Party shall provide that an exporter or producer in its territory that completes a certification of origin shall provide a copy of the certification of origin to its customs administration, on its request.

2. Each Party shall provide that if an exporter or a producer in its territory has provided a certification of origin and has reason to believe that it contains or is based on incorrect information, the exporter or producer shall promptly notify, in writing, every person and every Party to whom the exporter or producer provided the certification of origin of any change that could affect the accuracy or validity of the certification of origin.

2bis. No Party shall impose penalties on an exporter or a producer in its territory that voluntarily provides written notification pursuant to paragraph 2 with respect to a certification of origin.

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

4. Each Party shall allow a certification of origin to be maintained in any medium and submitted electronically from the exporter or producer in the territory of a Party to an importer in the territory of the other Party.

Article 5.8: Errors or Discrepancies

1. Each Party shall provide that it shall not reject a certification of origin due to minor errors or discrepancies in it that do not create doubts concerning the correctness of the import documentation.

2. Each Party shall provide that if the customs administration of the Party into whose territory a good is imported determines that a certification of origin is illegible, defective on its face or has not been completed in accordance with this Chapter, the importer shall be granted a period of not less than five working days to provide the customs administration with a copy of the corrected certification of origin.

Article 5.9: Record Keeping Requirements

1. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the territory of that Party shall maintain, for a period of no less than five years from the date of importation of the good:

(a) the documentation related to the importation, including the certification of origin that served as the basis for the claim;

(b) all records necessary to demonstrate that the good is originating, if the claim was based on a certification of origin completed by the importer; and

(c) the information, including documents, necessary to demonstrate the compliance with Article 4.1, subparagraph e), if applicable.

2. Each Party shall provide that an exporter or a producer in its territory that completes a certification of origin or a producer that provides a written representation shall maintain in its territory for five years after the date the on which the certification of origin was completed or for such longer period as the Party may specify, all records necessary to demonstrate that a good for which the exporter or producer provided a certification of origin or other written representation is originating, including records associated with:

(a) the purchase of, cost of, value of, shipping of, and payment for, the good or material;

(b) the purchase of, cost of, value of, shipping of, and payment for all materials, including indirect materials, used in the production of the good or material; and

(c) the production of the good in the form in which the good is exported or the production of the material in the form in which it was sold.

3. Each Party shall provide in accordance with that Party's law that an importer, exporter, or producer in its territory may choose to maintain the records or documentation specified in paragraphs 1 and 2 in any medium, including electronic, provided that the records or documentation can be promptly retrieved and printed.

4. For greater certainty, an importer, exporter, or producer must maintain records as described in this Article even if the importing Party does not require a certification of origin or if a requirement for a certification of origin has been waived.

Article 5.10: Origin Verification

1. For the purpose of determining whether a good imported into its territory is an originating good, the importing Party may, through its customs administration, conduct a verification of any claim for preferential tariff treatment by one or more of the following:

(a) a written request or questionnaire seeking information, including documents, from the importer, exporter or producer of the good;

(b) a verification visit to the premises of the exporter or producer of the good in order to request information, including documents, and to observe the production process and the related facilities; or

(c) for a textile or apparel good, the procedures set out in Article 6.6 (Verification); or

(d) any other procedure as may be decided by the Parties.

1bis: The importing Party may choose to initiate a verification under this Article to the importer or the person who completed the certification of origin.

2. If an importing Party conducts a verification under this Article it shall accept information, including documents, directly from the importer, exporter, or producer.

3. If a claim for preferential tariff treatment is based on a certification of origin completed by the exporter or producer and, in response to a request for information by an importing Party to determine whether a good is originating in verifying a claim of preferential treatment under paragraph 1(a), the importer does not provide sufficient information to demonstrate that the good is originating, the importing Party shall request information from the exporter or producer under paragraph 1(a) or 1(b) before it may deny the claim for preferential tariff treatment. The importing Party shall complete the verification, including any additional request to the exporter or producer under paragraph 1(a) or 1(b), within the time provided in paragraph 14.

4. A written request or questionnaire seeking information, including documents, or a request for a verification visit, under paragraphs 1(a) or (b) shall:

(a) include the identity of the customs administration issuing the request;

(b) state the object and scope of the verification, including the specific issue the requesting Party seeks to resolve with the verification;

(c) include sufficient information to identify the good that is being verified;

(d) in the case of a verification visit,

(i) request the written consent of the exporter or producer whose premises are going to be visited,

(ii) the legal authority for the visit,

(iii) the proposed date and location for the visit,

(iv) the specific purpose of the visit; and

(v) the names and titles of the officials performing the visit.

5. If an importing Party has initiated a verification under paragraph 1(a) or 1(b) other than to the importer, it shall inform the importer of the initiation of the verification.

6. For a verification under paragraphs 1(a) or 1(b), the importing Party shall:

(a) ensure that the written request for information, or documentation to be reviewed, is limited to information and documentation to determine whether the good is originating;

(b) describe the information or documentation in detail to allow the importer, exporter, or producer to identify the information and documentation necessary to respond;

(c) allow the importer, exporter, or producer at least 30 days from the date of receipt of the written request for information including documents under paragraph 1(a) to respond; and

(d) allow the exporter or producer 30 days from the date of receipt of the written request for a visit under paragraph 1(b) to consent or refuse the request.

7. On request of the importing Party, the Party where the exporter or producer is located may, as it deems appropriate and in accordance with its laws and regulations, assist with the verification. This assistance may include providing information it has that is relevant to the origin verification. The importing Party shall not deny a claim for preferential tariff treatment solely on the grounds that the Party where the exporter or producer is located did not provide requested assistance.

8. If an importing Party initiates a verification under paragraph 1(b), it shall, at the time of the request for the visit under paragraph 4, provide a copy of the request to:

(a) the customs administration of the Party in whose territory the visit is to occur, and

(b) if requested by the Party in whose territory the visit is to occur, the embassy of that Party in the territory of the Party proposing to conduct the visit.

9. Each Party shall provide that, when the exporter or producer receives notification pursuant to paragraph 4, the exporter or producer may, on a single occasion, within 15 days of receipt of the notification, request the postponement of the proposed verification visit for a period not exceeding 30 days from the proposed date of the visit.

10. Each Party shall provide that, when its customs administration receives notification pursuant to paragraph 8, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the proposed date of the visit, or for a longer period as the Parties may decide.

11. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraphs 9 or 10.

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

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

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

(c) an exporter or producer of a good shall identify to the customs administration conducting a verification visit any observers designated to be present during the visit.

13. The importing Party shall provide the importer, exporter, or producer that certified the good was originating and is the subject of a verification, with a written determination of whether the good is originating, including findings of facts and the legal basis for the determination. If the importer is not the certifier, the importing Party shall also provide that written determination to the importer.

14. The Party conducting a verification shall, as expeditiously as possible and within 120 days after it has received all the information necessary[2] to make the determination, provide the written determination under paragraph 13. Notwithstanding the foregoing, the Party may extend this period, in exceptional cases, for up to 90 days after notifying the importer, and any exporter or producer who is subject to the verification or provided information during the verification.

15. Prior to issuing a written determination under paragraph 13, if the importing Party intends to deny preferential tariff treatment, the importing Party shall inform the importer, and any exporter or producer who is subject to the verification and provided information during the

[2] This includes any information collected pursuant to a verification request to an exporter or producer under paragraph 3.

verification. of the preliminary results of the verification and provide those persons with a notice of intent to deny that includes when the denial would be effective and a period of at least 30 days for the submission of additional information, including documents, related to the originating status of the good.

16. If verifications by a Party indicate a pattern of conduct by an importer, exporter or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods imported, exported or produced by such person until that person establishes compliance with this Chapter, Chapter 4 (Rules of Origin), and Chapter 6 (Textiles).

17. For the purposes of this Article and relevant articles of the Uniform Regulations, all communication to the exporter or producer and to the customs administration of the Party of export will be sent by any means that can produce any confirmation of receipt. The specified time periods will begin from the date of receipt.

Article 5.11: Determinations of Origin

1. Except as otherwise provided in paragraph 2 or Article 6.7 (Determinations), each Party shall grant a claim for preferential tariff treatment made under this Chapter on or after the date of entry into force of this Agreement.

2. The importing Party may deny a claim for preferential tariff treatment if:

(a) it determines that the good does not qualify for preferential treatment;

(b) pursuant to a verification under Article 5.10, it has not received sufficient information to determine that the good qualifies as originating;

(c) the exporter, producer, or importer fails to respond to a written request or questionnaire for information, including documents under Article 5.10 ;

(d) the exporter or producer fails to provide its written consent for a verification visit, in accordance with Article 5.10;

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

(f) the exporter, producer or importer of the good that is required to maintain records or documentation, in accordance with this Chapter;

(i) fails to maintain records or documentation; or

(ii) denies access, if requested by a Party, to those records or documentation.

Article 5.12: Refunds and Claims for Preferential Tariff Treatment after Importation

1. Each Party shall provide that an importer may apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that the good would have qualified for preferential tariff treatment when it was imported into the territory of the Party.

2. The importing Party may, for the purposes of paragraph 1, require that the importer:

(a) make a claim for preferential tariff treatment;

(b) provide a statement that the good was originating at the time of importation;

(c) provide a copy of the certification of origin; and

(d) provide any other documentation relating to the importation of the good as the importing Party may require,

no later than one year after the date of importation or a longer period if specified in the importing Party's law.

Article 5.13: Confidentiality

1. If a Party provides information to another Party in accordance with this Chapter and designates the information as confidential or it is confidential under the receiving Party's law, such Party shall keep the information confidential in accordance with its law.

2. A Party may decline to provide information requested by another Party if that Party has failed to act in accordance with paragraph 1.

3. A Party may use or disclose confidential information received from another Party under this Chapter but only for the purposes of administration or enforcement of its customs laws or as otherwise provided under the Party's law, including in an administrative, quasi-judicial or judicial proceeding.

4. When a Party collects information from a trader under this Chapter, that Party shall apply the provisions set out in Article 7.24 (Customs and Trade Facilitation - Protection of Trader Information) to keep the information confidential.

Article 5.14: Penalties

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

Article 5.15: Advance Rulings Relating to Origin

1. In accordance with Article 7.5 (Advance Rulings) of the Customs and Trade Facilitation Chapter, each Party, through its customs administration, shall, on request, provide for the issuance of a written advance ruling on origin under this Agreement.

2. Each Party shall adopt or maintain uniform procedures throughout its territory for the issuance of advance rulings on origin under this Agreement, including the common standards set out in the Uniform Regulations of this Chapter regarding the information required to process an application for a ruling.

Article 5.16: Review and Appeal

1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration related to origin under this Agreement as it provides to importers in its territory to an exporter or producer:

   (a) that completes a certification of origin for a good that has been the subject of a determination of origin under this Agreement; or

   (b) that has received an advance ruling on origin under this Agreement pursuant to Article 7.5 (Advance Rulings) of the Customs and Trade Facilitation Chapter and Article 15.

Article 5.17: Uniform Regulations

1. The Parties shall, by entry into force of this Agreement, establish or maintain through their respective laws or regulations, Uniform Regulations regarding the interpretation, application, and administration of Chapter 4 (Rules of Origin), this Chapter, Chapter 6 (Textiles and Apparel Goods) and other matters as may be agreed by the Parties.

2. Each Party shall implement any modification to the Uniform Regulations within a period that the Parties decide.

3. Each Party shall apply the Uniform Regulations in addition to the obligations in the Chapter.

Article 5.18: Notification of Treatment

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

(a) a determination of origin issued as the result of a verification conducted pursuant to Article 5.10;

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

(i) a ruling issued by the customs administration of another Party, or

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

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

(d) an advance ruling, or a ruling modifying or revoking an advance ruling on origin under this Agreement, pursuant to Article 7.5 (Customs and Trade Facilitation – Advance Rulings).

Article 5.19: Committee on Rules of Origin and Origin Procedures

1. The Parties hereby establish a Committee on Rules of Origin and Origin Procedures, composed of government representatives of each Party, to consider any matters arising under this Chapter or Chapter 4 (Rules of Origin).

2. The Committee shall consult regularly to ensure that this Chapter and Chapter 4 (Rules of Origin) are administered effectively, uniformly, and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter.

3. The Committee shall consult to discuss possible amendments or modifications to this Chapter or Chapter (Rules of Origin), and in particular to the Product-Specific Rules of Origin in Annex 4-B, except Product-Specific Rules for textile and apparel goods, or to the Uniform Regulations, taking into account developments in technology, production processes or other related matters. A Party may submit a proposed modification, along with supporting rationale and

any studies to the other Parties for consideration. In particular, the Committee shall consider the possibility of cumulation with third parties with whom the parties have trade agreements on a product by product basis.

4. The Committee shall notify the Commission of any modification of or addition to the Uniform Regulations decided by the Committee.

5. Prior to the entry into force of an amended version of the Harmonized System, the Committee shall consult to prepare updates to this Chapter and Chapter 4 (Rules of Origin), and in particular to the Product-Specific Rules of Origin in Annex 4-B, except for textiles and apparel goods, that are necessary to reflect changes to the Harmonized System.

6. With respect to a textile or apparel good, Article 6.7 (Committee on Textile and Apparel Trade Matters) applies in place of this Article.

7. The Parties shall consult regularly to consider modifications or revisions to the Uniform Regulations that reduces their complexity and provides practical and useful guidance to ensure better compliance with the rules and procedures of this Chapter including examples or guidance that would be of particular assistance to small and medium sized businesses in the territories of the Parties.

Article 5.20: Sub-Committee on Origin Verification

1. The Parties hereby establish a sub-Committee on Origin Verification, composed of government representatives of each Party. The sub-committee will be a subcommittee of the Committee on Rules of Origin and Origin Procedures.

2. The sub-committee shall meet at least once within one year of the date of entry into force of this Agreement, and thereafter at such times as the Parties decide and on request of the Commission or the Committee on Rules of Origin and Origin Procedures.

3. The Committee's functions shall include:

(a) discussing and developing technical papers and sharing technical advice related to Chapter 4 or Chapter 5 for the purposes of conducting verifications of origin;

(b) developing and improving the NAFTA 1994 Audit Manual and recommending verification procedures;

(c) developing and improving verification questionnaires, forms, or brochures; and

(d) providing a forum for the Parties to consult and endeavor to resolve issues relating to origin verification.

ANNEX 5-A

MINIMUM DATA ELEMENTS

A certification of origin that is the basis for a claim for preferential tariff treatment under this Agreement shall include the following elements:

1. Importer, Exporter or Producer Certification of Origin

Indicate whether the certifier is the exporter, or producer, or importer in accordance with Article 5.2 (Claims for Preferential Treatment).

2. Certifier

Provide the certifier's name, title, address (including country), telephone number and e-mail address.

3. Exporter

Provide the exporter's name, address (including country), e-mail address and telephone number if different from the certifier. This information is not required if the producer is completing the certification of origin and does not know the identity of the exporter. The address of the exporter shall be the place of export of the good in a Party's territory.

4. Producer

Provide the producer's name, address (including country), e-mail address and telephone number, if different from the certifier or exporter or, if there are multiple producers, state "Various" or provide a list of producers. A person that wishes for this information to remain confidential may state "Available upon request by the importing authorities". The address of a producer shall be the place of production of the good in a Party's territory.

5. Importer

Provide, if known, the importer's name, address, e-mail address and telephone number. The address of the importer shall be in a Party's territory.

6. Description and HS Tariff Classification of the Good

   (a) Provide a description of the good and the HS tariff classification of the good to the 6-digit level. The description should be sufficient to relate it to the good covered by the certification; and

(b) If the certification of origin covers a single shipment of a good, indicate, if known, the invoice number related to the exportation.

7. Origin Criterion

Specify the origin criteria under which the good qualifies.

8. Blanket Period

Include the period if the certification covers multiple shipments of identical goods for a specified period of up to 12 months as set out in Article 5.2 (Claims for Preferential Treatment).

9. Authorized Signature and Date

The certification must be signed and dated by the certifier and accompanied by the following statement:

I certify that the goods described in this document qualify as originating and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification visit, documentation necessary to support this certification.

CHAPTER 6

TEXTILE AND APPAREL GOODS

Article 6.1: Rules of Origin and Related Matters

Application of Chapters 4 and 5 (Rules of Origin and Origin Procedures)

1. Except as provided in this Chapter, Chapters 4 and 5 (Rules of Origin and Origin Procedures) shall apply to textile and apparel goods.

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2. A textile or apparel good classified in Chapters 50 through 60 or heading 96.19 of the Harmonized System that contains non-originating materials that do not satisfy the applicable change in tariff classification requirement specified in Annex 4-B (Product-Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all those materials is not more than 10 percent of the total weight of the good, of which the total weight of elastomeric content may not exceed 7 percent, and the good meets all the other applicable requirements of this Chapter and Chapters 4 and 5 (Rules of Origin and Origin Procedures).

3. A textile or apparel good classified in Chapters 61 through 63 of the Harmonized System that contains non-originating fibers or yarns in the component of the good that determines the tariff classification of the good that do not satisfy the applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all those fibers or yarns is not more than 10 percent of the total weight of that component, of which the total weight of elastomeric content may not exceed 7 percent, and the good meets all the other applicable requirements of this Chapter and Chapters 4 and 5 (Rules of Origin and Origin Procedures).

Treatment of Sets

4. Notwithstanding the product-specific rules of origin set out in Annex 4-B (Product-Specific Rules of Origin), textile and apparel goods put up in sets for retail sale, classified as a result of the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System, shall not be regarded as originating goods unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set.

5. For the purposes of paragraph 4:

(a) the value of non-originating goods in the set shall be calculated in the same manner as the value of non-originating materials in Chapters 4 (Rules of Origin); and

(b) the value of the set shall be calculated in the same manner as the value of the good in Chapter 4 (Rules of Origin).

Article 6.2: Handmade, Traditional Folkloric, or Indigenous Handicraft Goods

1. An importing Party and an exporting Party may identify particular textile or apparel goods that they mutually agree fall within:

(a) hand-loomed fabrics of a cottage industry;

(b) hand-made cottage industry goods made of those hand-loomed fabrics;

(c) traditional folklore handicraft goods; or

(d) indigenous handicraft goods.

2. The goods shall be eligible for duty-free treatment by the importing Party provided that any requirements agreed by the importing and exporting Parties are met.

Article 6.3: Special Provisions

Annex 6-A sets out special provisions applicable to certain textile and apparel goods.

Article 6.4: Review and Revision of Rules of Origin

1. On request of a Party, the Parties shall consult to consider whether particular goods should be subject to different rules of origin to address issues of availability of supply of fibers, yarns or fabrics in the free trade area.

2. In the consultations, each Party shall consider the data presented by a Party showing substantial production in its territory of the particular good. The consulting Parties shall consider that substantial production has been shown if that Party demonstrates that its domestic producers are capable of supplying commercial quantities of the good in a timely manner. With a view to concluding consultations without delay, the Parties shall endeavor to make an initial assessment of the evidence available regarding whether the fiber, yarn, or fabric is commercially available in the free trade area promptly and to the extent possible within 90 days.

3. If, based on the initial assessment, the Parties agree that the fiber, yarn, or fabric is not commercially available, the Parties shall endeavor to reach agreement promptly on a corresponding proposed rule change and, as appropriate, proceed with their respective domestic procedures for implementation. The Parties shall endeavor to conclude consultations within 60 days of the initial assessment. An agreement between the Parties shall supersede any prior rule of origin for such good when approved by each Party in accordance with any necessary legal procedures of each Party.

Article 6.5: Cooperation

1. The Parties shall cooperate, through information sharing and other activities as provided for in Articles 7.26 through 7.29, on matters related to trade in textile and apparel goods.

2. The Parties recognize that documents such as bills of lading, invoices, contracts of sale, purchase orders, packing lists, and other commercial documents are particularly important to detect, prevent, or address customs offenses related to trade in textile and apparel goods.

3. Each Party shall

   (a) designate a contact point for information exchange and other cooperation activities related to trade in textile and apparel goods in accordance with Article 30.5 (Agreement Coordinator and Contact Points);

   (b) notify the other Parties of the contact point; and

   (c) notify the other Parties promptly of any subsequent changes.

Article 6.6: Verification

1. An importing Party may, through its customs administration, conduct a verification with respect to a textile or apparel good pursuant to Article 5.10, and their associated Procedures, to verify whether a good qualifies for preferential tariff treatment, or through a request for a site visit as described in this Article.[1]

2. An importing Party may request a site visit under this article from an exporter or producer of textile or apparel goods to verify whether:

(a) a textile or apparel good qualifies for preferential tariff treatment under this Agreement; or

(b) customs offenses with regard to a textile or apparel good are occurring or have occurred.

3. During a site visit under paragraph 2, an importing Party may request access to:

(a) records and facilities relevant to the claim for preferential tariff treatment; or

(b) records and facilities relevant to the customs offences being verified.

4. If an importing Party seeks to conduct a site visit under paragraph 2, it shall provide the host Party not later than 20 days prior to the date of the first visit to an exporter or producer, with:

(a) the proposed dates,

(b) the number and general location of exporters and producers to be visited in appropriate detail to allow the efficient and effective application of the provisions of paragraphs 7(a) and 7(b), but does not need to specify the names of the exporters or producers to be visited;

(c) whether assistance by the host Party will be requested and what type;

(d) the suspected customs offenses to be verified under paragraph 2(b), including relevant factual information available at the time of the notification related to the specific offenses, which may include historical information; and

(e) whether the importer claimed preferential tariff treatment.

[1] For the purposes of this Article, the information collected in accordance with this Article shall be used for the purpose of ensuring the effective implementation of this Chapter. A Party shall not use these procedures to collect information for other purposes.

5. If an importing Party seeks to conduct a site visit under paragraph 2, and does not provide the names of the exporters or producers according to paragraph 4, it shall provide the host Party with a list of the names and addresses of the exporters or producers it proposes to visit, in a timely manner, prior to the date of the first visit to an exporter or producer under paragraph 2, to facilitate coordination, logistical support, and scheduling of the site visit.

6. The host Party shall promptly acknowledge receipt of the notification of a proposed site visit under paragraph 2, and may request information from the importing Party to facilitate planning of the site visit, such as logistical arrangements or provision of requested assistance.

7. If an importing Party seeks to conduct a site visit under paragraph 2:

(a) officials of the customs administration of the host Party may accompany the officials of the importing Party during the site visit;

(b) officials of the customs administration of the host Party may, in accordance with its laws and regulations, on request of the importing Party or on its own initiative, assist the officials of the importing Party during the site visit and provide, to the extent practicable, information relevant to conduct the site visit;

(c) the importing and the host Party shall limit communication regarding the site visit to relevant government officials and shall not inform any person outside the government of the host Party in advance of a site visit or provide any other verification or any other information not publicly available the disclosure of which could undermine the effectiveness of the action;

(d) the importing Party shall request permission from the exporter, producer, or a person having capacity to consent on behalf of the exporter or producer, either prior to the site visit if this would not undermine the effectiveness of the site visit or at the time of the site visit, to access the relevant records or facilities; and

(e) if the exporter, producer or a person having the capacity to consent on behalf of the exporter or producer, of textile or apparel goods denies permission or access to the records or facilities, the site visit will not occur. If the exporter, producer, or a person having the capacity to consent on behalf of the exporter or producer is not able to receive the importing Party to carry out the site visit, the site visit will be conducted on the following working day unless: i) the importing Party agrees otherwise; or ii) the exporter, producer, or person having the capacity to consent on behalf of the exporter or producer, substantiates a valid reason acceptable to the importing Party that the site visit cannot occur at that time. If the exporter, producer, or person having the capacity to consent on behalf of the exporter or producer, does not have a valid reason acceptable to the importing Party that the site visit cannot take place on the following working day, the importing Party may

deem permission for the site visit or access to the records or facilities to be denied. The importing Party shall give consideration to any reasonable alternative proposed dates, taking into account the availability of relevant employees or facilities of the person visited.

8. On completion of a site visit under paragraph 2, the importing Party shall:

(a) on request of the host Party, inform the host Party of its preliminary findings;

(b) on receiving a written request from the host Party, provide the host Party with a written report of the results of the site visit, including any findings, no later than 90 days after the date of the request; and

(c) on receiving a written request of the exporter or producer, provide that person with a written report of the results of the site visit as it pertains to that exporter or producer, including any findings. This may be a report prepared under subparagraph (b), with appropriate changes. The importing Party shall inform the exporter or producer of the entitlement to request this report.

9. If an importing Party conducts a site visit under this Article and, as a result, intends to deny preferential tariff treatment to a textile or apparel good, it shall, prior to issuing a written determination, inform the importer and any exporter or producer that provided information directly to the importing Party, of the preliminary results of the verification and provide those persons with a notice of intent to deny that includes when the denial would be effective and a period of at least 30 days to submit additional information, including documents, to support the claim for preferential tariff treatment.

10. The importing Party shall not reject a claim for preferential tariff treatment on the sole grounds that the host Party does not provide the requested assistance or information under this Article.

11. If verifications of identical textile or apparel goods by an importing Party indicate a pattern of conduct by an exporter or producer of false or unsupported representations that a textile or apparel good imported into its territory qualifies for preferential tariff treatment, the importing Party may withhold preferential tariff treatment for identical textile or apparel goods imported, exported, or produced by that person until it is demonstrated to the importing Party that those identical textile or apparel goods qualify for preferential tariff treatment. For the purposes of this paragraph, "identical textile or apparel goods" means textile or apparel goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods.

Article 6.7: Determinations

1. The importing Party may deny a claim for preferential tariff treatment for a textile or apparel good:

(a) for a reason listed in Article 5.11 (Determination of Origin);

(b) if, pursuant to a site visit under Article 6.6.2, it has not received sufficient information to determine that the textile or apparel good qualifies for preferential tariff treatment; or

(c) if, pursuant to a site visit under Article 6.6.2, access or permission for the site visit is denied, the importing Party is prevented from completing the site visit, or the exporter or producer, or a person having the capacity to consent on behalf of the exporter or producer, does not provide access to the relevant records or facilities during a site visit.

Article 6.7: Committee on Textile and Apparel Trade Matters

1. The Parties hereby establish a Committee on Textile and Apparel Trade Matters, (Committee), composed of government representatives of each Party.

2. The Committee shall meet at least once within one year of the date of entry into force of this Agreement, and thereafter at such times as the Parties decide and on request of the Commission. The Committee shall meet at such venues and times as the Parties decide.

3. The Committee may consider any matter arising under this Chapter, and its functions shall include review of the implementation of this Chapter, consultation on technical or interpretive difficulties that may arise under this Chapter, and discussion of ways to improve the effectiveness of cooperation under this Chapter.

4. The Committee shall assess the potential benefits and risks that may result from the elimination of existing restrictions on trade between the Parties in worn clothing and other worn articles, as defined in heading 63.09 of the Harmonized System, including the effects on business and employment opportunities, and on the market for textile and apparel goods in each Party.

5. Discussions under this Article shall be confidential and without prejudice to the rights of any Party in any other proceeding.

6. Prior to the entry into force of an amended version of the Harmonized System, the Committee shall consult to prepare proposed updates to this Chapter that are necessary to reflect changes to the Harmonized System.

Article 6.8: Confidentiality

Provisions set out in Chapter 5.13 (*Origin Procedures - Confidentiality*) shall apply to the information collected from a trader or provided by other Party, under this Chapter.

ANNEX 6-A

SPECIAL PROVISIONS

Definitions

average yarn number, means the average yarn number of the yarns contained therein. In computing the average yarn number, the length of the yarn is considered to be equal to the distance covered by it in the fabric, with all clipped yarn being measured as if continuous and with the count being taken of the total single yarns in the fabric including the single yarns in any multiple (folded) or cabled yarns. The weight shall be taken after any excessive sizing is removed by boiling or other suitable process. Any one of the following formulas can be used to determine the average yarn number:

- N = BYT / 1,000
- N = 100T / Z'
- N = BT / Z
- N = ST / 10

when:

- N is the average yarn number,
- B is the breadth (width) of the fabric in centimeters,
- Y is the meters (linear) of the fabric per kilogram,
- T is the total single yarns per square centimeter,
- S is the square meters of fabric per kilogram,
- Z is the grams per linear meter of fabric, and
- Z' is the grams per square meter of fabric.
- Fractions in the resulting "average yarn number" shall be disregarded.

category refers to the 3-digit textile and apparel categories and the corresponding HTS numbers set out in the *Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States,* (or successor publication), published by the United States Department of Commerce, International Trade Administration, Office of Textiles and Apparel.

wool apparel means:

(a) apparel predominantly of wool, by weight;

(b) woven apparel predominantly of man-made fibers by weight, and containing 36 percent or more of wool, by weight; or

(c) knitted or crocheted apparel predominantly of man-made fibers by weight, and containing 23 percent or more of wool by weight.

A. Tariff Treatment of Certain Textile and Apparel Goods

The United States shall not apply customs duties on textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States, excluding visible lining fabrics, and exported from and reimported into the United States under:

(a) U.S. tariff item 9802.00.90 or any successor provision to this U.S. tariff item; or

(b) Chapter 61, 62 or 63 if, after such assembly, those goods that would have qualified for treatment under 9802.00.90, or any successor provision to this U.S. tariff item, the goods have been subject to bleaching, garment dyeing, stone-washing, acid-washing or perma-pressing.

B. Preferential Tariff Treatment for Non-Originating Goods of another Party

Apparel Goods

Each Party shall apply the preferential tariff treatment applicable to originating goods, set out in its Schedule to Annex 2-B, up to the annual quantities, in SME[2], specified in Appendix 6.A.1, to apparel goods provided for in Chapters 61 and 62 that are both cut (or knit to shape) and sewn or otherwise assembled in the territory of a Party from fabric or yarn produced or obtained outside the free trade area, and that meet other applicable conditions for preferential tariff treatment under this Agreement. The SME shall be determined in accordance with the conversion factors set out in Annex 6-B**.**

Exceptions

As between Mexico and the United States:

(a) apparel goods provided for in Chapters 61 and 62 of the HS, in which the fabric that determines the tariff classification of the good is classified in one of the following tariff provisions, are ineligible for preferential tariff treatment provided for under the levels established in Appendix 6.A.1.

(i) blue denim: subheadings 5209.42 and 5211.42, U.S. tariff items 5212.24.60.20, 5514.30.32.10, 5514.30.39.10 or Mexican tariff items 5212.24.01 and 5514.30.01 or any successor provision to these tariff items; and

[2] For purposes of this Annex, square meters equivalent or SME means that unit of measurement that results from the application of the conversion factors set out in Annex 6-B to a primary unit of measure such as unit, dozen, or kilogram.

(ii) fabric woven as plain weave where two or more warp ends are woven as one (oxford cloth) of average yarn number less than 135 metric number: 5208.19, 5208.29, 5208.39, 5208.49, 5208.59, 5210.19, 5210.29, 5210.39, 5210.49, 5210.59, 5512.11, 5512.19, 5513.13, 5513.23, 5513.39, and 5513.49, or any successor provision to these tariff items.

(b) apparel goods provided for in U.S. tariff items 6107.11.00, 6107.12.00, 6109.10.00 and 6109.90.00 or Mexican tariff items 6107.11.01, 6107.12.01, 6109.10.01 and 6109.90.01, or any successor provision to these tariff items, are ineligible for preferential tariff treatment provided for under the levels established in Appendix 6.A.1 if they are composed chiefly of circular knit fabric of yarn number equal to or less than 100 metric number. Apparel goods provided for in subheadings 6108.21 and 6108.22 are ineligible for preferential tariff treatment provided for under the levels established in parts 2(a), 2(b), 3(a) and 3(b) in Appendix 6.A.1 if they are composed chiefly of circular knit fabric of yarn number equal to or less than 100 metric number; and

(c) apparel goods provided for in U.S. tariff items 6110.30.10.10, 6110.30.10.20, 6110.30.15.10, 6110.30.15.20, 6110.30.20.10, 6110.30.20.20, 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, 6110.30.30.25 and goods of those tariff items that are classified as parts of ensembles in U.S. tariff items 6103.23.00.30, 6103.23.00.70, 6104.23.00.22 and 6104.23.00.40 or Mexican tariff item 6110.30.01 or goods of that tariff item that are classified as parts of ensembles in subheading 6103.23 or 6104.23, or any successor provision to these tariff items, are ineligible for preferential tariff treatment provided for under the levels established in Appendix 6.A.1.

Fabric and Made-Up Goods

1. Each Party shall apply the preferential tariff treatment applicable to originating goods set out in its Schedule to Annex 2-B, up to the annual quantities, in SME, specified in Appendix 6.A.2, to cotton or man-made fiber fabric and cotton or man-made fiber made-up textile goods provided for in Chapters 52 through 55, 58, 60, and 63 that are woven or knit in a Party from yarn produced or obtained outside the free trade area or yarn produced in the free trade area from fiber produced or obtained outside the free trade area, or knit in a Party from yarn spun in a Party from fiber produced or obtained outside the free trade area, and to goods of subheading 9404.90 that are finished and cut and sewn or otherwise assembled from fabrics of subheadings 5208.11 through 5208.29, 5209.11 through 5209.29, 5210.11 through 5210.29, 5211.11 through 5211.20, 5212.11, 5212.12, 5212.21, 5212.22, 5407.41, 5407.51, 5407.71, 5407.81, 5407.91, 5408.21, 5408.31, 5512.11, 5512.21, 5512.91, 5513.11 through 5513.19, 5514.11 through 5514.19, 5516.11, 5516.21, 5516.31, 5516.41, or 5516.91 produced or obtained outside the free trade area, and that meet other applicable conditions for preferential tariff treatment under this Agreement. The SME shall be determined in accordance with the conversion factors set out in Annex 6-B.

2. For the purposes of paragraph 1, the number of SME that will be counted against the TPLs applied as between Canada and the United States shall be:

(a) for textile goods that are not originating because certain non-originating textile materials do not undergo the applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin) for that good, but where such materials are 50 percent or less by weight of the materials of that good, only 50 percent of the SME for that good, determined in accordance with the conversion factors set out in Annex 6-B; and

(b) for textile goods that are not originating because certain non-originating textile materials do not undergo the applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin) for that good, but where such materials are more than 50 percent by weight of the materials of that good, 100 percent of the SME for that good, determined in accordance with the conversion factors set out in Annex 6-B.

Spun Yarn

1. Each Party shall apply the preferential tariff treatment applicable to originating goods set out in its Schedule to Annex 2-B, up to the annual quantities, in kilograms (kg), specified in Appendix 6.A.3 to cotton or man-made fiber yarns provided for in headings 52.05 through 52.07 or 55.09 through 55.11 that are spun in a Party from fiber of headings 52.01 through 52.03 or 55.01 through 55.07, produced or obtained outside the free trade area and that meet other applicable conditions for preferential tariff treatment under this Agreement.

2. For trade between the United States and Canada, each Party shall also apply the preferential tariff treatment provided for in paragraph 1 to goods of heading 56.05 that are formed in a Party from fibers obtained outside the free trade area and that meet other applicable conditions for preferential tariff treatment under this Agreement.

Goods Entering under TPL Provisions

1. Each Party shall provide preferential tariff treatment for a good imported into its territory under the TPL set out in Annex 6-A, and for those goods of Canada, the United States shall not apply the Merchandise Processing Fee. The provisions of this Agreement regarding claims for preferential tariff treatment, including verification pursuant to Article 6.6, verification pursuant to Article 5.10 (Origin Procedures – Origin Verification), or cooperation or enforcement activities pursuant to Section B of Chapter 7 (Customs and Trade Facilitation), and related provisions, that apply to other textiles and apparel goods also apply to these goods, notwithstanding that goods subject to a TPL are not originating goods.

2. Trade in the goods referred to in this Section (Special Provisions) shall be monitored by the Parties. The Parties shall consult as needed to ensure that the TPLs are administered effectively and shall cooperate in the administration of this Annex, including by responding promptly to time-sensitive requests related to issues regarding TPL utilization.

3. The importing Party shall manage each TPL on a first-come, first-served basis and shall calculate the quantity of goods that enter under a TPL on the basis of its imports.

4. Each Party shall publish online:

(a) its procedures for allocation of a TPL, along with summary documents explaining the procedures, and any changes to such procedures should be subject to a public notice and comment process;

(b) the amount of each annual TPL and the quantities allocated against each TPL, updated at least monthly;

(c) the utilization of each annual TPL, based on its imports, updated at least monthly;

(d) information on allocation and utilization of each TPL from entry into force of this Agreement.

5. An importing Party may require a document issued by a Party's competent authority, such as a certificate of eligibility, with information demonstrating that a good qualifies for duty-free treatment under a TPL, to track allocation and use of a TPL or as a condition to grant duty-free treatment to a good under a TPL.

6. Each Party shall allow an importer to claim duty-free treatment for a good under a TPL for at least one year after a good is imported.

7. A Party shall notify the other Parties if it requires a certificate of eligibility or other documentation under paragraph 5, and the minimum data elements required.

8. The Parties shall establish a secure system at the entry into force of the Agreement for electronic transmission of certificates of eligibility or other documentation related to TPL utilization, as well as for sharing information in real time related to allocation and utilization of TPLs.

9. At the request of one of the Parties, the competent authority of another Party shall also exchange additional statistic information about the issuance of Certificates of Eligibility, TPL utilization, and any other related matter.

10. On request of a Party wishing to adjust any annual TPL based on the ability to obtain supplies of particular fibers, yarns, and fabrics, as appropriate, that can be used to produce

originating goods, the Parties shall consult on the possibility of adjusting such level. Any adjustment in the TPL requires the mutual consent of the Parties concerned and is subject to domestic approval procedures.

APPENDIX 6.A.1

Preferential Tariff Treatment for Non-Originating Apparel

1. **Imports into Canada:**	**from Mexico**	**From United States**
(a) Cotton or Man-made fiber apparel	6,000,000 SME	20,000,000 SME
(b) Wool apparel	250,000 SME	700,000 SME
2. **Imports into Mexico:**	**from Canada**	**from United States**
(a) Cotton or Man-made fiber apparel	6,000,000 SME	12,000,000 SME
(b) Wool apparel	250,000 SME	1,000,000 SME
3. **Imports into United States:**	**from Canada**	**from Mexico**
(a) Cotton or Man-made fiber apparel	40,000,000 SME	45,000,000 SME
(b) Wool apparel	4,000,000 SME[3]	1,500,000 SME

[3] Of the 4,000,000 SME annual quantity of wool apparel imports from Canada into the United States, no more than 3,800,000 SME shall be men's or boys' wool suits of U.S. category 443.

APPENDIX 6.A.2

Preferential Tariff Treatment for Non-Originating Cotton or Man-made Fiber Fabrics and Made-Up Goods

1. **Imports into Canada**	**from Mexico** 7,000,000 SME	**from United States** 15,000,000 SME[4]
2. **Imports into Mexico**	**from Canada** 7,000,000 SME	**from United States** 1,400,000 SME
3. **Imports into United States**	**from Canada** 71,765,252 SME[5]	**from Mexico** 22,800,000 SME[6]

[4] The SME annual quantity of imports from the United States into Canada shall be limited to goods of Chapter 60 or heading 6303.

[5] Of the 71,765,252 SME annual quantity of imports from Canada into the United States, no more than 38,642,828 may be in goods of chapters 52 through 55, 58 or 63 (other than subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11 or 6304.91) of the HS; and no more than 38,642,828 may be in goods of Chapter 60 or subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11, or 6304.91 of the HS.

[6] Of the 22,800,000 SME annual quantity of imports from Mexico into the United States, no more than 18 million SMEs of that quantity in a calendar year may be in goods of chapter 60 and subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11 or 6304.91 of the HS; and no more than 4,800,0000 SMEs of that quantity in any given year may be in goods of chapters 52 through 55, 58 and 63 (other than subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11 or 6304.91) of the HS.

APPENDIX 6.A.3

Preferential Tariff Treatment for Non-Originating Cotton or Man-made Fiber Spun Yarn

1. **Imports into Canada**	**from Mexico** 1,000,000 kg	**from United States** 1,000,000 kg
2. **Imports into Mexico**	**from Canada** 1,000,000 kg	**from United States** 950,000 kg
3. **Imports into United States**	**from Canada** 6,000,000 kg[7]	**from Mexico** 700,000 kg

[7] Of the 6,000,000 kilograms annual quantity of imports from Canada into the United States, no more than 3,000,000 kilograms may be of yarns classified in headings 55.09 or 55.11 predominantly of acrylic by weight, and no more than 3,000,000 kilograms may be of other yarns in headings 52.05 through 52.07 or 55.09 through 55.11.

ANNEX 6-B

Conversion Factors

1. This Schedule applies to tariff preference levels pursuant to Annex 6-A (Special Provisions)

2. Unless otherwise provided in this Annex, or as may be agreed between any two Parties with respect to trade between them, the rates of conversion into SME set out in paragraphs 3 through 6 shall apply.

3. The following conversion factors shall apply to the goods covered by the following US categories:

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
200	6.60	YARN FOR RETAIL SALE, SEWING THREAD	KG
201	6.50	SPECIALTY YARNS	KG
218	1.00	FABRIC OF YARNS OF DIFFERENT COLORS	SM
219	1.00	DUCK FABRIC	SM
220	1.00	FABRIC OF SPECIAL WEAVE	SM
222	6.00	KNIT FABRIC	KG
223	14.00	NON WOVEN FABRIC	KG
224	1.00	PILE & TUFTED FABRIC	SM
225	1.00	BLUE DENIM FABRIC	SM
226	1.00	CHEESECLOTH, BATISTE, LAWN & VOILE	SM
227	1.00	OXFORD CLOTH	SM
229	13.60	SPECIAL PURPOSE FABRIC	KG
237	19.20	PLAYSUITS, SUNSUITS, ETC	DZ
239	6.30	BABIES' GARMENTS & CLOTHING ACCESS.	KG
300	8.50	CARDED COTTON YARN	KG
301	8.50	COMBED COTTON YARN	KG
313	1.00	COTTON SHEETING FABRIC	SM
314	1.00	COTTON POPLIN & BROADCLOTH FABRIC	SM
315	1.00	COTTON PRINTCLOTH FABRIC	SM
317	1.00	COTTON TWILL FABRIC	SM
326	1.00	COTTON SATEEN FABRIC	SM
330	1.40	COTTON HANDKERCHIEFS	DZ
331	2.90	COTTON GLOVES AND MITTENS	DPR
332	3.80	COTTON HOSIERY	DPR

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
333	30.30	M&B SUIT TYPE COATS, COTTON	DZ
334	34.50	OTHER M&B COATS, COTTON	DZ
335	34.50	W&G COTTON COATS	DZ
336	37.90	COTTON DRESSES	DZ
338	6.00	M&B COTTON KNIT SHIRTS	DZ
339	6.00	W&G COTTON KNIT SHIRTS/BLOUSES	DZ
340	20.10	M&B COTTON SHIRTS, NOT KNIT	DZ
341	12.10	W&G COTTON SHIRTS/BLOUSES, NOT KNIT	DZ
342	14.90	COTTON SKIRTS	DZ
345	30.80	COTTON SWEATERS	DZ
347	14.90	M&B COTTON TROUSERS/BREECHES/SHORTS	DZ
348	14.90	W&G COTTON TROUSERS/BREECHES/SHORTS	DZ
349	4.00	BRASSIERES, OTHER BODY SUPPORT GARMENTS	DZ
350	42.60	COTTON DRESSING GOWNS, ROBES ETC.	DZ
351	43.50	COTTON NIGHTWEAR/PAJAMAS	DZ
352	9.20	COTTON UNDERWEAR	DZ
353	34.50	M&B COTTON DOWN FILLED COATS	DZ
354	34.50	W&G COTTON DOWN FILLED COATS	DZ
359	8.50	OTHER COTTON APPAREL	KG
360	0.90	COTTON PILLOWCASES	NO
361	5.20	COTTON SHEETS	NO
362	5.80	OTHER COTTON BEDDING	NO
363	0.40	COTTON TERRY & OTHER PILE TOWELS	NO
369	8.50	OTHER COTTON MANUFACTURES	KG
400	3.70	WOOL YARN	KG
410	1.00	WOOL WOVEN FABRIC	SM
414	2.80	OTHER WOOL FABRIC	KG
431	1.80	WOOL GLOVES/MITTENS	DPR
432	2.30	WOOL HOSIERY	DPR
433	30.10	M&B WOOL SUIT TYPE COATS	DZ
434	45.10	OTHER M&B WOOL COATS	DZ
435	45.10	W&G WOOL COATS	DZ
436	41.10	WOOL DRESSES	DZ
438	12.50	WOOL KNIT SHIRTS/BLOUSES	DZ

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
439	6.30	BABIES' WOOL GARM/CLOTHING ACCESS.	KG
440	20.10	WOOL SHIRTS/BLOUSES, NOT KNIT	DZ
442	15.00	WOOL SKIRTS	DZ
443	3.76	M&B WOOL SUITS	NO
444	3.76	W&G WOOL SUITS	NO
445	12.40	M&B WOOL SWEATERS	DZ
446	12.40	W&G WOOL SWEATERS	DZ
447	15.00	M&B WOOL TROUSERS/BREECHES/SHORTS	DZ
448	15.00	W&G WOOL TROUSERS/BREECHES/SHORTS	DZ
459	3.70	OTHER WOOL APPAREL	KG
464	2.40	WOOL BLANKETS	KG
465	1.00	WOOL FLOOR COVERINGS	SM
469	3.70	OTHER WOOL MANUFACTURES	KG
600	6.50	TEXTURED FILAMENT YARN	KG
603	6.30	YARN 85% ARTIFICIAL STAPLE FIBER	KG
604	7.60	YARN 85% SYNTHETIC STAPLE FIBER	KG
606	20.10	NON TEXTURED FILAMENT YARN	KG
607	6.50	OTHER STAPLE FIBER YARN	KG
611	1.00	WOVEN FABRIC [3]85% ARTIFICIAL STAPLE	SM
613	1.00	MMF SHEETING FABRIC	SM
614	1.00	MMF POPLIN & BROADCLOTH FABRIC	SM
615	1.00	MMF PRINTCLOTH FABRIC	SM
617	1.00	MMF TWILL AND SATEEN FABRIC	SM
618	1.00	WOVEN ARTIFICIAL FILAMENT FABRIC	SM
619	1.00	POLYESTER FILAMENT FABRIC	SM
620	1.00	OTHER SYNTHETIC FILAMENT FABRIC	SM
621	14.40	IMPRESSION FABRIC	KG
622	1.00	GLASS FIBER FABRIC	SM
624	1.00	WOVEN MMF FABRIC, 15% TO 36% WOOL	SM
625	1.00	MMF STAPLE/FILAMENT POPLIN & BROADCLOTH FABRIC	SM
626	1.00	MMF STAPLE/FILAMENT PRINTCLOTH FABRIC	SM
627	1.00	MMF STAPLE/FILAMENT SHEETING FABRIC	SM

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
628	1.00	MMF STAPLE/FILAMENT TWILL/SATEEN FABRIC	SM
629	1.00	OTHER MMF STAPLE/FILAMENT FABRIC	SM
630	1.40	MMF HANDKERCHIEFS	DZ
631	2.90	MMF GLOVES AND MITTENS	DPR
632	3.80	MMF HOSIERY	DPR
633	30.30	M&B MMF SUIT TYPE COATS	DZ
634	34.50	OTHER M&B MMF COATS	DZ
635	34.50	W&G MMF COATS	DZ
636	37.90	MMF DRESSES	DZ
638	15.00	M&B MMF KNIT SHIRTS	DZ
639	12.50	W&G MMF KNIT SHIRTS & BLOUSES	DZ
640	20.10	M&B NOT KNIT MMF SHIRTS	DZ
641	12.10	W&G NOT KNIT MMF SHIRTS & BLOUSES	DZ
642	14.90	MMF SKIRTS	DZ
643	3.76	M&B MMF SUITS	NO
644	3.76	W&G MMF SUITS	NO
645	30.80	M&B MMF SWEATERS	DZ
646	30.80	W&G MMF SWEATERS	DZ
647	14.90	M&B MMF TROUSERS/BREECHES/SHORTS	DZ
648	14.90	W&G MMF TROUSERS/BREECHES/SHORTS	DZ
649	4.00	MMF BRAS & OTHER BODY SUPPORT GARMENTS	DZ
650	42.60	MMF ROBES, DRESSING GOWNS, ETC.	DZ
651	43.50	MMF NIGHTWEAR & PAJAMAS	DZ
652	13.40	MMF UNDERWEAR	DZ
653	34.50	M&B MMF DOWN FILLED COATS	DZ
654	34.50	W&G MMF DOWN FILLED COATS	DZ
659	14.40	OTHER MMF APPAREL	KG
665	1.00	MMF FLOOR COVERINGS	SM
666	14.40	OTHER MMF FURNISHINGS	KG
669	14.40	OTHER MMF MANUFACTURES	KG
670	3.70	MMF FLAT GOODS, HANDBAGS, LUGGAGE	KG
800	8.50	YARN, SILK BLENDS/VEGETABLE FIBER	KG
810	1.00	WOVEN FABRIC, SILK BLENDS/VEGETABLE FIBER	SM
831	2.90	GLOVES & MITTENS, SILK BLENDS / VEGETABLE FIBER	DPR

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
832	3.80	HOSIERY, SILK BLENDS/VEGETABLE FIBER	DPR
833	30.30	M&B SUIT TYPE COATS, SILK BLENDS/ VEGETABLE FIBER	DZ
834	34.50	OTHER M&B COATS, SILK BLENDS/VEGETABLE FIBER	DZ
835	34.50	W&G COATS, SILK BLENDS/VEGETABLE FIBER	DZ
836	37.90	DRESSES, SILK BLENDS/VEGETABLE FIBER	DZ
838	11.70	KNIT SHIRTS & BLOUSES, SILK BLENDS/VEGETABLE FIBER	DZ
839	6.30	BABIES' GARM & CLOTHING ACCESSORIES, SILK/VEG FIBER	KG
840	16.70	NOT KNIT SHIRTS & BLOUSES, SILK BLENDS/ VEGETABLE FIBER	DZ
842	14.90	SKIRTS, SILK BLENDS/VEGETABLE FIBERS	DZ
843	3.76	M&B SUITS, SILK BLENDS/VEGETABLE FIBER	NO
844	3.76	W&G SUITS, SILK BLENDS/VEGETABLE FIBER	NO
845	30.80	SWEATERS, NON-COTTON VEGETABLE FIBERS	DZ
846	30.80	SWEATERS, SILK BLENDS	DZ
847	14.90	TROUSERS/BREECHES/SHORTS, SILK BLENDS/ VEGETABLE FIBER	DZ
850	42.60	ROBES, DRESSING GOWNS, ETC, SILK BLENDS/ VEGETABLE FIBER	DZ
851	43.50	NIGHTWEAR & PYJAMAS, SILK BLENDS/ VEGETABLE FIBER	DZ
852	11.30	UNDERWEAR, SILK BLENDS/VEGETABLE FIBER	DZ
858	6.60	NECKWEAR, SILK BLENDS/VEGETABLE FIBER	KG
859	12.50	OTHER SILK BLEND/VEGETABLE FIBER APPARELKG	KG
863	0.40	TOWELS, SILK BLENDS/VEGETABLE FIBERS	NO
870	3.70	LUGGAGE, SILK BLENDS/VEGETABLE FIBERS	KG

U.S. Category	Conversion Factor	Description	Primary Unit of Measure
871	3.70	HANDBAGS & FLATGOODS, SILK BLENDS/ VEGETABLE FIBER	KG
899	11.10	OTHER SILK BLENDS/VEGETABLE FIBER MANUFACTURES	KG

4. The following conversion factors shall apply to the following goods not covered by a U.S. category:

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
5208.31.2000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON, WEIGHING NOT MORE THAN 100 G/M2, PLAIN WEAVE, CERTIFIED HANDLOOM FABRIC, DYED
5208.32.1000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON, WEIGHING MORE THAN 100 G/M2 BUT NOT MORE THAN 200 G/M2, PLAIN WEAVE, CERTIFIED HANDLOOM FABRIC, DYED
5208.41.2000	1.00	SM	WOVEN FABRIC,CONTAINING 85% OR MORE BY WEIGHT OF COTTON WEIGHING NOT MORE THAN 100 G/M2, PLAIN WEAVE CERTIFIED HANDLOOM, YARNS OF DIFFERENT COLORS
5208.42.1000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON, WEIGHING MORE THAN 100 G/M2 BUT NOT MORE THAN 200 G/M2, PLAIN WEAVE, CERTIFIED HANDLOOM, YARNS OF DIFFERENT COLORS
5208.51.2000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON WEIGHING NOT MORE THAN 100 G/M2 PLAIN WEAVE, CERTIFIED HANDLOOM, PRINTED
5208.52.1000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON WEIGHING MORE THAN 100 G/M2 BUT NOT MORE THAN 200 G/M2 PLAIN WEAVE, CERTIFIED HANDLOOM, PRINTED

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
5209.31.3000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON WEIGHING MORE THAN 200 G/M2, PLAIN WEAVE, CERTIFIED HANDLOOM, DYED
5209.41.3000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON WEIGHING MORE THAN 200 G/M2, PLAIN WEAVE, CERTIFIED HANDLOOM, YARNS OF DIFFERENT COLOR
5209.51.3000	1.00	SM	WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF COTTON WEIGHING MORE THAN 200 G/M2, PLAIN WEAVE, CERTIFIED HANDLOOM, PRINTED
5310.10.0020	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBER (EXCLUDING FLAX/HEMP/RAMIE), NOT OVER 130 CM WIDE, UNBLEACHED
5310.10.0040	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBER (EXCLUDING FLAX/HEMP/RAMIE) OVER 130 CM BUT NOT OVER 250 CM WIDE, UNBLEACHED
5310.10.0060	1.00	SM	WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBER(EXCLUDING FLAX/HEMP/RAMIE), OVER 250 CM WIDE, UNBLEACHED
5310.90.0000	1.00	SM	OTHER WOVEN FABRIC, JUTE OR OTHER TEXTILE BAST FIBER (EXCLUDING FLAX/HEMP/RAMIE)
5311.00.6000	1.00	SM	WOVEN FABRIC OF PAPER YARN
5407.30.1000	1.00	SM	WOVEN SYNTHETIC FILAMENT FABRIC WITH YARN AT ACUTE/RIGHT ANGLES, OVER 60% BY WEIGHT OF PLASTIC
5605.00.1000	6.5	SM	METAL COATED OR METAL LAMINATED MAN-MADE FILAMENT OR STRIP OR THE LIKE, UNGIMPED, AND UNTWISTED OR WITH TWIST OF LESS THAN 5 TURNS PER METER

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
5801.90.2010	1.00	SM	WOVEN PILE FABRIC , CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5802.20.0010	1.00	SM	TERRY TOWELING AND SIMILAR WOVEN FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5802.30.0010	1.00	SM	TUFTED TEXTILE FABRIC, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5803.00.9010	1.00	SM	GAUZE, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5804.10.9010	11.10	KG	TULLES & OTHER NETTING FABRIC NOT INCLUDING WOVEN, KNIT OR CROCHETED, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5804.29.9010	11.10	KG	OTHER MECHANICALLY MADE LACE IN THE PIECE/STRIP/MOTIF, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5804.30.0010	11.10	KG	HANDMADE LACE IN PIECE/STRIP/MOTIF, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5805.00.1000	1.00	SM	HANDWOVEN TAPESTRIES FOR WALLHANGINGS, VALUED OVER $215 PER SM
5805.00.2000	1.00	SM	OTHER HANDWOVEN TAPESTRIES, WOOL OR FINE ANIMAL HAIR, CERTIFIED HANDLOOMED
5805.00.4090	1.00	SM	OTHER HANDWOVEN TAPESTRIES
5806.10.3010	11.10	KG	OTHER NARROW WOVEN PILE & CHENILLE FABRIC, CONTAINING 85 PERCENT OR MORE BY WEIGHT OF SILK OR SILK WASTE
5806.39.3010	11.10	KG	OTHER NARROW WOVEN FABRIC, NOT PILE, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
5806.40.0000	13.60	KG	NARROW FABRIC, WARP WITHOUT WEFT ASSEMBLED BY MEANS OF AN ADHESIVE (BOLDUCS)
5807.10.1500	11.10	KG	WOVEN LABELS, TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON OR MMF
5807.10.2010	8.50	KG	WOVEN BADGES AND SIMILAR ARTICLES, COTTON, NOT EMBROIDERED

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
5807.10.2020	14.40	KG	WOVEN BADGES/SIMILAR ARTICLES, MMF, NOT EMBROIDERED
5807.10.2090	11.10	KG	WOVEN BADGES/SIMILAR ARTCLES, TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON/MMF
5807.90.1500	11.10	KG	NOTWOVEN LABELS OF TEXTILE MATERIALS, NOT EMBROIDERED, NOT COTTON/MMF
5807.90.2010	8.50	KG	NOTWOVEN BADGES/SIMILAR ARTICLES, COTTON, NOT EMBROIDERED
5807.90.2020	14.40	KG	NOTWOVEN BADGES/SIMILAR ARTICLES, MMF, NOT EMBROIDERED
5807.90.2090	11.10	KG	NOTWOVEN BADGES/SIMILAR ARTICLES, TEX MATERIALS, NOT EMBROIDERED, NOT COTTON/MMF
5808.10.5000	11.10	KG	BRAIDS IN PIECE FOR HEADWEAR, OTHER TEXTILE MATERIALS
5808.10.9000	11.10	KG	OTHER BRAIDS IN PIECE
5808.90.0090	11.10	KG	ORNAMENTAL TRIMMING IN PIECE, TEXTILE MATERIALS, NOT KNIT OR CROCHETED OR EMBROIDERED, NOT COTTON/MMF
5810.92.1000	14.40	KG	EMBROIDERED BADGES/EMBLEMS/MOTIFS WITH VISIBLE GROUND, MMF
5810.99.9000	11.10	KG	OTHER EMBROIDERY PIECES/STRIPS/MOTIFS WITH VISIBLE GROUND, TEXTILE MATERIALS
5811.00.4000	1.00	SM	OTHER QUILTED PIECES, 1 LAYER TEXTILE MATERIALS, OTHER TEXTILE MATERIALS
6001.99.1000	1.00	SM	OTHER KNIT OR CROCHETED PILE FABRIC, OTHER, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6006.90.1000	11.10	KG	KNIT OR CROCHETED FABRIC, OTHER, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6301.90.0020	11.10	NO	BLANKET/TRAVELING RUGS, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6302.29.0010	11.10	NO	BED LINEN, PRINTED CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6302.39.0020	11.10	NO	OTHER BED LINEN, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
6302.99.1000	11.10	NO	OTHER LINEN, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6303.99.0030	11.10	NO	CURTAINS, INTERIOR BLINDS, OF OTHER TEXTILE MATERIALS NOT KNIT OR CROCHETED, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6304.19.3030	11.10	NO	BEDSPREADS, NOT KNIT OR CROCHETED, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6304.91.0060	11.10	NO	OTHER FURNISHING ARTICLES, KNIT OR CROCHETED CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6304.99.1000	1.00	SM	WALL HANGINGS OF WOOL OR FINE ANIMAL HAIR, CERTIFIED HANDLOOMED/FOLKLORE, NOT KNIT OR CROCHETED
6304.99.2500	11.10	KG	WALL HANGINGS, JUTE, NOT KNIT
6304.99.4000	3.70	KG	PILLOW COVERS, WOOL OR FINE ANIMAL HAIR, CERTIFIED HANDLOOMED/FOLKLORE NOT KNIT OR CROCHETED
6304.99.6030	11.10	KG	OTHER FURNISHING ARTICLES, NOT KNIT, CONTAINING 85% OR MORE BY WEIGHT OF SILK OR SILK WASTE
6305.10.0000	11.10	KG	SACKS & BAGS, JUTE/BAST FIBERS
6306.22.1000	14.40	NO	BACKPACK TENTS, SYNTHETIC FIBERS
6306.22.9010	14.40	KG	SCREEN HOUSES, SYNTHETIC FIBERS
6306.29.1100	8.50	KG	TENTS OF COTTON
6306.29.2100	14.40	KG	TENTS, OF OTHER TEXTILE MATERIALS
6306.30.0010	14.40	KG	SAILS, SYNTHETIC FIBERS
6306.30.0020	8.50	KG	SAILS, OF OTHER TEXTILE MATERIALS
6306.40.4100	8.50	KG	PNEUMATIC MATTRESSES, COTTON
6306.40.4900	14.40	KG	PNEUMATIC MATTRESSES, OF OTHER TEXTILE MATERIALS
6306.90.1000	8.50	KG	OTHER CAMPING GOODS, COTTON
6306.90.5000	14.40	KG	CAMPING GOODS, OF OTHER TEXTILE MATERIALS
6307.10.2030	8.50	KG	OTHER CLEANING CLOTHS
6307.20.0000	11.40	KG	LIFEJACKETS AND LIFEBELTS

U.S. Harmonized System Statistical Provision	Conversion Factor	Primary Unit of Measure	Description
6307.90.6010	8.50	KG	PERINEAL TOWELS, FABRIC WITH PAPER BASE OR COVERED OR LINED WITH PAPER
6307.90.6090	8.50	KG	OTHER SURGICAL DRAPES, FABRIC WITH PAPER BASE OR COVERED OR LINED WITH PAPER
6307.90.6800	14.40	KG	SURGICAL DRAPES, DISPOSABLE & NONWOVEN MMF
6307.90.7200	8.50	KG	OTHER SURGICAL DRAPES
6307.90.7500	8.50	NO	TOYS FOR PETS, TEXTILE MATERIALS
6307.90.8500	8.50	KG	WALL BANNERS, MANMADE FIBERS
6307.90.9825	14.50	NO	NATIONAL FLAGS OF THE UNITED STATES
6307.90.9835	14.50	NO	NATIONAL FLAGS OF NATIONS OTHER THAN THE UNITED STATES
6307.90.9889	14.50	KG	OTHER MADEUP ARTICLES
6309.00.0010	8.50	KG	WORN CLOTHING
6309.00.0020	8.50	KG	OTHER WORN ARTICLES
6310.10.1000	3.70	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, WOOL OR FINE ANIMAL HAIR
6310.10.2010	8.50	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, COTTON
6310.10.2020	14.40	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, MMF
6310.10.2030	11.10	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, SORTED, NOT COTTON/MMF
6310.90.1000	3.70	KG	RAGS/SCRAP/TWINE/CORDAGE/ROPE/CABLES, NOT SORTED, WOOL OR FINE ANIMAL HAIR

4. (a) The primary unit of measure for the following tariff items in U.S. category 666 shall be NO and shall be converted into SME by a factor of 5.5:

6301.10.0000	ELECTRIC BLANKETS
6301.40.0010	BLANKETS (NOT ELECTRIC) & TRAVEL RUGS OF SYNTHETIC FIBER, WOVEN
6301.40.0020	OTHER BLANKETS (NOT ELECTRIC) & TRAVEL RUGS OF SYNTHETIC FIBER
6301.90.0010	BLANKETS AND TRAVELING RUGS OF ARTIFICIAL FIBER
6302.10.0020	BED LINEN, KNITTED OR CROCHETED FABRIC, EXCLUDING COTTON
6302.22.1030	SHEETS WITH TRIM, NAPPED, PRINTED, MANMADE FIBER
6302.22.1040	SHEETS WITH TRIM, NOT NAPPED, PRINTED, MANMADE FIBER
6302.22.1050	BOLSTER CASES WITH TRIM, PRINTED, MANMADE FIBER
6302.22.1060	OTHER BED LINEN WITH TRIM, PRINTED, MANMADE FIBER
6302.22.2020	SHEETS, NOT TRIMMED, PRINTED, MANMADE FIBER
6302.22.2030	OTHER BED LINEN, NOT TRIMMED, PRINTED, MANMADE FIBER
6302.32.1030	SHEETS WITH TRIM, NAPPED, MANMADE FIBER
6302.32.1040	SHEETS WITH TRIM, NOT NAPPED, MANMADE FIBER
6302.32.1050	BOLSTER CASES WITH TRIM, MANMADE FIBER
6302.32.1060	OTHER BED LINEN WITH TRIM, MANMADE FIBER
6302.32.2030	SHEETS, NOT TRIMMED, NAPPED, MANMADE FIBER
6302.32.2040	SHEETS NOT TRIMMED, NOT NAPPED, MANMADE FIBER
6302.32.2050	BOLSTER CASES, NOT TRIMMED, MANMADE FIBER
6302.32.2060	OTHER BED LINEN, MANMADE FIBER
6304.11.2000	BEDSPREADS, KNIT/CROCHETED, MANMADE FIBER
6304.19.1500	OTHER BEDSPREADS WITH TRIM, MANMADE FIBER
6304.19.2000	OTHER BEDSPREADS, MANMADE FIBER

4. (b) The primary unit of measure for the following tariff items in U.S. category 666 shall be NO and shall be converted into SME by a factor of 0.9:

6302.22.1010	PILLOWCASES WITH TRIM, PRINTED, NAPPED, MANMADE FIBER
6302.22.1020	PILLOWCASES WITH TRIM, PRINTED, NOT NAPPED, MANMADE FIBER
6302.22.2010	PILLOWCASES, NOT TRIMMED, PRINTED, MANMADE FIBER
6302.32.1010	PILLOWCASES WITH TRIM, NAPPED, MANMADE FIBER
6302.32.1020	PILLOWCASES WITH TRIM, NOT NAPPED, MANMADE FIBER
6302.32.2010	PILLOWCASES, NOT TRIMMED, NAPPED, MANMADE FIBER
6302.32.2020	PILLOWCASES NOT TRIMMED, NOT NAPPED, MANMADE FIBER

5. The primary unit of measure for garment parts of subheadings 6117.90 and 6217.90 shall be KG and shall be converted into SME by applying the following factors:

Cotton apparel	8.5
Wool apparel	3.7
Manmade fiber apparel	14.4
Other non-cotton vegetable fiber apparel	12.5

6. For the purposes of this schedule:

DPR means dozen pair;
DZ means dozen;
KG means kilogram;
NO means number; and
SM means square meter.

CHAPTER 7

CUSTOMS ADMINISTRATION AND TRADE FACILITATION

Section A

Customs Administration and Trade Facilitation

Article 7.1: Trade Facilitation

1. The Parties affirm their rights and obligations under the WTO Agreement on Trade Facilitation.

2. With a view to minimizing the costs incurred by traders through the importation, exportation, and transit of a good, each Party shall administer customs procedures in a manner that facilitates the importation, exportation, and transit of a good, and supports compliance with its law;

3. The Parties shall discuss within the Customs and Trade Facilitation Committee additional measures to facilitate trade. The Parties are encouraged to adopt additional measures that build on the obligations in this Chapter with a view to further facilitating trade.

Article 7.2: Online publication

1. Each Party shall make available to the public online the following information and update such information as necessary:

(a) an informational resource describing its procedures for importation into, exportation from, or transit through its territory that informs interested parties of the practical steps they need to follow for importation into, exportation from, and transit through its territory;

(b) the documentation and data it requires for importation into, exportation from, or transit through its territory;

(c) its laws, regulations, and procedures for importation into, exportation from or transit through its territory;

(d) links to all current duties, taxes, and other fees and charges it imposes on or in connection with importation, exportation or transit, including when the fee or charge is applied, and the amount or rate;

(e) contact information for its enquiry point or points established or maintained pursuant to Article 7.4 (Enquiry Points);

(f) its laws, regulations, and procedures to be a customs broker, to issue licenses, and regarding the use of customs brokers;

(g) informational resources that help an interested person understand their responsibilities when importing into, exporting from or transiting goods through its territory, how to be compliant, and the benefits of compliance; and

(h) procedures to correct an error in a customs transaction, including the information to submit and, if applicable, the circumstances when penalties will not be imposed.

Article 7.3: Communication with Traders

1. To the extent possible, in accordance with its law, each Party shall publish, in advance, regulations of general application governing trade and customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before the Party adopts such regulations.

2. Each Party shall establish or maintain a mechanism to regularly communicate with traders within its territory on its procedures related to the importation, exportation, and transit of goods. These communications shall provide traders with an opportunity to raise emerging issues and provide their views to the customs administration on these procedures.

Article 7.4: Enquiry Points

1. Each Party shall establish or maintain one or more enquiry points to respond to enquiries by interested persons concerning importation, exportation and transit procedures.

2. A Party shall not require the payment of a fee for answering enquiries under paragraph 1.[1]

3. Each Party shall ensure that its enquiry points respond to enquiries within a reasonable period of time, which may vary depending on the nature or complexity of the request.

Article 7.5: Advance Rulings

1. Each Party shall, through its customs administration, issue a written advance ruling, prior to the importation of a good into its territory that sets forth the treatment that the Party shall provide to

[1] For greater certainty, a Party may require payment of a fee with respect to other enquiries requiring document search, duplication, and review in connection with requests under its laws and regulations providing public access to government records.

the good at the time of importation.

2. Each Party shall allow an exporter, importer, producer, or any other person with a justifiable cause, or a representative thereof, to request a written advance ruling.

3. No Party shall as a condition for applying for an advance ruling, require an exporter or producer of another Party to establish or maintain a contractual or other relation with a person located in the territory of the importing Party.

4. Each Party shall issue advance rulings with regard to:

(a) tariff classification;

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

(c) the origin of the good, including whether the good qualifies as an originating good under the terms of this Agreement;

(d) whether a good is subject to a quota or a tariff-rate quota; and

(e) other matters as the Parties may agree.

5. Each Party shall adopt or maintain uniform procedures throughout its territory for the issuance of advance rulings, including a detailed description of the information required to process an application for a ruling.

6. Each Party shall provide that its customs administration:

(a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling or a sample of the good for which the advance ruling was requested. In issuing an advance ruling, the Party shall take into account the facts and circumstances provided by the person requesting such ruling;

(b) shall issue the ruling as expeditiously as possible and in no case later than 120 days after it has obtained all necessary information from the person requesting an advance ruling; and

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

7. Each Party shall provide that its advance rulings shall take effect on the date that they are issued or on a later date specified in the ruling, and remain in effect unless the advance ruling is modified or revoked.

8. Each Party shall provide to a person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter 4 (Rules of Origin) regarding a determination of origin, as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.

9. An advance ruling issued by a Party shall apply throughout its territory to the person to whom the ruling is issued.

10. After issuing an advance ruling, the Party may modify or revoke the advance ruling if there is a change in the law, facts, or circumstances on which the ruling was based, or if the ruling was based on inaccurate or false information, or on an error.

11. 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, judicial, or quasi-judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify the person requesting the ruling in writing, setting out the relevant facts and circumstances and the basis for its decision to decline to issue the advance ruling.

12. No Party shall apply a revocation or modification retroactively to the detriment of the requester unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions or the ruling was based on inaccurate or false information provided by the requester.

13. Each Party shall provide that, unless it retroactively applies a modification or revocation as described in paragraph 11, 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.

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

15. Each Party shall, in accordance with its laws, regulations and procedures, make its advance rulings, complete or redacted, available to the public on line.

Article 7.6: Advice or Information Regarding Duty Drawback or Duty Deferral Programs

Upon request from an importer in its territory, or an exporter or producer in the territory of another Party, a Party shall, within a reasonable timeframe, provide advice or information relevant to the facts contained in the request on the application of duty drawback or duty deferral programs that reduce, refund, or waive customs duties.

Article 7.7: Release of Goods

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

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;

   (b) provide for the electronic submission and processing of documentation and data, including manifests, in advance of the arrival of the goods in order to expedite the release of goods from customs control upon arrival;

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

   (d) communicate to the importer where a Party does not promptly release goods, including, to the extent permitted by law, the reasons why the goods are not released and the border agency, if not the customs administration, that has withheld release of the goods;

3. Each Party shall adopt or maintain procedures that provide for the release of goods prior to a final determination and payment of any customs duties, taxes, fees, and charges imposed on or in connection with importation of the goods, when these are not determined prior to or promptly upon arrival, provided that the goods are otherwise eligible for release and any security required by the importing Party has been provided.

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

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

   (b) ensure that the security shall be discharged as soon as possible after its customs administration is satisfied that the obligations arising from the importation of the goods have been fulfilled or, for instruments covering multiple entries, until it is no longer required by the customs administration; and

   (c) allow an importer to provide security using a non-cash financial instrument, including, if applicable, when an importer frequently enters goods, an instrument covering multiple entries.

5. Nothing in this article shall require a Party to release a good if its requirements for release have not been met nor prevent a Party from liquidating a security in accordance with its law.

6. Each Party shall allow goods intended for import to be moved, to the extent practicable, within its territory under customs control from the point of entry into the Party's territory to another customs office in its territory from where the goods are intended to be released, provided the applicable regulatory requirements are met.

Article 7.8: Express Shipments

1. Each Party shall adopt or maintain specific expedited customs procedures for express shipments while maintaining appropriate customs controls. These procedures shall:

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

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

(c) expedite the release of these shipments based on, to the extent possible, minimum documentation or a single submission of information;

(d) provide for these shipments, under normal circumstances, to be released immediately after arrival, provided that all required documentation and data are submitted;

(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

(f) provide that, under normal circumstances, no customs duties or taxes will be assessed at the time or point of importation or formal entry procedures required,[2] on express shipments of a Party valued at or below a fixed amount set out under the Party's law, provided that the shipment does not form part of a series of shipments carried out or planned for the purpose of evading duties or taxes, or avoiding any regulation applicable to the formal entry procedures required by the importing Party. The fixed amount set out under the Party's law shall be at least[3]:

(i) for the United States, US$800;

[2] For greater certainty, this subparagraph shall not prevent a Party from requiring informal entry procedures, including applicable supporting documents.

[3] Notwithstanding the amounts set out under this sub-paragraph, a Party may impose a reciprocal amount that is lower for shipments from another Party if the amount provided for under that other Party's domestic law is lower than that of the Party.

(ii) for Mexico, US$117 for customs duties and US$50 for taxes;

(iii) for Canada, C$150 for customs duties and C$40 for taxes.

For these shipments, each Party shall allow for the periodic assessment and payment of duties and taxes applicable at the time or point of importation.

2. Each Party shall adopt or maintain procedures that apply fewer customs formalities than those applied under formal entry procedures, to shipments valued at less than $2,500, provided that the shipments do not form part of a series of importations that may be reasonably considered to have been undertaken or arranged for the purpose of avoiding compliance by an importer with the importing Party's laws, regulations, or procedures related to formal entry.

3. Nothing in this Article shall be construed to prevent a Party from requiring the necessary information and documents as a condition for the release of goods, and from assessing customs duties or taxes for restricted or controlled goods.

Article 7.9: Use of Information Technology

Each Party shall:

(a) use information technology that expedites procedures for the release of goods;

(b) make available by electronic means any declaration or other form that is required for import, export, or transit of goods through its territory;

(c) allow a customs declaration and related documentation to be submitted in electronic format;

(d) make electronic systems accessible to importers, exporters, persons engaged in the transit of goods through its territory, and other customs users in order to submit and receive information;

(e) promote the use of its electronic systems to facilitate the communication between traders and their customs administrations and other related agencies;

(f) adopt or maintain procedures allowing for the electronic payment of duties, taxes, fees and charges imposed on or in connection with importation or exportation and collected by customs and other related agencies;

(g) use electronic risk management systems in accordance with Article 7.12 (Risk Management); and

(h) endeavor to allow an importer, through its electronic systems, to correct multiple import declarations previously submitted to the Party involving the same issue through a single submission.

Article 7.10: Single Window

1. Each Party shall establish or maintain a single window system no later than December 31, 2018 that enables the electronic submission through a single entry point of the documentation and data the Party requires for importation into , its territory.

2. Each Party shall review the operations of its single window with a view to expanding its functionality to cover all its import, export, and transit transactions.

3. Each Party shall, in a timely manner, inform a person that is using its single window system of the status of the release of goods, through the single window system.

4. If a Party receives documentation or data for a good or shipment of goods through its single window, the Party shall not request the same documentation or data for that good or shipment of goods, except in urgent circumstances or pursuant to other limited exceptions set out in its laws, regulations, or procedures. Each Party shall minimize the extent to which paper documents are required if electronic copies are provided.

5. In building and maintaining its single window, each Party shall:

   (a) incorporate, as appropriate, the WCO Data Model for data elements;

   (b) endeavour to implement standards and data elements for import, export, and transit that are the same as the other Parties' single window; and

   (c) on an ongoing basis streamline its single window, including additional functionality to facilitate trade, improve transparency, and reduce release times and costs.

6. In implementing paragraph 5, the Parties shall:

   (a) share with each other their respective experiences in developing and maintaining their single window; and

   (b) work towards a harmonization, to the extent possible, of data elements and customs processes that facilitate use of a single transmission of information to both the exporting and importing Party.

Article 7.11: Transparency, Predictability and Consistency in Customs Procedures

1. Each Party shall apply its customs procedures related to the importation, exportation and transit of goods in a manner that is transparent, predictable, and consistent throughout its territory.

2. Nothing in this Article shall prevent a Party from differentiating its import, export, and transit procedures, and documentation and data requirements:

(a) based on the nature and type of goods, or their means of transport;

(b) based on risk management;

(c) to provide total or partial exemption to a good from customs duties, taxes, fees or charges;

(d) to allow electronic filing, processing or payment; or

(e) in a manner consistent with Chapter 9 (Sanitary and Phytosanitary Measures) and the SPS Agreement.

3. Each Party shall review its import, export, and transit procedures, and documentation and data requirements, and, based on the results of the review, ensure, as appropriate, that these procedures and requirements are:

(a) adopted and applied with a view to a rapid release of goods;

(b) adopted and applied in a manner that aims at reducing the time, administrative burden, and cost of compliance with such procedures and documentation and data requirements;

(c) the least trade restrictive measure, if two or more alternative measures are reasonably available to fulfil the Party´s policy objectives; and

(d) not maintained, including parts thereof, if no longer required to fulfil the Party´s policy objectives.

4. If a Party holds the original paper version of a document submitted for the importation into, exportation from, or transit through its territory, the Party shall not require an additional submission of the same document.

5. Each Party shall take into consideration, to the extent practicable and appropriate, relevant international standards and international trade instruments for the development of its customs procedures related to the importation, exportation and transit of goods.

6. Each Party shall adopt or maintain measures with a view to ensuring consistency and predictability for traders throughout its territory in the application of its customs procedures, including determinations on tariff classification and customs valuation of goods. These measures may include, among others, training of customs officials or issuing documents that serve to guide customs officials.

7. If an inconsistency in the application of its customs procedures, including determinations on tariff classification or customs valuation of goods, is discovered under paragraph 6, the Party shall seek to resolve the inconsistency, if practicable.

Article 7.12: Risk Management

1. Each Party shall maintain a risk management system for assessment and targeting that enables its customs administration, and other agencies involved in the process for cross border trade to focus its inspection activities on high-risk goods and that simplifies the release and movement of low-risk goods.

2. Each Party shall base risk management on assessment of risk through appropriate selectivity criteria.

3. Each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on international trade.

4. In order to facilitate trade, each Party shall periodically review and update, as appropriate, its risk management system.

5. The Parties shall work towards strengthening their respective assessment of risk through improvements in compatibility of risk analysis and risk targeting systems, as appropriate.

Article 7.13: Post-Clearance Audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with its customs and other related laws and regulations.

2. Each Party shall conduct post-clearance audits in a risk-based manner.

3. Each Party shall conduct post-clearance audits in a transparent manner. Where an audit is conducted and conclusive results have been achieved the Party shall, without delay, notify the person whose records are audited of the audit results, the basis of the results, and the audited person's rights and obligations.

4. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative, quasi-judicial, or judicial proceedings.

5. The Parties shall, whenever practicable, use the result of post-clearance audit in applying risk management.

6. Each Party shall conduct a post-clearance audit in a manner that informs the trader with respect to laws, regulations and procedures and promotes future compliance.

7. Each Party shall provide a fixed and finite period with respect to record-keeping obligations in its laws or regulations.

Article 7.14: Authorized Economic Operator – AEO

1. Each Party shall maintain a trade facilitation partnership program for operators who meet specified security criteria, hereinafter, referred to as Authorized Economic Operator "AEO" programs, in accordance with the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization.

2. The Parties shall endeavor to cooperate by:

(a) exchanging experiences on the operation of and improvements to each respective AEO program, seeking to adopt, if appropriate, best practices;

(b) exchanging information with each other on the operators authorized by each program in accordance with each Party's law and established processes; and

(c) collaborating in the identification and implementation of trade facilitation benefits for operators authorized by the other Parties.

Article 7.15: Review and Appeal of Customs Determinations

1. With a view to providing effective, impartial, and easily accessible procedures for review and appeal of administrative determinations on customs matters, each Party shall ensure that any person to whom a customs administration issues a determination has access to:

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

(b) a quasi-judicial or judicial review or appeal of the determination or decision made at the final level of an administrative review.

2. Each Party shall provide a person to whom it issues an administrative determination with the reasons for the administrative determination and access to information on how to request a review and appeal.

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

4. If a person receives a determination or decision on an administrative, quasi-judicial, or judicial review or appeal as provided under paragraph 1, that determination or decision shall be applicable in the same manner throughout the territory of the Party with respect to that person.

5. With a view to ensuring predictability for traders and consistent application of its customs laws, regulations, and procedural requirements, each Party is encouraged to apply determinations or decisions of administrative, quasi-judicial and judicial authorities under paragraph 1 to the practices of its customs administration throughout its territory.

6. Each Party shall endeavour to allow a trader to file a request for administrative review or appeal to be conducted by the customs administration through electronic means.

Article 7.16: Administrative Guidance

1. Each Party shall adopt or maintain an administrative procedure by which a customs office in its territory may request the appropriate authority of the customs administration to provide guidance as to the proper application of laws, regulations, and procedures for importation into, exportation from, or transit through its territory with respect to a specific customs transaction, regardless of whether the transaction is prospective or pending, or has been completed. A customs office shall request guidance under this administrative procedure on its own initiative or at the written request of an importer or exporter in its territory, or a representative thereof.

2. The appropriate authority of a Party shall provide guidance in response to a request under paragraph 1 if The customs treatment applied or proposed to be applied by the customs office to the transaction is inconsistent with the customs treatment provided with respect to transactions that are identical in all material respects, including by another customs office in the territory of the Party.

3. Each Party shall make available to the public online the procedures, including any forms, for requesting guidance under paragraph 1.

4. Each Party shall allow an importer or exporter to whom a request under paragraph 1 relates an opportunity to submit written views and information to the appropriate authority of the customs administration before it issues guidance in response to a request.

5. Guidance in response to a request under paragraph 1 shall be taken into account by the customs office with respect to the transaction that is the subject of the request, provided that there is not a ruling or determination issued on the transaction and the facts or circumstances remain the same.

6. Nothing in this Article shall be construed to require the appropriate authority of the customs administration to provide guidance on those transactions for which a determination has been made or that such determination has been applied consistently throughout its territory, or on those transactions for which a determination is pending, or when an importer or exporter has requested

a ruling or has received a ruling that has been applied consistently throughout its territory, or on transactions for which a determination or ruling is being reviewed.

Article 7.17: Transit

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a Party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Party across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit."

2. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

3. Each Party's formalities, documentation requirements, and customs controls in connection with traffic in transit shall not be more burdensome than necessary to:

(a) identify the goods in transit; and

(b) ensure that the Party's transit requirements have been met.

4. After a Party has authorized the goods to proceed from the point of entry through a Party's territory, the Party shall not apply customs charges, customs procedures, or inspections other than those necessary for specific law enforcement purposes under its law with respect to that traffic in transit, until the goods arrive at the point of exit from its territory.

5. Each Party shall provide for advance filing and processing of documentation and data required for transit prior to the arrival of goods.

6. Once traffic in transit has reached the point of exit from the territory of a Party and transit requirements have been met, the Party shall promptly terminate the transit operation.

7. A Party may require a guarantee or other security for traffic in transit, provided the use of the guarantee is limited to ensuring that obligations arising from such traffic in transit are fulfilled.

8. If a guarantee covers a transit operation, a Party shall allow use of a comprehensive guarantee that covers multiple transactions by the same operator.

9. If a Party requires a guarantee for traffic in transit, it shall discharge the guarantee without delay once it determines that its transit requirements have been satisfied.

10. Each Party shall publish information on how it sets the amount of a guarantee for traffic in transit.

11. If a Party limits the time for transiting its territory, it shall ensure that the time it allows is sufficient to accomplish the transit operation.

12. A Party shall not require the use of customs convoys or customs escorts for traffic in transit.

13. Each Party shall allow goods moving in transit to be imported into its territory provided the goods and appropriate information are presented to its customs administration and that the goods fulfil all applicable requirements for release under its law.

Article: 7.18: Penalties

1. Each Party shall adopt or maintain measures that allow for the imposition of a penalty by a Party's customs administration for breach of its customs laws, regulations, or procedural requirements, including those governing tariff classification, customs valuation, transit procedures, country of origin, and claims for preferential treatment. Each Party shall ensure that such measures are administered in a uniform manner throughout its territory.

2. Each Party shall ensure that a penalty imposed by its customs administration for a breach of its customs laws, regulations, or procedural requirements is imposed only on the person legally responsible for the breach.

3. Each Party shall ensure that any penalty imposed by its customs administration for breach of its customs laws, regulations, or procedural requirements shall depend on the facts and circumstances of the case, including any previous breaches by the person receiving the penalty, and shall be commensurate with the degree and severity of the breach.

4. Each Party shall provide that a clerical or minor error in a customs transaction, as set forth in its laws, regulations or procedures, published in accordance with Article 1, shall not be treated as a breach of customs laws, regulations, or procedural requirements, and may be corrected without assessment of a penalty, unless the error is part of a consistent pattern of such errors by that person.

5. Each Party shall adopt or maintain 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.

6. Each Party shall ensure that when its customs administration imposes a penalty for a breach of its customs laws, regulations, or procedural requirements, it provides an explanation in writing to the person upon whom the penalty is imposed, specifying the nature of the breach, including the specific law, regulation, or procedural requirement concerned, and the basis for determining the penalty amount if not set forth specifically in the law, regulation, or procedural requirement.

7. Each Party shall provide that a person may correct an error in a customs transaction, that is a potential breach of a customs law, regulation, or procedural requirement, excluding fraud, prior to the discovery of the error by the Party, if the person does so in accordance with the Party's laws, regulations, or procedures, and pays any owing duties, taxes, fees, and charges, including interest.

The correction shall include the identification of the transaction and circumstances of the error. The Party shall not use this error to assess a penalty for a breach of a customs law, regulation, or procedural requirement.

8. Each Party shall specify a fixed, finite period within which it may initiate penalty proceedings in connection with a breach of a customs law, regulation, or procedural requirement.

Article 7.19: Standards of Conduct

1. Further to Article 5.14 (Penalties) and Article 27.4 (Anticorruption – Promoting Integrity among Public Officials), each Party shall adopt or maintain measures to deter its customs officials from engaging in any action that would result in, or that reasonably creates the appearance of, use of their public service position for private gain, including any monetary benefit.

2. Each Party shall provide a mechanism for importers, exporters, carriers, customs brokers and other stakeholders to submit complaints regarding perceived improper or corrupt behavior in its territory, including at ports of entry and other customs offices, of its customs administration personnel. Each Party shall take appropriate action on a complaint in a timely manner in accordance with its laws, regulations, or procedures.

Article 7.21: Customs Brokers

1. Each Party shall allow an importer and any other person it deems appropriate, in accordance with its laws and regulations to self-file the customs declaration and other import or transit documentation without the services of a customs broker. For the purposes of electronic filing, self-filing shall include direct access or access through a service provider, to electronic systems for filing and transmitting the customs declarations and other import or transit documentation. Each Party shall ensure that access to the electronic systems are available for self-filers on a non- discriminatory basis relative to other categories of users.

2. If a Party establishes requirements for qualifications, licensing, or registration to be a customs broker or to provide customs broker services, the Party shall ensure that the requirements are transparent, based on objective criteria related to providing customs broker services, promote integrity and professionalism among customs brokers, and are administered uniformly in its territory.

3. No Party shall impose arbitrary limits to the number of ports or locations that a customs broker may operate. A Party shall allow a licensed customs broker to electronically submit a customs declaration and import documentation to the electronic systems referred to in paragraph 1, at any port at which it is licensed to operate in accordance with the preceding sentence.

Article 7.22: Trade Facilitation Committee

1. The Parties hereby establish a Committee on Trade Facilitation (Committee), composed of government representatives of each Party.

2. The Committee shall:

(a) facilitate the exchange of information among the Parties with respect to their respective experiences regarding the development and implementation of a single window including each Party's participating border agencies and the automation of its forms, documents, and procedures;

(b) facilitate the exchange of information among the Parties regarding the formulation and implementation of, and experiences under, each Party's low-risk trader programs, including their AEO programs;

(c) provide a forum for the sharing of views on individual cases involving questions of tariff classification, customs valuation, other customs treatments, or emerging industry trends and issues, with a view to reconciling inconsistencies, supporting a competitive business environment, or otherwise facilitating trade and investment among the Parties;

(d) facilitate the exchange of information among the Parties regarding the formulation and implementation of, and experiences with, each Party's measures that promote voluntary compliance by traders;

(e) providing a forum for the Parties to consult and endeavor to resolve issues relating to this Chapter , including, as appropriate, in coordination or jointly with other committees, working groups, or other subsidiary bodies established under this Agreement;

(f) review international initiatives on trade facilitation

(g) identify initiatives for joint action by their respective customs administrations, in cases where joint action could facilitate trade among the Parties, and taking into account priorities and experiences of their customs administrations.

(h) discuss technical assistance and support for capacity building to enhance the impact of trade facilitation measures for traders, and in particular to identify priorities for this assistance and support among their customs administrations and outside North America.

(i) engage in other activities as the Parties may decide.

3. The Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter at such times as the Parties decide.

4. The Parties are encouraged to provide opportunities for persons to provide input to each Party's Committee representative on matters relevant to the Committee's work, such as through the mechanism described in Article 7.3 (Communication with Traders).

Article 7.23: Customs Initiatives for Trade Facilitation

1. The Parties shall cooperate in the development and implementation of customs initiatives related to the trade facilitation measures described in this Chapter, as well as on other trade facilitation initiatives.

2. This cooperation may include information sharing or collaboration with respect to:

(a) best practices on the implementation of customs procedures;

(b) the management of customs and trade compliance measures;

(c) engagement between the customs administrations at the operational level to address issues related to regular cross-border operations and resolve specific cases, including pending shipments.

(d) the development and implementation of procedures to facilitate cross border trade and improve customs operations related to the movement, release and clearance of goods;

(e) the harmonization of their cargo manifest data requirements in each mode of transportation;

(f) the implementation of programs designed to facilitate the movement of goods through their ports of entry, including, if feasible, alignment of hours of service, joint customs inspections and shared facilities; and

(g) the design, development and construction of ports of entry located at their common borders.

Article 7.24: Protection of Trader Information

1. Each Party's customs administration shall apply measures governing the collection, protection, use, disclosure, retention, correction, and disposal of information that it collects from traders.

2. Each Party's customs administration shall protect, in accordance with its law, confidential information from use or disclosure that could prejudice the competitive position of the trader to whom the confidential information relates.

3. Notwithstanding paragraph 2, a Party may use or disclose confidential information but only for the purposes of administration or enforcement of its customs laws or as otherwise provided under the Party's law, including in an administrative, quasi-judicial or judicial proceeding.

4. If confidential information is used or disclosed other than in accordance with this Article, the Party shall address the incident, in accordance with its laws, regulations, or procedures, and strive to prevent a reoccurrence.

Article 7.25: Border Inspections

1. The Parties shall cooperate with each other, as appropriate, with a view to facilitating trade through the promotion of efficient and effective processing of imports and exports through their ports of entry.

2. Each Party shall ensure that its customs administration and other relevant agencies that examine goods, conveyances or instruments of international traffic, carry out examinations with appropriate coordination and to the extent practicable simultaneously within a single location, with a view to releasing goods and allowing conveyances and instruments of international traffic to enter its territory in a timely manner and immediately after the examinations have been completed provided that all regulatory requirements have been met.

3. Pursuant to paragraphs 1 and 2 each Party is encouraged to develop and implement standard operating procedures amongst its customs administration and relevant agencies that examine goods, conveyances or instruments of international traffic. If practicable, each Party is encouraged to adapt their border facilities to carry out the examinations specified in paragraph 2.

4. As appropriate the Parties shall coordinate to develop procedures or facilities, at adjacent ports of entry, for the efficient movement of goods whose processing requires specific accommodations with respect to facilities or examination.

5. Nothing in this Article shall require a Party to provide services for the examination and release of goods for all types of goods at all ports of entry within its territory.

Section B

Cooperation and Enforcement

Article 7.26 Regional and Bilateral Cooperation on Enforcement

1. The Parties agree to strengthen and expand their customs and trade enforcement efforts and cooperation as set out in this Section. In these efforts, the Parties may use any applicable mechanism, including bilateral cooperation mechanisms.

2. Each Party shall, in accordance with its laws and regulations, cooperate with other Parties for the purposes of enforcing or assisting in the enforcement of their respective measures concerning customs offenses in the trade in goods between the Parties, including ensuring the accuracy of claims for preferential tariff treatment under this Agreement.

3. With a view to facilitating the effective operation of this Agreement, each Party shall:

   (a) encourage cooperation with the other Parties regarding customs issues that affect goods traded between the Parties; and

   (b) endeavour to provide each Party with advance notice of any significant administrative change, modification of a law or regulation, or other measure related to its laws or regulations that governs importations, exportations, or transit procedures that is likely to substantially affect the operation of this Agreement or likely to affect the effective implementation and enforcement of the customs and trade laws and regulations of a Party.

4. Each Party shall take appropriate measures, such as legislative, administrative, or judicial actions for enforcement of its laws, regulations, and procedures related to customs offenses, to enhance coordination between its customs administration and other relevant agencies and for cooperation with another Party.

5. The measures under paragraph 4 may include, among others:

   (a) specific measures, such as enforcement actions to detect, prevent, or address customs offenses, especially on identified customs priorities, taking into account trade data, including patterns of imports, exports, or transit goods to identify potential or real sources of these offenses;

   (b) adopting or maintaining penalties aimed at deterring or penalizing customs offenses; and

   (c) providing its government officials with the legal authority to meet its enforcement obligations under this Agreement.

6. The Parties shall, subject to their respective laws, regulations and procedures, cooperate by sharing information, including exchanging historical data and if practicable and appropriate, data in real time with respect to imports, exports, and transit of goods to identify potential or real sources of customs offenses, especially on priority initiatives or industry sectors. Each Party shall identify and maintain the capability for the secure exchange of customs data with another Party.

7. Each Party shall, whenever practicable, and subject to its laws and regulations, provide another Party with information that has come to its attention that it believes would assist the receiving Party in detecting, preventing or addressing potential or real customs offensesin particular those related to unlawful activities, including duty evasion, smuggling, and similar infractions. Such information may include specific data on any person suspected to be involved in unlawful activities, the mode of transportation, other relevant information, and the results of enforcement actions, application of penalties, or unusual trade patterns, both collected directly by the providing Party and received from other sources.

8. The Parties shall endeavor to cooperate, subject to their laws, regulations and procedures, bilaterally or trilaterally, as appropriate, by developing customs enforcement initiatives, which may include the creation of task forces, joint or coordinated data analysis, and identification of special monitoring measures and other actions to prevent, deter, and address customs offenses, particularly with respect to priorities of mutual concern.

Article 7.27: Exchange of Specific Confidential Information

1. For the purposes of enforcing or assisting in the enforcement of their respective measures concerning customs offenses, a Party may request that another Party provide specific confidential information that is normally collected in connection with the importation, exportation, and transit of a good if the requesting Party has relevant facts indicating that a customs offense is occurring or is likely to occur.

2. A request under paragraph 1 shall be made in writing, electronically, or in another means that acknowledges receipt, and shall include a brief statement of the matter at issue, the cooperation requested, the relevant facts indicating that a customs offense is occurring or is likely to occur, and sufficient information for the Party that receives a request to respond in accordance with its laws and regulations.

3. The Party that receives a request under paragraph 1 shall, subject to its laws regulations, procedures, or other legal obligations, provide to the requesting Party a written response containing the requested information held by the Party as soon as practicable.

4. A Party may provide information under this Article in paper or electronic format.

5. In order to facilitate the rapid and secure exchange of information, each Party shall:

(a) designate or maintain a contact point for cooperation under this Section in accordance with Article 30.5 (Agreement Coordinator and Contact Points);

(b) notify the other Parties of the contact point; and

(c) promptly notify the other Parties of any subsequent changes.

6. For the purposes of paragraph 1, relevant facts indicating that a customs offense is occurring or is likely to occur means historical evidence of non-compliance with laws or regulations, or other information that the requesting Party and the Party from which the information is requested agree is sufficient in the context of a particular request.

Article 7.28: Customs Compliance Verification Requests

1. A Party may request a Party to conduct a verification in that Party's territory to assist the requesting Party to determine whether a customs offence is occurring or has occurred by obtaining information, including documents, from an exporter or producer. The requesting Party shall make the request in writing. The requested Party shall respond to the request promptly and in any case no later than 30 days after the date it receives the request. The response will include whether it will conduct the verification. If the Party does not intend to conduct the verification, the response will indicate the basis for refusal. If a Party will conduct the verification, the response will indicate the intended timing and other relevant details.

2. If the requested Party conducts a verification under paragraph 1, it shall provide the requesting Party promptly upon completing the verification a report containing the relevant information including data and documents, obtained during its verification.

3. In the case of a site visit by the requested Party, the requesting Party may, through its specially designated officials and subject to the consent of a legally responsible person for the location visited, accompany the requested Party. Accompanying the requested Party does not create any legal authority for the designated officials of the requesting Party. The designated officials of the requesting Party shall fulfill the conditions and procedures mutually agreed between the relevant Parties for the visit. Nothing in this Agreement shall be construed as an obligation of the requested Party to allow or facilitate the participation of the designated officials of the requesting Party.

Article 7.29: Confidentiality between Parties

1. If a Party provides information to another Party in accordance with this Section and designates the information as confidential or is confidential under the receiving Party's law, such Party shall keep the information confidential in accordance with its law.

2. A Party may decline to provide information requested by another Party if that Party has failed to act in accordance with paragraph 1.

3. A Party may use or disclose confidential information received from another Party under this Section but only for the purposes of administration or enforcement of its customs laws or as otherwise provided under the Party's law, including in an administrative, quasi-judicial or judicial proceeding.

Article 7.30: Sub-Committee on Customs Enforcement

1. The Parties hereby establish a Sub-Committee on Customs Enforcement, composed of government representatives of each Party, to address issues related to potential or real customs offenses.

2. The Sub-Committee shall:

(a) work to identify regional priorties of mutual concern and related programs for detecting, preventing, and addressing duty evasion and other customs offenses;

(b) identify and discuss opportunities for the exchange of customs and trade information and data among the Parties that facilitates detecting, preventing, and addressing customs offenses;

(c) provide a forum to discuss proposed customs enforcement initiatives, including by identifying areas of coordination and cooperation, as appropriate, especially those related to detecting, preventing, and addressing customs offenses;

(d) facilitate the exchange of information of best practices on customs enforcement and in managing customs compliance;

(e) provide a forum to discuss technical guidance or assistance and support for capacity building, including specific training programs, in matters related to customs enforcement and compliance;

(f) provide a forum to discuss, with a view to identifying and enhancing joint customs enforcement and compliance initiatives on topics of mutual concern, including with respect to customs offenses, such as deterring duty evasion and circumvention of safeguards, antidumping and countervailing duty laws and orders;

(g) identify appropriate government officials to address the matters raised in the Sub-Committeee and share their contact information.

(h) inform the Customs and Trade Facilitation Committee about customs enforcement measures implemented by a Party that may have an impact on their customs procedures with respect to a matter covered by this Chapter; and

(i) engage in other matters related to customs offenses as the Parties may decide.

3. The Parties shall designate and notify a contact point for this Sub-Committee in accordance with Article 30.5 (Agreement Coordinator and Contact Points).

4. The Sub-Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter as the Parties may decide.

CHAPTER 8

RECOGNITION OF THE MEXICAN STATE'S DIRECT, INALIENABLE, AND IMPRESCRIPTIBLE OWNERSHIP OF HYDROCARBONS

Article 8.1: Recognition of the Mexican State's Direct, Inalienable, and Imprescriptible Ownership of Hydrocarbons

1. As set out in this Agreement, the Parties confirm their full respect for sovereignty and their sovereign right to regulate with respect to matters addressed in this Chapter in accordance with their respective Constitutions and domestic laws, in the full exercise of their democratic processes.

2. In the case of Mexico, and without prejudice to their rights and remedies available under this Agreement, the United States and Canada recognize that:

(a) Mexico reserves its sovereign right to reform its Constitution and its domestic legislation; and

(b) The Mexican State has the direct, inalienable and imprescriptible ownership of all hydrocarbons in the subsoil of the national territory, including the continental shelf and the exclusive economic zone located outside the territorial sea and adjacent thereto, in strata or deposits, regardless of their physical conditions pursuant to Mexico's Constitution.

CHAPTER 9

SANITARY AND PHYTOSANITARY MEASURES

Article 9.1: Definitions

1. The definitions in Annex A of the SPS Agreement are incorporated into this Chapter and shall form part of this Chapter, *mutatis mutandis*, except as otherwise provided for in paragraph 2.

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

competent authority means a government body of each Party responsible for measures or matters referred to in this Chapter;

import check means an inspection, examination, sampling, review of documentation, test, or procedure, including laboratory, organoleptic, or identity, conducted at the border or otherwise during the entry process by an importing Party or its representative to determine if a consignment complies with the sanitary and phytosanitary requirements of the importing Party;

relevant international organizations are the Codex Alimentarius Commission, the World Organization for Animal Health, and the International Plant Protection Convention and other international organizations as decided by the Committee;

relevant international standards, guidelines, or recommendations are those defined in Annex A, paragraph 3 (a)-(c) of the SPS Agreement and standards, guidelines or recommendations of other international organizations as decided by the Committee;

risk management means the weighing of policy alternatives in light of the results of risk assessment and, if required, selecting and implementing appropriate controls, which may include sanitary and phytosanitary measures;

WTO SPS Committee means the Committee on Sanitary and Phytosanitary Measures established under Article 12 of the SPS Agreement.

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Article 9.2: Scope

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

Article 9.3: Objectives

1. The objectives of this Chapter are to:

   (a) protect human, animal or plant life or health in the territories of the Parties while facilitating trade between them;

   (b) reinforce and build upon the SPS Agreement;

   (c) strengthen communication, consultation and cooperation between the Parties, and particularly between the Parties' competent authorities;

   (d) ensure that sanitary or phytosanitary measures implemented by a Party do not create unnecessary barriers to trade;

   (e) enhance transparency in and understanding of the application of each Party's sanitary and phytosanitary measures;

   (f) encourage the development and adoption of science-based international standards, guidelines and recommendations, and promote their implementation by the Parties;

   (g) enhance compatability of sanitary or phytosanitary measures as appropriate; and

   (h) advance science-based decision making.

Article 9.4: General Provisions

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

2. Sanitary or phytosanitary measures which conform to the relevant provisions of this Chapter shall be presumed to be consistent with the obligations of the Parties under the provisions of Chapter 2 (National Treatment and Market Access for Goods) which relate to the use of sanitary or phytosanitary measures and Article XX(b) of the GATT 1994 incorporated into Chapter 32 (Exceptions and General Provisions).

3. Sanitary or phytosanitary measures which conform to relevant international standards, guidelines, and recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Chapter, Chapter 2 (National Treatment and Market Access for Goods) and Article XX (b) of the GATT 1994 incorporated into Chapter 32 (Exceptions and General Provisions).

Article 9.5: Competent Authorities and Contact Points

1. Each Party shall provide to the other Parties a list of its central level of government competent authorities. On the request of a Party, and, if applicable, a Party shall provide contact information or a written description of the SPS responsibilities of its competent authorities.

2. Each Party shall designate and notify a contact point for matters arising under this Chapter, in accordance with Article 30.5 (Agreement Coordinator and Contact Points).

3. The Parties shall promptly inform each other of any change of the competent authorities or contact points.

Article 9.6: Science and Risk Analysis

1. The Parties recognize the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific principles.

2. Each Party has the right to adopt or maintain sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that those measures are not inconsistent with the provisions of this Chapter.

3. Each Party shall base its sanitary and phytosanitary measures on relevant international standards, guidelines, or recommendations provided that doing so would meet the Party's appropriate level of sanitary or phytosanitary protection. If a sanitary or phytosanitary measure is not based on relevant international standards, guidelines, or recommendations, or if relevant international standards, guidelines, or recommendations do not exist, the Party shall ensure that its sanitary or phytosanitary measure is based on an assessment, as appropriate to the circumstances, of the risk to human, animal or plant life or health.

4. Recognizing the Parties' rights and obligations under the relevant provisions of the SPS Agreement, nothing in this Chapter shall be construed to prevent a Party from:

(a) establishing the level of protection it determines to be appropriate;

(b) establishing or maintaining an approval procedure that requires a risk assessment to be conducted before the Party grants a product access to its market; or

(c) adopting or maintaining a sanitary or phytosanitary measure on a provisional basis in a case where relevant scientific evidence is insufficient.

5. If a Party adopts or maintains a provisional sanitary or phytosanitary measure, in a case where relevant scientific evidence is insufficient, the Party shall within a reasonable period of time:

(a) seek to obtain the additional information necessary for a more objective assessment of risk;

(b) complete the risk assessment after obtaining the requisite information; and

(c) review and, if appropriate, revise the provisional measure in light of the risk assessment.

6. Each Party shall ensure that its sanitary and phytosanitary measures:

(a) are applied only to the extent necessary to protect human, animal or plant life or health;

(b) are based on relevant scientific principles, taking into account relevant factors including, where appropriate, different geographic conditions;

(c) are not maintained where there is no longer a scientific basis;

(d) do not arbitrarily or unjustifiably discriminate between Parties where identical or similar conditions prevail, including between its own territory and that of other Parties; and

(e) are not applied in a manner that constitutes a disguised restriction to trade between the Parties.

7. Each Party shall conduct its risk assessment and risk management with respect to a sanitary or phytosanitary regulation for the purposes of Annex B of the SPS Agreement in a manner that is documented and that provides the other Parties

and persons of the Parties an opportunity to comment, in a manner to be determined by that Party.

8. When conducting its risk assessment and risk management, each Party shall:

(a) ensure that each risk assessment it conducts is appropriate to the circumstances of the risk to human, animal or plant life or health and takes into account the available relevant scientific evidence, including qualitative and quantitative data and information; and

(b) take into account relevant guidance of the WTO SPS Committee and standards, guidelines, and recommendations of the relevant international organization.

9. Each Party shall consider not taking any measure as a risk management option where not taking any measure would achieve the Party's appropriate level of protection.

10. Without prejudice to Article 9.4 (General Provisions), each Party shall select a sanitary or phytosanitary measure that is not more trade restrictive than required to achieve the level of protection that the Party has determined to be appropriate. For greater certainty, a sanitary or phytosanitary measure is not more trade restrictive than required unless there is another option that is reasonably available, taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

11. If an importing Party requires a risk assessment to evaluate a request from an exporting Party to authorize importation of a good of that exporting Party, the importing Party shall provide, on request of the exporting Party, an explanation of the information required for the risk assessment. On receipt of the requisite information from the exporting Party, the importing Party shall endeavor to facilitate the evaluation of the request for authorization by scheduling work on this request in accordance with the procedures, policies, resources, and laws and regulations of the importing Party.

12. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of a request to authorize trade, including the status of any risk assessment or other evaluation the Party requires to authorize trade, and of any delay that occurs during the process.

13. If the importing Party, as a result of a risk assessment, adopts a sanitary or phytosanitary measure that may facilitate trade between the Parties, the importing Party shall implement the measure without undue delay.

14. If a Party has reason to believe that a specific sanitary or phytosanitary measure adopted or maintained by another Party is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or those standards, guidelines or recommendations do not exist, an explanation of the reasons and pertinent relevant information regarding the measure may be requested and shall be provided by the Party adopting or maintaining the measure.

15. Without prejudice to Article 9.14 (Emergency Measures), no Party shall stop the importation of a good of another Party for the reason that the importing Party is undertaking a review of its sanitary or phytosanitary measure, if the importing Party permitted the importation of that good of the other Party when the review was initiated.[1]

Article 9.7: Enhancing Compatibility of Sanitary and Phytosanitary Measures

1. Each Party recognizes that enhancing the compatibility of its sanitary and phytosanitary measures with the measures of another Party may facilitate trade while maintaining each Party's right to determine its appropriate level of protection.

2. To reduce unnecessary obstacles to trade, each Party shall endeavor to enhance the compatibility of its sanitary and phytosanitary measures with the sanitary and phytosanitary measures of the other Parties, provided that doing so would not reduce each Party's appropriate level of sanitary or phytosanitary protection. In so doing, each Party:

(a) is encouraged to consider relevant actual or proposed sanitary or phytosanitary measures of the other Parties in the development, modification, or adoption of their sanitary or phytosanitary measures; and

(b) shall have the objective, among others, of making its sanitary and phytosanitary measures equivalent or if appropriate, identical to those of the other Parties but only to the extent that doing either does not reduce the Party's appropriate level of sanitary or phytosanitary protection.

Article 9.8: Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

[1] For greater certainty, a Party is not stopping imports because it is undertaking a review if the Party stops imports on the basis that the review identifies that the information necessary to permit the importation of a good is lacking.

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1. The Parties recognize that adaptation to regional conditions, including regionalization, zoning, and compartmentalization, is an important means to facilitate trade.

2. The Parties shall endeavour to cooperate on the recognition of pest- or disease-free areas, and areas of low pest or disease prevalence with the objective of acquiring confidence in the procedures followed by each Party for the recognition of pest- or disease-free areas, and areas of low pest or disease prevalence.

3. In making determinations regarding regional conditions, the Parties shall take into account the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines, and recommendations.

4. When an importing Party receives a request for a determination of regional conditions from an exporting Party and determines that the exporting Party has provided sufficient information, it shall initiate an assessment without undue delay. For this purpose, each exporting Party shall provide reasonable access in its territory to the importing Party for inspection, testing, and other relevant procedures.

5. The importing Party shall acknowledge the receipt of information provided by the exporting Party. The importing Party shall evaluate the information provided by the exporting Party and shall inform the exporting Party whether the information is sufficient to evaluate a request for adaptation to regional conditions. The importing Party may request additional relevant information or an on-site verification if justified, based on the results of the ongoing evaluation.

6. When an importing Party initiates an evaluation of a request for a determination of regional conditions under paragraph 4, that Party shall explain, on request of the exporting Party, its process for making the determination of regional conditions without undue delay.

7. On request from the exporting Party, the importing Party´s competent authority shall consider whether a streamlined process may be used for the determination of regional conditions.

8. If the importing and exporting Parties´ competent authorities decide that a request for a determination of regional conditions is a priority, and the importing Party has received sufficient information, as referenced in paragraph 4, the competent authorities involved shall establish reasonable timeframes based on the circumstances

and may establish a work plan, for which the importing Party under normal circumstances[2] , may finalize the determination, which may be positive or negative.

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

10. The importing Party shall finalize the evaluation and all necessary stages involved for the determination of regional conditions of the exporting Party without undue delay once the importing Party´s competent authority determines that it has received sufficient information from the exporting Party.

11. If the evaluation results in the recognition of specific regional conditions of an exporting Party, the importing Party shall communicate this determination to the exporting Party in writing and shall apply this recognition without undue delay.

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

13. The importing and exporting Parties involved in a particular determination of regional conditions may also decide in advance the risk management measures that will apply to trade between them in the event of a change in the status.

14. If there is an incident that results in a change of status, the exporting Party shall inform the importing Party. If the importing Party modifies or revokes the determination recognizing regional conditions as a result of the change in status, on request of the exporting Party, the Parties involved shall cooperate to assess whether the determination can be reinstated.

15. The Parties involved in a determination recognizing regional conditions shall, if mutually agreed, report the outcome to the Committee.

Article 9.9: Equivalence

1. The Parties recognize that a positive determination of equivalence of sanitary and phytosanitary measures is an important means to facilitate trade.

[2] For purposes of this paragraph, "normal circumstances" do not include any extraordinary or unanticipated situations, such as unanticipated risks to human, animal or plant life or health, or resource or regulatory constraints.

2. Further to Article 4 of the SPS Agreement, the Parties shall apply a recognition of equivalence to a specific sanitary or phytosanitary measure, or to the extent feasible and appropriate to a group of measures or on a systems-wide basis. In determining the equivalence of a specific sanitary or phytosanitary measure, group of measures, or measures on a systems-wide basis, each Party shall take into account the relevant guidance of the WTO SPS Committee and relevant international standards, guidelines, and recommendations.

3. On request of the exporting Party, the importing Party shall explain the objective and rationale of its sanitary or phytosanitary measure and identify the risk the sanitary or phytosanitary measure is intended to address.

4. When an importing Party receives a request for a determination of equivalence from an exporting Party and determines that the exporting Party has provided sufficient information, it shall initiate an assessment without undue delay.

5. When an importing Party initiates an equivalence assessment, that Party shall explain, on request of the exporting Party and without undue delay, its process for making the determination of equivalence, and, if the determination results in recognition, its plan for enabling trade.

6. On request from the exporting Party, the importing Party´s competent authority shall consider whether a streamlined process may be used to determine equivalence.

7. If the importing and exporting Parties´ competent authorities decide that a request for a determination of equivalence is a priority, and the importing Party has received sufficient information, as referenced in paragraph 4, the competent authorities involved shall establish reasonable timeframes based on the circumstances and may establish a work plan, for which the importing Party, under normal circumstances[3], may finalize the determination, which may be positive or negative.

8. On request of the exporting Party, the importing Party shall inform the exporting Party of the status of the equivalence assessment.

9. Once the importing Party determines that the information provided by the exporting Party is sufficient to finalize the assessment, the importing Party shall finalize the assessment and communicate the results of the assessment to the exporting Party without undue delay.

[3] For purposes of this paragraph, "normal circumstances" do not include any extraordinary or unanticipated situations, such as unanticipated risks to human, animal or plant life or health, or resource or regulatory constraints.

10. In determining equivalence, an importing Party shall take into account available knowledge, information and relevant experience including knowledge acquired through experience with the other Party´s relevant competent authority.

11. An importing Party shall recognize the equivalence of a sanitary or phytosanitary measure, group of measures or system, even if the measure, group of measures or system differs from its own, if the exporting Party objectively demonstrates to the importing Party that the exporting Party's measure achieves the importing Party's appropriate level of protection, taking into account outcomes that the exporting Party's measure, group of measures or system achieves.

12. If an importing Party adopts a measure that recognizes the equivalence of an exporting Party's specific sanitary or phytosanitary measure, group of measures, or measures on a systems-wide basis, the importing Party shall communicate that measure to the exporting Party in writing and implement the measure without undue delay.

13. The Parties involved in an equivalence determination that results in recognition shall, if mutually agreed, report the outcome to the Committee.

14. If an assessment does not result in the recognition of equivalence, the importing Party shall communicate to the exporting Party without undue delay the determination and its rationale.

15. If a Party plans to adopt, modify, or repeal a measure that is the subject of a sanitary or phytosanitary equivalence recognition:

(a) the Party shall notify the other Party of its plan. The notification should take place at an early appropriate stage where any comments submitted by the other Party can be taken into account, including by revising its plan. Upon request of a Party involved in the recognition, the Parties shall discuss whether the adoption, modification, or repeal of that measure may affect the equivalence recognition.

(b) the Party shall, upon request of the other Party, provide information and rationales concerning its planned change. The other Party shall review any information submitted and provide any comments to the other Party without undue delay.

(c) the importing Party shall not revoke its recognition of equivalence on the basis that a change to the measure is pending.

16. If a Party adopts, modifies, or repeals a measure that is the subject of a sanitary or phytosanitary recognition of equivalence, the importing Party shall maintain its recognition of equivalence provided that the exporting Party's measures concerning

the good continue to achieve the appropriate level of protection of the importing Party. Upon request of a Party, the Parties shall promptly discuss the determination made by the importing Party.

17. If a Party adopts, modifies, or repeals a measure that is the subject of a sanitary or phytosanitary recognition of equivalence, the importing Party shall:

(a) continue to accept the recognition of equivalence until it has communicated to the exporting Party whether further requirements must be met to maintain equivalence; and

(b) if further requirements under (a) are necessary, and upon request, discuss those requirements with the exporting Party.

Article 9.10: Audits[4]

1. To determine an exporting Party's ability to comply with the importing Party's sanitary and phytosanitary requirements or to verify an exporting Party's compliance with its sanitary and phytosanitary requirements that the importing Party has determined to be equivalent, the importing Party shall have the right, subject to this Article, to audit the exporting Party's competent authorities, including associated or designated inspection systems. That audit may include an assessment of the competent authorities' control programs, including, if appropriate and feasible: the inspection and audit programs and on-site inspections of facilities or other agriculture production areas.

2. An audit shall be systems-based and designed to check the effectiveness of the regulatory controls of the competent authorities of the exporting Party.

3. In undertaking an audit, a Party shall take into account relevant guidance of the WTO SPS Committee and relevant international standards, guidelines, and recommendations.

4. Prior to the commencement of an audit, the auditing and audited Parties shall discuss: the rationale, objectives, and scope of the audit; and the criteria or requirements against which the audited Party will be assessed. At that time, the auditing and audited Parties shall decide the itinerary and procedures for conducting the audit.

[4] For greater certainty, the Parties recognize that an inspection of a facility and other premises relevant to the inspection in the other Party's territory in order to verify compliance with applicable sanitary or phytosanitary measures is a distinct activity from an audit and the provisions of this Article do not apply to that inspection.

5. Unless the auditing and audited Parties decide otherwise, the auditing Party shall hold an exit meeting at the end of the audit that includes an opportunity for the competent authority of the audited Party to raise questions or seek clarification on the preliminary findings and observations provided at the meeting.

6. The auditing Party shall provide the audited Party the draft audit report, including its initial findings. The auditing Party shall provide the audited Party the opportunity to comment on the accuracy of the draft audit report and shall take any such comments into account before the auditing Party finalizes its report. The auditing Party shall provide a final audit report setting out its conclusions in writing to the audited Party within a reasonable period of time.

7. In undertaking an audit where an importing Party has recognized equivalence on a system-wide basis, it shall:

(a) conduct the audit to verify that the audited Party's system achieves an equivalent outcome to the sanitary or phytosanitary appropriate level of protection of the importing Party; and

(b) audit against the exporting Party's implementation of the equivalent oversight and control system.

8. When a system has been recognized as equivalent by a Party, the competent authorities of the Parties involved in that recognition may discuss schedules of the importing Party's audits of the system.

9. A decision or action taken by the auditing Party as a result of the audit shall be supported by objective evidence and data that can be verified, taking into account the auditing Party's knowledge of, relevant experience with, and confidence in, the audited Party's regulatory controls. The auditing Party shall, on request of the audited Party, provide this objective evidence and data.

10. The costs incurred by the auditing Party shall be borne by the auditing Party, unless both Parties decide otherwise.

11. The auditing Party and audited Party shall each ensure that procedures are in place to prevent the disclosure of confidential information that is acquired during the audit process.

12. If the auditing Party makes a final audit report publicly available, the final audit report shall incorporate, or be accompanied by, the comments or written response to the draft report provided by the competent authority of the audited Party**.**

13. The Parties may decide, where possible, to:

(a) collaborate on audits of non-Parties; or

(b) share the results of audits of non-Parties.

Article 9.11: Import Checks

1. Each Party may use import checks to assess compliance with an importing Party's sanitary and phytosanitary measures and to obtain information to assess risk or to determine the need for, develop, or periodically review a risk-based import check.

2. Each Party shall ensure that its import checks are based on the risks associated with importations, and the import checks are carried out without undue delay.

3. A Party shall make available to another Party, on request, information on its import procedures and its basis for determining the nature and frequency of import checks, including the factors it considers to determine the risks associated with importations.

4. A Party may amend the frequency of its import checks as a result of experience gained through import checks or as a result of actions or discussions provided for in this Chapter.

5. An importing Party shall provide to another Party, on request, information regarding the analytical methods, quality controls, sampling procedures, and facilities that the importing Party uses to test a good. The importing Party shall ensure that any testing is conducted using appropriate and validated methods under a quality assurance program that is consistent with international laboratory standards. The importing Party shall maintain physical or electronic documentation regarding the identification, collection, sampling, transportation and storage of the test sample, and the analytical methods used on the test sample.

6. Each Party, with respect to any import check that it conducts:

(a) shall limit any requirements regarding individual specimens or samples of an import to those that are reasonable and necessary;

(b) shall ensure that any fees imposed for the procedures on imported product are equitable in relation to any fees charged on like domestic products or products originating in any other Party or non-Party and should be no higher than the actual cost of the service;

(c) shall use criteria for selecting facilities at which an import check is conducted:

(i) so that the location does not cause unnecessary inconvenience to an applicant or its agent; and

(ii) so that the integrity of the good is preserved, except for the individual specimens or samples obtained for the purposes of paragraph (a).

7. An importing Party shall ensure that its final decision in response to a finding of non-conformity with the importing Party's sanitary or phytosanitary measure is limited to what is reasonable and necessary in response to the non-conformity.

8. If an importing Party prohibits or restricts the importation of a good of another Party on the basis of an adverse result of an import check, the importing Party shall provide a notification, where practicable by electronic means, about the adverse result to at least one of the following: the importer or its agent; the exporter; or the manufacturer.

9. When the importing Party provides a notification pursuant to paragraph 8, the Party shall:

(a) include in its notification:

(i) the reason for the prohibition or restriction;

(ii) the legal basis or authorization for the action; and

(iii) information on the status of the affected goods including, where applicable:

(A) relevant laboratory results and laboratory methodologies on request and if possible;

(B) in the case of pest interceptions, an identification of the pests at the species level, where available; and

(C) information on the disposition of goods, if appropriate.

(b) transmit the notification as soon as possible, and, in any event, under normal circumstances no later than five days after the date of the decision to prohibit or restrict, unless the good is seized by a customs

administration or subject to ongoing law enforcement action.

10. An importing Party that prohibits or restricts the importation of a good of another Party on the basis of an adverse result of an import check shall provide an opportunity for a review of the decision and consider any relevant information submitted to assist in the review. The review request and information should be submitted to the importing Party within a reasonable period of time.

11. Paragraph 9 does not prevent an importing Party from disposing of goods which are found to have an infectious pathogen or pest that, if urgent action is not taken, can spread and cause damage to human, animal, or plant life or health in the Party's territory.

12. If an importing Party determines that there is a significant, sustained or recurring pattern of non-conformity with a sanitary or phytosanitary measure, the importing Party shall notify the exporting Party of the pattern of non-conformity.

13. On request, an importing Party shall provide to the exporting Party available information on goods from the exporting Party that were found not to conform to a sanitary or phytosanitary measure of the importing Party.

Article 9.12: Certification

1. The Parties recognize that assurances with respect to sanitary or phytosanitary requirements may be provided through means other than certificates.

2. Each Party shall ensure that at least one of the following conditions is satisfied before imposing a sanitary or phytosanitary certification requirement:

(a) the certification requirement is based on the relevant international standard(s); or

(b) the certification requirement is appropriate to the circumstances of risks to human, animal or plant life or health at issue.[5]

3. If an importing Party requires certification for trade in a good, the Party shall ensure that the certification requirement is applied only to the extent necessary to meet the Party's appropriate level of sanitary and phytosanitary protection**.**

[5] For greater certainty, a certification requirement concerning non-sanitary or phytosanitary requirements, including the quality of a product or information relating to consumer preferences does not constitute a certifcation requirement appropriate to the circumstances of a risk to human, animal, or plant life or health.

4. In applying certification requirements, an importing Party shall take into account relevant guidance of the WTO SPS Committee and relevant international standards, guidelines, and recommendations.

5. An importing Party shall limit attestations and information it requires on the certificates to essential information that is necessary to provide assurances to the importing Party that its appropriate level of sanitary or phtyosanitary protection has been met.

6. An importing Party shall provide to another Party, on request, the rationale for any attestations or information that the importing Party requires to be included on a certificate.

7. The Parties may agree to work cooperatively to develop model certificates to accompany specific goods traded between the Parties, taking into account relevant guidance of the WTO SPS Committee and relevant international standards, guidelines, and recommendations.

8. The Parties shall promote the implementation of electronic certification and other technologies to facilitate trade.

Article 9.13: Transparency

1. This Article applies to sanitary or phytosanitary measures that constitute sanitary or phytosanitary regulations for the purposes of Annex B of the SPS Agreement.

2. The Parties recognize the value of sharing information about their sanitary and phytosanitary measures on an ongoing basis, and of providing other Parties and persons of the Parties with the opportunity to comment on their proposed sanitary or phytosanitary measures.

3. In implementing this Article, each Party shall take into account relevant guidance of the WTO SPS Committee and relevant international standards, guidelines, and recommendations.

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

5. Unless urgent problems of human, animal or plant life or health protection arise or threaten to arise requiring the adoption of an emergency measure, or the measure is

of a trade-facilitating nature, a Party shall normally allow at least 60 days for other Parties or persons of the Parties to provide written comments on the proposed measure, other than proposed legislation, after it makes the notification under paragraph 3. The Party shall consider any reasonable request from another Party or persons of the Parties to extend the comment period. On request of another Party, the Party shall respond to the written comments of the other Party in an appropriate manner.

6. The Party shall make available to the public, by electronic means in an official journal or on a website, the proposed sanitary or phytosanitary measure notified under paragraph 3, the legal basis for the measure, and the written comments or a summary of the written comments that the Party has received from the public on the measure.

7. If a Party proposes a sanitary or phytosanitary measure which does not conform to a relevant international standard, guideline, or recommendation, the Party shall provide to another Party, on request, the relevant documentation that the Party considered in developing the proposed measure, including documented and objective scientific evidence related to the measure, such as risk assessments, relevant studies, and expert opinions.

8. A Party that proposes to adopt a sanitary or phytosanitary measure shall discuss with another Party, on request and when appropriate during its regulatory procedures, 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 Party's appropriate level of sanitary or phytosanitary protection.

9. Each Party shall publish, preferably by electronic means, notices of final sanitary or phytosanitary measures in an official journal or website.

10. Each Party shall notify the other Parties 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. A Party shall also make available to another Party, on request, and to the extent permitted by the confidentiality and privacy requirements of the Party's law, significant written comments and relevant documentation considered to support the measure that were received during the comment period.

11. If a final sanitary or phytosanitary measure is substantively altered from the proposed measure, a Party shall also include in the notice of the final sanitary or phytosanitary measure that it publishes, an explanation of:

(a) the objective and rationale of the measure and how the measure advances that objective and rationale; and

(b) any substantive revisions that it made to the proposed measure.

12. An exporting Party shall notify the importing Party through the contact points referred to in Article 9.5 (Competent Authorities and Contact Points) in a timely and appropriate manner:

(a) if it has knowledge of a significant sanitary or phytosanitary risk related to the export of a good from its territory;

(b) of urgent situations where a change in animal or plant health status in the territory of the exporting Party may affect current trade;

(c) of significant changes in the status of a regionalized pest or disease;

(d) of new scientific findings of importance which affect the regulatory response with respect to food safety, pests, or diseases; and

(e) of significant changes in food safety, pest, or disease management, control or eradication policies or practices that may affect trade.

13. If feasible and appropriate, each Party shall normally provide an interval of not less than six months between the date it publishes a final sanitary or phytosanitary measure and the date on which the measure takes effect, unless the measure is intended to address an urgent problem of human, animal, or plant life or health protection or the measure is of a trade-facilitating nature.

14. A Party shall make available to another Party, on request, all sanitary or phytosanitary measures related to the importation of a good into that Party's territory.

Article 9.14: Emergency Measures

1. If an importing Party adopts an emergency measure to address an urgent problem of human, animal or plant life or health that arises or threatens to arise, and applies it to the exports of another Party the importing Party shall promptly notify in writing each affected Party of that measure through the normal channels. The importing Party shall take into consideration any information provided by an affected Party in response to the notification.

2. If an importing Party adopts an emergency measure under paragraph 1, it shall review the scientific basis of that measure within six months and make available the results of the review to any Party on request. If the emergency measure is maintained after the review, because the reason for its adoption remains, the Party should review the measure periodically.

Article 9.15: Information Exchange

A Party may request information from another Party on a matter arising under this Chapter. A Party that receives a request for information shall endeavor to provide available information to the requesting Party within a reasonable period of time, and if possible, by electronic means.

Article 9.16: Cooperation

1. The Parties shall explore opportunities for further cooperation, collaboration, and information exchange between the Parties on sanitary and phytosanitary matters of mutual interest, consistent with this Chapter. Those opportunities may include trade facilitation initiatives and technical assistance. The Parties shall cooperate to facilitate the implementation of this Chapter.

2. The Parties shall cooperate and may work, as mutually decided, on sanitary and phytosanitary matters, including to develop as appropriate, common principles, guidelines and approaches on matters covered by this Chapter, with the goal of eliminating unecessary obstacles to trade between the Parties.

3. If mutually decided, the Parties shall share information on their respective approaches to risk management with the objective of enhancing the compatibility of their risk management approaches.

4. The Parties are encouraged to create and develop initiatives to facilitate and promote the compatibility of their sanitary or phytosanitary measures.

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

(a) share best practices on their respective approaches to risk analysis;

(b) cooperate on joint scientific data collection;

(c) if feasible and appropriate, undertake science-based joint risk assessments;

(d) if applicable and in accordance with the procedures, policies, resources, and laws and regulations of the Parties, provide access to their

completed risk assessments and the data used to develop risk assessments; or

(e) if appropriate, cooperate on aligning data requirements for risk assessments.

Article 9.17: Committee on Sanitary and Phytosanitary Measures

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Committee on Sanitary and Phytosanitary Measures (Committee), composed of government representatives of each Party responsible for sanitary and phytosanitary matters.

2. The Committee shall serve as a forum:

(a) to consider any matter related to this Chapter, including relating to its implementation;

(b) to improve the Parties' understanding of sanitary or phytosanitary issues that relate to the implementation of the SPS Agreement or this Chapter;

(c) to enhance mutual understanding of each Party's sanitary or phytosanitary measures or the regulatory processes that relate to those measures;

(d) to enhance communication and cooperation among the Parties related to sanitary or phytosanitary matters;

(e) to identify and discuss, at an early appropriate stage, proposed sanitary or phytosanitary measures or revisions to existing sanitary or phytosanitary measures that may have a significant effect on trade in North America including for the purpose of issue avoidance and facilitating greater alignment of sanitary or phytosanitary measures; and

(f) for a Party to share information, as appropriate, on a sanitary or phytosanitary matter that has arisen between it and another Party or Parties.

3. The Committee may serve as a forum:

(a) if appropriate, to identify and develop technical assistance and cooperation projects between the Parties on sanitary and phytosanitary measures;

(b) to consult on matters and positions for the meetings of the Committee on Sanitary and Phytosanitary Measures of the SPS Agreement (WTO SPS Committee), and meetings held under the auspices of the Codex Alimentarius Commission, the World Organisation for Animal Health, and the International Plant Protection Convention and other international organizations as appropriate;

(c) to identify, prioritize, manage, and resolve bilateral or trilateral issues;

(d) to review progress on addressing specific trade concerns related to the application of sanitary or phytosanitary measures, with a view to facilitating mutually acceptable solutions;

(e) to establish and, as appropriate, determine the scope and mandate of technical working groups in areas such as, animal health, plant health, food safety, or pesticides, taking into account existing mechanisms, to undertake work related to the implementation of the Chapter;

(f) to provide guidance to technical working groups, as needed and appropriate, for the identification, prioritization, and management of sanitary or phytosanitary matters;

(g) to request updates and discuss the work of the technical working groups;

(h) to review the recommendation from a technical working group regarding whether it should be continued, suspended, or dissolved;

(i) to seek, to the extent practicable, the assistance of relevant international or regional organizations such as the North American Plant Protection Organization to obtain available scientific and technical advice and minimize duplication of effort; and

(j) to facilitate the development, as appropriate, of common principles, guidelines and approaches on matters covered by this Chapter.

4. The Committee shall establish its terms of reference at its first meeting and may revise those terms of reference as needed.

5. The Committee shall meet within one year of the date of entry into force of this Agreement and once a year thereafter unless the Parties decide otherwise.

6. The Committee shall report annually to the Commission on the implementation of this Chapter.

Article 9.18: Technical Working Groups

1. A technical working group may function on an on-going or ad hoc basis.

2. Any on-going technical working group shall meet on an annual basis unless otherwise decided by the Parties participating in the technical working group. Any ad hoc technical working group shall meet as frequently as decided by the Parties participating in the technical working group.

3. At the first meeting of a technical working group, the participating Parties shall establish the working group's terms of reference, unless the Parties decide otherwise.

4. Any technical working group established under Article 9.17.3(e) may:

   (a) engage, at the earliest appropriate stage, in scientific or technical exchange and cooperation regarding sanitary or phytosanitary matters;

   (b) consider any sanitary or phytosanitary measure or set of measures identified by any Party that are likely to affect, directly or indirectly, trade, and provide technical advice with a view to facilitating the resolution of specific trade concerns relating to those measures;

   (c) serve as a forum to facilitate discussion and consideration of specific risk assessments and possible risk management options;

   (d) provide an opportunity for Parties to discuss developments relevant to the work of the technical working group;

   (e) discuss other issues related to this Chapter,; and

   (f) report to the Committee on progress of work, as appropriate.

5. A technical working group may provide the Committee with the recommendation that it be continued, suspended, or dissolved.

6. Each technical working group shall be chaired by representatives of the participating Parties.

7. The Parties may seek to resolve any specific trade concern through the relevant technical working group.

Article 9.19: Technical Consultations

1. Recognizing that trade matters arising under this Chapter are best resolved by the appropriate competent authority, if a Party has concerns regarding any matter arising under this Chapter with another Party, the Party shall endeavour to resolve the matter through available administrative procedures of the relevant competent authority or through this Chapter's relevant technical working group, if it considers that it is appropriate to do so. A Party may have recourse to the Technical Consultations set out in paragraph 2 at any time it considers that the use of the relevant administrative procedures, the relevant technical working group, or other mechanisms would not resolve the matter.

2. A Party (requesting Party) may initiate the Technical Consultations with another Party (responding Party) to discuss any matter arising under this Chapter that may adversely affect its trade by delivering a written request to the Contact Point of the responding Party. The request shall identify the reason for the request, including a description of the requesting Party's concerns about the matter.

3. The requesting and responding Parties shall meet within 30 days of the responding Party's receipt of the request, with the aim of resolving the matter cooperatively within 180 days of the request if possible.

4. The requesting and responding Parties shall ensure the appropriate involvement of relevant trade representatives and competent authorities in meetings held pursuant to this Article.

5. Recognizing that Parties may agree to engage in consultations pursuant to this Article for any length of time, the requesting Party may cease the Technical Consultationsunder this Article and have recourse to dispute settlement under Chapter 31 (Dispute Settlement) following the meeting referred to in paragraph 3 or if the meeting is not held within the time period specified in paragraph 3.

6. No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter through the Technical Consultations in accordance with this Article.

Article 9.20: Dispute Settlement

In a dispute under this Chapter that involves scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the Parties involved in the dispute. To this end, the panel may, if it deems appropriate, establish an advisory technical experts group, or consult the relevant international

standard setting organisations, at the request of either Party to the dispute or on its own initiative.

CHAPTER 10

TRADE REMEDIES

Section A: Safeguards

Article 10.1: Rights and Obligations

1. Each Party retains its rights and obligations under Article XIX of the GATT and the Safeguards Agreement except those regarding compensation or retaliation and exclusion from an action to the extent that such rights or obligations are inconsistent with this Article. Any Party taking an emergency action under Article XIX and the Safeguards Agreement shall exclude imports of a good from each other Party from the action unless:

   (a) imports from a Party, considered individually, account for a substantial share of total imports; and

   (b) imports from a Party considered individually, or in exceptional circumstances imports from Parties considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

2. In determining whether:

   (a) imports from a Party, considered individually, account for a substantial share of total imports, those imports normally shall not be considered to account for a substantial share of total imports if that Party is not among the top five suppliers of the good subject to the proceeding, measured in terms of import share during the most recent three-year period; and

   (b) imports from a Party or Parties contribute importantly to the serious injury, or threat thereof, the competent investigating authority shall consider such factors as the change in the import share of each Party, and the level and change in the level of imports of each Party. In this regard, imports from a Party normally shall not be deemed to contribute importantly to serious injury, or the threat thereof, if the growth rate of imports from a Party during the period in which the injurious surge in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.

3. A Party taking such action, from which a good from another Party or Parties is initially excluded pursuant to paragraph 1, shall have the right subsequently to include that good from the other Party or Parties in the action in the event that the competent investigating authority determines that a surge in imports of such good from the other Party or Parties undermines the effectiveness of the action.

4. A Party shall, without delay, deliver written notice to the other Parties of the institution of a proceeding that may result in emergency action under paragraph 1 or 3.

5. No Party may impose restrictions on a good in an action under paragraph 1 or 3:

(a) without delivery of prior written notice to the Commission, and without adequate opportunity for consultation with the Party or Parties against whose good the action is proposed to be taken, as far in advance of taking the action as practicable; and

(b) that would have the effect of reducing imports of such good from a Party below the trend of imports of the good from that Party over a recent representative base period with allowance for reasonable growth.

6. The Party taking an action pursuant to this Article shall provide to the Party or Parties against whose good the action is taken mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties concerned are unable to agree on compensation, the Party against whose good the action is taken may take action having trade effects substantially equivalent to the action taken under paragraph 1 or 3.

Section B: Antidumping and Countervailing Duties

Article 10.2: Definitions

For purposes of this Section and Annex 10-A:

confidential information means, information that is provided to an investigating authority on a confidential basis and that is by its nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), whether in its original form or in a form other than the one in which it was originally provided;

interested party[1] means:

(a) an exporter, foreign producer, or importer of a product subject to a proceeding, or a trade or business association a majority of the members of which are producers, exporters, or importers of such product;

(b) the government of the exporting Party;

(c) a producer of the like product in the territory of the importing Party, or a trade and business association a majority of the members of which produce the like product in the territory of the importing Party; or

(d) any other person treated as an interested party by the investigating authority of the importing Party;

investigating authority means any authority of a Party that conducts antidumping or countervailing duty proceedings;

responding party means:

(a) for Mexico and Canada, a person or entity that an investigating authority of a Party requires to respond to an antidumping or countervailing duty questionnaire or any other request; and

(b) for the United States, a producer, manufacturer, exporter, importer, or, where appropriate, a government or government entity, that an investigating authority of a Party requires to respond to an antidumping or countervailing duty questionnaire;

proceeding means:

(a) for Mexico, an antidumping or countervailing duty investigation, review, or other relevant set of formalities and acts provided by the legal system which precede the issuance of the administrative act conducted by an investigating authority; and

(b) for the United States and Canada, all segments of a proceeding, and begins on the date of the formal filing of an antidumping or countervailing duty application,[2] or

[1] For greater certainty, an entity or person may be an interested party as long as they fulfill all the corresponding requirements, if any, provided in the domestic legislation of the importing Party.

[2] For Canada, the formal filing of an antidumping or countervailing duty application corresponds to the determination that a complaint is properly documented.

the publication of a notice of initiation in a self-initiated investigation, and ends with the conclusion of all administrative action pertaining to the product under consideration; and

segment of a proceeding means, for the United States and Canada,[3] an antidumping or countervailing duty investigation, review, or other relevant action conducted by an investigating authority.[4]

Article 10.3: Rights and Obligations

1. Each Party retains its rights and obligations under Article VI of GATT 1994, the AD Agreement and the SCM Agreement.

2. Except as provided in Annex 10-A, nothing in this Agreement shall be construed to confer any rights or impose any obligations on the Parties with respect to antidumping or countervailing duty proceedings or measures taken pursuant to Article VI of GATT 1994, the AD Agreement, or the SCM Agreement.

3. No Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Section or Annex 10-A.

Section C: Cooperation on Preventing Duty Evasion of Trade Remedy Laws

Article 10.4: General

1. The Parties recognize their shared concerns regarding duty evasion[5] of antidumping, countervailing, and safeguard duties, and the importance of cooperation, including through information sharing, to combat duty evasion.

2. The Parties agree to strengthen and expand their customs and trade enforcement efforts in matters related to duty evasion, and to strengthen their cooperation as set out in the Article 10.5.

[3] For Mexico, this definition does not apply.

[4] For Canada, relevant actions conducted by an investigating authority do not cover duty assessment and related procedures.

[5] For purposes of this Section, "duty evasion" refers to evasion of antidumping, countervailing, or safeguards duties.

Article 10.5: Duty Evasion Cooperation

1. Each Party shall, in accordance with its laws and regulations, cooperate with the other Parties for the purposes of enforcing or assisting in the enforcement of their respective measures concerning duty evasion.

2. The Parties shall, subject to their respective laws and regulations, share customs information pertaining to imports, exports, and transit transactions, to help enable the Parties to combat duty evasion and conduct joint or coordinated analysis and investigations of suspected duty evasion. In addition, each Party shall maintain a mechanism through which it can share information with the other Parties regarding entries that may involve evasion of antidumping, countervailing, or safeguard duties, including the information described in paragraph 3. The information referred to in this paragraph may be trader-specific or it may include an industry sector or group of traders.

3. Each Party shall, on the request of another Party, provide, consistent with its laws or regulations, the requesting Party with information collected in connection with the imports, exports and transit, and other relevant information that it has or can reasonably obtain, that will help enable the requesting Party to determine whether an entry into its territory is subject to antidumping, countervailing, or safeguard duties imposed by the requesting Party.[6]

4. A request for information described in paragraph 3 shall be made in writing, by the customs authority of the requesting Party to the customs authority of the requested Party, by electronic means or any other acceptable method, and shall include sufficient information for the requested Party to respond.

5. A Party may request in writing that another Party conduct a duty evasion verification,[7] in the requested Party's territory for the purposes of obtaining information, including documents, from an exporter or producer, that will enable the requesting Party to determine whether a particular entry into the requesting Party's territory is subject to antidumping, countervailing, or safeguard duties imposed by the requesting Party. The requested Party shall respond to the request promptly and in any case no later than 30 days after the date it receives the request. The response will include whether it will conduct the duty evasion verification. If the Party does not intend to conduct the duty evasion verification, the response will indicate the basis for refusal. If a Party will conduct the duty evasion verification, the response will indicate the intended timing and other relevant details.

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[6] For greater certainty, nothing in this Section shall be construed as an obligation of the requested Party to provide an original or copy of an export declaration submitted to its customs authority.

[7] For greater certainty, a duty evasion verification visit to facilities located in the territory of a requested Party shall be subject to the provisions in paragraph 7.

6. If the requested Party conducts a duty evasion verification under paragraph 5 it shall provide the requesting Party promptly upon completing the duty evasion verification a report containing the relevant information including data and documents, obtained during its duty evasion verification.

7. Without respect to whether a request to conduct a verification was made under paragraph 5, a duty evasion verification may be conducted in the pertinent or relevant facilities located in the territory of the requested Party, as a result of a request. The requested Party normally shall grant the other Party access to its territory to participate in the duty evasion verification, absent extraordinary circumstances, provided that:

(a) the duty evasion verification is subject to mutually agreed conditions and procedures between the Parties;[8]

(b) the requesting Party gives reasonable advance notice to the requested Party before the proposed date of the duty evasion verification; and

(c) the parties to be verified in the requested Party consent to the duty evasion verification.

8. Each Party shall maintain procedures that permit the sharing of confidential information with the other Parties, as a result of a request under paragraph 3 or a duty evasion verification report under paragraph 6, for the limited purpose of determining if duty evasion exists. If a Party, or a verified party, provides information to another Party in accordance with this Section and designates the information as confidential or is confidential under the receiving Party's law, such receiving Party shall keep the information confidential in accordance with its law. If the receiving Party has not kept the information confidential in accordance with its law, a Party may decline to provide information requested by another Party in future requests for confidential information. The receiving Party may use or disclose confidential information received from the other Party under this Section but only for the purposes of administration or enforcement of its customs laws or as otherwise provided under the Party's law, including in an administrative, quasi-judicial, or judicial proceeding.

[8] For purposes of subparagraph (a), the Parties may agree to use any applicable mechanism, including existing bilateral cooperation mechanisms.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

SECTION D:

REVIEW AND DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY MATTERS

Article 1: General Provisions

1. Article 4 applies only with respect to goods that the competent investigating authority of the importing Party, applying the importing Party's antidumping or countervailing duty law to the facts of a specific case, determines are goods of another Party.

2. For purposes of Articles 3 and 4, panels shall be established in accordance with the provisions of Annex 10-B.1.

3. Except for Article 34.5 (Entry into Force), no provision of any other Chapter of this Agreement shall be construed as imposing obligations on a Party with respect to the Party's antidumping law or countervailing duty law.

Article 2: Retention of Domestic Antidumping Law and Countervailing Duty Law

1. Each Party reserves the right to apply its antidumping law and countervailing duty law to goods imported from the territory of any other Party. Antidumping law and countervailing duty law include, as appropriate for each Party, relevant statutes, legislative history, regulations, administrative practice and judicial precedents.

2. Each Party reserves the right to change or modify its antidumping law or countervailing duty law, provided that in the case of an amendment to a Party's antidumping or countervailing duty statute:

(a) such amendment shall apply to goods from another Party only if the amending statute specifies that it applies to goods from that Party or from the Parties to this Agreement;

(b) the amending Party notifies in writing the Parties to which the amendment applies of the amending statute as far in advance as possible of the date of enactment of such statute;

(c) following notification, the amending Party, on request of any Party to which the amendment applies, consults with that Party prior to the enactment of the amending statute; and

(d) such amendment, as applicable to that other Party, is not inconsistent with

(i) GATT 1994, the AD Agreement or the SCM Agreement, or any successor agreement to which the Parties are party, or

(ii) the object and purpose of this Agreement and this Chapter, which is to establish fair and predictable conditions for the progressive liberalization of trade between the Parties to this Agreement while maintaining effective and fair disciplines on unfair trade practices, such object and purpose to be ascertained from the provisions of this Agreement, its preamble and objectives, and the practices of the Parties.

Article 3: Review of Statutory Amendments

1. A Party to which an amendment of another Party's antidumping or countervailing duty statute applies may request in writing that such amendment be referred to a binational panel for a declaratory opinion as to whether:

(a) the amendment does not conform to the provisions of Article 2(2)(d)(i) or (ii); or

(b) such amendment has the function and effect of overturning a prior decision of a panel made pursuant to Article 4 and does not conform to the provisions of Article 2(2)(d)(i) or (ii).

Such declaratory opinion shall have force or effect only as provided in this Article.

2. The panel shall conduct its review in accordance with the procedures of Annex 10-B.2.

3. In the event that the panel recommends modifications to the amending statute to remedy a non-conformity that it has identified in its opinion:

(a) the two Parties shall immediately begin consultations and shall seek to achieve a mutually satisfactory solution to the matter within 90 days of the issuance of the panel's final declaratory opinion. Such solution may include seeking corrective legislation with respect to the statute of the amending Party;

(b) if corrective legislation is not enacted within nine months from the end of the 90-day consultation period referred to in subparagraph (a) and no other mutually satisfactory solution has been reached, the Party that requested the panel may

(i) take comparable legislative or equivalent executive action, or

(ii) terminate this Agreement with regard to the amending Party on 60-day written notice to that Party.

Article 4: Review of Final Antidumping and Countervailing Duty Determinations

1. As provided in this Article, each Party shall replace judicial review of final antidumping and countervailing duty determinations with binational panel review.

2. An involved Party may request that a panel review, based on the administrative record, a final antidumping or countervailing duty determination of a competent investigating authority of an importing Party to determine whether such determination was in accordance with the antidumping or countervailing duty law of the importing Party. For this purpose, the antidumping or countervailing duty law consists of the relevant statutes, legislative history, regulations, administrative practice and judicial precedents to the extent that a court of the importing Party would rely on such materials in reviewing a final determination of the competent investigating authority. Solely for purposes of the panel review provided for in this Article, the antidumping and countervailing duty statutes of the Parties, as those statutes may be amended from time to time, are incorporated into and made a part of this Section.

3. The panel shall apply the standard of review set out in Article 11 and the general legal principles that a court of the importing Party otherwise would apply to a review of a determination of the competent investigating authority.

4. A request for a panel shall be made in writing to the other involved Party within 30 days following the date of publication of the final determination in question in the official journal of the importing Party. In the case of final determinations that are not published in the official journal of the importing Party, the importing Party shall immediately notify the other involved Party of such final determination where it involves goods from the other involved Party, and the other involved Party may request a panel within 30 days of receipt of such notice. Where the competent investigating authority of the importing Party has imposed provisional measures in an investigation, the other involved Party may provide notice of its intention to request a panel under this Article, and the Parties shall begin to establish a panel at that time. Failure to request a panel within the time specified in this paragraph shall preclude review by a panel.

5. An involved Party on its own initiative may request review of a final determination by a panel and shall, on request of a person who would otherwise be entitled under the law of the importing Party to commence domestic procedures for judicial review of that final determination, request such review.

6. The panel shall conduct its review in accordance with the procedures established by the Parties pursuant to paragraph 14. Where both involved Parties request a panel to review a final determination, a single panel shall review that determination.

7. The competent investigating authority that issued the final determination in question shall have the right to appear and be represented by counsel before the panel. Each Party shall provide that other persons who, pursuant to the law of the importing Party, otherwise would have had the right to appear and be represented in a domestic judicial review proceeding concerning the determination of the competent investigating authority, shall have the right to appear and be represented by counsel before the panel.

8. The panel may uphold a final determination, or remand it for action not inconsistent with the panel's decision. Where the panel remands a final determination, the panel shall establish as brief a time as is reasonable for compliance with the remand, taking into account the complexity of the factual and legal issues involved and the nature of the panel's decision. In no event shall the time permitted for compliance with a remand exceed an amount of time equal to the maximum amount of time (counted from the date of the filing of a petition, complaint or application) permitted by statute for the competent investigating authority in question to make a final determination in an investigation. If review of the action taken by the competent investigating authority on remand is needed, such review shall be before the same panel, which shall normally issue a final decision within 90 days of the date on which such remand action is submitted to it.

9. The decision of a panel under this Article shall be binding on the involved Parties with respect to the particular matter between the Parties that is before the panel.

10. This Agreement shall not affect:

(a) the judicial review procedures of any Party, or

(b) cases appealed under those procedures,

with respect to determinations other than final determinations.

11. A final determination shall not be reviewed under any judicial review procedures of the importing Party if an involved Party requests a panel with respect to that determination within the time limits set out in this Article. No Party may provide in its domestic legislation for an appeal from a panel decision to its domestic courts.

12. This Article shall not apply where:

(a) neither involved Party seeks panel review of a final determination;

(b) a revised final determination is issued as a direct result of judicial review of the original final determination by a court of the importing Party in cases where neither involved Party sought panel review of that original final determination; or

(c) a final determination is issued as a direct result of judicial review that was commenced in a court of the importing Party before the date of entry into force of this Agreement.

13. Where, within a reasonable time after the panel decision is issued, an involved Party alleges that:

(a)

(i) a member of the panel was guilty of gross misconduct, bias, or a serious conflict of interest, or otherwise materially violated the rules of conduct,

(ii) the panel seriously departed from a fundamental rule of procedure, or

(iii) the panel manifestly exceeded its powers, authority or jurisdiction set out in this Article, for example by failing to apply the appropriate standard of review, and

(b) any of the actions set out in subparagraph (a) has materially affected the panel's decision and threatens the integrity of the binational panel review process,

that Party may avail itself of the extraordinary challenge procedure set out in Annex 10-B.3.

14. For purposes of this Article, the Parties shall adopt or maintain rules of procedure based, where appropriate, on judicial rules of appellate procedure, and shall include rules concerning: the content and service of requests for panels; a requirement that the competent investigating authority transmit to the panel the administrative record of the proceeding; the protection of business proprietary, government classified, and other privileged information (including sanctions against persons participating before panels for improper release of such information); participation by private persons; limitations on panel review to errors alleged by the Parties or private persons; filing and service; computation and extensions of time; the form and content of briefs and other papers; pre and posthearing conferences; motions; oral argument; requests for rehearing; and voluntary terminations of panel reviews. The rules shall be designed to result in final decisions within 315 days of the date on which a request for a panel is made, and shall allow:

(a) 30 days for the filing of the complaint;

(b) 30 days for designation or certification of the administrative record and its filing with the panel;

(c) 60 days for the complainant to file its brief;

(d) 60 days for the respondent to file its brief;

(e) 15 days for the filing of reply briefs;

(f) 15 to 30 days for the panel to convene and hear oral argument; and

(g) 90 days for the panel to issue its written decision.

15. In order to achieve the objectives of this Article, the Parties shall maintain or amend their antidumping and countervailing duty statutes and regulations with respect to antidumping or countervailing duty proceedings involving goods of the other Parties, and other statutes and regulations to the extent that they apply to the operation of the antidumping and countervailing duty laws. In particular, without limiting the generality of the foregoing, each Party shall:

(a) maintain or amend its statutes or regulations to ensure that existing procedures concerning the refund, with interest, of antidumping or countervailing duties operate to give effect to a final panel decision that a refund is due;

(b) maintain or amend its statutes or regulations to ensure that its courts shall give full force and effect, with respect to any person within its jurisdiction, to all sanctions imposed pursuant to the laws of the other Parties to enforce provisions of any protective order or undertaking that such other Party has promulgated or accepted in order to permit access for purposes of panel review or of the extraordinary challenge procedure to confidential, personal, business proprietary or other privileged information;

(c) maintain or amend its statutes or regulations to ensure that

(i) domestic procedures for judicial review of a final determination may not be commenced until the time for requesting a panel under paragraph 4 has expired, and

(ii) as a prerequisite to commencing domestic judicial review procedures to review a final determination, a Party or other person intending to commence such procedures shall provide notice of such intent to the Parties concerned and to other persons entitled to commence such review procedures of the same final determination no later than 10 days prior to the latest date on which a panel may be requested; and

(d) maintain the amendments set out in its Schedule to Annex 1904.15 of the NAFTA 1994, as reproduced in Annex 10-B.4, and make any conforming amendments necessary.

Article 5: Safeguarding the Panel Review System

1. Where a Party alleges that the application of another Party's domestic law:

   (a) has prevented the establishment of a panel requested by the complaining Party;

   (b) has prevented a panel requested by the complaining Party from rendering a final decision;

   (c) has prevented the implementation of the decision of a panel requested by the complaining Party or denied it binding force and effect with respect to the particular matter that was before the panel; or

   (d) has resulted in a failure to provide opportunity for review of a final determination by a panel or court of competent jurisdiction that is independent of the competent investigating authorities, that examines the basis for the competent investigating authority's determination and whether the competent investigating authority properly applied domestic antidumping and countervailing duty law in reaching the challenged determination, and that employs the relevant standard of review identified in Article 11,

the Party may request in writing consultations with the other Party regarding the allegations. The consultations shall begin within 15 days of the date of the request.

2. If the matter has not been resolved within 45 days of the request for consultations, or such other period as the consulting Parties may agree, the complaining Party may request the establishment of a special committee.

3. Unless otherwise agreed by the disputing Parties, the special committee shall be established within 15 days of a request and perform its functions in a manner consistent with this Section.

4. The roster for special committees shall be that established under Annex 10-B.2.

5. The special committee shall comprise three members selected in accordance with the procedures set out in Annex 10-B.3.

6. The Parties shall establish rules of procedure in accordance with the principles set out in Annex 10-B.3.

7. Where the special committee makes an affirmative finding with respect to one of the grounds specified in paragraph 1, the complaining Party and the Party complained against shall

begin consultations within 10 days thereafter and shall seek to achieve a mutually satisfactory solution within 60 days of the issuance of the committee's report.

8. If, within the 60-day period, the Parties are unable to reach a mutually satisfactory solution to the matter, or the Party complained against has not demonstrated to the satisfaction of the special committee that it has corrected the problem or problems with respect to which the committee has made an affirmative finding, the complaining Party may suspend:

(a) the operation of Article 4 with respect to the Party complained against; or

(b) the application to the Party complained against of such benefits under this Agreement as may be appropriate under the circumstances.

If the complaining Party decides to take action under this paragraph, it shall do so within 30 days after the end of the 60-day consultation period.

9. In the event that a complaining Party suspends the operation of Article 4 with respect to the Party complained against, the latter Party may reciprocally suspend the operation of Article 4 within 30 days after the suspension of the operation of Article 4 by the complaining Party. If either Party decides to suspend the operation of Article 4, it shall provide written notice of such suspension to the other Party.

10. On the request of the Party complained against, the special committee shall reconvene to determine whether:

(a) the suspension of benefits by the complaining Party pursuant to paragraph 8(b) is manifestly excessive; or

(b) the Party complained against has corrected the problem or problems with respect to which the committee has made an affirmative finding.

The special committee shall, within 45 days of the request, present a report to both Parties containing its determination. Where the special committee determines that the Party complained against has corrected the problem or problems, any suspension effected by the complaining Party or the Party complained against, or both, pursuant to paragraph 8 or 9 shall be terminated.

11. If the special committee makes an affirmative finding with respect to one of the grounds specified in paragraph 1, then effective as of the day following the date of issuance of the special committee's report:

(a) binational panel or extraordinary challenge committee review under Article 4 shall be stayed

(i) in the case of review of any final determination of the complaining Party requested by the Party complained against, if such review was requested after the date on which consultations were requested pursuant to paragraph 1, and in no case more than 150 days prior to an affirmative finding by the special committee, or

(ii) in the case of review of any final determination of the Party complained against requested by the complaining Party, at the request of the complaining Party; and

(b) the time set out in Article 4(4) or Annex 10-B.3 for requesting panel or committee review shall not run unless and until resumed in accordance with paragraph 12.

12. If either Party suspends the operation of Article 4 pursuant to paragraph 8(a), the panel or committee review stayed under paragraph 11(a) shall be terminated and the challenge to the final determination shall be irrevocably referred to the appropriate domestic court for decision, as provided below:

(a) in the case of review of any final determination of the complaining Party requested by the Party complained against, at the request of either Party, or of a party to the panel review under Article 4; or

(b) in the case of review of any final determination of the Party complained against requested by the complaining Party, at the request of the complaining Party, or of a person of the complaining Party that is a party to the panel review under Article 4.

If either Party suspends the operation of Article 4 pursuant to paragraph 8(a), any running of time suspended under paragraph 11(b) shall resume.

If the suspension of the operation of Article 4 does not become effective, panel or committee review stayed under paragraph 11(a), and any running of time suspended under paragraph 11(b), shall resume.

13. If the complaining Party suspends the application to the Party complained against of such benefits under the Agreement as may be appropriate under the circumstances pursuant to paragraph 8(b), panel or committee review stayed under paragraph 11(a), and any running of time suspended under paragraph 11(b), shall resume.

14. Each Party shall provide in its domestic legislation that, in the event of an affirmative finding by the special committee, the time for requesting judicial review of a final antidumping or countervailing duty determination shall not run unless and until the Parties concerned have

negotiated a mutually satisfactory solution under paragraph 7, have suspended the operation of Article 4 or the application of other benefits under paragraph 8.

Article 6: Prospective Application

This Section shall apply only prospectively to:

(a) final determinations of a competent investigating authority made after the date of entry into force of this Agreement; and

(b) with respect to declaratory opinions under Article 3, amendments to antidumping or countervailing duty statutes enacted after the date of entry into force of this Agreement.

Article 7: Consultations

1. The Parties shall consult annually, or on the request of any Party, to consider any problems that may arise with respect to the implementation or operation of this Section and recommend solutions, where appropriate. The Parties shall each designate one or more officials, including officials of the competent investigating authorities, to be responsible for ensuring that consultations occur, when required, so that the provisions of this Section are carried out expeditiously.

2. The Parties further agree to consult on:

(a) the potential to develop more effective rules and disciplines concerning the use of government subsidies; and

(b) the potential for reliance on a substitute system of rules for dealing with unfair transborder pricing practices and government subsidization.

3. The competent investigating authorities of the Parties shall consult annually, or on the request of any Party, and may submit reports to the Commission, where appropriate. In the context of these consultations, the Parties agree that it is desirable in the administration of antidumping and countervailing duty laws to:

(a) publish notice of initiation of investigations in the importing Party's official journal, setting forth the nature of the proceeding, the legal authority under which the proceeding is initiated, and a description of the goods at issue;

(b) provide notice of the times for submissions of information and for decisions that the competent investigating authorities are expressly required by statute or regulations to make;

(c) provide explicit written notice and instructions as to the information required from interested parties and reasonable time to respond to requests for information;

(d) accord reasonable access to information, noting that in this context

(i) "reasonable access" means access during the course of the investigation, to the extent practicable, so as to permit an opportunity to present facts and arguments as set out in paragraph (e); when it is not practicable to provide access to information during the investigation in such time as to permit an opportunity to present facts and arguments, reasonable access shall mean in time to permit the adversely affected party to make an informed decision as to whether to seek judicial or panel review, and

(ii) "access to information" means access to representatives determined by the competent investigating authority to be qualified to have access to information received by that competent investigating authority, including access to confidential (business proprietary) information, but does not include information of such high degree of sensitivity that its release would lead to substantial and irreversible harm to the owner or which is required to be kept confidential in accordance with domestic law of a Party; any privileges arising under the domestic law of the importing Party relating to communications between the competent investigating authorities and a lawyer in the employ of, or providing advice to, those authorities may be maintained;

(e) provide an opportunity for interested parties to present facts and arguments, to the extent time permits, including an opportunity to comment on the preliminary determination of dumping or of subsidization;

(f) protect confidential (business proprietary) information received by the competent investigating authority to ensure that there is no disclosure except to representatives determined by the competent investigating authority to be qualified;

(g) prepare administrative records, including recommendations of official advisory bodies that may be required to be kept, and any record of *ex parte* meetings that may be required to be kept;

(h) provide disclosure of relevant information, including an explanation of the calculation or the methodology used to determine the margin of dumping or the

amount of the subsidy, on which any preliminary or final determination of dumping or of subsidization is based, within a reasonable time after a request by interested parties;

(i) provide a statement of reasons concerning the final determination of dumping or subsidization; and

(j) provide a statement of reasons for final determinations concerning material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry.

Inclusion of an item in subparagraphs (a) through (j) is not intended to serve as guidance to a binational panel reviewing a final antidumping or countervailing duty determination pursuant to Article 4 in determining whether such determination was in accordance with the antidumping or countervailing duty law of the importing Party.

Article 8: Special Secretariat Provisions

1. Each Party shall maintain a Secretariat to facilitate the operation of this Section, including the work of panels or committees that may be convened pursuant to this Section.

2. The Secretaries of the Secretariat shall act jointly to provide administrative assistance to all panels or committees established pursuant to this Section. The Secretary for the Section of the Party in which a panel or committee proceeding is held shall prepare a record thereof and shall preserve an authentic copy of the same in that Party's Section office. Such Secretary shall, on request, provide to the Secretary for the Section of another Party a copy of such portion of the record as is requested, except that only public portions of the record shall be provided to the Secretary for the Section of any Party that is not an involved Party.

3. Each Secretary shall receive and file all requests, briefs and other papers properly presented to a panel or committee in any proceeding before it that is instituted pursuant to this Section and shall number in numerical order all requests for a panel or committee. The number given to a request shall be the file number for briefs and other papers relating to such request.

4. The Secretary for the Section of the Party in which a panel or committee proceeding is held shall forward to the Secretary for the Section of the other involved Party copies of all official letters, documents or other papers received or filed with that Party's Section office pertaining to any proceeding before a panel or committee, except for the administrative record, which shall be handled in accordance with paragraph 2. The Secretary for the Section of an involved Party shall provide on request to the Secretary for the Section of a Party that is not an involved Party in the proceeding a copy of such public documents as are requested.

Article 9: Code of Conduct

The Parties shall exchange letters establishing a code of conduct for panelists and members of committees established pursuant to Articles 3, 4, and 5.

Article 10: Miscellaneous

On request of another Party, the competent investigating authority of a Party shall provide to the other Party copies of all public information submitted to it for purposes of an antidumping or countervailing duty investigation with respect to goods of that other Party.

Article 11: Country-Specific Definitions

For purposes of this Section:

administrative record means, unless otherwise agreed by the Parties and the other persons appearing before a panel:

(a) all documentary or other information presented to or obtained by the competent investigating authority in the course of the administrative proceeding, including any governmental memoranda pertaining to the case, and including any record of *ex parte* meetings as may be required to be kept;

(b) a copy of the final determination of the competent investigating authority, including reasons for the determination;

(c) all transcripts or records of conferences or hearings before the competent investigating authority; and

(d) all notices published in the official journal of the importing Party in connection with the administrative proceeding;

antidumping statute means:

(a) in the case of Canada, the relevant provisions of the *Special Import Measures Act*, as amended, and any successor statutes;

(b) in the case of the United States, the relevant provisions of Title VII of the *Tariff Act of 1930*, as amended, and any successor statutes;

(c) in the case of Mexico, the relevant provisions of the *Foreign Trade Act* ("Ley de Comercio Exterior"), as amended, and any successor statutes; and

(d) the provisions of any other statute that provides for judicial review of final determinations under subparagraph (a), (b) or (c), or indicates the standard of review to be applied to such determinations;

competent investigating authority means:

(a) in the case of Canada (i) the Canadian International Trade Tribunal, or its successor, or (ii) the President of the Canada Border Services Agency as defined in the *Special Import Measures Act*, as amended, or the President's successor;

(b) in the case of the United States

(i) the International Trade Administration of the United States Department of Commerce, or its successor, or

(ii) the United States International Trade Commission, or its successor; and

(c) in the case of Mexico, the designated authority within the Secretariat of Economy ("Secretaría de Economía"), or its successor;

countervailing duty statute means:

(a) in the case of Canada, the relevant provisions of the *Special Import Measures Act*, as amended, and any successor statutes;

(b) in the case of the United States, section 303 and the relevant provisions of Title VII of the *Tariff Act of 1930*, as amended, and any successor statutes;

(c) in the case of Mexico, the relevant provisions of the *Foreign Trade Act* ("Ley de Comercio Exterior"), as amended, and any successor statutes; and

(d) the provisions of any other statute that provides for judicial review of final determinations under subparagraph (a), (b) or (c), or indicates the standard of review to be applied to such determinations;

domestic law for purposes of Article 5.1 means a Party's constitution, statutes, regulations and judicial decisions to the extent they are relevant to the antidumping and countervailing duty laws;

final determination means:

(a) in the case of Canada,

(i) an order or finding of the Canadian International Trade Tribunal under subsection 43(1) of the *Special Import Measures Act*,

(ii) an order by the Canadian International Trade Tribunal under subsection 76(4) of the *Special Import Measures Act*, as amended, continuing an order or finding made under subsection 43(1) of the Act with or without amendment,

(iii) a determination by the President of the Canada Border Services Agency pursuant to section 41 of the *Special Import Measures Act*, as amended,

(iv) a redetermination by the President pursuant to section 59 of the *Special Import Measures Act*, as amended,

(v) a decision by the Canadian International Trade Tribunal pursuant to subsection 76(3) of the *Special Import Measures Act*, as amended, not to initiate a review,

(vi) a reconsideration by the Canadian International Trade Tribunal pursuant to subsection 91(3) of the *Special Import Measures Act*, as amended, and

(vii) a review by the President of an undertaking pursuant to subsection 53(1) of the *Special Import Measures Act*, as amended; and

(b) in the case of the United States,

(i) a final affirmative determination by the International Trade Administration of the United States Department of Commerce or by the United States International Trade Commission under section 705 or 735 of the *Tariff Act of 1930*, as amended, including any negative part of such a determination,

(ii) a final negative determination by the International Trade Administration of the United States Department of Commerce or by the United States International Trade Commission under section 705 or 735 of the *Tariff Act of 1930*, as amended, including any affirmative part of such a determination,

(iii) a final determination, other than a determination in (iv), under section 751 of the *Tariff Act of 1930*, as amended,

(iv) a determination by the United States International Trade Commission under section 751(b) of the *Tariff Act of 1930*, as amended, not to review a determination based on changed circumstances, and

(v) a final determination by the International Trade Administration of the United States Department of Commerce as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order; and

(c) in the case of the Mexico,

(i) a final resolution regarding antidumping or countervailing duties investigations by the Secretaría de Economía, pursuant to Article 59 of the Ley de Comercio Exterior ("*Foreign Trade Act* "), as amended,

(ii) a final resolution regarding an annual administrative review of antidumping or countervailing duties by the *Secretariat of Economy* ("Secretaría de Economía"), as described in paragraph (o) of its Schedule to Annex 10-B.4, and

(iii) a final resolution by the *Secretariat of Economy* ("Secretaría de Economía"), as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing antidumping or countervailing duty resolution; and

foreign interests includes exporters or producers of the Party whose goods are the subject of the proceeding or, in the case of a countervailing duty proceeding, the government of the Party whose goods are the subject of the proceeding;

general legal principles includes principles such as standing, due process, rules of statutory construction, mootness and exhaustion of administrative remedies;

goods of a Party means domestic products as these are understood in the GATT 1994;

importing Party means the Party that issued the final determination;

interested parties includes foreign interests;

involved Party means:

(a) the importing Party; or

(b) a Party whose goods are the subject of the final determination;

remand means a referral back for a determination not inconsistent with the panel or committee decision; and

standard of review means the following standards, as may be amended from time to time by the relevant Party:

(a) in the case of Canada, the grounds set out in subsection 18.1(4) of the *Federal Court Act*, as amended, with respect to all final determinations;

(b) in the case of the United States,

(i) the standard set out in section 516A(b)(l)(B) of the *Tariff Act of 1930*, as amended, with the exception of a determination referred to in (ii), and

(ii) the standard set out in section 516A(b)(l)(A) of the *Tariff Act of 1930*, as amended, with respect to a determination by the United States International Trade Commission not to initiate a review pursuant to section 751(b) of the *Tariff Act of 1930*, as amended; and

(c) in the case of the Mexico, the standard set out in Article 51 of the *Ley Federal de Procedimiento Contencioso Administrativo* ("Federal Act of Administrative Litigation Procedure"), or any successor statutes, based solely on the administrative record.

ANNEX 10-A

The Parties recognize the right to apply trade remedy measures consistent with Article VI of GATT 1994, the AD Agreement, and the SCM Agreement, and the importance of promoting transparency in antidumping and countervailing duty proceedings and of ensuring the opportunity of all interested parties to participate meaningfully in such proceedings.[9]

1. To facilitate access to information relevant to antidumping and countervailing duty proceedings, a Party shall make electronically available to the public the following:

(a) laws and regulations that pertain to its antidumping and countervailing duty proceedings; and

(b) sample questionnaires that it would issue in a typical antidumping proceeding.

In making information electronically available, a Party shall endeavor to minimize the number of webpages on which it provides such information. A Party shall also endeavor to make electronically available other information relevant to antidumping and countervailing duty proceedings such as manuals, guidelines, templates, and other reference and orientation materials, where applicable.[10]

2. For each antidumping and countervailing duty proceeding which involves imports of another Party, initiated[11] after the date of entry into force of this Agreement, each investigating authority of a Party shall maintain and make available without charge by means of a web-based access point for all interested parties:[12]

(a) a file that contains,

[9] With regards to the provisions in this Annex, the Parties shall protect the confidentiality of the information pursuant to each Party's law.

[10] For greater certainty, the documents listed in this paragraph are not intended to constitute a comprehensive list of documents relating to antidumping and countervailing duty proceedings and no inference shall be drawn from this list's inclusion or exclusion of a particular document. Such documents may be made electronically available to the extent that they are available.

[11] For greater certainty, when the proceedings involve imports from other countries of the same subject merchandise and are initiated on the same date, this paragraph also applies.

[12] For greater certainty, for the United States, this paragraph shall not impact information and data already made publicly available pursuant to its law.

(i) all non-confidential documents that are part of its administrative record for each segment of a proceeding (proceeding in the case of Mexico); and

(ii) to the extent feasible without revealing confidential information, non-confidential summaries of confidential information contained in its administrative record;[13] and

(b) a listing of all documents that are part of its administrative record for each segment of a proceeding (proceeding in the case of Mexico) in a manner that enables any interested party to identify and locate particular documents in the file.

If technical constraints prevent web-based access to a document that is part of its administrative record for each segment of a proceeding (proceeding in the case of Mexico), the investigating authority may instead make the document available for all interested parties, pursuant to the domestic legislation of the Party, by means of physical inspection during the investigating authority's normal business hours.

3. Each investigating authority of a Party shall maintain or establish a system through which interested parties participating in an antidumping or countervailing duty segment of a proceeding (proceeding in the case of Mexico) shall submit documents electronically in such a segment of a proceeding (proceeding in the case of Mexico). Notwithstanding the previous sentence, each investigating authority of a Party may require manual submission of a petition, or of other documents in exceptional circumstances, including where technical constraints may impact the ability of interested parties to submit certain documents electronically.

4. For the purposes of paragraphs 2 and 3, the web-based access point and the system for submitting documents electronically shall be established or maintained beginning no later than 5 years after the date of entry into force of this Agreement and:

(a) if a Party requests assistance with implementation of these obligations from another Party, that Party may provide assistance to the extent practicable. The Parties recognize that a need for assistance may necessitate additional flexibility in implementing the systems set forth in paragraphs 2 and 3, pursuant to the provisions in paragraph 4(b).

(b) the Parties are aware of the technical and financial difficulties of establishing and maintaining the systems set forth in paragraphs 2 and 3, and may consult to discuss

[13] To the extent that individual information is not susceptible of summarization without disclosing confidential information, it may be aggregated. Nothing in this paragraph shall require an investigating authority to make publicly available a non-confidential summary of a questionnaire response that the investigating authority treats as confidential in its entirety.

additional flexibility regarding the establishment and maintenance of such systems, as necessary.

5. Upon receipt of a formally filed antidumping or countervailing duty application with respect to imports of another Party, and normally no later than 7 days prior to the date on which the investigating authority issues a determination on the application, the Party shall notify the other Party or Parties that it received the application.[14]

6. In any segment of a proceeding (proceeding in the case of Mexico) in which an investigating authority of a Party determines to conduct an in-person verification of information provided by a responding party and pertinent to the calculation of an antidumping duty margin or the level of a countervailable subsidy, the investigating authority shall promptly notify the responding party of its intent to do so, and normally shall:

(a) provide the responding party advance notice of the dates on which the investigating authority intends to conduct any such in-person verification of information;

(b) prior to any such in-person verification, provide the responding party a document that sets forth the topics the responding party should be prepared to address during the verification and describes the types of supporting documentation the responding party should make available for review;

(c) after the verification is completed prepare a written report describing the methods and procedures that it followed in carrying out the verification and the results of the verification; and

(d) make the report available to all interested parties, without disclosing confidential information, in sufficient time for the interested parties to defend their interests in the segment of a proceeding (proceeding in the case of Mexico).

7. An investigating authority of a Party shall disclose, *inter alia*, for each interested party for whom the investigating authority has determined an individual rate of duty, the calculations used to determine the rate of dumping or countervailable subsidization and, if different, the calculations used to determine the rate of duty to be applied to imports of the interested party. The disclosure and explanation shall be in sufficient detail so as to permit the interested party to reproduce the calculations without undue difficulty. Such disclosure shall include, whether in electronic format (such as a computer program or spreadsheet) or in any other medium, a detailed explanation of the information the investigating authority used, the sources of that information, and any adjustments

[14] For Mexico, this notification shall apply only to an affirmative determination on the application.

it made to the information when used in the calculations.[15] The investigating authority shall provide interested parties adequate opportunity to respond to the disclosure.

8. Upon receipt of a formally filed antidumping or countervailing duty application by the investigating authority of a Party against imports of goods from a non-Party, the investigating authorities of the other Parties may consider the information and data in the application and make a determination as to whether self-initiation of an antidumping or countervailing duty investigation or other relevant action is warranted.

9. To the extent feasible, Parties may exchange non-Parties' subsidy information and consider whether self-initiation of a countervailing duty investigation or other relevant action is warranted.

[15] When making such disclosure, the Parties shall protect the confidentiality of the information in the disclosure pursuant to the Party's law.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

ANNEX 10-B.1

ESTABLISHMENT OF BINATIONAL PANELS

1. On the date of entry into force of this Agreement, the Parties shall establish and thereafter maintain a roster of individuals to serve as panelists in disputes under Section D. The roster shall include judges or former judges to the fullest extent practicable. The Parties shall consult in developing the roster, which shall include at least 75 candidates. Each Party shall select at least 25 candidates, and all candidates shall be citizens of Canada, Mexico, or the United States. Candidates shall be of good character, high standing and repute, and shall be chosen strictly on the basis of objectivity, reliability, sound judgment and general familiarity with international trade law. Candidates shall not be affiliated with a Party, and in no event shall a candidate take instructions from a Party. The Parties shall maintain the roster, and may amend it, when necessary, after consultations.

2. A majority of the panelists on each panel shall be lawyers in good standing. Within 30 days of a request for a panel, each involved Party shall appoint two panelists, in consultation with the other involved Party. The involved Parties normally shall appoint panelists from the roster. If a panelist is not selected from the roster, the panelist shall be chosen in accordance with and be subject to the criteria of paragraph 1. Each involved Party shall have the right to exercise four peremptory challenges, to be exercised simultaneously and in confidence, disqualifying from appointment to the panel up to four candidates proposed by the other involved Party. Peremptory challenges and the selection of alternative panelists shall occur within 45 days of the request for the panel. If an involved Party fails to appoint its members to a panel within 30 days or if a panelist is struck and no alternative panelist is selected within 45 days, such panelist shall be selected by lot on the 31st or 46th day, as the case may be, from that Party's candidates on the roster.

3. Within 55 days of the request for a panel, the involved Parties shall agree on the selection of a fifth panelist. If the involved Parties are unable to agree, they shall decide by lot which of them shall select, by the 61st day, the fifth panelist from the roster, excluding candidates eliminated by peremptory challenges.

4. On appointment of the fifth panelist, the panelists shall promptly appoint a chair from among the lawyers on the panel by majority vote of the panelists. If there is no majority vote, the chair shall be appointed by lot from among the lawyers on the panel.

5. Decisions of the panel shall be by majority vote and based on the votes of all members of the panel. The panel shall issue a written decision with reasons, together with any dissenting or concurring opinions of panelists.

6. Panelists shall be subject to the code of conduct established pursuant to Article 9. If an involved Party believes that a panelist is in violation of the code of conduct, the involved Parties

shall consult and if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with the procedures of this Annex.

7. When a panel is convened pursuant to Article 4 each panelist shall be required to sign:

(a) an application for protective order for information supplied by the United States or its persons covering business proprietary and other privileged information;

(b) an undertaking for information supplied by Canada or its persons covering confidential, personal, business proprietary and other privileged information; or

(c) an undertaking for information supplied by Mexico or its persons covering confidential, business proprietary and other privileged information.

8. On a panelist's acceptance of the obligations and terms of an application for protective order or disclosure undertaking, the importing Party shall grant access to the information covered by such order or disclosure undertaking. Each Party shall establish appropriate sanctions for violations of protective orders or disclosure undertakings issued by or given to any Party. Each Party shall enforce such sanctions with respect to any person within its jurisdiction. Failure by a panelist to sign an application for a protective order or disclosure undertaking shall result in disqualification of the panelist.

9. If a panelist becomes unable to fulfill panel duties or is disqualified, proceedings of the panel shall be suspended pending the selection of a substitute panelist in accordance with the procedures of this Annex.

10. Subject to the code of conduct established pursuant to Article 9, and provided that it does not interfere with the performance of the duties of such panelist, a panelist may engage in other business during the term of the panel.

11. While acting as a panelist, a panelist may not appear as counsel before another panel.

12. With the exception of violations of protective orders or disclosure undertakings, signed pursuant to paragraph 7, panelists shall be immune from suit and legal process relating to acts performed by them in their official capacity.

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ANNEX 10-B.2

PANEL PROCEDURES UNDER ARTICLE 3

1. The panel shall establish its own rules of procedure unless the Parties otherwise agree prior to the establishment of that panel. The procedures shall ensure a right to at least one hearing before the panel, as well as the opportunity to provide written submissions and rebuttal arguments. The proceedings of the panel shall be confidential, unless the two Parties otherwise agree. The panel shall base its decisions solely on the arguments and submissions of the two Parties.

2. Unless the Parties to the dispute otherwise agree, the panel shall, within 90 days after its chair is appointed, present to the two Parties an initial written declaratory opinion containing findings of fact and its determination pursuant to Article 3.

3. If the findings of the panel are affirmative, the panel may include in its report its recommendations as to the means by which the amending statute could be brought into conformity with the provisions of Article 2(2)(d). In determining what, if any, recommendations are appropriate, the panel shall consider the extent to which the amending statute affects interests under this Agreement. Individual panelists may provide separate opinions on matters not unanimously agreed. The initial opinion of the panel shall become the final declaratory opinion, unless a Party to the dispute requests a reconsideration of the initial opinion pursuant to paragraph 4.

4. Within 14 days of the issuance of the initial declaratory opinion, a Party to the dispute disagreeing in whole or in part with the opinion may present a written statement of its objections and the reasons for those objections to the panel. In such event, the panel shall request the views of both Parties and shall reconsider its initial opinion. The panel shall conduct any further examination that it deems appropriate, and shall issue a final written opinion, together with dissenting or concurring views of individual panelists, within 30 days of the request for reconsideration.

5. Unless the Parties to the dispute otherwise agree, the final declaratory opinion of the panel shall be made public, along with any separate opinions of individual panelists and any written views that either Party may wish to be published.

6. Unless the Parties to the dispute otherwise agree, meetings and hearings of the panel shall take place at the office of the amending Party's Section of the Secretariat.

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ANNEX 10-B.3

EXTRAORDINARY CHALLENGE PROCEDURE

1. The involved Parties shall establish an extraordinary challenge committee, composed of three members, within 15 days of a request pursuant to Article 4.13. The members shall be selected from a 15-person roster comprised of judges or former judges of a federal judicial court of the United States or a judicial court of superior jurisdiction of Canada or a federal judicial or quasi-judicial court of Mexico. Each Party shall name five persons to this roster. Each involved Party shall select one member from this roster and the involved Parties shall decide by lot which of them shall select the third member from the roster.

2. The Parties shall establish and maintain rules of procedure for committees. The rules shall provide for a decision of a committee within 90 days of its establishment.

3. Committee decisions shall be binding on the Parties with respect to the particular matter between the Parties that was before the panel. After examination of the legal and factual analysis underlying the findings and conclusions of the panel's decision in order to determine whether one of the grounds set out in Article 4.13 has been established, and on finding that one of those grounds has been established, the committee shall vacate the original panel decision or remand it to the original panel for action not inconsistent with the committee's decision; if the grounds are not established, it shall deny the challenge and, therefore, the original panel decision shall stand affirmed. If the original decision is vacated, a new panel shall be established pursuant to Annex 10-B.1.

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ANNEX 10-B.4

AMENDMENTS TO DOMESTIC LAWS

Schedule of Canada

1. Canada shall amend sections 56 and 58 of the *Special Import Measures Act*, as amended, to allow the United States with respect to goods of the United States or Mexico with respect to goods of Mexico or a United States or a Mexican manufacturer, producer, or exporter, without regard to payment of duties, to make a written request for a redetermination; and section 59 to require the Deputy Minister to make a ruling on a request for a redetermination within one year of a request to a designated officer or other customs officer.

2. Canada shall amend section 18.3(1) of the *Federal Court Act*, as amended, to render that section inapplicable to the United States and to Mexico; and shall provide in its statutes or regulations that persons (including producers of goods subject to an investigation) have standing to ask Canada to request a panel review where such persons would be entitled to commence domestic procedures for judicial review if the final determination were reviewable by the Federal Court pursuant to section 18.1(4).

3. Canada shall amend the *Special Import Measures Act*, as amended, and any other relevant provisions of law, to provide that the following actions of the Deputy Minister shall be deemed for the purposes of this Article to be final determinations subject to judicial review:

(a) a determination by the Deputy Minister pursuant to section 41;

(b) a redetermination by the Deputy Minister pursuant to section 59; and

(c) a review by the Deputy Minister of an undertaking pursuant to section 53(1).

4. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to provide for binational panel review respecting goods of Mexico and the United States.

5. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to provide for definitions related to this Annex, as may be required.

6. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to permit the governments of Mexico and the United States to request binational panel review of final determinations respecting goods of Mexico and the United States.

7. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to provide for the establishment of binational panels requested to review final determinations in respect of goods of Mexico and the United States.

8. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to provide that binational panel review of a final determination shall be conducted in accordance with this Annex.

9. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to provide that an extraordinary challenge proceeding shall be requested and conducted in accordance with Article 4 and Annex 10-B.3.

10. Canada shall amend Part II of the *Special Import Measures Act*, as amended, to provide for a code of conduct, immunity for anything done or omitted to be done during the course of panel proceedings, the signing of and compliance with disclosure undertakings respecting confidential information, and remuneration for members of panels and committees established pursuant to Section D.

11. Canada shall make such amendments as are necessary to establish a Canadian Secretariat for this Agreement and generally to facilitate the operation of Section and the work of the binational panels, extraordinary challenge committees and special committees convened under Section D.

Schedule of Mexico

Mexico shall amend its antidumping and countervailing duty statutes and regulations, and other statutes and regulations to the extent that they apply to the operation of the antidumping and countervailing duty laws, to provide the following:

(a) elimination of the possibility of imposing duties within the five-day period after the acceptance of a petition;

(b) substitution of the term *Initial Resolution* ("Resolución de Inicio") for the term *Provisional Resolution* ("Resolución Provisional") and the term *Provisional Resolution* ("Resolución Provisional ") for the term *Resolution Reviewing the Provisional Resolution* ("Resolución que revisa a la Resolución Provisional");

(c) full participation in the administrative process for interested parties, as well as the right to administrative appeal and judicial review of final determinations of investigations, reviews, product coverage or other final decisions affecting them;

(d) elimination of the possibility of imposing provisional duties before the issuance of a preliminary determination;

(e) the right to immediate access to review of final determinations by binational panels for interested parties, without the need to exhaust first the administrative appeal;

(f) explicit and adequate timetables for determinations of the competent investigating authority and for the submission of questionnaires, evidence and comments by interested parties, as well as an opportunity for them to present facts and arguments in support of their positions prior to any final determination, to the extent time permits, including an opportunity to be adequately informed in a timely manner of and to comment on all aspects of preliminary determinations of dumping or subsidization;

(g) written notice to interested parties of any of the actions or resolutions rendered by the competent investigating authority, including initiation of an administrative review as well as its conclusion;

(h) disclosure meetings with interested parties by the competent investigating authority conducting its investigations and reviews, within seven calendar days after the date of publication in the *Federal Official Journal* ("Diario Oficial de la Federación") of preliminary and final determinations, to explain the margins of dumping and the amount of subsidies calculations and to provide the interested parties with copies of sample calculations and, if used, computer programs;

(i) timely access by eligible counsel of interested parties during the course of the proceeding (including disclosure meetings) and on appeal, either before a national tribunal or a panel, to all information contained in the administrative record of the proceeding, including confidential information, excepting proprietary information of such a high degree of sensitivity that its release would lead to substantial and irreversible harm to the owner as well as government classified information, subject to an undertaking for confidentiality that strictly forbids use of the information for personal benefit and its disclosure to persons who are not authorized to receive such information; and for sanctions that are specific to violations of undertakings in proceedings before national tribunals or panels;

(j) timely access by interested parties during the course of the proceeding, to all non-confidential information contained in the administrative record and access to such information by interested parties or their representatives in any proceeding after 90 days following the issuance of the final determination;

(k) a mechanism requiring that any person submitting documents to the competent investigating authority shall simultaneously serve on interested persons, including foreign interests, any submissions after the complaint;

(l) preparation of summaries of *ex parte* meetings held between the competent investigating authority and any interested party and the inclusion in the administrative record of such summaries, which shall be made available to parties to the proceeding; if such summaries contain business proprietary information, the

documents must be disclosed to a party's representative under an undertaking to ensure confidentiality;

(m) maintenance by the competent investigating authority of an administrative record as defined in Section D and a requirement that the final determination be based solely on the administrative record;

(n) informing interested parties in writing of all data and information the administering authority requires them to submit for the investigation, review, product coverage proceeding, or other antidumping or countervailing duty proceeding;

(o) the right to an annual individual review on request by the interested parties through which they can obtain their own dumping margin or countervailing duty rate, or can change the margin or rate they received in the investigation or a previous review, reserving to the competent investigating authority the ability to initiate a review, at any time, on its own motion and requiring that the competent investigating authority issue a notice of initiation within a reasonable period of time after the request;

(p) application of determinations issued as a result of judicial, administrative, or panel review, to the extent they are relevant to interested parties in addition to the plaintiff, so that all interested parties will benefit;

(q) issuance of binding decisions by the competent investigating authority if an interested party seeks clarification outside the context of an antidumping or countervailing duty investigation or review with respect to whether a particular product is covered by an antidumping or countervailing duty order;

(r) a detailed statement of reasons and the legal basis for final determinations in a manner sufficient to permit interested parties to make an informed decision as to whether to seek judicial or panel review, including an explanation of methodological or policy issues raised in the calculation of dumping or subsidization;

(s) written notice to interested parties and publication in the *Federal Official Journal* ("Diario Oficial de la Federación") of initiation of investigations setting forth the nature of the proceeding, the legal authority under which the proceeding is initiated, and a description of the product at issue;

(t) documentation in writing of all advisory bodies' decisions or recommendations, including the basis for the decisions, and release of such written decisions to parties to the proceeding; all decisions or recommendations of any advisory body shall be

placed in the administrative record and made available to parties to the proceeding; and

(u) a standard of review to be applied by binational panels as set out in subparagraph (c) of the definition of "standard of review" in Article 11.

Schedule of the United States

1. The United States shall amend section 301 of the *Customs Courts Act* of 1980, as amended, and any other relevant provisions of law, to eliminate the authority to issue declaratory judgments in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of Canadian or Mexican merchandise.

2. The United States shall amend section 405(a) of the *United States-Canada Free-Trade Agreement Implementation Act of 1988*, to provide that the interagency group established under section 242 of the *Trade Expansion Act of 1962* shall prepare a list of individuals qualified to serve as members of binational panels, extraordinary challenge committees and special committees convened under this Chapter.

3. The United States shall amend section 405(b) of the *United States-Canada Free-Trade Agreement Implementation Act of 1988*, to provide that panelists selected to serve on panels or committees convened pursuant to this Chapter, and individuals designated to assist such appointed individuals, shall not be considered employees of the United States.

4. The United States shall amend section 405(c) of the *United States-Canada Free-Trade Agreement Implementation Act of 1988*, to provide that panelists selected to serve on panels or committees convened pursuant to this Chapter, and individuals designated to assist the individuals serving on such panels or committees, shall be immune from suit and legal process relating to acts performed by such individuals in their official capacity and within the scope of their functions as such panelists or committee members, except with respect to the violation of protective orders described in section 777f(d)(3) of the *Tariff Act of 1930*, as amended.

5. The United States shall amend section 405(d) of the *United States-Canada Free-Trade Agreement Implementation Act of 1988*, to establish a United States Secretariat to facilitate the operation of this Chapter and the work of the binational panels, extraordinary challenge committees and special committees convened under this Chapter.

6. The United States shall amend section 407 of the *United States-Canada Free-Trade Agreement Implementation Act of 1988*, to provide that an extraordinary challenge committee convened pursuant to Article 4 and Annex 10-B.3 shall have authority to obtain information in the event of an allegation that a member of a binational panel was guilty of gross misconduct, bias, or a serious conflict of interest, or otherwise materially violated the rules of conduct, and for the committee to summon the attendance of witnesses, order the taking of depositions and obtain the

assistance of any district or territorial court of the United States in aid of the committee's investigation.

7. The United States shall amend section 408 of the *United States-Canada Free-Trade Agreement Implementation Act of 1988*, to provide that, in the case of a final determination of a competent investigating authority of Mexico, as well as Canada, the filing with the United States Secretary of a request for binational panel review by a person described in Article 4.5 shall be deemed, on receipt of the request by the Secretary, to be a request for binational panel review within the meaning of Article 4.4.

8. The United States shall amend section 516A of the *Tariff Act of 1930*, as amended, to provide that judicial review of antidumping or countervailing duty cases regarding Mexican, as well as Canadian, merchandise shall not be commenced in the Court of International Trade if binational panel review is requested.

9. The United States shall amend section 516A(a) of the *Tariff Act of 1930*, as amended, to provide that the time limits for commencing an action in the Court of International Trade with regard to antidumping or countervailing duty proceedings involving Mexican or Canadian merchandise shall not begin to run until the 31st day after the date of publication in the *Federal Register* of notice of the final determination or the antidumping duty order.

10. The United States shall amend section 516A(g) of the *Tariff Act of 1930*, as amended, to provide, in accordance with the terms of Section D, for binational panel review of antidumping and countervailing duty cases involving Mexican or Canadian merchandise. Such amendment shall provide that if binational panel review is requested such review will be exclusive.

11. The United States shall amend section 516A(g) of the *Tariff Act of 1930*, as amended, to provide that the competent investigating authority shall, within the period specified by any panel formed to review a final determination regarding Mexican or Canadian merchandise, take action not inconsistent with the decision of the panel or committee.

12. The United States shall amend section 777 of the *Tariff Act of 1930*, as amended, to provide for the disclosure to authorized persons under protective order of proprietary information in the administrative record, if binational panel review of a final determination regarding Mexican or Canadian merchandise is requested.

13. The United States shall amend section 777 of the *Tariff Act of 1930*, as amended, to provide for the imposition of sanctions on any person who the competent investigating authority finds to have violated a protective order issued by the competent investigating authority of the United States or disclosure undertakings entered into with an authorized agency of Mexico or with a competent investigating authority of Canada to protect proprietary material during binational panel review.

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ANNEX 10-B.5

SPECIAL COMMITTEE PROCEDURES

By the date of entry into force of this Agreement the Parties shall establish and maintain rules of procedure in accordance with the following principles:

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

(b) the procedures shall assure that the special committee shall prepare an initial report typically within 60 days of the appointment of the last member, and shall afford the Parties 14 days to comment on that report prior to issuing a final report 30 days after presentation of the initial report;

(c) the special committee's hearings, deliberations, and initial report, and all written submissions to and communications with the special committee shall be confidential;

(d) unless the Parties to the dispute otherwise agree, the decision of the special committee shall be published 10 days after it is transmitted to the disputing Parties, along with any separate opinions of individual members and any written views that either Party may wish to be published; and

(e) unless the Parties to the dispute otherwise agree, meetings and hearings of the special committee shall take place at the office of the Section of the Secretariat of the Party complained against.

* * *

[Ch. 19 Transitional Provisions – placement TBD]

1. Chapter Nineteen of the NAFTA 1994 shall continue to apply to binational panel reviews related to final determinations published by a Party before the entry into force of this Agreement.

2. With respect to the matters set out in paragraph 1, the Secretariat established under Article 30.6 of this Agreement shall, in all respects, perform the functions assigned to the NAFTA 1994 Secretariat under Chapter Nineteen of the NAFTA 1994 and under the domestic implementation procedures adopted by the Parties in connection therewith, until such time as the binational panel has rendered a decision and a Notice of Completion of Panel Review has been issued by the Secretariat pursuant to the Rules of Procedure for Article 1904 Binational Panel Reviews.

CHAPTER 11

TECHNICAL BARRIERS TO TRADE

Article 11.1: Definitions

1. Annex 1 of the TBT Agreement, including the chapeau and explanatory notes, are incorporated into and made part of this Chapter, *mutatis mutandis.*

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

international conformity assessment systems means systems that facilitate voluntary recognition or acceptance of the results of conformity assessment or accreditation bodies by the authorities of another Party based on compliance with international standards for conformity assessment;

international standard means a standard that is consistent with the Annex 2 to Part 1 (Decision 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) in the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995 (G/TBT/1/Rev.13) as may be revised, issued by the WTO Committee on Technical Barriers to Trade.

mutual recognition agreement means an intergovernmental agreement that specifies the conditions by which a Party will recognize the results of conformity assessment procedures produced by the other Party's conformity assessment bodies that demonstrate fulfillment of appropriate standards or technical regulations[1];

mutual recognition arrangement or multilateral recognition arrangement means an international or regional arrangement among: (i) accreditation bodies in the Parties, in which the accreditation bodies, on the basis of peer evaluation, accept the results of each other's accredited conformity assessment bodies or (ii) conformity assessment bodies in the Parties recognizing the results of conformity assessment;

proposed technical regulation or conformity assessment procedure means the entirety of the text setting forth (i) a proposed technical regulation or conformity assessment procedure or (ii) a significant amendment to an existing technical regulation or conformity assessment procedure;

[1] For greater clarity, mutual recognition agreements include agreements to implement the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment of May 8, 1998 and the Electrical and Electronic Equipment Mutual Recognition Arrangement of July 7, 1999.

TBT Committee Decision on International Standards means Annex 2 to Part 1 (*Decision 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*) in the *Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995* (G/TBT/1/Rev.13), as may be revised, issued by the WTO Committee on Technical Barriers to Trade.

Article 11.2: Scope

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures, including any amendment thereto, of central level of government bodies, which may affect trade in goods between the Parties.

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

(a) technical specifications prepared by a governmental body for production or consumption requirements of governmental bodies; or

(b) sanitary or phytosanitary measures.

Article 11.3: Incorporation of the TBT Agreement

1. The following provisions of the TBT Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*:

(a) Articles 2.1, 2.2, 2.3, 2.4, 2.5, 2.10, 2.11, 2.12;

(b) Articles 3.1, 4.1, and 7.1;

(c) Articles 5.1, 5.2, 5.3, 5.4, 5.6, 5.7, 5.8, 5.9; and

(d) Paragraphs D, E F, and J of Annex 3.

2. No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter if the dispute concerns:

(a) exclusively claims made under the provisions of the TBT Agreement incorporated under paragraph 1; or

(b) a measure that a Party alleges to be inconsistent with this Chapter that:

(i) was referred or is subsequently referred to a WTO dispute settlement panel;

(ii) was taken to comply in response to the recommendations or rulings from the WTO Dispute Settlement Body; or

(iii) bears a close nexus, such as in terms of nature, effects, and timing, with respect to a measure described in subparagraph (ii).

Article 11.4: International Standards, Guides and Recommendations

1. The Parties recognize the important role that international standards, guides, and recommendations can play in supporting greater regulatory alignment, good regulatory practices and reducing unnecessary barriers to trade.

2. To determine whether there is an international standard, guide, or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement, each Party shall apply the TBT Committee Decision on International Standards.

3. Each Party shall apply no additional principles or criteria outside of the TBT Committee Decision on International Standards in order to recognize a standard as an international standard. For greater clarity, criteria that are not relevant to determining whether a standard is an international standard include:

(a) the domicile of the standards body;

(b) whether the standards body is nongovernmental or intergovernmental; and

(c) whether the standards body limits participation to delegations.

4. The Parties shall cooperate with each other in appropriate circumstances to ensure that international standards, guides, and recommendations that are likely to become a basis for technical regulations and conformity assessment procedures do not create unnecessary obstacles to international trade.

5. No Party shall accord any preference to the consideration or use of standards that are developed through processes that:

(a) are inconsistent with the TBT Committee Decision on International Standards; or

(b) treat persons of any of the Parties less favorably than persons whose domicile is the same as the standardization body.

6. With respect to any agreement or understanding establishing a customs union or free-trade area or providing trade-related technical assistance, each Party shall encourage the adoption, and use as the basis for standards, technical regulations, and conformity assessment procedures, of any relevant standards, guides, or recommendations developed in accordance with the TBT Committee Decision on International Standards.

7. Recognizing the importance of maintaining the North American commercial integration

and maintaining market access for producers in North America, each Party shall ensure that any obligation or understanding it has with a non-Party does not facilitate or require the withdrawal or limitation on the use or acceptance of any relevant standard, guide, or recommendation developed in accordance with the TBT Committee Decision on International Standards or the relevant provisions of this Chapter.

Article 11.5: Technical Regulations

Preparation and Review of Technical Regulations

1. Each Party shall conduct an appropriate assessment concerning any major technical regulations it proposes to adopt. An assessment can include:

(a) a regulatory impact analysis of the technical regulation's potential impacts; or

(b) an analysis that requires evaluation of alternative measures, if any, including voluntary actions that are brought to the Party's attention in a timely manner.

Each Party shall maintain discretion in deciding if a proposed technical regulation is major under this paragraph.

6. Each Party shall:

(a) periodically review technical regulations and conformity assessment procedures in order to:

(i) examine increasing alignment with relevant international standards, including by reviewing any new developments in the relevant international standards and whether the circumstances that have given rise to divergences from any relevant international standard continue to exist; or

(ii) consider the existence of any less trade-restrictive approaches; or

(b) maintain a process whereby persons of another Party may directly petition the Party's regulatory authorities to review a technical regulation or conformity assessment procedure on the grounds that:

(i) circumstances that were relevant to the content of the technical regulation have changed; or

(ii) a less trade-restrictive method to fulfil the technical regulation's objective exists, such as a technical regulation based on the international standard.

Use of Standards in Technical Regulations

3. If there are multiple international standards that would be effective and appropriate to fulfil the Party's legitimate objectives of a technical regulation or conformity assessment procedure, the Party shall:

(a) consider using as a basis for the technical regulation or conformity assessment procedure all of the international standards that fulfill the legitimate objectives of the technical regulation or conformity assessment procedure; and

(b) if the Party has rejected an international standard that was brought to its attention, issue a written explanation wherever practicable.

The decision provided for in subparagraph (b) shall include the reasons for the Party's decision and shall be provided directly to the person that proposed a particular international standard or in a document that is published contemporaneously with when the Party publishes the final technical regulation or conformity assessment procedure.

4. If no international standard is available that fulfils the legitimate objectives of the technical regulation or conformity assessment procedure, each Party shall consider whether a standard developed by a standardizing body domiciled in any of the Parties can fulfill its legitimate objectives. To that end, each Party shall:

(a) consider and decide whether to accept the standard developed by a standardizing body domiciled in any of the Parties fulfils its legitimate objectives; and

(b) if the Party has rejected a standard that was brought to its attention, issue a written explanation wherever practicable.

The decision provided for in subparagraph (b) shall include the reasons for the Party's decision and shall be provided directly to the person that proposed a particular standard or in a document that is published contemporaneously with when the Party publishes the final technical regulation or conformity assessment procedure.

5. In order for a Party to consider accepting or using a standard as provided for in paragraphs 4 and 5, the Parties recognize that a standard must be brought to the attention of a Party, in a language the Party utilizes for the publication of technical regulations and conformity assessment procedures, during the Party's planning stage or when the proposed technical regulation or conformity assessment procedure is published for comment as provided for in Article 11.7.

Information Exchange

6. If a Party has not used international standards as a basis for its technical regulations, a Party shall, on request from another Party, explain why it has not used a relevant international standard

or has substantially deviated from an international standard. The explanation shall address why the standard has been judged inappropriate or ineffective for the objective pursued, and identify the scientific or technical evidence on which this assessment is based. To facilitate an appropriate explanation, the requesting Party shall ensure its request:

(a) identifies a relevant international standard that the technical regulation has purportedly not used as its basis; and

(b) describes how the technical regulation is constraining or has the potential to constraint its exports.

The requesting Party shall also endeavour to indicate whether the international standards was brought to the responding Party's attention when it was developing the technical regulation.

7. In addition to Article 2.7 of the TBT Agreement, a Party shall, on request of another Party,[2] provide the reasons why it has not or cannot accept a technical regulation of that Party as equivalent to its own. The Party to which the request is made should provide its response within a reasonable period of time.

Labeling

8. In order to avoid disrupting North American trade, and consistent with the obligations contained in Article 11.4 (Incorporation of the TBT Agreement), each Party shall ensure that its technical regulations concerning labels:

(a) accord treatment no less favorable than that accorded to like goods of national origin; and

(b) do not create unnecessary obstacles to trade between the Parties.

Article 11.6: Conformity Assessment

National Treatment

1. In addition to Article 6.4 of the TBT Agreement each Party shall accord to conformity assessment bodies located in the territory of another Party treatment no less favorable than that it accords to conformity assessment bodies located in its own territory or in the territory of the other Party. Treatment under this paragraph includes procedures, criteria, fees and other conditions relating to accrediting, approving, licensing, or otherwise recognizing conformity assessment bodies.

[2] The Party's request should identify with precision the respective technical regulations it considers to be equivalent and any data or evidence that supports its position.

2. In addition to Article 6.4 of the TBT Agreement, if a Party maintains procedures, criteria or other conditions per paragraph 1 and requires conformity assessment results, including test results, certifications, technical reports or inspections as positive assurance that a product conforms to a technical regulation or standard, it shall:

(a) not require the conformity assessment body to be located within its territory;

(b) not effectively require the conformity assessment body to operate an office within its territory; and

(c) permit conformity assessment bodies in other Parties' territories to apply to the Party, or any body that it has recognized or approved for this purpose, for a determination that they comply with any procedures, criteria and other conditions the Party requires to deem them competent or to otherwise approve them to test or certify the product or conduct an inspection.

Explanations and Information

3. If a Party undertakes conformity assessment procedures in relation to specific products by specified government bodies located in its own territory or in another Party's territory, the Party shall, upon the request of another Party or if practicable, an applicant of another Party, explain:

(a) how the information it requires is necessary to assess conformity;

(b) the sequence that conformity assessment procedures are undertaken and completed;

(c) how the Party ensures that confidential business information is protected; and

(d) the procedure to review complaints concerning the operation of the conformity assessment procedure and to take corrective action when a complaint is justified.

4. Each Party on the request of another Party, shall explain the reasons of its decision, whenever it declines to:

(a) accredit, approve, license, or otherwise recognize a conformity assessment body;

(b) recognize the results from a conformity assessment body that is a signatory to a mutual recognition arrangement;

(c) accept the results of a conformity assessment procedure conducted in the territory of another Party;

(d) continue negotiations for a mutual recognition agreement.

Subcontracting

5. If a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation or standard, it shall not prohibit a conformity assessment body from using subcontractors, or refuse to accept the results of conformity assessment on account of the conformity assessment body using subcontractors, to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of another Party[3], provided that the subcontractors are accredited and approved in the Party's territory, when required.

Accreditation

6. In addition to Article 9.2 of the TBT Agreement, no Party shall refuse to accept, or take actions which have the effect of, directly or indirectly, requiring or encouraging the refusal of acceptance of conformity assessment results performed by a conformity assessment body located in the territory of another Party because the accreditation body that accredited the conformity assessment body:

(a) operates in the territory of a Party where there is more than one accreditation body;

(b) is a non-governmental body;

(c) is domiciled in the territory of a Party that does not maintain a procedure for recognizing accreditation bodies, provided that the accreditation body is recognized internationally, consistent with provisions in paragraph 7;

(d) does not operate an office in the Party's territory or;

(e) is a for-profit entity.

7. In addition to Article 9.1 of the TBT Agreement, each Party shall:

(a) adopt or maintain measures to facilitate and encourage its authorities to rely on mutual or multilateral recognition arrangements to accredit, approve, license or otherwise recognize conformity assessment bodies where effective and appropriate to fulfill the Party's legitimate objectives; and

(b) consider approving or recognizing accredited conformity assessment bodies for its technical regulations or standards, by an accreditation body that is a signatory to a mutual or multilateral recognition arrangement, for example, the International

[3] For greater clarity, this provision does not prohibit a Party from taking any steps to ensure the performance of the subcontractor meets its requirements.

Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF).

The Parties recognize that the arrangements referenced in subparagraph (b) can address considerations in approving conformity assessment bodies, including technical competence, independence, and the avoidance of conflicts of interest.

Choice of Conformity Assessment

8. The Parties recognize that the choice of conformity assessment procedures in relation to a specific product covered by a technical regulation or standard should include an evaluation of the risks involved, the need to adopt procedures to address those risks, relevant scientific and technical information, incidence of non-compliant products, and possible alternative approaches for establishing that the technical regulation or standard has been met.

Fees

9. Nothing in this Article shall preclude a Party from requesting that conformity assessment procedures in relation to specific products is performed by specified government authorities of the Party. In those cases, the Party conducting the conformity assessment procedures, shall:

(a) limit any fees it imposes for conformity assessment procedures on products from the other Parties to the costs of services rendered;

(b) not impose fees on an applicant of another Party to deliver conformity assessment services, except to recover costs incurred from services rendered;

(c) make the fees for conformity assessment procedures publicly available;

(d) not apply a new or modified fee for conformity assessment procedures until the fee and the method for assessing the fee are published and, if practicable, the Party has provided an opportunity for interested persons to comment on the proposed introduction or modification of a conformity assessment fee.

10. Upon request of a Party, or an applicant's request if practicable, a Party shall explain how:

(a) any fees it imposes for such conformity assessment are no higher than the cost of services rendered,

(b) fees for its conformity assessment procedures are calculated; and

(c) any information it requires is necessary to determine fees.

Exceptions

11. For greater clarity, nothing in paragraphs 1 or 2 of this Article preclude a Party from taking actions to verify the results from a conformity assessment procedure, including requesting information from the conformity assessment or accreditation body. Any such action shall not subject a product to duplicative conformity assessment procedures, except when necessary to address non-compliance. The verifying Party may share information it has requested with another Party, provided it protects the confidentiality of the information.

12. Paragraphs 2(b) and 5 do not apply to any requirement a Party may have concerning the use of products, conformity assessment procedures or related services in the commercial maritime or civil aviation sectors.

Article 11.7: Transparency

1. Each Party shall allow persons of another Party to participate in the development of technical regulations, standards and conformity assessment procedures[4] by its central government bodies on terms no less favorable than those that it accords to its own persons.

2. In addition to Articles 2.9 and 5.6 of the TBT Agreement, if a Party prepares or proposes to adopt a technical regulation or conformity assessment procedure that is not in response to an urgent situation as referred to in Article 2.10 of the TBT Agreement, the Party shall:

(a) publish the proposed technical regulation or conformity assessment procedure;

(b) allow a person of another Party to submit written comments during a public consultation period on no less favourable terms than it provides to its own persons;

(c) publish and allow for written comment in accordance with subparagraphs (a) and (b) at a time when the authority proposing the measure has sufficient time to review those comments and, as appropriate, to revise the measure to take them into account;

(d) consider the written comments from a person of another Party on no less favorable terms than it considers those submitted by its own persons; and

(e) if practicable[5], accept a written request from another Party to discuss written

[4] A Party satisfies this obligation by, for example, providing interested persons a reasonable opportunity to provide comments on the measure it proposes to develop and taking those comments into account in the development of the measure.

[5] Circumstances where discussions will not be deemed practicable include where the Party requesting discussions has failed to timely submit its comments or if discussions would need to take place after the deadline to submit written comments has passed.

comments that the other Party has submitted.

The Party requested to discuss its proposed technical regulation or conformity assessment procedure shall ensure that it has appropriate personnel participate in the discussions, such as from the competent authority that has proposed the technical regulation or conformity assessment procedure, in order to confirm that the written comments will be fully taken into account.

3. Each Party shall endeavour to promptly make publicly available any written comments it receives under paragraph 2(c), except to the extent necessary to protect confidential information or withhold personal identifying information or inappropriate content. If it is impracticable to post these comments on a single website, the regulatory authority of a Party shall endeavour to make these comments available via its own website.

4. Each Party shall publish the final technical regulation or conformity assessment procedure and an explanation of how it has addressed substantive issues raised in timely submitted comments.

5. If appropriate, each Party shall encourage non-governmental bodies including standardization bodies in its territory to act consistently with the obligations in paragraphs 1 and 7, in developing standards and voluntary conformity assessment procedures.

6. Each Party shall ensure that its central government standardizing body's work program, containing the standards it is currently preparing and the standards it has adopted, is available:

(a) on the central government standardizing body's website; or

(b) in its official gazette; or

(c) on the website referred to in paragraph 10.

Stakeholder Participation in Developing Technical Regulations and Mandatory Conformity Assessment Procedures

7. Each Party shall encourage consideration of methods to provide additional transparency in the development of technical regulations, standards and conformity assessment procedures, including the use of electronic tools and public outreach or consultations.

8. If a Party requests a body within its territory to develop a standard for use as a technical regulation or conformity assessment procedure, the Party shall require the body to allow persons of another Party to participate on no less favorable terms than its own person in those groups or committees of the body that are developing the standard, and apply Annex 3 of the TBT Agreement.

9. Each Party shall take such reasonable measures as may be available to it to ensure proposed

and final technical regulations and conformity assessment procedures of regional governments are published.[6]

10. Each Party shall publish online and make freely accessible, preferably on a single website, all proposed and final technical regulations and mandatory conformity assessment procedures, except with respect to any standards that are:

(a) developed by non-governmental organizations; and

(b) have been incorporated by reference into a technical regulation or conformity assessment procedure.

Notification of Technical Regulations and Conformity Assessment

11. Each Party shall notify proposed technical regulations and conformity assessment procedures that may have a significant effect on trade according to the procedures established under Articles 2.9 or 5.6 of the TBT Agreement, that are in accordance with the technical content of relevant international standards, guides, or recommendations. The Party's notification shall identify the precise international standards, guides or recommendations with which the proposal is in accordance.

12. Notwithstanding paragraph 11, if urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party shall notify a technical regulation or conformity assessment procedure that is in accordance with the technical content of relevant international standards, guides or recommendations, according to the procedures established under Article 2.10 or 5.7 of the TBT Agreement. The Party's notification shall identify the precise international standards, guides or recommendations with which the proposal is in accordance.

13. Each Party shall endeavor to notify proposed technical regulations and conformity assessment procedures of regional level of governments that may have a significant effect on trade according to the procedures established under Article 2.9 or 5.6 of the TBT Agreement that are in accordance with the technical content of relevant international standards, guides, and recommendations.

14. With respect to notifications made under Articles 2.9 and 5.6 of the TBT Agreement and paragraph 11 of this Chapter, each Party shall notify proposed technical regulations and conformity assessment procedures at an early appropriate stage by:

(a) ensuring the notification is made at a time when the authority developing the measure can introduce amendments, including in response to any comments

[6] For greater certainty, a Party may comply with this obligation by ensuring that the proposed and final measures in this paragraph are published on, or otherwise accessible through, the WTO's official website.

submitted per subparagraph (d);

(b) including with its notification:

(i) the proposed technical regulation or conformity assessment procedure's objective(s) and legal basis;

(ii) an explanation of how the proposed technical regulation or conformity assessment procedure would fulfill the identified objectives; and

(iii) a copy of the proposed technical regulation or conformity assessment procedure or an Internet address at which the proposed measure can be accessed;

(c) transmitting the notification electronically to the other Parties through their enquiry points established in accordance with Article 10 of the TBT Agreement, contemporaneously with the submission of the notification to the WTO Secretariat; and

(d) providing sufficient time between the end of the comment period and the adoption of the notified technical regulation or conformity assessment procedure to ensure the responsible authority can fully consider the submitted comments and the Party can issue its responses to the comments.

Each Party shall normally allow 60 days from the date it transmits a proposal under subparagraph b for another Party or an interested person of a Party to provide comments in writing on the proposal. A Party shall consider any reasonable request from another Party or an interested person of a Party to extend the comment period. A Party that is able to extend a time limit beyond 60 days, for example 90 days, shall consider doing so.

15. Each Party, when making a notification under Articles 2.10 or 5.7 of the TBT Agreement, shall at the same time transmit electronically the notification and text of the technical regulation or conformity assessment procedure, or a website address where the text of the measure can be viewed, to the Parties' enquiry points referred to in Article 11.12 of this Chapter.

16. If a Party is notifying a proposed technical regulation or conformity assessment procedure to the WTO TBT Committee and the other Parties for the first time,[7] the Party shall notify it to the WTO TBT Committee and the other Parties as a regular notification[8]. Each Party shall endeavor to identify the scope of its proposed technical regulation or conformity assessment procedure in its notification by reference to the specific harmonized tariff schedule codes or chapter or heading and number for the products that would be affected by the proposal.

[7] The Parties shall follow the recommendation set forth in G/TBT/35, Coherent Use of Notification Formats.
[8] A notification is a document that is circulated by the WTO Secretariat, or submitted to the WTO Secretariat for the purposes of circulate, under the prefix "G/TBT/N."

17. If a Party is notifying a proposed technical regulation or conformity assessment procedure that is related to a measure that was previously notified, including because it is an revision, amendment, or replacement to the previously notified measure, the Party shall provide the WTO notification symbol for the previously notified measure.[9] Each Party shall endeavor to submit a revision to a notification if the notified measure has been substantially redrafted prior to its entry into force. If the Party files a revision or the circumstances noted in paragraph 18(d) arise, the Party shall endeavor to allow either a new or extended period of time for interested persons to submit comments to the Party.

18. Each Party shall submit an addendum to a notification it has previously made to the WTO TBT Committee and the Parties in any of the following circumstances:

(a) if the period of time to submit comments on the proposed measure has changed;

(b) the notified measure has been adopted, or otherwise entered into force, or the compliance dates for the final measure have changed;

(c) the notified measure has been withdrawn, revoked, or replaced;[10]

(d) the content or scope of the notified measure is partially changed or amended;

(e) any interpretive guidance for a notified measure that has been issued; or

(f) whenever the final text of the notified measure is adopted, published, or enters into force.

19. Each Party shall endeavor to submit a corrigendum to a notification if it subsequently determines there are minor administrative or clerical errors in:

(a) a notification or subsequent related addendum or revision; or

(b) the text of the notified measure.

20. If a Party obtains a translation in an additional official WTO language, whether official or unofficial, of a measure notified to the WTO TBT Committee, it shall endeavor to send the translation to the Parties' enquiry points referred to in Article 11.12 (Contact Points) of this Chapter.

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[9] The Parties agree the appropriate place to make the identification is in field 8 of a document produced consistent with the Format and Guidelines for Notification Procedures for Draft Technical Regulations and Conformity Assessment Procedures.

[10] The Party shall provide the WTO document number identifying the notification of a measure that replaces or has been proposed as a replacement for a withdrawn or revoked measure.

21. For the purposes of determining whether a proposed technical regulation or conformity assessment procedure may have a significant effect on trade and should be notified in accordance with Article 2.9, 2.10, 3.2, 5.6, 5.7, or 7.2 of the TBT Agreement and this Chapter, a Party shall consider, among other things, the relevant guidance in the *Decisions and Recommendations Adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995* (G/TBT/1/Rev. 13), as may be revised.

22. When a Party has adopted a technical regulation or conformity assessment procedure that may have a significant effect on trade, each Party shall promptly publish online:

(a) an explanation of how the technical regulation or conformity assessment procedure achieves the Party's objectives;

(b) a description of alternative approaches, if any, that the Party considered in developing the adopted technical regulation or conformity assessment procedure and the explanation of why it chose one approach over the others it considered;

(c) its views on any substantive issues raised in timely submitted comments on the proposed technical regulation or conformity assessment procedure;

(d) any impact assessment it has undertaken;

(e) if not addressed by an impact assessment, an explanation of the relationship between the regulation and the key evidence, data, and other information the regulatory authority considered in finalizing its work on the regulation; and

(f) the date by which compliance is required.

Article 11.8: Compliance Period for Technical Regulations and Conformity Assessment Procedures

1. For the purposes of applying Articles 2.12 and 5.9 of the TBT Agreement, the term "reasonable interval" means normally a period of not less than six months, except when this would be ineffective in fulfilling the legitimate objectives pursued by the technical regulation or the conformity assessment procedure.[11]

2. If feasible and appropriate, each Party shall endeavor to provide an interval of more than six months between the publication of final technical regulations and conformity assessment procedures and their entry into force.

[11] For greater certainty, a Party may decide to set an interval of less than six months between the publication of a measure and its entry into force in certain circumstances, including those where the measure is trade facilitative or is addressing an urgent problem of safety, health, environmental protection, or national security.

3. In addition to paragraphs 1 and 2, in setting a "reasonable interval" for a specific technical regulation or conformity assessment procedure, each Party shall ensure that it provides suppliers with a reasonable period of time, under the circumstances, to be able to demonstrate the conformity of their goods with the relevant requirements of the technical regulation by the date of entry into force of the specific technical regulation or conformity assessment procedure. In doing so, each Party shall endeavor to take into account the resources available to suppliers.

Article 11.9: Cooperation and Trade Facilitation

1. In addition to Articles 5, 6 and 9 of the TBT Agreement, the Parties acknowledge that a broad range of mechanisms[12] exists to facilitate the acceptance of conformity assessment results. In this regard, a Party shall give consideration to a request made by another Party with respect to any sector-specific proposal for cooperation including by, as appropriate:

(a) implementing mutual recognition of the results by conformity assessment bodies located in its territory and another Party's territory with respect to specific technical regulations;

(b) recognizing existing mutual and multilateral recognition arrangements between or among accreditation bodies or conformity assessment bodies;

(c) using accreditation to qualify conformity assessment bodies, particularly international systems of accreditation;

(d) designating conformity assessment bodies or recognise the other Party's designation of conformity assessment bodies;

(e) unilaterally recognizing the results of conformity assessment procedures performed in the other Party's territory; and

(f) accepting a supplier's declaration of conformity.

2. The Parties recognize that a broad range of mechanisms exist to support greater regulatory alignment and to eliminate unnecessary technical barriers to trade in the region, including:

(a) regulatory dialogue and cooperation to, among other things:

(i) exchange information on regulatory approaches and practices;

[12] With respect to the mechanisms listed in paragraphs 1 and 2, the Parties recognize that the choice of the appropriate mechanism in a given regulatory context depends on a variety of factors, such as the product and sector involved, the volume and direction of trade, the relationship between Parties' respective regulators, the legitimate objectives pursued and the risks of non-fulfilment of those objectives.

(ii) promote the use of good regulatory practices to improve the efficiency and effectiveness of technical regulations, standards and conformity assessment procedures;

(iii) provide technical advice and assistance, on mutually agreed terms and conditions, to improve practices related to the development, implementation and review of technical regulations, standards, conformity assessment procedures and metrology; or

(iv) provide technical assistance and cooperation, on mutually agreed terms and conditions, to build capacity and support the implementation of this Chapter;

(b) facilitation of the greater use and alignment of standards, technical regulations, and conformity assessment procedures with relevant international standards, guides, and recommendations; and

(c) promotion of the acceptance of technical regulations of the other Party as equivalent.

3. In addition to subparagraph (c), the Parties, shall work to develop common standards and conformity assessment procedures in sectors of mutual interest. This work would be defined in the TBT Committee (Article 11. 11).

4. The Parties shall strengthen their exchange and collaboration on mechanisms to facilitate the acceptance of conformity assessment results, to support greater regulatory alignment and to eliminate unnecessary technical barriers to trade in the region. To this end, the Parties shall seek to identify, develop, and promote trade-facilitating initiatives regarding standards, technical regulations, and conformity assessment procedures that address particular cross-cutting or sector-specific issues.

5. The Parties shall encourage cooperation between their respective organisations responsible for standardization, conformity assessment, accreditation and metrology, whether they are public or private, with a view to facilitate trade.

Article 11.10: Information Exchange and Technical Discussions

1. The Parties recognize that technical discussions and information exchange can serve an important function in reaching mutually satisfactory solutions to trade concerns by promoting cooperation and consultation informed by relevant technical and scientific information. Accordingly, with respect to a matter that arises under this Chapter, a Party may request that another Party:

(a) engage in technical discussions concerning the matter; or

(b) provide information regarding any proposed or final technical regulation or conformity assessment procedure that relates to the matter.

2. The Party making the request shall do so in writing and identify:

(a) the matter, including those provisions of the Chapter that the matter relates;

(b) the reasons for the request, including any concerns with a proposed or final measure;

(c) whether the matter is urgent; and

(d) if applicable, the precise information that is being requested.

The Party making the request shall transmit it to the Parties through the respective contact points designated pursuant to Article 30.5 (Agreement Coordinator and Contact Points).

3. With respect to a request made under paragraph 1(a), the requesting Party and the requested Party shall discuss the matter identified within 60 days from when the request was transmitted to the contact point, unless the request identified the matter as urgent, in which case the Parties shall endeavor to hold the technical discussions sooner. The requested Party, at its discretion, may decide to allow a third Party to participate in the technical discussions. With respect to a request made under paragraph 1(b), the Party receiving the request shall provide appropriate information within a reasonable period of time. The Parties shall attempt to obtain satisfactory resolution of the matter.

4. Unless the Parties decide otherwise, any discussions or information exchanged under this Article, other than the request referenced in paragraphs 1 and 2, shall be kept confidential and is without any prejudice to the Parties' rights and obligations under the Agreement, the WTO Agreement or any other agreement to which the Parties are party.

Article 11.11: Committee on Technical Barriers to Trade

1. The Parties hereby establish a Committee on Technical Barriers to Trade (Committee), composed of government representatives of each Party.

2. Through the Committee, the Parties shall strengthen their joint work in the fields of technical regulations, standards, and conformity assessment procedures with a view to facilitating trade between the Parties.

3. The Committee's functions include:

(a) monitoring and identifying ways to strengthen the implementation, operation, and any other commitments agreed under this Chapter, and identifying any potential amendments to or interpretations of this Chapter for referral to the Commission;

(b) as appropriate, discussing proposed and final versions of standards, technical regulations, or conformity assessment procedures of any Party;

(c) monitoring any technical discussions on matters that arise under this Chapter requested pursuant to paragraph 2 of Article 11.10 (Information Exchange and Technical Discussions);

(d) reaching an agreement on priority areas of mutual interest for future work under this Chapter and considering proposals for new sector-specific initiatives or other initiatives;

(e) encouraging cooperation between the Parties in matters that pertain to this Chapter, including the development, review, or modification of technical regulations, standard, and conformity assessment procedures;

(f) encouraging cooperation between non-governmental bodies in the Parties' territories, as well as cooperation between governmental and non-governmental bodies in the Parties' territories in matters that pertains to this Chapter;

(g) facilitating the identification of technical capacity needs;

(h) encouraging the exchange of information between the Parties and their relevant non-governmental bodies, if appropriate, to develop common approaches regarding matters under discussion in non-governmental, regional, plurilateral, and multilateral bodies or international conformity assessment systems or standards development relevant to this Chapter; including the WTO TBT Committee and bodies that develop standards in accordance with the TBT Committee Decision on International Standards, as appropriate;

(i) encouraging, on request of a Party, the exchange of information between the Parties regarding specific technical regulations, standards, and conformity assessment procedures of non-Parties as well as systemic issues, with a view to fostering a common approach;

(j) undertaking initiatives to support greater regulatory alignment in the region, including through the development of common standards or conformity assessment procedures, in sectors of mutual interest;

(k) reporting to the Commission on the implementation and operation of this Chapter;

(l) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments;

(m) engaging, as appropriate, with the public to participate in the work of the Committee, such as requesting and considering comments on matters related to the implementation of this Chapter; and

(n) taking any other steps that the Parties consider will assist them in implementing this Chapter.

4. Unless the Parties decide otherwise, the Committee shall meet at least once a year.

5. The Committee may establish and determine the scope and mandate of working groups, comprising representatives of each Party, to carry out its functions.

6. To determine what activities the Committee will undertake, the Committee shall consider work that is being undertaken in other fora, with a view to ensuring that any activities undertaken by the Committee do not unnecessarily duplicate that work.

Article 11.12: Contact Points

1. Each Party shall designate a contact point and notify it to the other Parties for matters arising under this Chapter in accordance with Article 30.5 (Agreement Coordinator and Contact Points). A Party shall promptly notify the other Parties of any change of its contact point or the details of the relevant officials.

2. The functions of each contact point shall include:

(a) communicating with the other Parties' contact points, including facilitating discussions, requests and the timely exchange of information on matters arising under this Chapter;

(b) communicating with and coordinating the involvement of relevant government agencies, including regulatory authorities, in its territory on relevant matters pertaining to this Chapter;

(c) consulting and, if appropriate, coordinating with interested persons in its territory on relevant matters pertaining to this Chapter; and

(d) carrying out any additional responsibilities specified by the Committee.

CHAPTER 12

SECTORAL ANNEXES

Article 12.1: Sectoral Annexes

1. In addition to other applicable provisions of this Agreement, this Chapter contains provisions with respect to chemical substances, cosmetic products, information and communication technology, energy performance standards, medical devices, and pharmaceuticals, as defined therein.

2. The rights and obligations set out in each annex to this Chapter shall apply only with respect to the sector specified in that annex, and shall not affect any Party's rights or obligations under any other annex to this Chapter.

ANNEX 12-A

CHEMICAL SUBSTANCES

Article 12.A.1: Definitions

For the purposes of this Annex:

chemical mixture means a combination or a solution composed of two or more chemical substances in which they do not react;

chemical substance means any organic or inorganic substance of a particular molecular identity or a mixture of substances[1], including:

(a) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature; and

(b) any element or uncombined radical;

hazard means the potential adverse human health, physical or environmental effects caused by a chemical substance or chemical mixture;

risk-based approach means that the evaluation of a chemical substance or chemical mixture includes the consideration of both the hazard and exposure; and

safety data sheet means written or printed material that provides comprehensive information about chemical identity, the hazards, precautions, and response actions for a particular chemical substance or chemical mixture for use in workplace chemical control regulatory frameworks.

Article 12.A.2: Scope

This Annex applies to the preparation, adoption and application of technical regulations; standards; conformity assessment procedures; measures on hazard communication, labeling, and communication of information on use, storage, and response in the workplace; and import and export permits by a Party's central level of government[2]:

[1] "Mixture of substances" do not include any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction.

[2] The Parties recognize that the obligations in this Annex do not preclude a Party from implementing obligations under existing international agreements relating to chemical management or entering into any new international agreement relating to chemical management.

(a) applied for purposes of protecting the environment or human health from chemical substances and chemical mixtures;

(b) that may significantly affect trade between the Parties; and

(c) which is not:

(i) a sanitary or phytosanitary measures;

(ii) a measure relating to pesticides, pharmaceutical products, veterinary drugs, cosmetic products, nuclear material or food products, including food additives; or

(iii) a measure relating to the control of chemical precursors in order to prevent the production of illegal narcotics and psychotropic substances.

Article 12.A.3: Competent Authorities

Upon entry into force of this Agreement, each Party shall make available online the following information with respect to each of its competent authorities at its central level of government that have responsibility for implementing and enforcing measures regulating chemical substances and chemical mixtures:

(a) a description of each authority, including the authority's specific responsibilities; and

(b) a point of contact within each authority.

Each Party shall promptly notify the other Parties of any material changes to this information.

Article 12.A.4: Enhancing Regulatory Compatibility

1. The Parties recognize that the principal objective of regulating chemical substances and chemical mixtures is the protection of human health and the environment. The Parties also recognize the importance of developing and implementing measures in a manner that achieves their respective level of protection without creating unnecessary economic barriers or impediments to technological innovation.

2. Each Party shall endeavor to use a risk-based approach to the assessment of specific chemical substances and chemical mixtures, where appropriate. Each Party also intends to encourage, as appropriate, a risk-based approach to regulating chemical substances and chemical mixtures in both international fora and in its relations with non-Parties.

3. The Parties shall endeavor, where appropriate, to align their respective risk assessment methodologies and risk management measures for chemical substances and chemical mixtures provided such alignment does not prevent a Party from determining and achieving its respective levels of protection. In its alignment efforts, each Party shall strive to continue to improve its respective levels of protection.

4. Each Party, when developing, modifying, or adopting a measure concerning chemical substances or chemical mixtures, shall endeavor to consider how a measure adopted by another Party could inform its decision-making.

5. The Parties shall strengthen their cooperation on chemical substances and chemical mixtures, including through the use of fora in existence. To that end, the Parties recognize potential areas of cooperation could include:

(a) their respective implementation of the United Nations Globally Harmonized System for Classification and Labeling of Chemicals (GHS);

(b) safety data sheets, including with respect to the information requirements for identical or similar chemical substances without reducing the level of safety or protection for workers;

(c) compatibility of respective requirements for presentation of information protected as confidential business information (CBI) on safety data sheets;

(d) coordination, compatibility and where appropriate, development of chemical inventories;

(e) coordination and collaboration on chemical risk assessment and risk management methodologies, tools, and models, and on the development of specific chemical assessments; and

(f) where appropriate, scientific criteria used for the reliability of scientific data underpinning regulatory decisions.

If the Parties identify differences with respect to paragraphs (b) and (c) they shall cooperate with a view to minimizing the differences in the use of safety data and safety data sheets by the competent authorities of each Party.

Article 12.A.5: Data and Information Exchange

1. The Parties shall endeavor to exchange periodically information concerning respective methodologies for assessing chemical substances, both generally and with respect to particular chemicals.

2. Upon request of another Party, each Party shall share any available data and assessments on particular chemical substances, such as full data studies and robust data summaries.[3] Each Party shall maintain procedures to prevent the disclosure of confidential information that appears in such data and procedures, including procedures to remove or recall any confidential information that is inadvertently disclosed.

3. The Parties shall exchange, as appropriate:

(a) information related to their respective activities to disseminate information to the public concerning the safety of chemical substances; and

(b) scientific data and technical information, on new and emerging issues related to management of chemical substances, with a view to accumulating the best available scientific data or technical information, including peer-reviewed studies.

[3] A Party may fulfill the obligation in this sentence by making the information at issue publicly available and informing the Party which made the request how the information may be accessed.

ANNEX 12-B

COSMETIC PRODUCTS

Article 12B..1: Definitions

For the purposes of this Annex:

cosmetic product means:

(a) for Canada: a product that constitutes a "cosmetic" as defined under Section 2 of the Food and Drugs Act, R.S.C., 1985, c.F-27, as amended, and that is regulated solely under the Cosmetic Regulations, C.R.C., c. 869, as amended;

(b) for Mexico: a product covered as "cosmetics" as defined under article 269 Ley General de Salud (Health General Law) and article 187 Reglamento Control Sanitario de Productos y Servicios (Regulation Sanitary Control of Products and Services) as amended; and

(b) for the United States: a product covered as a "cosmetic" under 21 U.S.C. § 321(i), as amended;

marketing authorization means the process or processes by which a Party approves or registers a pharmaceutical product in order to authorise its marketing, distribution, or sale in the Party's territory on the basis of the Party's safety, efficacy, and quality requirements;

ICI Dictionary means the International Cosmetic Ingredient Dictionary and Handbook, published in Washington, DC by the Personal Care Products Council;

INC means the International Cosmetic Ingredient Nomenclature Committee, which develops the INCI names; and

INCI name means the International Nomenclature Cosmetic Ingredient name assigned to an ingredient in the ICI Dictionary.

Article 12.B.2: Scope

This Annex applies to the preparation, adoption, and application of technical regulations, standards, conformity assessment procedures, and notification procedures by a Party's central level of government that may affect trade in cosmetic product between the Parties, other than sanitary or phytosanitary measures or technical specifications prepared by a government body for production or consumption requirements of that body that are governed by Chapter 13 (Government Procurement).

Article 12.B.3: Competent Authorities

1. Upon entry into force of this Agreement, each Party shall make available online the following information with respect to each of its competent authorities at its central level of government that have responsibility for implementing and enforcing measures regulating cosmetic products:

(a) a description of each authority, including the authority's specific responsibilities; and

(b) a point of contact within each authority.

Each Party shall promptly notify the other Party any material changes to this information.

2. Each Party shall avoid imposing or maintaining unnecessarily duplicative regulatory requirements with respect to cosmetic products, including by periodically examining whether its authorities are engaged in duplicative activities.

Article 12.B.4: Enhancing Regulatory Compatibility

1. The Parties shall seek to collaborate to improve the alignment of their respective regulations and regulatory activities for cosmetic products through work in relevant international initiatives, such as those aimed at harmonization, as well as regional initiatives that support those international initiatives, as appropriate.

2. When developing or implementing regulations for cosmetic products, each Party shall consider relevant scientific or technical guidance documents developed through international collaborative efforts. Each Party is encouraged to consider regionally-developed scientific or technical guidance documents that are aligned with international efforts.

3. If a Party prepares or adopts good manufacturing practice guidelines for cosmetic products, it shall use relevant international standards for cosmetic products, or the relevant parts of them, as a basis for its guidelines unless those international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued.

4. Each Party shall endeavor to share information:

(a) from post-market surveillance of cosmetic products; and

(b) on its findings regarding cosmetic ingredients that may affect trade between the Parties.

Article 12.B.5: Application of Regulatory Controls

1. Each Party shall ensure that any measures it applies to ensure the safety, effectiveness, or quality of cosmetic products, including marketing authorizations, notification procedures, and elements of either, accord products imported from the territory of the other Party treatment no less favorable than that accorded to like products of national origin and to like products originating in any other country, in a comparable situation.

2. When developing a regulatory requirement for a cosmetic product, each Party shall consider its available resources and technical capacity in order to minimize the likelihood of implementing requirements that could:

(a) inhibit the efficacy of procedures for ensuring the safety, effectiveness, or quality of cosmetic products; or

(b) lead to substantial delays for cosmetic products becoming available in that Party's market.

3. Each Party shall apply a risk-based approach to regulating the safety of cosmetic products for human health, taking into account relevant scientific factors. In applying this approach, each Party shall take into account that cosmetic products generally present a lower potential risk to human health or safety than medical devices or pharmaceutical products. Accordingly, no Party shall require:

(a) a marketing authorization for a cosmetic product, unless a Party identifies a human health or safety concern, and a no less trade restrictive alternative is reasonably available, such as notifications and post-market surveillance, to effectively address the risks at issue;

(b) re-testing or re-evaluating of cosmetic products that differ only with respect to shade extensions or fragrance variants, unless conducted for human health or safety purposes;

(c) a cosmetic product to be labelled with a notification number;

(d) a cosmetic product to receive a marketing authorization from a regulatory authority in the country of manufacture, as a condition for being placed in its market[4];

(e) a cosmetic product be accompanied by a certificate of free sale as a condition of marketing, distribution or sale in the Party's territory.

[4] For greater certainty, this provision does not prohibit a Party from accepting a prior marketing authorization issued by another regulatory authority as evidence that a product may meet its own requirements.

4. If a Party requires a manufacturer or supplier of a cosmetic product to indicate information on the product's label, the Party shall permit the manufacturer or supplier to indicate the required information by relabeling the product or by using supplementary labelling of the product in accordance with the Party's domestic requirements after the importation but prior to offering the product for sale or supply in the Party's territory.

5. No Party shall require that a cosmetic product be tested on animals to determine the safety of that cosmetic product, unless there is no validated alternative method available to assess safety. This paragraph, however, does not preclude a Party from considering the results of any animal testing to evaluate the safety of a cosmetic product.

Article 12.B.6: Labelling

1. The Parties recognize the importance of the International Nomenclature Cosmetic Ingredient (INCI) in providing consistent, standardized information about the ingredients in cosmetic products to consumers, health practitioners, and other interested parties.

2. To that end, the Parties agree to continue efforts to seek closer alignment of cosmetic ingredient labeling and, no later than one year following the entry into force of the Agreement, to report progress to the FTC toward this goal.

3. Furthermore, the Parties shall endeavor to participate in the INC process for developing, revising, and simplifying the ICI Dictionary.

Appendix: Enhancing Regulatory Compatibility for Products Recognized as Being at the Interface of Cosmetics and Drugs[5]

1. This Appendix shall apply to toothpastes, mouthwashes, personal care use antiseptic skin cleansers, sunscreens, anti-dandruff shampoos, diaper-rash creams, antiperspirants, medicated skin care products,[6] and acne products as set out in the following subparagraphs:

(a) For Canada, products that:

(i) are for topical use in the oral cavity or on unbroken skin that act in a localized and non-systemic manner;

(ii) are authorized for sale in Canada;

(iii) are a non-prescription drug product or a natural health product; and

(iv) meet the definition of a "cosmetic" in Section 2 of the Food and Drugs Act, R.S.C., 1985, c.F-27, as amended;

(b) For the United States, products that conform to an over-the-counter drug monograph or an approved new drug application before the product can be placed on the U.S. market.

2. For purposes of this Appendix:

facts table means a standard labelling format containing prescribed information as per each Party's law;

monograph means the regulatory requirements setting forth the permissible conditions for marketing of certain over-the-counter drug products, including use and labeling requirements, such as dose, intended use, directions for use, warnings, active ingredients and combinations thereof;

non-prescription drug product means a pharmaceutical product[7] that is safe and effective for use as directed on the label, is available for direct sale to a consumer, is permitted to be sold without a prescription, and is not intended to be administered solely under the supervision of a health care practitioner;

security packaging means a package having a security feature that provides reasonable assurance to consumers that the package has not been opened prior to purchase; and

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[5] This Appendix does not apply to Mexico.

[6] Medicated skin care products do not include antifungals, antivirals, antibiotics, corticosteroids, counterirritants, and analgesics.

[7] As defined in the Pharmaceutical Annex.

tamper-evident packaging means one or more indicators or barriers to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred.

3. If an importing Party has authorized for sale a product covered by paragraph 1, the importing Party shall allow the product to be shipped directly to retailers or wholesalers without subjecting the product to re-testing or quarantine unless done pursuant to:

(a) an identified human health concern with regard to that specific shipment; or

(b) an established system of random or risk-based inspection applied for the purpose of protecting human health.

4. Canada and the United States shall endeavor to strengthen their cooperation in the regulation of products covered by paragraph 1. To that end, the Parties shall consider cooperating in different areas, including:

(a) alignment of the requirements for tamper-evident packaging in the United States and security packaging in Canada with respect to dermatological and dentifrice products, subject to the consideration of any human health or safety concerns; and

(b) alignment of facts table requirements.

5. If a Party authorizes for sale a product covered by paragraph 1, the Party shall permit the distribution of samples in that Party's territory under conditions set out in that Party's law.

ANNEX 12-C

INFORMATION AND COMMUNICATION TECHNOLOGY

Article 12.C.1: Definitions

For the purposes of this Annex:

cryptography means the principles, means or methods for the transformation of data in order to conceal or disguise its 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 cipher text;

electromagnetic compatibility means the ability of an equipment or system to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances with respect to any other device or system in that environment;

electronic labeling means the electronic display of information, including required compliance information;

encryption means the conversion of data (plaintext) through the use of a cryptographic algorithm into a form that cannot be easily understood without subsequent re-conversion (ciphertext) and the appropriate cryptographic key;

ICT good means a product whose intended function is information processing and communication by electronic means, including transmission and display, or electronic processing applied to determine or record physical phenomena, or to control physical processes;

information technology equipment (ITE) product means any device, system, or component thereof the primary function of which is the entry, storage, display, retrieval, transmission, processing, switching, or control (or combinations thereof) of data or telecommunication messages by means other than radio transmission or reception;

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;

supplier's declaration of conformity means an attestation by a supplier that a product meets a specified standard or technical regulation based on an evaluation of the results of conformity assessment procedures; and

terminal equipment means any digital or analog device capable of processing, receiving, switching, signaling or transmitting signals by electromagnetic means and that is connected by radio or wire to a public telecommunications transport network at a termination point.

Article 12.C.2: Information and Communication Technology (ICT) Goods that Use Cryptography

1. This article applies to ICT goods that use cryptography.[8] This article does not apply to:

(a) a Party's law enforcement authorities requiring service suppliers using encryption they control to provide, pursuant to that Party's legal procedures, unencrypted communications;

(b) the regulation of financial instruments;

(c) requirements that a Party adopts or maintains relating to access to networks, including user devices that are owned or controlled by the government of that Party, including those of central banks;

(d) measures taken by a Party pursuant to supervisory, investigatory, or examination authority relating to financial institutions or financial markets; or

(e) where the manufacture, sale, distribution, import, or use of the product is by or for the government of the Party.

2. With respect to an ICT good that uses cryptography and is designed for commercial applications, no Party shall require 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 any proprietary information relating to cryptography, including by disclosing a particular technology or production process or other information, for example, a private key or other secret parameter, algorithm specification, or other design detail, to the Party or a person in the Party's territory;

(b) partner or otherwise cooperate with a person in its territory in the development, manufacture, sale, distribution, import, or use of the product; or

(c) use or integrate a particular cryptographic algorithm or cipher.

Article 12.C.3: Electromagnetic Compatibility of Information Technology Equipment

[8] For greater certainty, for the purposes of this section, an ICT good does not include a financial instrument.

(ITE) Products

1. This article applies to requirements regarding the electromagnetic compatibility of ITE products. This article does not apply with respect to a product:

(a) that a Party regulates as a medical device, a medical device system, or a component of a medical device or medical device system; or

(b) for which the Party demonstrates that there is a high risk that the product will cause harmful electromagnetic interference with a safety or radio transmission or reception device or system.

2. If a Party requires positive assurance that an ITE product meets a standard or technical regulation for electromagnetic compatibility, it shall accept a supplier's declaration of conformity[9] provided that such a declaration satisfies a Party's requirement regarding testing (for example, by an accredited laboratory), in support of a supplier's declaration of conformity, registration of the supplier's declaration of conformity, or the submission of evidence necessary to support the supplier's declaration of conformity.

Article 12.C.4: Regional Cooperation Activities on Telecommunications Equipment

1. This article applies to telecommunications equipment.

2. The Parties are encouraged to implement the APEC *Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment* of May 8, 1998 (MRA-TEL) and the APEC *Mutual Recognition Arrangement for Equivalence of Technical Requirements* of October 31, 2010 (MRA-ETR) with respect to each other, and to consider other arrangements to facilitate trade in telecommunications equipment.

3. In accordance with the Mutual Recognition Agreement between the Government of the United States and the Government of the United Mexican States for the Conformity Assessment of Telecommunications Equipment, the United States and Mexico shall accept test reports provided by a recognized testing laboratory designated by the other Party under terms and conditions no less favorable than those it accords to test reports produced by testing laboratories in its territory, and without regard to the nationality of the supplier or manufacturer of the equipment, or the country of origin of the equipment for which a test report has been produced.

4. In accordance with the Mutual Recognition Agreement between the Government of Canada and the Government of the United Mexican States for the Conformity Assessment of Telecommunications Equipment, Canada and Mexico shall accept test reports provided by a recognized testing laboratory designated by the other Party under terms and conditions no less favorable than those it accords to test reports produced by testing laboratories in its

[9] For greater certainty, this paragraph shall not apply to requirements a Party has adopted for certification by a conformity assessment body.

territory, and without regard to the nationality of the supplier or manufacturer of the equipment, or the country of origin of the equipment for which a test report has been produced.

5. If a Party requires equipment subject to electromagnetic compatibility and radio frequency requirements to include a label containing compliance information about the equipment, it shall allow such information to be provided through an electronic label. The Parties shall exchange information, as appropriate, about electronic labeling with a view to facilitate compatible approaches to electronic labeling.

Article 12.C.5: Terminal Equipment

1. This article applies to terminal equipment.

2. Each Party shall ensure that its technical regulations, standards, and conformity assessment procedures relating to the attachment of terminal equipment to the public telecommunications networks, including those measures relating to the use of testing and measuring equipment for conformity assessment procedures, are adopted or maintained only to the extent necessary to:

(a) prevent damage to public telecommunications networks;

(b) prevent degradation of public telecommunications services;

(c) prevent electromagnetic interference, and ensure compatibility, with other uses of the electromagnetic spectrum;

(d) prevent billing equipment malfunction; or

(e) ensure safety and access, including by the hearing impaired or other disabled persons, to public telecommunications networks or services.

3. Each Party shall ensure that the network termination points for its public telecommunications networks are defined on a reasonable and transparent basis.

4. Each Party shall permit any recognized[10] conformity assessment body to perform the testing required under the Party's conformity assessment procedures for terminal equipment to be attached to the public telecommunications network, subject to the Party's right to review the accuracy and completeness of the test results.

[10] Recognized means an act by a regulatory authority that a conformity assessment body is approved to perform conformity assessment.

ANNEX 12-D

ENERGY PERFORMANCE STANDARDS

Article 12.D.1: Definitions

For the purposes of this Annex:

energy performance standard or EPS means a specification, containing performance or energy use requirements for an energy-using device, that either specifies the performance (efficiency) or maximum amount of energy that may be consumed by a product when rated in accordance with the specified test procedure; and

test procedure means a uniform method established to measure any of the following with respect to a given product: energy use, energy efficiency, water use, and water efficiency.

Article 12.D.2: Scope

This Annex applies to the preparation, adoption and application of technical regulations by central government bodies that set out EPS and related test procedures.

Article 12.D.3: Competent Authorities

Upon entry into force of this Agreement, each Party shall make available online the following information with respect to each of its competent authorities at its central level of government that have responsibility for developing, implementing, revising and enforcing energy performance standards and related test procedures:

(a) a description of each authority, including the authority's specific responsibilities; and

(b) a point of contact within each authority.

Each Party shall promptly transmit to the other Parties any material changes to this information.

Article 12.D.4: Enhancing Regulatory Compatibility

1. The Parties shall cooperate on EPS and related test procedures in order to facilitate trade among the Parties and advance energy efficiency, including cooperation through the use of existing fora.

2. With respect to products where EPS or test procedures that are applied by each of the Parties, as of the date of entry into force of this Agreement, the Parties shall endeavor to harmonize[11]:

(a) test procedures for those products no later than eight years from the date of entry into force of this Agreement; and

(b) EPS for those products no later than nine years from the date of entry into force of this Agreement.

3. When developing or modifying EPS or test procedures for a given product, each Party shall give due consideration to adopting:

(a) EPS and test procedures already adopted by another Party; or

(b) industry standards that a Standards Development Organization accredited in the territory of another party has finalized and published for the product in question.

Further, each Party shall give due consideration to the operating conditions that are unique to each Party when developing or modifying test procedures for a given product.

Article 12.D.5: Voluntary Approaches to Promote Energy Efficiency

The Parties recognize that voluntary programs and other voluntary mechanisms can contribute to improving energy efficiency for a range of products. The Parties also recognize that such programs and mechanisms should be open, transparent, and designed in a manner that maximizes both benefits to consumers as well as environmental benefits, and avoids the creation of unnecessary barriers to trade. The Parties shall encourage the use of such voluntary programs and mechanisms and cooperate, as appropriate, to facilitate greater transparency and compatibility among such voluntary programs and mechanisms.

[11] The Parties recognize that successful efforts at harmonization should not diminish consumer welfare, consumer protection or energy efficiency objectives. To that end, the Parties shall take into account, as appropriate, various factors including those relating to climate, geography, household purchasing power, and electricity infrastructure.

ANNEX 12-E

MEDICAL DEVICES

Article 12.E.1: Definitions

For the purposes of this Annex:

marketing authorization means the process or processes by which a Party approves or registers a medical device in order to authorise its marketing, distribution, or sale in the Party's territory on the basis of the Party's safety, efficacy, and quality requirements; and

medical device means:

(a) for Canada: a product that constitutes a "device" as defined under Section 2 of the Food and Drugs Act, R.S.C., 1985, c. F-27, as amended, and that is regulated as a "medical device" under the Medical Devices Regulations, SOR/98-282, as amended;

(b) for Mexico: a product covered under article 262 of the General Health Law (Ley General de Salud) as amended; and

(c) for the United States: a product for human use covered as a "device" under 21 U.S.C. § 321(h), as amended.

Article 12.E.2: Scope

This Annex applies to the preparation, adoption, and application of technical regulations, standards, conformity assessment procedures, marketing authorization, and notification procedures by a Party's central level of government that may affect trade in medical devices between the Parties, other than sanitary or phytosanitary measures or technical specifications prepared by a government body for production or consumption requirements of that body.

Article 12.E.3: Competent Authorities

1. Upon entry into force of this Agreement, each Party shall make available online the following information with respect to each of its competent authorities at its central level of government that have responsibility for implementing and enforcing measures regulating medical devices:

(a) a description of each authority, including the authority's specific responsibilities; and

(b) a point of contact within each authority.

Each Party shall promptly transmit to the other Parties any material changes to this information.

2. Each Party shall avoid imposing or maintaining unnecessarily duplicative regulatory requirements with respect to medical devices, including by periodically examining whether its authorities are engaged in duplicative activities.

Article 12.E.4: Enhancing Regulatory Compatibility

1. Each Party should define "medical devices" under its laws and regulations in a manner that is consistent with the meaning assigned to the term "medical device" in the *Definition of the Terms 'Medical Device' and 'In Vitro Diagnostic (IVD) Medical Device'* endorsed by the Global Harmonization Task Force on May 16, 2012, as it may be amended.

2. The Parties shall seek to collaborate to improve the alignment of their respective regulations and regulatory activities for medical devices through work in relevant international initiatives, such as those aimed at harmonization, including the International Medical Device Regulator's Forum, as well as regional initiatives that support those international initiatives, as appropriate.

3. The Parties shall seek to improve their cooperation on inspections of medical device manufacturers' quality management systems. To this end, each Party shall recognize audits of device manufacturers' quality management system that are in accordance with the requirements established by the Medical Device Single Audit Program (MDSAP) and conducted by auditing organizations authorized by the regulatory authorities participating in MDSAP to audit under the MDSAP requirements.

4. When developing or implementing regulations for marketing authorization of medical devices, each Party shall consider relevant scientific or technical guidance documents developed through international collaborative efforts. Each Party is encouraged to consider regionally-developed scientific or technical guidance documents that are aligned with international efforts.

Article 12.E.5: Application of Regulatory Controls

1. Each Party shall ensure that any measure it applies to ensure the safety, effectiveness, or quality of medical devices, including marketing authorizations, notification procedures, and elements of either, accord products imported from the territory of another Party treatment no less favorable than that accorded to like products of national origin and to like products originating in any other country, in a comparable situation.

2. Each Party shall classify medical devices based on risk, taking into account relevant scientific factors. Each Party shall ensure that any regulatory requirements it imposes on medical devices for purposes of assuring the device's safety and effectiveness are based on an assessment of the medical device's risks.

3. When developing a regulatory requirement for a medical device, each Party shall consider its available resources and technical capacity in order to minimize the likelihood of implementing requirements that could:

(a) inhibit the efficacy of procedures for ensuring the safety, effectiveness, or quality of medical devices; or

(b) lead to substantial delays for medical devices becoming available in that Party's market.

Article 12.E.6: Marketing Authorizations

1. Each Party shall make a determination whether to grant marketing authorization for a specific medical device on the basis of information that is necessary to evaluate the safety, effectiveness, and quality of the medical device. Such information may include:

(a) clinical data and information, if appropriate, on safety and effectiveness[12];

(b) information on performance, design, and quality of the device; and

(c) labeling information related to safety, effectiveness, quality, and use of the device.

To this end, no Party shall require sales data, pricing data, or other financial data concerning the marketing of the medical device in making the determination.

2. Each Party shall administer its marketing authorizations:

(a) reasonably, including by:

(i) avoiding duplicative requests or requests for unnecessary information from the applicant;

(ii) promptly communicating any deficiencies, and the reasons for such deficiencies, to the applicant, if that deficiency would prevent or delay consideration of the application; and

[12] For the purposes of evaluating the safety of a medical device, a Party may require information concerning the volume of devices sold in another jurisdiction and any reported problems or recalls of the medical device.

(iii) providing an applicant that requests marketing authorization for a medical device with its determination within a reasonable period of time;[13]

(b) objectively, through application of published criteria;

(c) impartially, including through adopting or maintaining procedures to manage any conflicts of interest; and

(d) transparently, including by publishing a checklist or other guidance concerning the information that must be provided in any application.

3. Each Party shall ensure that it maintains measures that permit an applicant for a marketing authorization to seek review or reconsideration in the event the application is denied.[14]

4. If a Party requires periodic re-authorization for a medical device that has previously received marketing authorization from the Party, the Party shall allow the medical device to remain on its market under the conditions of the previous marketing authorization pending a decision on the periodic re-authorization, unless a Party identifies a significant safety, effectiveness, or quality concern.[15]

5. No Party shall require that a medical device receive a marketing authorization from a regulatory authority in the country of manufacture as a condition for the medical device to receive marketing authorization from that Party.

6. A Party may accept a prior marketing authorization that is issued by another regulatory authority as evidence that a medical device meets its requirements. Notwithstanding paragraph 5, if the Party faces regulatory resource limits that restrict its ability to provide marketing authorizations, a Party may require a marketing authorization from a reference country as a condition for the marketing authorization, provided that the Party has established and made public a list of those countries from which it will accept a marketing authorization as evidence that a medical device meets its requirements.

7. If a Party requires a manufacturer or supplier of a medical device to provide information through labeling, the Party shall permit the manufacturer or supplier to relabel

[13] The Parties recognize that the reasonable period of time required to make a marketing authorization determination may be affected by factors such as the novelty of a product or regulatory implications that may arise.

[14] This provision does not preclude a Party from imposing a deadline by which review must be sought.

[15] For greater certainty, the Parties recognize that an application for reauthorization that is not filed in a timely manner, that contains insufficient information, or that is otherwise inconsistent with a Party's requirements, is deficient for the purposes of the reauthorization decision.

the device or use supplementary labeling in accordance with the Party's requirements after the device's importation but prior to being offering for sale or supply in the Party's territory.

ANNEX 12-F

PHARMACEUTICALS

Article 12.F.1: Definitions

For the purposes of this Annex:

marketing authorization means the process or processes by which a Party approves or registers a pharmaceutical product in order to authorise its marketing, distribution, or sale in the Party's territory on the basis of the Party's safety, efficacy, and quality requirements; and

pharmaceutical product means:

(a) for Canada: a product destined for human use that constitutes a "drug" as defined under Section 2 of the Food and Drugs Act, R.S.C., 1985, c. F-27, as amended, and that is regulated as a "drug" under the Food and Drug Regulations C.R.C., c. 870, as amended;

(b) for Mexico: a product covered as human "drugs," "biologics," and "biotechnology" under articles 221, 222 bis, 224, and 224 bis of the General Heath Law (Ley General de Salud) as amended; and

(c) for the United States: a product for human use covered as a "drug" under 21 U.S.C. § 321(g)(1), as amended, or as a "biologic" under 42 U.S.C. § 262(i), as amended.

Article 12.F.2: Scope

This Annex applies to the preparation, adoption, and application of technical regulations, standards, conformity assessment procedures, marketing authorization, and notification procedures by a Party's central level of government that may affect trade in pharmaceutical products between the Parties, other than sanitary or phytosanitary measures or technical specifications prepared by a government body for production or consumption requirements of that body.

Article 12.F.3: Competent Authorities

1. Upon entry into force of this Agreement, each Party shall make available online the following information with respect to each of its competent authorities at its central level of government that have responsibility for implementing and enforcing measures regulating pharmaceutical products:

(a) a description of each authority, including the authority's specific responsibilities; and

(b) a point of contact within each authority.

Each Party shall promptly notify the other Parties of any material changes to this information.

2. Each Party shall avoid imposing or maintaining unnecessarily duplicative regulatory requirements with respect to pharmaceutical products, including by periodically examining whether its authorities are engaged in duplicative activities.

Article 12.F.4: Enhancing Regulatory Compatibility

The Parties shall seek to collaborate to improve the alignment of their respective regulations and regulatory activities for pharmaceutical products through work in relevant international initiatives, such as those aimed at harmonization, as well as regional initiatives that support those international initiatives, as appropriate.

Article 12.F.5: Application of Regulatory Controls

1. Each Party shall ensure that any measures it applies to ensure the safety, effectiveness, or quality of pharmaceutical products, including marketing authorizations, notification procedures, and elements of either, accord products imported from the territory of another Party treatment no less favorable than that accorded to like products of national origin and to like products originating in any other country, in a comparable situation.

2. When developing a regulatory requirement for a pharmaceutical product, each Party shall consider its available resources and technical capacity in order to minimize the likelihood of implementing requirements that could:

(a) inhibit the efficacy of procedures for ensuring the safety, effectiveness or quality of pharmaceutical products; or

(b) lead to substantial delays for pharmaceutical products becoming available in that Party's market.

3. The Parties shall seek to improve their collaboration on pharmaceutical inspections. Accordingly, each Party shall, with respect to the good manufacturing practice surveillance inspection of a manufacturing facility for pharmaceutical products within the territory of another Party:

(a) notify the other Party prior to conducting an inspection, unless there are reasonable grounds to believe that doing so could prejudice the effectiveness of the inspection;

(b) if practicable, permit representatives of the other Party's competent authority to observe that inspection; and

(c) notify the other Party of its findings as soon as possible following the inspection and, if the findings will be publicly released, no later than a reasonable time before release.

With respect to subparagraph (c), the inspecting Party is not required to notify the other Party of any findings that are subject to confidential treatment under the inspecting Party's laws or regulations.

4. Upon certification by the competent authority in the United States, the competent authorities of Canada and the United States shall establish mechanisms to permit the exchange of confidential information relevant to pharmaceutical inspections, including unredacted Good Manufacturing Practice inspection reports.

5. Upon certification by the competent authority in the United States, the competent authorities of Mexico and the United States shall establish mechanisms to permit the exchange of confidential information relevant to pharmaceutical inspections, including unredacted Good Manufacturing Practice inspection reports.

6. To facilitate the exchange of information pursuant to paragraphs 4 and 5, each Party shall maintain procedures to prevent the disclosure of confidential information that may be necessary to permit such an exchange.

7. Competent authorities in Mexico and Canada shall strengthen their cooperation in the exchange of information, including through existing multilateral fora. To that end, Mexico and Canada shall increase collaboration and confidence building exercises in the regulation of pharmaceutical products.

8. When developing or implementing regulations with respect to inspection of pharmaceutical products, each Party shall consider relevant scientific or technical guidance documents that are developed through international collaborative efforts.

Article 12.F.6: Marketing Authorizations

1. When developing or implementing a regulation for the marketing authorization of a pharmaceutical product, each Party shall consider relevant scientific or technical guidance documents developed through international collaborative efforts. Each Party is encouraged to consider regionally-developed scientific or technical guidance documents that are aligned with international collaborative efforts.

2. Each Party shall make a determination whether to grant marketing authorization for a specific pharmaceutical product on the basis of information that is necessary to evaluate the safety, effectiveness, and quality of the pharmaceutical product. Such information may include:

(a) clinical data and information on safety and effectiveness;

(b) information on the quality of the product, including manufacturing controls for the ingredients through final product; and

(c) labeling information related to the safety, effectiveness, quality, and use of the product.

To this end, no Party shall require sales data, or other financial data concerning the marketing of the product in making the determination. Further, each Party shall endeavour not to require pricing data in making the determination.

3. Each Party shall administer its marketing authorizations:

(a) reasonably, including by:

(i) avoiding duplicative requests or requests for unnecessary information from the applicant;

(ii) promptly communicating any deficiencies, and the reasons for such deficiencies, to the applicant, if that deficiency would prevent or delay consideration of the application; and

(iii) providing an applicant that requests marketing authorization for a pharmaceutical product with its determination within a reasonable period of time.[16]

(b) objectively, through application of published criteria;

(c) impartially, including through adopting or maintaining procedures to manage any conflicts of interest; and

(d) transparently, including by publishing a checklist or other guidance concerning the information that must be provided in any application.

4. Each Party shall ensure that it maintains measures that permit an applicant for a marketing authorization to seek review or reconsideration in the event the application is denied.[17]

5. If a Party requires periodic re-authorization for a pharmaceutical product that has previously received marketing authorization from the Party, the Party shall allow the pharmaceutical product to remain on its market under the conditions of the previous

[16] The Parties recognize that the reasonable period of time required to make a marketing authorization determination may be affected by factors such as the novelty of a product or regulatory implications that may arise.

[17] This provision does not preclude a Party from imposing a deadline by which review must be sought.

marketing authorization pending a decision on the periodic reauthorization, unless the Party identifies a significant safety, effectiveness, or quality concern.[18]

6. No Party shall require that a pharmaceutical product receive marketing authorization from a regulatory authority in the country of manufacture as a condition for the product to receive marketing authorization from that Party.

7. A Party may accept a prior marketing authorization that is issued by another regulatory authority as evidence that a pharmaceutical product meets its requirements. Notwithstanding paragraph 6, if the Party faces regulatory resource limits that restrict its ability to provide marketing authorizations, a Party may require a marketing authorization from a reference country as a condition for the marketing authorization, provided that the Party has established and made public a list of those countries from which it will accept a marketing authorization as evidence that a pharmaceutical product meets its requirements.

8. Each Party shall review the safety, effectiveness, and quality information submitted by the applicant requesting marketing authorization in a format that is consistent with the specifications set forth in the *International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use Common Technical Document* (CTD), as it may be amended.[19]

[18] For greater certainty, the Parties recognize that an application for reauthorization that is not filed in a timely manner, that contains insufficient information, or that is otherwise inconsistent with a Party's requirements, is deficient for the purposes of the reauthorization decision.

[19] The Parties recognize that the CTD may not address all aspects relevant to a Party's determination to approve marketing authorization for a particular product.

CHAPTER 13

GOVERNMENT PROCUREMENT

Article 13.1: Definitions

For the purposes of this Chapter:

build-operate-transfer contract and public works concession contract means a contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plants, buildings, facilities or other government-owned works and under which, as consideration for a supplier's execution of a contractual arrangement, a procuring entity grants to the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for the use of those works for the duration of the contract;

commercial goods or services means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

construction service means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC);

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;

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 intended 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 requires the use of domestic content, a domestic supplier, the licensing of technology, technology transfer, investment, counter-trade or similar action to encourage local development or to improve a Party's balance of payments accounts;

open tendering means a procurement method whereby all interested suppliers may submit a tender;

procuring entity means an entity listed in Annex 13-A;

publish means to disseminate information through paper or electronic means that is distributed widely and is readily accessible to the general public;

qualified supplier means a supplier that a procuring entity recognizes as having satisfied the conditions for participation;

selective tendering means a procurement method whereby the procuring entity invites only qualified suppliers to submit a tender;

services includes construction services, unless otherwise specified;

supplier means a person or group of persons that provides or could provide a good or service to a procuring entity; and

technical specification means a tendering requirement that:

(a) sets out the characteristics of:

(i) goods to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production; or

(ii) services to be procured, or the processes or methods for their provision, including any applicable administrative provisions; or

(b) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service.

Article 13.2: 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 13-A;

(b) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;

(c) by any contractual means, including: purchase; rental or lease, with or without an option to buy; build-operate-transfer contracts and public works concessions contracts;

(d) for which the value, as estimated in accordance with paragraphs 8 and 9, equals or exceeds the relevant threshold specified in a Party's Schedule to Annex 13-A, at the time of publication of a notice of intended procurement;

(e) by a procuring entity; and

(f) that is not otherwise excluded from coverage under this Agreement.

2bis. This Chapter applies only as between Mexico and the United Sates. Accordingly, for the purposes of this Chapter, "Party" or "Parties" means Mexico or the United States, singly or collectively.

Activities Not Covered

3. Unless otherwise provided in a Party's Schedule to Annex 13-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, including its procuring entities, provides, including cooperative agreements, grants, loans, equity infusions, guarantees, subsidies, fiscal incentives and sponsorship arrangements;

(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;

(e) public employment contracts; and

(f) 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 organization, 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 13-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, other than construction services, covered by this Chapter;

(e) in Section E, the construction services covered by this Chapter;

(f) in Section F, any General Notes;

(g) in Section G, the applicable Threshold Adjustment Formula; and

(h) in Section H, the publication information required under Article 13.5.2 (Publication of Procurement Information)

Compliance

5. Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements.

6. No procuring entity shall prepare or design 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 contractual means, provided that they are not inconsistent with this Chapter.

Valuation

8. In estimating the value of a procurement for the purposes of ascertaining whether it is a covered procurement, a procuring entity shall include the estimated maximum total value of the procurement over its entire duration, taking into account:

(a) all forms of remuneration, including any premium, fee, commission, interest or other revenue stream that may be provided for under the contract;

(b) the value of any option clause; and

(c) any contract awarded at the same time or over a given period to one or more suppliers under the same procurement.

9. If the total estimated maximum value of a procurement over its entire duration is not

known, the procurement shall be deemed a covered procurement, unless otherwise excluded under this Agreement.

Article 13.3: Exceptions

1. Subject to the requirement that the measure is not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail, or a disguised restriction on international trade between the Parties, 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, 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 labor.

2. The Parties understand that subparagraph 1(b) includes environmental measures necessary to protect human, animal or plant life or health.

Article 13.4: General Principles

National Treatment and Non-Discrimination

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 any other Party and to the suppliers of any other Party, treatment no less favorable than the treatment that the Party, including its procuring entities, accords to:

(a) domestic goods, services and suppliers; and

(b) goods, services and suppliers of any other Party.

For greater certainty, this obligation refers only to the treatment accorded by a Party to any good, service or supplier of any other Party under this Agreement.

2. With respect to any measure regarding covered procurement, no Party, including its procuring entities, shall:

(a) treat a locally established supplier less favorably than another locally established supplier on the basis of degree of foreign affiliation or ownership; 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 any other Party.

3. All orders under contracts awarded for covered procurement shall be subject to paragraphs 1 and 2 of this Article.

Procurement Methods

3. A procuring entity shall use an open tendering procedure for covered procurement unless Article 13.8 (Qualification of Suppliers) or Article 13.9 (Limited Tendering) applies.

Rules of Origin

4. For purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from another 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.

Offsets

5. With regard to covered procurement, no Party, including its procuring entities, shall seek, take account of, impose or enforce any offset, at any stage of a procurement.

Measures Not Specific to Procurement

6. 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.

Use of Electronic Means

7. The Parties shall seek to provide opportunities 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 tenders.

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 information technology systems and software; and

(b) establish and maintain mechanisms that ensure the integrity of information provided by suppliers, including requests for participation and tenders.

Article 13.5: **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 I of its Schedule to Annex 13-A the paper or electronic means through which the Party publishes the information described in paragraph 1 and the notices required by Article 13.6 (Notices of Intended Procurement), Article 13.8.3 (Qualification of Suppliers) and Article 13.15.3 (Post-Award Information).

3. Each Party shall, on request, provide an explanation in response to an inquiry relating to the information referred to in paragraph 1.

Article 13.6: Notices of Intended Procurement

1. For each covered procurement, except in the circumstances described in Article 13.9 (Limited Tendering), a procuring entity shall publish a notice of intended procurement through the appropriate paper or electronic means listed in Annex 13-A. The notices 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 tender.

2. The notices shall, if accessible by electronic means, be provided free of charge**:**

(a) for central government entities that are covered under Annex 13-A, through a single point of access; and

(b) for other entities covered under Annex 13-A, through links in a single electronic portal.

3. Unless otherwise provided in this Chapter, each notice of intended 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 intended 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, if appropriate, the nature and quantity of the goods or services to be procured and a description of any options, or the estimated quantity if the quantity is not known;

(c) if applicable, the time-frame for delivery of goods or services or the duration of the contract;

(d) if applicable, the address and any final date for the submission of requests for participation in the procurement;

(e) the address and the final date for the submission of tenders;

(f) the language or languages in which tenders or requests for participation may be submitted, if other than an official language of the Party of the procuring entity;

(g) 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;

(h) if, pursuant to Article 13.8 (Qualification of Suppliers), a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, if applicable, any limitation on the number of suppliers that will be permitted to tender; and

(i) an indication that the procurement is covered by this Chapter**.**

4. For greater certainty, paragraph 3 does not preclude a Party from charging a fee for tender documentation if the notice of intended procurement includes all of the information set out in paragraph 3.

Notice of Planned Procurement

5. Procuring entities are encouraged to publish as early as possible in each fiscal year a notice regarding their future procurement plans (notice of planned procurement) which should include the subject matter of the procurement and the planned date of publication of the notice of intended procurement.

Article 13.7: Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a covered procurement to those conditions that 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 and the commercial and technical abilities 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; and

(b) base its evaluation solely on the conditions that the procuring entity has specified in advance in notices or tender documentation.

4. If there is supporting material, 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 or actions or omissions that adversely reflect on the commercial integrity of the supplier; or

(f) failure to pay taxes.

5. For greater certainty, this Article is not intended to preclude a procuring entity from promoting compliance with laws in the territory in which the good is produced or the service is performed relating to labor rights as recognized by the Parties and set forth in Article 23.3 (Labor Rights), provided that such measures are applied in a manner consistent with Chapter 29 (Publication and Administration), and are not applied in a manner that constitutes a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade between the Parties.[1]

Article 13.8: 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.

2. No Party, including its procuring entities, shall:

[1] The adoption and maintenance of these measures by a Party should not be construed as evidence that another Party has breached the obligations under Chapter 23 (Labor) with respect to labor.

(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 another Party in its procurement; or

(b) use such registration system or qualification procedure to prevent or delay the inclusion of suppliers of other Parties on a list of suppliers or prevent those suppliers from being considered for a particular procurement.

Selective Tendering

3. If a procuring entity intends to use selective tendering, the procuring entity shall:

(a) publish a notice of intended procurement that invites suppliers to submit a request for participation in a covered procurement; and

(b) include in the notice of intended procurement the information specified in Article 13.6.3(a), (b), (d), (g), (h) and (i) (Notices of Intended Procurement).

4. The procuring entity shall:

(a) publish the notice sufficiently in advance of the procurement to allow interested suppliers to request participation in the procurement;

(b) provide, by the commencement of the time period for tendering, at least the information in Article 13.6.3 (c), (e) and (f) (Notices of Intended Procurement) to the qualified suppliers that it notifies as specified in Article 13.13.3(b) (Time Periods); and

(c) allow all qualified suppliers to submit a tender, unless the procuring entity stated in the notice of intended procurement a limitation on the number of suppliers that will be permitted to tender and the criteria or justification for selecting the limited number of suppliers.

5. If the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 3, the procuring entity shall ensure that the tender documentation is made available at the same time to all the qualified suppliers selected in accordance with paragraph 4(c).

Multi-Use Lists

6. A Party, including its procuring entities, may establish or maintain a multi-use list provided that it publishes annually, or otherwise makes continuously available by electronic means, a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

(a) a description of the goods and 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 or other government agency will use to verify a supplier's satisfaction of those conditions;

(c) the name and address of the procuring entity or other government agency and other information necessary to contact the procuring entity and to obtain all relevant documents relating to the list;

(d) the period of validity of the list and the means for its renewal or termination or, if 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;

(e) the deadline for submission of applications for inclusion on the list, if applicable; and

(f) an indication that the list may be used for procurement covered by this Chapter, unless that indication is publicly available through information published pursuant to Article 13.5.2 (Publication of Procurement Information).

7. A Party, including its procuring entities, that establishes or maintains a multi-use list, shall include on the list, within a reasonable period of time, all suppliers that satisfy the conditions for participation set out in the notice referred to in paragraph 6.

8. If a supplier that is not included on a multi-use list submits a request for participation in a procurement based on the multi-use list and submits all required documents, within the time period provided for in Article 13.13.2 (Time Periods), a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement unless the procuring 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

9. A procuring entity or other entity of a Party 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 decision with respect to the request or application.

10. If a procuring entity or other entity of a Party rejects a supplier's request for participation or application for inclusion on a multi-use list, ceases to recognize a supplier as qualified, or removes a supplier from a multi-use list, the 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 13.9: Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition

between suppliers, to protect domestic suppliers or in a manner that discriminates against suppliers of any other Party, a procuring entity may use limited tendering.

2. If a procuring entity uses limited tendering, it may choose, according to the nature of the procurement, not to apply Article 13.6 (Notices of Intended Procurement), Article 13.7 (Conditions for Participation), Article 13.8 (Qualification of Suppliers), Article 13.10 (Negotiations), Article 13.11 (Technical Specifications), Article 13.12 (Tender Documentation), Article 13.13 (Time Periods) or Article 13.14 (Treatment of Tenders and Awarding of Contracts). A procuring entity may use limited tendering only under the following circumstances:

(a) if, in response to a prior notice, invitation to participate or invitation to tender:

(i) no tenders were submitted or no suppliers requested participation;

(ii) no tenders were submitted that conform to the essential requirements in the tender documentation;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted were collusive,

provided that the procuring entity does not substantially modify the essential requirements set out in the notices or tender documentation;

(b) if the good or service can be supplied only by a particular supplier and no reasonable alternative or substitute good or service exists 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 or its authorized agents, of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:

(i) cannot be made for technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement, or due to conditions under original supplier warranties; and

(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

(d) for a good purchased on a commodity market or exchange;

(e) if a procuring entity procures a prototype or a first good or service that is intended for limited trial or 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 prototype or 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 prototype or the first 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;

(f) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, liquidation, bankruptcy or receivership, but not for routine purchases from regular suppliers;

(g) if a contract is awarded to the winner of a design contest, provided that:

(i) the contest has been organized in a manner that is consistent with this Chapter; and

(ii) the contest is judged by an independent jury with a view to award a design contract to the winner; or

(h) in so far as is strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the good or service could not be obtained in time by means of open or selective tendering.

3. For each contract awarded in accordance with paragraph 2, a procuring entity shall prepare a report in writing, or maintain a record, that includes the name of the procuring entity, the value and kind of good or service procured, and a statement that indicates the circumstances and conditions described in paragraph 2 that justified the use of limited tendering.

Article 13.10: 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 intended procurement required under Article 13.6 (Notices of Intended Procurement); or

(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 intended procurement or tender documentation.

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 intended 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 13.11: 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, if appropriate:

(a) set out the technical specifications in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specifications on international standards, if these exist; otherwise, on national technical regulations, recognized national standards or building codes.

3. 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 these cases, the procuring entity includes words such as "or equivalent" in the tender documentation.

4. 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.

5. For greater certainty, a procuring entity may conduct market research in developing specifications for a particular procurement.

6. 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.

7. 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 13.12: Tender Documentation

1. A procuring entity shall promptly make available or provide on request to any interested supplier tender documentation that includes all information necessary to permit the supplier to prepare and submit a responsive tender. Unless already provided in the notice of intended procurement, that tender documentation shall include a complete description of:

(a) the procurement, including the nature, scope and, if known, the quantity of the good or service to be procured or, if the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity certification, plans, drawings or instructional materials;

(b) any conditions for participation, including any financial guarantees, information and documents that suppliers are required to submit;

(c) all criteria to be considered in the awarding of the contract and the relative importance of those criteria;

(d) if there will be a public opening of tenders, the date, time and place for the opening;

(e) any other terms or conditions relevant to the evaluation of tenders; and

(f) any date for delivery of a good or supply of a service.

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, the extent of subcontracting anticipated and the realistic time required for production, de-stocking and transport of goods from the point of supply or for supply of services.

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. If, prior to the award of a contract, a procuring entity modifies the evaluation criteria or requirements set out in a notice of intended procurement or tender documentation provided to a participating supplier, or amends or re-issues a notice or tender documentation, it shall publish or provide those modifications, or the amended or re-issued notice or tender documentation:

(a) to all suppliers that are participating in the procurement at the time of the modification, amendment or re-issuance, if those suppliers are known to the procuring entity, and in all other cases, in the same manner as the original information was made available; and

(b) in adequate time to allow those suppliers to modify and re-submit their initial tender, if appropriate.

Article 13.13: Time Periods

General

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:

(a) the nature and complexity of the procurement; and

(b) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points if electronic means are not used.

Deadlines

2. A procuring entity that uses selective tendering shall establish that the final date for the submission of a request for participation shall not, in principle, be less than 25 days from the date of publication of the notice of intended procurement. If a state of urgency duly substantiated by the procuring entity renders this time period impracticable, the time period may be reduced to no less than 10 days.

3. Except as provided in paragraphs 4 and 5, a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:

(a) in the case of open tendering, the notice of intended procurement is published; or

(b) in the case of selective tendering, the procuring entity notifies the suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

4. A procuring entity may reduce the time period for tendering set out in paragraph 3 by five days for each one of the following circumstances:

(a) the notice of intended procurement is published by electronic means;

(b) the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and

(c) the procuring entity accepts tenders by electronic means.

5. A procuring entity may reduce the time period for tendering set out in paragraph 3 to no less than 10 days if:

(a) the procuring entity has published a notice of planned procurement under Article 13.6 (Notices of Intended Procurement) at least 40 days and no more than 12 months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:

(i) a description of the procurement;

(ii) the approximate final dates for the submission of tenders or requests for participation;

(iii) the address from which documents relating to the procurement may be obtained; and

(iv) as much of the information that is required for the notice of intended procurement as is available;

(b) a state of urgency duly substantiated by the procuring entity renders impracticable the time period for tendering set out in paragraph 3; or

(c) the procuring entity procures commercial goods or services.

6. The use of paragraph 4, in conjunction with paragraph 5, shall in no case result in the reduction of the time periods for tendering set out in paragraph 3 to less than 10 days.

7. A procuring entity shall require all interested or participating suppliers to submit requests for participation or tenders in accordance with a common deadline. These time periods, and any extension of these time periods, shall be the same for all interested or participating suppliers.

Article 13.14: 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. If the tender of a supplier is received after the time specified for receiving tenders, the procuring entity shall not penalize that supplier if the delay is due solely to the mishandling on the part of the procuring entity.

3. If 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

4. To be considered for an award, a tender 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.

5. 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, submits:

(a) the most advantageous tender; or

(b) if price is the sole criterion, the lowest price.

6. If a procuring entity received 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.

7. A procuring entity shall not use options, cancel a covered procurement, or modify or terminate awarded contracts in order to avoid the obligations of this Chapter.

Article 13.15: 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 the prompt publication of the notice in paragraph 3, provided that the notice includes the date of award. If a supplier has requested the information in writing, the procuring entity shall provide it in writing.

2. Subject to Article 13.16 (Disclosure of Information), 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 or an explanation of the relative advantages of the successful supplier's tender.

Publication of Award Information

3. A procuring entity shall, promptly after the award of a contract for a covered procurement, publish in an officially designated publication a notice containing at least the following information:

(a) a description of the good or service procured;

(b) the name and address of the procuring entity;

(c) the name and address of the successful supplier;

(d) the value of the contract award;

(e) the date of award or, if the procuring entity has already informed suppliers of the date of the award under paragraph 1, the contract date; and

(f) the procurement method used and, if a procedure was used pursuant to Article 13.9 (Limited Tendering), a brief description of the circumstances justifying the use of that procedure.

Maintenance of Records

4. A procuring entity shall maintain the documentation, records and reports relating to tendering procedures and contract awards for covered procurement, including the records and reports provided for in Article 13.9.3 (Limited Tendering), for at least three years after the award of a contract.

Collection and Reporting of Statistics

5. Each Party shall prepare a statistical report on its covered procurement, and make such report publicly available on an official website. Each report shall cover one year and be available within two years of the end of the reporting period, and shall contain:

(a) for Section A procuring entities:

(i) the number and total value, for all such entities, of all contracts covered by this Chapter;

(ii) the number and total value of all contracts covered by this Chapter awarded by each such entity, broken down by categories of goods and services according to an internationally recognized uniform classification system; and

(iii) the number and total value of all contracts covered by this Chapter awarded by each such entity under limited tendering;

(b) for Section B procuring entities, the number and total value of contracts covered by this Chapter awarded by all such entities, and

(c) estimates for the data required under subparagraphs (a) and (b), with an explanation of the methodology used to develop the estimates, if it is not feasible to provide the data.

Article 13.16: Disclosure of Information

Provision of Information to Parties

1. On request of any other Party, a Party shall provide promptly 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 authorization 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 13.17: Ensuring Integrity in Procurement Practices

1. Each Party shall ensure that criminal, civil, or administrative measures exist that can address corruption, fraud, and other wrongful acts in its government procurement.

2. These measures may include procedures to debar, suspend, or declare ineligible from participation in the Party's procurements, for a stated period of time, a supplier that the Party has determined to have engaged in corruption, fraud, or other wrongful acts relevant to a supplier's eligibility to participate in a Party's government procurement. Each Party:

(a) may consider the seriousness of the supplier's acts or omissions and any remedial measures or mitigating factors in making any decisions on debarment or suspension, including in making a decision on whether to reduce the period or extent of debarment or suspension at the supplier's request pursuant to paragraph 2(b)(ii).

(b) shall provide a supplier of the other Party directly implicated by a proceeding applying procedures adopted or maintained under paragraph 2:

i. reasonable notice that the proceeding was initiated, including a description of the nature of the proceeding, a statement of the authority under which the proceeding was initiated, and the reasons for the proceeding; and

ii. reasonable opportunity to present facts and arguments in support of its position.

(c) shall publish and update a list of enterprises and, subject to its law, natural persons it has debarred, suspended, or declared ineligible.

3. Each Party shall ensure that it has in place policies or procedures to address potential conflicts of interest on the part of those engaged in or having influence over a procurement.

4. Each Party may also put in place policies or procedures, including provisions in tender documentation, that require successful suppliers to maintain and enforce effective internal controls, business ethics, and compliance programs, taking into account the size of the supplier, particularly SMEs, and other relevant factors, for preventing and detecting corruption, fraud, and other wrongful acts.

Article 13.18: Domestic Review

1. Each Party shall maintain, establish or designate at least one impartial administrative or judicial authority (review authority) that is independent of its procuring entities to review, in a non-discriminatory, timely, transparent and effective manner, a challenge or complaint (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,

arising in the context of a covered procurement, in which the supplier has, or had, an interest. The procedural rules for all complaints shall be in writing and made generally available.

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 a 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 to 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. If a body other than the review authority initially reviews a complaint, the Party shall ensure that the supplier may appeal the initial decision to the review authority that is independent

of the procuring entity that is the subject of the complaint.

4. If the review authority has determined that there has been a breach or a failure as referred to in paragraph 1, a Party may limit compensation for the loss or damages suffered to either the costs reasonably incurred in the preparation of the tender or in bringing the complaint, or both.

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, which in no case shall be less than 10 days 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 the review authority takes a decision on the complaint; and

(d) the review authority shall provide its decision on a supplier's complaint in a timely fashion, in writing, with an explanation of the basis for the decision.

6. Each Party shall adopt or maintain procedures that provide for:

(a) 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; and

(b) corrective action that may include compensation under paragraph 4.

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 13.19: Modifications and Rectifications of Annex

1. A Party shall notify any proposed modification or rectification (modification) to its Schedule to Annex 13-A by circulating a notice in writing to the other Parties through the overall contact points designated under Article 30.5 (Agreement Coordinator and Contact Points). 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 Parties 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 13-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 no Party objects under paragraph 3 on the basis that the proposed modification does not concern subparagraph (a) or (b).

3. Any Party whose rights under this Chapter may be affected by a proposed modification that is notified under paragraph 1 shall notify the other Parties 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 any objecting Party shall make every attempt to resolve the objection through consultations.

5. If the modifying Party and any objecting Party resolve the objection through consultations, the modifying Party shall notify the other Parties of the resolution.

6. The Commission shall modify Annex 13-A to reflect any agreed modification.

Article 13.20: 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) endeavor to 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.

Article 13.21: Committee on Government Procurement

1. The Parties hereby establish a Committee on Government Procurement (Committee), composed of government representatives of each Party. On request of a Party, the Committee shall meet to address matters related to the implementation and operation of this Chapter, such as:

(a) facilitation of participation by SMEs in covered procurement, as provided for in Article 13.20 (Facilitation of Participation by SMEs);

(b) experiences and best practices in the use and adoption of information technology in conducting covered procurement. This could include topics like the use of digital modeling in construction services; and

(c) experiences and best practices in the use and adoption of measures to promote opportunities for socially or economically disadvantaged people when conducting covered procurement.

ANNEX 13-A

SCHEDULE OF MEXICO

SECTION A: Central Government Entities

Thresholds:

Unless otherwise specified, Chapter 13 (Government Procurement) shall cover procurement by entities listed in this Section, in accordance with the following thresholds:

US$80,317	Goods and Services
US$10,441,216	Construction Services

The thresholds set out in this paragraph shall be adjusted in accordance with Section G of this Schedule.

List of Entities:

1. *Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación* (Ministry of Agriculture, Livestock, Rural Development, Fisheries and Feeding), includes:

(a) *Agencia de Servicios a la Comercialización y Desarrollo de Mercados Agropecuarios* (Support Services for Agricultural Marketing)

(b) *Comisión Nacional de Acuacultura y Pesca* (National Commission of Aquaculture and Fisheries)

(c) *Instituto Nacional de Investigaciones Forestales, Agrícolas y Pecuarias* (National Forestry, Agriculture and Cattle Research Institute) (d) *Instituto Nacional de Pesca* (National Institute of Fisheries)

(d) *Servicio de Información Agroalimentaria y Pesquera* (Information Service and Agro-alimentary and Fisheries Statistics)

(e) *Servicio Nacional de Inspección y Certificación de Semillas* (National Service of Inspection and Certification of Seeds)

(f) *Servicio Nacional de Sanidad, Inocuidad y Calidad Agroalimentaria* (National Service of Health, Innocuous and Agro-alimentary Quality)

2. *Secretaría de Comunicaciones y Transportes* (Ministry of Communication and Transportation), includes:

(a) *Instituto Mexicano del Transporte* (Mexican Institute of Transportation)

3. *Secretaría de la Defensa Nacional* (Ministry of National Defense)

4. *Secretaría de Desarrollo Agrario, Territorial y Urbano* (Ministry of Agrarian Territorial and Urban Development), includes:

   (a) *Comisión Nacional de Vivienda* (National Housing Commission)

   (b) *Procuraduría Agraria* (Agrarian Office of the Attorney)

   (c) *Registro Agrario Nacional* (National Agrarian Registry)

5. *Secretaría de Desarrollo Social* (Ministry of Social Development), includes:

   (a) *Coordinación Nacional de PROSPERA* (National Coordination PROSPERA)

6. *Secretaría de Economía* (Ministry of Economy), includes:

   (a) *Comisión Federal de Mejora Regulatoria* (Federal Commission of Regulatory Improvement)

   (b) *Instituto Nacional del Emprendedor* (National Entreprenuer Institute)

7. *Secretaría de Educación Pública* (Ministry of Public Education), includes:

   (a) *Comisión Nacional de Cultura Física y Deporte* (National Physical Culture and Sports Commission)

   (b) *Consejo Nacional para la Cultura y las Artes* (National Council for Culture and Arts)

   (c) *Instituto Nacional de Antropología e Historia* (National Institute of Anthropology and History)

   (d) *Instituto Nacional de Bellas Artes y Literatura* (National Institute of Fine Arts and Literature)

   (e) *Instituto Nacional del Derecho de Autor* (National Institute for Copyrights)

   (f) *Instituto Nacional de Estudios Históricos de las Revoluciones de México* (National Institute of Historical Studies of Mexican Revolutions)

   (g) *Radio Educación* (Radio Education)

8. *Secretaría de Energía* (Ministry of Energy), includes:

   (a) *Comisión Nacional de Seguridad Nuclear y Salvaguardias* (National Commission on Nuclear Safety and Safeguards)

   (b) *Comisión Nacional para el Uso Eficiente de la Energía* (National Commission for Energy Conservation)

   (c) *Comisión Reguladora de Energía* (Regulatory Commission of Energy)

9. *Secretaría de la Función Pública* (Ministry of Public Administration)

10. *Secretaría de Gobernación* (Ministry of Government), includes:

(a) *Archivo General de la Nación* (General Archives of the Nation)

(b) *Centro Nacional de Prevención de Desastres* (National Disaster Prevention Center)

(c) *Centro de Producción de Programas Informativos y Especiales* (Production Center for Informative Programs and Specials)

(d) *Coordinación General de la Comisión Mexicana de Ayuda a Refugiados* (General Coordination of the Mexican Commission on Refugee Assistance)

(e) *Instituto Nacional de Migración* (National Institute of Migration)

(f) *Instituto Nacional para el Federalismo y el Desarrollo Municipal* (National Institute for Federalism and Municipal Development)

(g) *Policía Federal* (Federal Police)

(h) *Prevención y Readaptación Social* (Prevention and Social Readaptation)

(i) *Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública* (Executive Secretariat of the Public Security National System)

(j) *Secretaría General del Consejo Nacional de Población* (General Secretary of the National Population Council)

(k) *Secretaría Técnica de la Comisión Calificadora de Publicaciones y Revistas Ilustradas* (Technical Secretary of Illustrated Periodicals and Publications Examining Commission)

11. *Secretaría de Hacienda y Crédito Público* (Ministry of Finance and Public Credit), includes:

(a) *Comisión Nacional Bancaria y de Valores* (National Banking and Securities Commission)

(b) *Comisión Nacional de Seguros y Fianzas* (National Commission of Insurance and Guarantees)

(c) *Comisión Nacional del Sistema de Ahorro para el Retiro* (National Commission of the Saving System for Retirement)

(d) *Servicio de Administración y Enajenación Bienes* (Assets Management and Disposition Agency)

(e) *Servicio de Administración Tributaria* (Tax Administration Service)

12. *Secretaría de Marina* (Ministry of Navy)

13. *Secretaría de Medio Ambiente y Recursos Naturales* (Ministry of Environment and Natural Resources), includes:

(a) *Instituto Mexicano de Tecnología del Agua* (Mexican Water Technology Institute)

(b) *Instituto Nacional de Ecología y Cambio Climático* (National Institute of Ecology and Climate Change)

14. *Secretaría de Relaciones Exteriores* (Ministry of Foreign Relations)

15. *Secretaría de Salud* (Ministry of Health), includes:

(a) *Administración del Patrimonio de la Beneficencia Pública* (Public Charity Fund Administration)

(b) *Centro Nacional de Equidad de Género y Salud Reproductiva* (National Centre of Reproductive HEalth and Gender Equity)

(c) *Centro Nacional de Trasplantes* (National Transplants Center)

(d) *Centro Nacional de la Transfusión Sanguínea* (National Blood Transfusion Center)

(e) *Centro Nacional para la Prevención y Control del VIH/SIDA* (National Center for the Prevention and Control of HIV/AIDS)

(f) *Centro Nacional para la Salud de la Infancia y la Adolescencia* (National Center for Health of Childhood and Adolescence)

(g) *Comisión Federal para la Protección contra Riesgos Sanitarios* (Federal Commission for Protection against Health Risks)

(h) *Comisión Nacional de Arbitraje Médico* (National Commission of Medical Arbitration)

(i) *Instituto Nacional de Rehabilitación* (National Rehabilitation Institute)

(j) *Laboratorios de Biológicos y Reactivos de México, S.A. de C.V.* (Laboratories of Biologicals and Reagents of Mexico)

(k) *Servicios de Atención Psiquiátrica* (Psychiatric Attention Services)

16. *Secretaría del Trabajo y Previsión Social* (Ministry of Labor and Social Welfare), includes:

(a) *Procuraduría Federal de la Defensa del Trabajo* (Office of the Federal Attorney for Labor Defense)

17. *Secretaría de Turismo* (Ministry of Tourism)

(a) *Instituto de Competitividad Turística* (Institute for Tourist Competitiveness)

18. *Procuraduría General de la República* (Office of the Attorney General of the

Republic)

19. *Centro de Ingeniería y Desarrollo Industrial* (Engineering and Industrial Development Center)

20. *Comisión Nacional de Libros de Texto Gratuitos* (National Commission of Free Textbooks)

21. *Comisión Nacional de las Zonas Áridas* (National Commission on Arid Zones)

22. *Consejo Nacional de Fomento Educativo* (National Educational Development Council)

23. *Instituto Federal de Telecomunicaciones* (Federal Telecomunications Institute)

Note to Section A

English translation of entities listed in this Section is only provided for the purposes of reference; it is not an official translation.

SECTION B: Other Entities

Thresholds:

Unless otherwise specified, Chapter 13 (Government Procurement) shall cover procurement by the entities listed in this Section, in accordance with the following thresholds:

US$401,584	Goods and Services
US$12,851,327	Construction Services

The thresholds set out in this paragraph shall be adjusted in accordance with Section G of this Schedule.

List of Other Entities:

1. *Aeropuerto Internacional de la Ciudad de México, S.A. de C.V.* (International Airport of México City)
2. *Aeropuertos y Servicios Auxiliares* (ASA) (Airports and Auxiliary Services)
3. *Caminos y Puentes Federales de Ingresos y Servicios Conexos* (CAPUFE) (Federal Toll Roads and Bridges and Related Services)
4. *Centro de Integración Juvenil, A.C* (Youth Integration Centers)
5. *Comisión Federal de Electricidad* (CFE) (Federal Electricity Commision)
6. *Comisión Nacional del Agua* (National Water Commision)
7. *Comisión Nacional Forestal* (National Forestry Commision)
8. *Comisión Nacional para el Desarrollo de los Pueblos Indígenas* (National Commision for the Development of Indigenous People)
9. *Consejo Nacional de Ciencia y Tecnología (CONACYT)* (National Science and Technology Council)
10. *Consejo de Promoción Turística de México, S.A. de C.V.* (México Tourism Board)
11. *Distribuidora Impulsora Comercial de Conasupo S.A. de C.V.* (Diconsa) (Commercial Distributor and Trade Promotion)
12. *Ferrocarril del Istmo de Tehuantepec, S.A. de C.V.* (Railroad of the Itsmo de Tehuatepec)
13. *Grupo Aeroportuario de la Ciudad de México S.A. de C.V.* (Airport Group of México City)
14. *Instituto Mexicano de Cinematografía* (Mexican Institute of Cinematography)
15. *Instituto Mexicano de la Juventud* (Mexican Youth Institute)
16. *Instituto Mexicano del Seguro Social* (IMSS) (Mexican Social Security Institute)
17. *Instituto Nacional de la Infraestructura Física Educativa* (National Institute of Physical Educational Infrastructure)
18. *Instituto Nacional de las Mujeres* (Women National Institute)
19. *Instituto Nacional de las Personas Adultas Mayores* (Natiotal Institute for the Elderly)
20. *Instituto Nacional del Suelo Sustentable* (National Institute of Sustainable Land)

21. *Instituto Mexicano de la Propiedad Industrial* (Mexican Institute of Industrial Property.
22. *Instituto de Seguridad Social para las Fuerzas Armadas Mexicanas* (Social Security for the Mexican Armed Forces Institute)
23. *Instituto Nacional para la Educación de los Adultos* (National Institute for Adult Education)
24. *Leche Industrializada Conasupo S.A. de C.V.* (Liconsa) (*No incluye la compra de bienes agrícolas adquiridos para programas de apoyo a la agricultura o bienes para la alimentación humana*) (Conasupo Industrialized Milk) (Not including procurements of agricultural goods made in furtherance of agricultural support programs or human feeding programs)
25. *Lotería Nacional para la Asistencia Pública* (National Lottery for Public Assistance)
26. *NOTIMEX S.A. de C.V.*
27. *Petróleos Mexicanos* (PEMEX) (Mexican Petroleum) (*No incluye las compras de combustibles y gas*) (Not including procurement of fuel and gas)

(a) *PEMEX Corporativo* (PEMEX Corporate)
(b) *PEMEX Exploración y Producción* (PEMEX Exploration and Production)
(c) *PEMEX Perforación y Servicios* (PEMEX Drilling and Services)
(d) *PEMEX Transformación Industrial* (PEMEX Industrial Transformation)
(e) *PEMEX Logística* (PEMEX Logistics)

28. *Procuraduría Federal del Consumidor* (Federal Office of The Attorney for Consumers)
29. *Pronósticos para la Asistencia Pública* (Forecasting for Public Assistance)
30. *Servicio Aeroportuario de la Ciudad de México, S.A. de C.V.* (Airport Services of México City)
31. *Servicio Geológico Mexicano* (Mexican Geological Service)
32. *Servicio Postal Mexicano* (Mexican Postal Services)
33. *Sistema Nacional para el Desarrollo Integral de la Familia* (DIF) (*No incluye las compras de bienes agrícolas adquiridos para programas de apoyo a la agricultura o bienes para la alimentación humana*) (National System for Integral Family Development) (Not including procurements of agricultural goods made in furtherance of agricultural support programs or human feeding programs).
35. *Talleres Gráficos de México* (National Printers of Mexico)
36. *Telecomunicaciones de México* (TELECOM) (Telecommunications of México)

Notes to Section B

1. English translation of entities listed in this Section is only provided for the purposes of reference; it is not an official translation.

2. Chapter 13 (Government Procurement) shall not apply to procurements by PEMEX and CFE of the following goods: (i) Hosiery and clothing accessories for men; (ii) Hosiery and clothing accessories for women; (iii) Special use clothes; (iv) Clothing for indoor use and night

use for men; (v) Clothing for indoor use and night use for women; (vi) Footwear for men; and (vii) Workshop machines, workshop tools and work equipment.

SECTION C: Goods

Unless otherwise specified, Chapter 13 (Government Procurement) shall cover all goods that are procured by the entities listed in Sections A and B. However, for procurement by the *Secretaría de la Defensa Nacional* (Ministry of National Defense) and the *Secretaría de Marina* (Ministry of Navy) only the following goods are included in the coverage of this Chapter:

(Note: numbers refer to the Federal Supply Classification (FSC) code)

FSC *Description*

22 Railway equipment
23 Ground effect vehicles, motor vehicles, trailers and cycles (except buses in 2310; and military trucks and trailers in 2320 and 2330 and tracked combat, assault and tactical vehicles in 2350)
24 Tractors
25 Vehicular equipment components
26 Tires and tubes
29 Engine accessories
30 Mechanical power transmission equipment
32 Woodworking machinery and equipment
34 Metal-working machinery
35 Service and trade equipment
36 Special industry machinery
37 Agricultural machinery and equipment
38 Construction, mining, excavating, and highway maintenance equipment
39 Materials handling equipment
40 Rope, cable, chain, and fittings
41 Refrigeration, air conditioning, and air circulating equipment
42 Firefighting, rescue, and safety equipment; and environmental protection equipment and materials
43 Pumps and compressors
44 Furnace, steam plant, and drying equipment; and nuclear reactors
45 Plumbing, heating, and waste disposal equipment
46 Water purification and sewage treatment equipment
47 Pipe, tubing, hose, and fittings
48 Valves
49 Maintenance and repair shop equipment
52 Measuring tools
53 Hardware and abrasives
54 Prefabricated structures and scaffolding
55 Lumber, millwork, plywood, and veneer

56 Construction and building materials
61 Electric wire, and power and distribution equipment
62 Lighting fixtures and lamps
63 Alarm, signal and security detection systems
65 Medical, dental, and veterinary equipment and supplies
66 Instruments and laboratory equipment
67 Photographic equipment
68 Chemicals and chemical products
69 Training aids and devices
70 Automatic data processing equipment (including firmware), software, supplies and support equipment
71 Furniture
72 Household and commercial furnishings and appliances
73 Food preparation and serving equipment
74 Office machines, text processing systems and visible record equipment
75 Office supplies and devices
76 Books, maps, and other publications (except 7650: drawings and specifications)
77 Musical instruments, phonographs, and home-type radios
78 Recreational and athletic equipment
79 Cleaning equipment and supplies
80 Brushes, paints, sealers, and adhesives
81 Containers, packaging, and packing supplies
85 Toiletries
87 Agricultural supplies
88 Live animals
91 Fuels, lubricants, oils, and waxes
93 Nonmetallic fabricated materials
94 Nonmetallic crude materials
96 Ores, minerals, and their primary products (except 9620: minerals, natural and synthetic)
99 Miscellaneous

SECTION D: Services

Chapter 13 (Government Procurement) shall not cover the procurement of the following services identified in accordance with the *North American Free trade Agreement* (NAFTA) Common Classification System, Appendix 1001.1b-2-B of NAFTA that are procured by entities listed in Sections A and B:

A		Research and Development All classes
C		Architecture and Engineering Services
	C130	Restoration (only for preservation of historic sites and buildings)
D		Information Processing and Related Telecommunications Services
	D304	ADP Telecommunications and Transmissions Services except for those services that are classified as enhanced or value added, defined as telecommunications services using computerized processing systems, which: (a) act on the format, content, code, protocol or similar aspects of the information transmitted by the user, (b) provide the customer with additional, different or restructured information, or (c) involve user interaction with stored information. For purposes of this provision, the acquisition of ADP Telecommunications and Transmission Services do not include the ownership or furnishing of facilities for voice or data transmission services.
	D305	ADP Services for Teleprocessing and Timeshare.
	D309	Information and Data Broadcasting Services or Data Distribution Services.
	D316	Telecommunications Network Management Services.
	D317	Automated News Services, Data Services, or Other Information Services Buying Data (the electronic equivalent of books, periodicals, newspapers, etc.)
	D399	Other ADP Telecommunications Services (includes data storage on tape, CDs, etc.)
F		Natural Resources Services.
	F011	Pesticides/Insecticides Support Services
G		Health and Social Services. All classes
J		Maintenance, Repair, Modification, Rebuilding and Installation of Goods / Equipment
	J010	Armament
	J011	War Nuclear Material
	J012	Fire Equipment and Control
	J013	Ammunition and Explosives
	J014	Guided Missiles
	J015	Aircrafts and Aircraft Structures Components
	J016	Aircrafts Components and Accessories
	J017	Takeoff, Landing, and Ground Handling Aircraft Equipment

	J018	Space Vehicles
	J019	Shipments, Small Structures, Barges and Floating Docks
	J020	Boats and Marine Equipment
	J022	Rail Equipment
	J023	Land Vehicles, Motored Vehicles, Trailers and Motorcycles
	J024	Tractors
	J025	Motor Vehicles Parts
	J998	Non-nuclear Ships Repair
K		Custodial Operations and Related Services (professional services only for protection, personal security installations carried out by armed guards)
	K103	Fueling and Other Petroleum Services –Excluding Storage-
	K105	Guard services (professional services only for protection, personal security and surveillance installations carried out by armed guards)
	K109	Surveillance services (professional services only for protection, personal security and surveillance installations carried out by armed guards)
	K110	Solid Fuel Handling Services
L		Financial and Related Services All classes
R		Professional, Administrative and Management Support Services
	R003	Legal Services
	R004	Certifications and Accreditations for products and institutions other than Educational Institutions
	R012	Patent and Trade Mark Services
	R016	Personal Services Contracts
	R101	Expert Witness (Only for legal services)
	R103	Courier and Messenger Services
	R105	Mail and Distribution Services (Post Office Services excluded)
	R106	Post Office Services
	R116	Court Reporting Services
	R200	Military Recruitment
S		Utilities All classes
T		Communications, Photographic, Mapping, Printing and Publication Services
	T000	Communications Studies
	T001	Market Research and Public Opinion Services (Formerly Telephone and Field Interviews services, including Focus testing, Syndicated and attitude surveys) Except for CPC 86503 Management Consulting Marketing Services.
	T002	Communication Services (including Exhibit Services)
	T003	Advertising Services
	T004	Public Relations Services (Including Writing Services, Even Planning and Management, Media Relations, Radio and TV Analysis, Press Services)
	T005	Arts / Graphics Services
	T008	Film Processing Services
	T009	Film / Video Production Services
	T010	Microfiche Services
	T013	General Photography Services - Still

	T014	Print / Binding Services
	T015	Reproduction Services
	T017	General Photography Services – Motion
	T018	Audio / Visual Services
	T099	Other Communication, Photography, Mapping, Printing and Publication Services
U		Educational and Training Services
	U003	Reserves Training (Military)
	U010	Certifications and Accreditations for Educational Institutions
V		Transportation, Travel and Relocation Services All classes (except V503 Travel Agent Services)
W		Lease and Rental of equipment which require patent protection, copyright or other proprietary rights.
	W058	Communication, Detection and Coherent Radiation Equipment

Notes to Section D

1. The provisions of Chapter 13 (Government Procurement) shall not apply to the operation of government facilities under concessions.

2. All services related to goods acquired by the *Secretaría de la Defensa Nacional* (Ministry of National Defense) and the *Secretaría de Marina* (Ministry of Navy) that are not covered by this Chapter, shall be excluded.

3. All services that are not excluded from the coverage of Chapter 13 (Government Procurement) shall be subject to Chapter 15 (Cross-Border Trade in Services) and Annex I and Annex II of this Agreement.

4. The management and operating services contracts awarded to research and development centers operating with federal funds, or related to the implementation of research programs sponsored by the government shall be excluded from the disciplines of Chapter 13 (Government Procurement).

SECTION E: Construction Services

Chapter 13 (Government Procurement) shall apply to all construction services procured by the entities listed in Sections A and B, identified in Division 51 of the United Nations Provisional Central Product Classification (CPC Prov) which can be found at: https://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=51, unless otherwise specified in Chapter 13 (Government Procurement) including this Schedule.

SECTION F: General Notes

The following General Notes shall apply to Chapter 13 (Government Procurement), including Sections A through E:

1. Chapter 13 (Government Procurement) shall not apply to procurements made:

   (a) with a view to commercial resale by government owned retail stores;

   (b) pursuant to loans from regional or multilateral financial institutions to the extent that different procedures are imposed by such institutions (except for national content requirements); or

   (c) by one entity from another entity of Mexico.

2. Chapter 13 (Government Procurement) shall not apply to the procurement of transportation services that are part of, or are incidental to a purchase contract.

3. Chapter 13 (Government Procurement) shall not apply to build-operate-transfer contracts and public works concessions contracts.

4. Notwithstanding any provision in Chapter 13 (Government Procurement), Mexico may set aside procurement contracts from the obligations of Chapter 13 (Government Procurement), subject to the following:

   (a) the total value of the contracts set aside may not exceed the Mexican peso equivalent of US$2,328,000,000 in each calendar year of the date of entry into force of this Agreement for Mexico, which may be allocated by all entities, including PEMEX and CFE;

   (b) the total value of contracts under any single FSC class (or other classification system agreed by the Parties) that may be set aside under this paragraph in any year shall not exceed 10 per cent of the total value of contracts that may be set aside under this paragraph for that year;

   (c) no entity subject to subparagraph (a) may set aside contracts in any calendar year of a value of more than 20 per cent of the total value of contracts that may be set aside for that year; and

   (d) the total value of the contracts set aside by PEMEX and CFE may not exceed the Mexican peso equivalent of US$466,000,000 in each calendar year.

5. (a) Beginning in January of the next calendar year after the date of entry into force of this Agreement for Mexico, the dollar values referred to in paragraph 4 shall be adjusted annually for cumulative inflation from January 2017, based on the implicit price deflator for the United States Gross Domestic Product (USGDP) or any successor index published by the Council

of Economic Advisors in "Economic Indicators".

(b) The dollar values adjusted for cumulative inflation up to January of each calendar year following 2016 shall be equal to the original dollar values multiplied by the ratio of:

(i) the implicit USGDP price deflator or any successor index published by the Council of Economic Advisors in "Economic Indicators", current as of January of that year, to

(ii) the implicit USGDP price deflator or any successor index published by the Council of Economic Advisors in "Economic Indicators", current as of the date of entry into force of this Agreement for Mexico,

provided that the price deflators under subparagraphs (i) and (ii) have the same base year.

(c) The resulting adjusted dollar values shall be rounded to the nearest million dollars.

6. The national security exception provided for in Article 32.2 (Security Exceptions) shall cover procurements made in support of safeguarding nuclear materials or technology.

7. (a) Notwithstanding any provision of Chapter 13 (Government Procurement), an entity may impose a local content requirement of no more than:

(i) 40 per cent, for labor-intensive turnkey or major integrated projects; or

(ii) 25 per cent, for capital-intensive turnkey or major integrated projects.

(b) For the purposes of this paragraph, "turnkey or major integrated project" means, in general, a construction, supply or installation project undertaken by a person pursuant to a right granted by an entity with respect to which:

(i) the prime contractor is vested with the authority to select the general contractors or subcontractors;

(ii) neither the Government of Mexico nor its entities fund the project;

(iii) the person bears the risks associated with non-performance; and

(iv) the facility will be operated by an entity or through a procurement contract of that entity.

8. In the event that Mexico exceeds in any given year the total value of contracts it may set aside for that year in accordance with paragraph 4 of this Section, Mexico shall consult with the other Parties with a view to agreement on compensation in the form of additional procurement opportunities during the following year. The consultations shall be without prejudice to the rights of any Party under Chapter 31 (Dispute Settlement).

SECTION G: Thresholds Adjustment Formula

1. The thresholds in Sections A and B shall be calculated in accordance with the following:

   (a) the U.S. inflation rate shall be measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics;

   (b) adjustments shall be calculated using two-year periods, each period beginning November 1, and shall take effect on January 1 of the year immediately following the end of the two-year period;

   (c) the United States shall notify the other Parties of the adjusted threshold values no later than November 16 of the year before the adjustment takes effect; and

   (d) the inflationary adjustment shall be estimated according to the following formula

$$T_0 \text{ x } (1 + \pi_i) = T_1$$

T_0 = threshold value at base period
π_i= accumulated U.S. inflation rate for the ith two year-period
T_1= new threshold value.

2. Mexico shall calculate and convert the value of the thresholds into Mexican pesos using the conversion rate of the Banco de México (Bank of Mexico). The conversion rate shall be the existing value of the Mexican peso in terms of the U.S. dollar as of December 1 and June 1 of each year, or the first working day thereafter. The conversion rate as of December 1 shall apply from January 1 to June 30 of the following year, and the conversion rate as of June 1 shall apply from July 1 to December 31 of that year.

3. Information related with thresholds shall be published in www.compranet.gob.mx

SECTION H: Procurement Information

Information on government procurement shall be published in the following websites:

www.dof.gob.mx

www.compranet.gob.mx

www.pemex.com

www.cfe.mx

SCHEDULE OF THE UNITED STATES

SECTION A: Central Government Entities

Thresholds:

1. Chapter 13 (Government Procurement) shall apply to the entities of the central level of government listed in this Section where the value of the procurement is estimated, in accordance with Article 13.2.8 and Article 13.2.9, to equal or exceed:

(a) for procurement of goods and services: US$80,317; and

(b) for procurement of construction services: US$10,441,216

The thresholds set out in this paragraph shall be adjusted in accordance with Section G of this Schedule.

2. Unless otherwise specified herein, Chapter 13 (Government Procurement) shall apply to all agencies subordinate to the entities listed in this Section.

List of Entities:

1. American Battle Monuments Commission
2. Broadcasting Board of Governors
3. Commission on Civil Rights
4. Commodity Futures Trading Commission
5. Consumer Product Safety Commission
6. Corporation for National and Community Service
7. Department of Agriculture (Note 1)
8. Department of Commerce
9. Department of Defense (Note 2)
10. Department of Education
11. Department of Energy (Note 3)
12. Department of Health and Human Services
13. Department of Homeland Security (Note 4)
14. Department of Housing and Urban Development
15. Department of the Interior, including the Bureau of Reclamation
16. Department of Justice
17. Department of Labor
18. Department of State
19. Department of Transportation
20. Department of the Treasury
21. Department of Veterans Affairs
22. Environmental Protection Agency
23. Equal Employment Opportunity Commission
24. Executive Office of the President
25. Export-Import Bank of the United States

26. Farm Credit Administration
27. Federal Communications Commission
28. Federal Deposit Insurance Corporation
29. Federal Housing Finance Agency
30. Federal Maritime Commission
31. Federal Mediation and Conciliation Service
32. Federal Trade Commission
33. General Services Administration (Note 5)
34. Merit Systems Protection Board
35. National Aeronautics and Space Administration
36. National Archives and Records Administration
37. National Credit Union Administration
38. National Labor Relations Board
39. National Mediation Board
40. National Science Foundation
41. National Transportation Safety Board
42. Nuclear Regulatory Commission
43. Office of Personnel Management
44. Overseas Private Investment Corporation
45. Peace Corps
46. Railroad Retirement Board
47. Rural Utilities Services (Note 6)
48. Securities and Exchange Commission
49. Selective Service System
50. Smithsonian Institution
51. United States Agency for International Development
52. United States International Trade Commission

Notes to Section A

1. Department of Agriculture: Chapter 13 (Government Procurement) shall not cover procurement of any agricultural good made in furtherance of an agricultural support program or a human feeding program.

2. Department of Defense:

(a) Chapter 13 (Government Procurement) shall not cover procurement of any good described in any Federal Supply Code classification (for complete listing of U.S. Federal Supply Classification, see any of the following Federal Supply Code (FSC), which can be found in the Product Code Section of the Federal Procurement Data System Product and Service Code Manual at https://www.acquisition.gov/Acquisition_Systems) listed below:

FSC	*Description*
FSC 11	Nuclear Ordnance
FSC 1555	Space Vehicles
FSC 1675	Space Vehicle Component
FSC 1677	Space Vehicle Remote Control System

FSC 1725	Space Vehicle Launchers
FSC 1735	Space Vehicle Handling and Servicing Equipment
FSC 19	Ships, Small Craft, Pontoons, and Floating Docks (the part of this classification defined as naval vessels or major components of the hull or superstructure thereof)
FSC 20	Ship and Marine Equipment (the part of this classification defined as naval vessels or major components of the hull or superstructure thereof)
FSC 2310	Passenger Motor Vehicles (only buses)
FSC 2350	Combat, Assault & Tactical Vehicles, Tracked
FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 60	Fiber Optics Materials, Components, Assemblies, and Accessories
FSC 8140	Ammunition & Nuclear Ordnance Boxes, Packages & Special Containers
FSC 83	Textiles, Leather, Furs, Apparel, Shoe Findings, Tents, and Flags (all elements other than pins, needles, sewing kits, flagstaffs, flagpoles, and flagstaff trucks)
FSC 84	Clothing, Individual Equipment, and Insignia and Jewelry (all elements other than sub-class 8457 – jewelry and 8460 – luggage)
FSC 89	Subsistence (all elements other than sub-class 8975- tobacco products)

(b) Chapter 13 (Government Procurement) shall not cover procurement of any specialty metal or any good containing one or more specialty metals. **Specialty metal** means:

(i) steel for which the maximum alloy content exceeds one or more of the following levels: manganese, 1.65 per cent; silicon, 0.60 per cent; or copper, 0.60 per cent;

(ii) steel that contains more than 0.25 per cent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten or vanadium;

(iii) a metal alloy consisting of a nickel, iron-nickel or cobalt base alloy that contains a total of other alloying metals (except iron) in excess of 10 per cent;

(iv) titanium or a titanium alloy; or

(v) zirconium or a zirconium base alloy.

(c) Chapter 13 (Government Procurement) generally shall not cover procurement of any good described in any of the following FSC classifications, due to the application of Article X.X (Security Exceptions):

FSC	*Description*

FSC 10	Weapons
FSC 12	Fire Control Equipment
FSC 13	Ammunitions and Explosives
FSC 14	Guided Missiles
FSC 15	Aerospace Craft and Structural Components
FSC 16	Aerospace Craft Components and Accessories
FSC 17	Aerospace Craft Launching, Landing and Ground Handling and Servicing Equipment
FSC 19	Ships, Small Craft, Pontoons and Floating Docks
FSC 20	Ship and Marine Equipment
FSC 28	Engines, Turbines and Components
FSC 31	Bearings
FSC 58	Communications, Detection, and Coherent Radiation Equipment
FSC 59	Electrical and Electronic Equipment Components
FSC 95	Metal Bars, Sheets, and Shapes

3. Department of Energy: Due to the application of Article 32.2 (Essential Security), Chapter 13 (Government Procurement) shall not cover procurement of:

(a) any good or service that supports the safeguarding of nuclear materials or technology, where the Department of Energy conducts the procurement under the authority of the *Atomic Energy Act*; or

(b) any oil purchase related to the Strategic Petroleum Reserve.

4. Department of Homeland Security:

a) Chapter 13 (Government Procurement) shall not cover procurement by the Transportation Security Administration of FSC 83 (Textiles, Leather, Furs, Apparel, Shoe Findings, Tents and Flags) and FSC 84 (Clothing, Individual Equipment, and Insignia and Jewelry).

b) The national security considerations applicable to the Department of Defense shall apply equally to the U.S. Coast Guard.

5. General Services Administration: Chapter 13 (Government Procurement) shall not cover procurement of any good in any of the following FSC classifications:

FSC	*Description*
FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 7340	Cutlery and Flatware

6. Rural Utilities Service: Federal buy national requirements imposed as conditions of funding by the Rural Utilities Service will not apply to goods of Mexico, suppliers of such goods, and service suppliers of Mexico.

SECTION B: Other Entities

Thresholds:

1. Chapter 13 (Government Procurement) shall apply to the other covered entities listed in this Section where the value of the procurement is estimated, in accordance with Article 13.2.8 (Scope) and Article 13.2.9, to equal or exceed:

(a) for procurement of goods and services: US$401,584; and

(b) for procurement of construction services: US$12,851,327

The monetary threshold set out in subparagraph (b) shall be adjusted in accordance with Section G of this Schedule.

2. Unless otherwise specified herein, Chapter 13 (Government Procurement) shall apply only to the entities listed in this Section.

List of Entities:

1. Tennessee Valley Authority
2. Bonneville Power Administration
3. Western Area Power Administration
4. Southeastern Power Administration
5. Southwestern Power Administration
6. St. Lawrence Seaway Development Corporation

SECTION C: Goods

Chapter 13 (Government Procurement) shall cover all goods procured by the entities listed in Sections A and B, subject to the Notes to the respective Sections and the General Notes.

SECTION D: Services

Chapter 13 (Government Procurement) shall cover all services procured by the entities listed in Sections A and B, subject to the Notes to the respective Sections, the General Notes and the Notes to this Section.

Notes to Section D

1. This Chapter does not cover the procurement of the following services, as elaborated in the Common Classification System (For complete listing of Common Classification System, see http://www.sice.oas.org/trade/nafta/chap-105.asp.):

A. Research and Development:
All classes

D. Information Processing and Related Telecommunications Services:
D304 ADP Telecommunications and Transmission Services, except for those services classified as "enhanced or value-added services." For the purposes of this provision, the procurement of "ADP Telecommunications and Transmission Services" does not include the ownership or furnishing of facilities for the transmission of voice or data services.
D305 ADP Teleprocessing and Timesharing Services
D316 Telecommunications Network Management Services
D317 Automated News Services, Data Services or Other Information Services
D399 Other ADP and Telecommunications Services

J. Maintenance, Repair, Modification, Rebuilding and Installation of Goods/Equipment:
J019 Maintenance, Repair, Modification, Rebuilding and Installation of Equipment Related to Ships
J998 Non-nuclear Ship Repair

M. Operation of Government-Owned Facilities:
All facilities operated by the Department of Defense, Department of Energy, and the National Aeronautics and Space Administration; and for all entities:
M180 Research and Development facilities

S. Utilities:
All Classes

V. Transportation, Travel and Relocation Services:
All Classes except V503 Travel Agent Services

2. Chapter 13 (Government Procurement) shall not cover procurement of any service in support of military forces located overseas.

SECTION E: Construction Services

Chapter 13 (Government Procurement) shall cover all construction services procured by the entities listed in Sections A and C, listed in Division 51 of the Provisional Central Product Classification (CPC), which is found at: https://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=51, subject to the Notes to the respective Sections, the General Notes and the Notes to this Section, except for the construction services excluded in the Schedule of a Party.

Note to Section E

Chapter 13 (Government Procurement) shall not cover procurement of dredging services.

SECTION F: General Notes

Unless otherwise specified herein, the following General Notes shall apply without exception to Chapter 13 (Government Procurement), including to all sections of this Schedule.

1. Chapter 13 (Government Procurement) shall not apply to any set-aside on behalf of a small- or minority-owned business. A set-aside may include any form of preference, such as the exclusive right to provide a good or service, or any price preference.

2. Chapter 13 (Government Procurement) shall not cover procurement of transportation services that form a part of, or are incidental to, a procurement contract.

3. For goods and services (including construction services) of Mexico and suppliers of such goods and services, this Chapter does not apply to procurement done by the contractual means of build-operate-transfer contract or public works concessions contract. The United States is prepared to amend this note at such time as coverage with respect to build-operate-transfer contracts and public works concessions contracts can be resolved with Mexico.

SECTION G: Threshold Adjustment Formula

1. Any threshold denominated in U.S. Dollars shall be made in accordance with the following:

(a) the U.S. inflation rate shall be measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics;

(b) the first adjustment for inflation, to take effect on January 1, 2020, shall be calculated using the period from November 1, 2017 through October 31, 2019;

(c) all subsequent adjustments shall be calculated using two-year periods, each period beginning November 1, and shall take effect on January 1 of the year immediately following the end of the two-year period;

(d) the United States shall notify the other Parties of the adjusted threshold values no later than December 16 of the year before the adjustment takes effect; and

(e) the inflationary adjustment shall be estimated according to the following formula

T 0 x (1+ pi i) = T 1

T 0 = threshold value at base period
pi i = accumulated U.S. inflation rate for the ith two year-period
T 1 = new threshold value.

SECTION H: Procurement Information

Publications utilized by the United States for the publication of notices of intended procurement and of post-award notices and the publication annually of information on permanent lists of qualified suppliers in the case of selective tendering procedures:

Federal Business Opportunities (http://www.fedbizopps.gov)

Laws, regulations, judicial decisions, administrative rulings and procedures regarding government procurement for entities listed in Section A are published on the following websites:

US Federal Laws (primarily US Code Titles 10 and 41):
http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE

Federal Acquisition Regulation (FAR): http://www.acquisition.gov/far/index.html

Agency Supplemental Regulations:
https://www.acquisition.gov/Supplemental_Regulations

Federal Register: https://www.federalregister.gov/

Federal Government Procurement Policies:
http://www.whitehouse.gov/omb/procurement/

Bid Protest Decisions of Government Accountability Office:
http://www.gao.gov/legal/bidprotest.html

US Civilian Board of Contract Appeals Decisions: http://www.cbca.gsa.gov/

Judicial Decisions:

US Court of Federal Claims (jurisdiction includes claims related to government contracts, including bid protests): http://www.uscfc.uscourts.gov/

US Court of Appeals for the Federal Circuit (jurisdiction includes appeals from the US Civilian Boards of Contract Appeals): http://www.cafc.uscourts.gov/

Laws, judicial decisions, administrative rulings and procedures regarding government procurement for entities listed in Section B are available directly from the listed entities.

CHAPTER 14

INVESTMENT

Article 14.1: Definitions

For the purposes of this Chapter:

covered investment means, with respect to a Party, an investment in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

enterprise means an enterprise as defined in Article 1.3 (General Definitions), and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organized under the law of a Party, or a branch located in the territory of a Party and carrying out business activities there;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under its *Articles of Agreement*;

investment means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. An investment may include:

(a) an enterprise;

(b) shares, stock and other forms of equity participation in an enterprise;

(c) bonds, debentures, other debt instruments, and loans;[1]

(d) futures, options, and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;

[1] Some forms of debt, such as bonds, debentures, and long-term notes or loans, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due, are less likely to have such characteristics.

(f) intellectual property rights;

(g) licenses, authorizations, permits, and similar rights conferred pursuant to the Party's law;[2] and

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

but investment does not mean:

(i) an order or judgment entered in a judicial or administrative action;

(j) claims to money that arise solely from:

(i) commercial contracts for the sale of goods or services by a natural person or enterprise in the territory of a Party to an enterprise in the territory of another Party; or

(ii) the extension of credit in connection with a commercial contract referred to in subparagraph (j)(i);

investor of a non-Party means, with respect to a Party, an investor that attempts to make,[3] is making, or has made an investment in the territory of that Party, that is not an investor of a Party;

investor of a Party means a Party, or a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of another Party, provided however that:

(a) a natural person who is a dual citizen is deemed to be exclusively a national of the State of his or her dominant and effective citizenship; and

(b) a natural person who is a citizen of a Party and a permanent resident of another Party is deemed to be exclusively a national of the Party of which that natural person is a citizen.

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[2] Whether a particular type of license, authorization, permit, or similar instrument (including a concession to the extent that it has the nature of such an instrument) has the characteristics of an investment depends on such factors as the nature and extent of the rights that the holder has under the Party's law. For greater certainty, among such instruments that do not have the characteristics of an investment are those that do not create any rights protected under the Party's law. For greater certainty, the foregoing is without prejudice to whether any asset associated with such instruments has the characteristics of an investment.

[3] For greater certainty, the Parties understand that, for the purposes of the definitions of "investor of a non-Party" and "investor of a Party," an investor "attempts to make" an investment when that investor has taken concrete action or actions to make an investment, such as channelling resources or capital in order to set up a business, or applying for a permit or license.

Article 14.2: Scope

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

   (a) investors of another Party;

   (b) covered investments; and

   (c) with respect to Article 14.10 and Article 14.16, all investments in the territory of that Party.

2. A Party's obligations under this Chapter shall apply to measures adopted or maintained by:

   (a) the central, regional, or local governments or authorities of that Party;[4] and

   (b) any person, including a state enterprise or any other body, when it exercises any governmental authority delegated to it by central, regional, or local governments or authorities of that Party[5].

3. For greater certainty, this Chapter shall not bind a Party in relation to an act or fact that took place or a situation that ceased to exist before the date of entry into force of this Agreement.

4. For greater certainty, an investor may only submit a claim to arbitration under this Chapter as provided under Annex 14-C (Legacy Investment Claims and Pending Claims), Annex 14-D (Mexico-United States Investment Disputes), or Annex 14-E (Mexico-United States Investment Disputes Related to Covered Government Contracts).

Article 14.3: Relation to Other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

2. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 17 (Financial Services).

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[4] For greater certainty, the term "governments or authorities" means the organs of a Party, consistent with the principles of attribution under customary international law.

[5] For greater certainty, governmental authority is delegated to any person under the Party's law, including through a legislative grant or a government order, directive, or other act transferring or authorizing the exercise of governmental authority.

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

4. For greater certainty, consistent with Article 15.2.2(a) CCross Border Trade in Services – Scope), Article 15.5 (Cross Border Trade in Services – Market Access) and Article 15.8 (Cross Border Trade in Services - Development and Administration of Measures) apply to measures adopted or maintained by a Party relating to the supply of a service in its territory by a covered investment.

Article 14.4: National Treatment

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

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

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that government to investors, and to investments of investors, of the Party of which it forms a part.

4. For greater certainty, whether treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

Article 14.5: Most-Favored-Nation Treatment

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

2. Each Party shall accord to covered investments treatment no less favorable than that it accords, in like circumstances, to investments in its territory of investors of any other Party or of

any non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a government other than at the central level, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that government to investors in its territory, and to investments of such investors, of any other Party or of any non-Party.

4. For greater certainty, whether treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

Article 14.6: Minimum Standard of Treatment[6]

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

2. For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the standard of treatment to be afforded to covered investments. The concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required by that standard, and do not create additional substantive rights. The obligations in paragraph 1 to provide:

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

(b) "full protection and security" requires each Party to provide the level of police protection required under customary international law.

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

4. For greater certainty, the mere fact that a Party takes or fails to take an action that may be inconsistent with an investor's expectations does not constitute a breach of this Article, even if there is loss or damage to the covered investment as a result.

Article 14.7: Treatment in Case of Armed Conflict or Civil Strife

1. Notwithstanding Article 14.12.5(b), each Party shall accord to investors of another Party and to covered investments non-discriminatory treatment with respect to measures it adopts or

[6] Article 14.6 shall be interpreted in accordance with Annex 14-A.

maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife**.**

2. Notwithstanding paragraph 1, if an investor of a Party, in a situation referred to in paragraph 1, suffers a loss in the territory of another Party resulting from:

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

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

the latter Party shall provide the investor restitution, compensation or both, as appropriate, for that loss.

3. Paragraph 1 shall not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 14.4 but for Article 14.12.5(b).

Article 14.8: Expropriation and Compensation[7]

1. No Party shall expropriate or nationalize a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization (expropriation), except:

(a) for a public purpose;

(b) in a non-discriminatory manner;

(c) on payment of prompt, adequate, and effective compensation in accordance with paragraphs 2, 3, and 4; and

(d) in accordance with due process of law.

2. Compensation shall:

(a) be paid without delay;

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

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

[7] Article 14.8 shall be interpreted in accordance with Annex 14-B.

(d) be fully realizable and freely transferable.

3. If the fair market value is denominated in a freely usable currency, the compensation paid shall be no less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

4. If the fair market value is denominated in a currency that is not freely usable, the compensation paid – converted into the currency of payment at the market rate of exchange prevailing on the date of payment[8] – shall be no less than:

(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date; plus

(b) interest, at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until the date of payment.

5. For greater certainty, whether an action or series of actions by a Party constitutes an expropriation shall be determined in accordance with paragraph 1 of this Article and Annex 14-B.

6. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation or creation of intellectual property rights, to the extent that the issuance, revocation, limitation or creation is consistent with Chapter 20 (Intellectual Property) and the TRIPS Agreement.[9]

Article 14.9: Transfers

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

(a) contributions to capital;[10]

[8] For greater certainty, for the purposes of this paragraph, the currency of payment may be the same as the currency in which the fair market value is denominated.

[9] For greater certainty, the Parties recognize that, for the purposes of this Article, the term "revocation" of intellectual property rights includes the cancellation or nullification of those rights, and the term "limitation" of intellectual property rights includes exceptions to those rights.

[10] For greater certainty, contributions to capital include the initial contribution.

(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees;

(c) proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;

(d) payments made under a contract entered into by the investor, or the covered investment, including payments made pursuant to a loan agreement or employment contract; and

(e) payments made pursuant to Article 14.7 and Article 14.8.

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

3. A Party shall not require its investors to transfer, or penalize its investors that fail to transfer, the income, earnings, profits or other amounts derived from, or attributable to, investments in the territory of another Party.

4. Each Party shall permit returns in kind relating to a covered investment to be made as authorized or specified in a written agreement between the Party and a covered investment or an investor of another Party.

5. Notwithstanding paragraphs 1, 2, and 3, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws[11] relating to:

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

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

(c) criminal or penal offenses;

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

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

6. Notwithstanding paragraph 4, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under this Agreement, including as set out in paragraph 5.

[11] For greater certainty, this Article does not preclude the equitable, non-discriminatory, and good faith application of a Party's laws relating to its social security, public retirement, or compulsory savings programs.

Article 14.10: Performance Requirements

1. No Party shall, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party or of a non-Party in its territory, impose or enforce any requirement, or enforce any commitment or undertaking:[12]

(a) to export a given level or percentage of goods or services;

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

(c) to purchase, use, or accord a preference to a good produced or a service supplied in its territory, or to purchase a good or a service from a person in its territory;

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

(e) to restrict sales of a good or a service in its territory that the investment produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange earnings;

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

(g) to supply exclusively from the territory of the Party a good that the investment produces or a service that it supplies to a specific regional market or to the world market;

(h) (i) to purchase, use or accord a preference to, in its territory, technology of the Party or of a person of the Party;[13] or

(ii) that prevents the purchase or use of, or the according of a preference to, in its territory, a technology; or

(i) to adopt:

[12] For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a "requirement" or a "commitment or undertaking" for the purposes of paragraph 1.

[13] For the purposes of this Article, the term "technology of the Party or of a person of the Party" includes technology that is owned by the Party or a person of the Party, and technology for which the Party or a person of the Party holds, an exclusive license.

(i) a given rate or amount of royalty under a license contract; or

(ii) a given duration of the term of a license contract,

in regard to any license contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or any future license contract[14] freely entered into between the investor and a person in its territory, provided that the requirement is imposed or the commitment or undertaking is enforced in a manner that constitutes direct interference with that license contract by an exercise of non-judicial governmental authority of a Party. For greater certainty, paragraph 1(i) does not apply when the license contract is concluded between the investor and a Party.

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

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

(b) to purchase, use, or accord a preference to a good produced in its territory, or to purchase a good from a person in its territory;

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

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

(e) (i) to purchase, use or accord a preference to, in its territory, technology of the Party or of a person of the Party; or

(ii) that prevents the purchase or use of, or the according of a preference to, in its territory, a technology.

3. In relation to paragraphs 1 and 2:

(a) Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment of an investor of a Party or of a non-Party in its territory, on compliance with a

[14] A "license contract" referred to in this subparagraph means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

(b) Paragraphs 1(f), 1(h), 1(i), and 2(e) do not apply:

(i) if a Party authorizes use of an intellectual property right in accordance with Article 31 [15] of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or

(ii) if the requirement is imposed or the commitment or undertaking [16] is enforced by a court, administrative tribunal, or competition authority, after judicial or administrative process, to remedy an alleged violation of competition laws.[17]

(c) Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, paragraphs 1(b), 1(c), 1(f), 2(a), and 2(b) shall not be construed to prevent a Party from adopting or maintaining measures:

(i) necessary to secure compliance with laws and regulations that are not inconsistent with this Agreement;

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

(iii) related to the conservation of living or non-living exhaustible natural resources.

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

(e) Paragraphs 1(b), 1(c), 1(f), 1(g), 1(h), 1(i), 2(a), 2(b), and 2(e) do not apply to government procurement.

(f) Paragraphs 2(a) and 2(b) do not apply to requirements imposed by an importing Party relating to the content of a good necessary to qualify for preferential tariffs or preferential quotas.

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[15] The reference to "Article 31" includes any waiver or amendment to the TRIPS Agreement implementing paragraph 6 of the *Doha Declaration on the TRIPS Agreement and Public Health* (WT/MIN (01)/DEC/2).

[16] For greater certainty, for the purposes of this subparagraph, a commitment or undertaking includes a consent agreement.

[17] The Parties recognize that a patent does not necessarily confer market power.

(g) Paragraphs (1)(h), (1)(i), and 2(e) shall not be construed to prevent a Party from adopting or maintaining measures to protect legitimate public welfare objectives, provided that such measures are not applied in an arbitrary or unjustifiable manner, or in a manner that constitutes a disguised restriction on international trade or investment.

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

5. This Article does not preclude enforcement of any commitment, undertaking or requirement between private parties, if a Party did not impose or require the commitment, undertaking or requirement.

Article 14.11: Senior Management and Boards of Directors

1. No Party shall require that an enterprise of that Party that is a covered investment appoint to senior management positions natural persons of a particular nationality.

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

Article 14.12: Non-Conforming Measures

1. Article 14.4, Article 14.5, Article 14.10, and Article 14.11 do not apply to:

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

(i) the central level of government, as set out by that Party in its Schedule to Annex I;

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

(iii) a local level of government;

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as

it existed immediately before the amendment, with Article 14.4, Article 14.5, Article 14.10, or Article 14.11.

2. Article 14.4, Article 14.5, Article 14.10, and Article 14.11 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out by that Party in its Schedule to Annex II.

3. No Party shall, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II, require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

4. (a) Article 14.4 does not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by:

(i) Article 20.A.8 (Intellectual Property – National Treatment,); or

(ii) Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 20 (Intellectual Property).

(b) Article 14.5 does not apply to any measure that falls within Article 5 of the TRIPS Agreement, or an exception to, or derogation from, the obligations which are imposed by:

(i) Article 20.A.8 (Intellectual Property – National Treatment); or

(ii) Article 4 of the TRIPS Agreement.

5. Article 14.4, Article 14.5, and Article 14.11 do not apply to:

(a) government procurement; or

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

Article 14.13: Special Formalities and Information Requirements

1. Nothing in Article 14.4 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a requirement that investors be residents of the Party or that covered investments be legally constituted under the laws or regulations of the Party, provided that these formalities do not materially impair the protections afforded by the Party to investors of another Party and covered investments pursuant to this Chapter.

2. Notwithstanding Article 14.4 and Article 14.5, a Party may require an investor of another Party or its covered investment to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or its covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 14.14: Denial of Benefits

1. A Party may deny the benefits of this Chapter to an investor of another Party that is an enterprise of that other Party and to investments of that investor if the enterprise:

(a) is owned or controlled by a person of a non-Party or of the denying Party; and

(b) has no substantial business activities in the territory of any Party other than the denying Party.

2. A Party may deny the benefits of this Chapter to an investor of another Party that is an enterprise of that other Party and to investments of that investor if persons of a non-Party own or control the enterprise and the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.

Article 14.15: Subrogation

If a Party, or any agency of a Party, makes a payment to an investor of the Party under a guarantee, a contract of insurance or other form of indemnity that it has entered into with respect to a covered investment, the other Party in whose territory the covered investment was made shall recognize the subrogation or transfer of any rights the investor would have possessed with respect to the covered investment but for the subrogation , and the investor shall be precluded from pursuing these rights to the extent of the subrogation, unless a Party or an agency of a Party authorises the investor to act on its behalf.

Article 14.16: Investment and Environmental, Health, Safety, and other Regulatory Objectives

Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health, safety, or other regulatory objectives.

Article 14.17: Corporate Social Responsibility

The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognized standards, guidelines, and principles of corporate social responsibility that have been endorsed or are supported by that Party, which may include the OECD Guidelines for Multinational Enterprises. These standards, guidelines, and principles may address areas such as labor, environment, gender equality, human rights, indigenous and aboriginal peoples' rights, and corruption.

ANNEX 14-A

CUSTOMARY INTERNATIONAL LAW

The Parties confirm their shared understanding that "customary international law" generally and as specifically referenced in Article 14.6 results from a general and consistent practice of States that they follow from a sense of legal obligation. The customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the investments of aliens.

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Subject to Language Authentication

ANNEX 14-B

EXPROPRIATION

The Parties confirm their shared understanding that:

1. An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right[18] or property interest in an investment.

2. Article 14.8.1 addresses two situations. The first is direct expropriation, in which an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure.

3. The second situation addressed by Article 14.8.1 is indirect expropriation, in which an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

(a) The determination of whether an action or series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:

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

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations;[19] and

(iii) the character of the government action, including its object, context, and intent.

(b) Non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriations, except in rare circumstances.

[18] For greater certainty, the existence of a property right is determined with reference to the domestic law of a Party.

[19] For greater certainty, whether an investor's investment-backed expectations are reasonable depends, to the extent relevant, on factors such as whether the government provided the investor with binding written assurances and the nature and extent of governmental regulation or the potential for government regulation in the relevant sector.

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Subject to Language Authentication

ANNEX 14-C

LEGACY INVESTMENT CLAIMS AND PENDING CLAIMS

1. Each Party consents, with respect to a legacy investment, to the submission of a claim to arbitration in accordance with the provisions in Section B of Chapter 11 of NAFTA 1994 and this Annex alleging breach of an obligation under:

(a) Section A of Chapter 11 of NAFTA 1994;

(b) Article 1503(2) (State Enterprises) of NAFTA 1994; and

(c) Article 1502(3)(a) (Monopolies and State Enterprises) of NAFTA 1994 where the monopoly has acted in a manner inconsistent with the Party's obligations under Section A of Chapter 11 of NAFTA 1994.[20] [21]

2. The consent under paragraph 1 and the submission of a claim to arbitration under Section B of NAFTA 1994 in accordance with this Annex shall satisfy the requirements of:

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

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

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

3. A Party's consent under paragraph 1 shall expire three years after the termination of NAFTA 1994.

4. For greater certainty, an arbitration initiated pursuant to the submission of a claim under paragraph 1 may proceed to its conclusion in accordance with the provisions in Section B of NAFTA 1994, the Tribunal's jurisdiction with respect to such a claim is not affected by the expiration of consent referenced in paragraph 3, and Article 1136 of NAFTA 1994 (excluding paragraph 5) applies with respect to any award issued by the Tribunal.

5. For greater certainty, an arbitration initiated pursuant to the submission of a claim under Section B of NAFTA 1994 while NAFTA 1994 is in force may proceed to its conclusion in accordance with the provisions in Section B of NAFTA 1994, the Tribunal's jurisdiction with

[20] For greater certainty, the relevant provisions in Chapters 2, 11 (Section A), Chapter 14, Chapter 17, Chapter 21, and Annexes I-VII of NAFTA 1994 apply with respect to such a claim.

[21] Mexico and the United States do not consent under paragraph 1 with respect to an investor of the other Party that is eligible to submit claims to arbitration under paragraph 2 of Annex 14-E (Mexico-United States Investment Disputes Related to Covered Government Contracts).

respect to such a claim is not affected by the termination of NAFTA 1994, and Article 1136 of NAFTA 1994 (excluding paragraph 5) applies with respect to any award issued by the Tribunal.

6. For the purposes of this Annex:

(a) "legacy investment" means an investment of an investor of another Party in the territory of the Party established or acquired between January 1, 1994, and the date of termination of NAFTA 1994, and in existence on the date of entry into force of this Agreement; and

(b) "investment," "investor," and "Tribunal" have the meanings accorded in NAFTA 1994.

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Subject to Language Authentication

ANNEX 14-D

MEXICO-UNITED STATES INVESTMENT DISPUTES

Article 1: Definitions

For the purposes of this Annex:

Annex Party means Mexico or the United States;

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

claimant means an investor of an Annex Party, excluding an investor that is owned or controlled by a person of a non-Annex Party that the other Annex Party considers to be a non-market economy, that is a party to a qualifying investment dispute;

disputing parties means the claimant and the respondent;

disputing party means either the claimant or the respondent;

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

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

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

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

non-disputing Annex Party means an Annex Party that is not a party to a qualifying investment dispute;

protected information means confidential business information or information that is privileged or otherwise protected from disclosure under a Party's law, including classified government information;

qualifying investment dispute means an investment dispute between an investor of an Annex Party and the other Annex Party;

respondent means the Annex Party that is a party to a qualifying investment dispute;

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

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law.

Article 2: Consultation and Negotiation

1. In the event of a qualifying investment dispute, the claimant and the respondent should initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding, third party procedures, such as good offices, conciliation, or mediation.

2. For greater certainty, the initiation of consultations and negotiations shall not be construed as recognition of the jurisdiction of the tribunal.

Article 3: Submission of a Claim to Arbitration

1. In the event that a disputing party considers that a qualifying investment dispute cannot be settled by consultation and negotiation:

(a) the claimant, on its own behalf, may submit to arbitration under this Annex a claim:

(i) that the respondent has breached:

(A) Article 14.4 (National Treatment) or Article 14.5 (Most-Favored-Nation Treatment),[22] except with respect to the establishment or acquisition of an investment; or

(B) Article 14.8 (Expropriation and Compensation), except with respect to indirect expropriation; and

(ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach; and

[22] For the purposes of this paragraph, the "treatment" referred to in Article 14.5 (Most-Favored-Nation Treatment) excludes provisions in other international trade or investment agreements that establish international dispute resolution procedures or impose substantive obligations; rather, "treatment" only includes measures adopted or maintained by the other Annex Party, which may include measures adopted or maintained pursuant to or consistent with substantive obligations in other international trade or investment agreements.

(b) the claimant, on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, may submit to arbitration under this Annex a claim:

(i) that the respondent has breached:

(A) Article 14.4 (National Treatment) or Article 14.5 (Most-Favored-Nation Treatment), except with respect to the establishment or acquisition of an investment; or

(B) Article 14.8 (Expropriation and Compensation), except with respect to indirect expropriation; and

(ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.[23]

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

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

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

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

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

3. The claimant may submit a claim referred to in paragraph 1 under one of the following alternatives:

(a) the ICSID Convention and the ICSID *Rules of Procedure for Arbitration Proceedings*, provided that both the respondent and the Party of the claimant are parties to the ICSID Convention;

(b) the ICSID Additional Facility Rules, provided that either the respondent or the Party of the claimant is a party to the ICSID Convention;

(c) the UNCITRAL Arbitration Rules; or

[23] For greater certainty, in order for a claim to be submitted to arbitration under subparagraph (b), an investor of the Party of the claimant must own or control the enterprise on the date of the alleged breach and the date on which the claim is submitted to arbitration.

(d) if the claimant and respondent agree, any other arbitral institution or any other arbitration rules.

4. A claim shall be deemed submitted to arbitration under this Annex when the claimant's notice of or request for arbitration (notice of arbitration):

(a) referred to in the ICSID Convention is received by the Secretary-General;

(b) referred to in the ICSID Additional Facility Rules is received by the Secretary-General;

(c) referred to in the UNCITRAL Arbitration Rules, together with the statement of claim referred to therein, are received by the respondent; or

(d) referred to under any arbitral institution or arbitration rules selected under paragraph 4(d) is received by the respondent.

A claim asserted by the claimant for the first time after such notice of arbitration is submitted shall be deemed submitted to arbitration under this Annex on the date of its receipt under the applicable arbitration rules.

5. The arbitration rules applicable under paragraph 4 that are in effect on the date the claim or claims were submitted to arbitration under this Annex shall govern the arbitration except to the extent modified by this Agreement.

6. The claimant shall provide with the notice of arbitration:

(a) the name of the arbitrator that the claimant appoints; or

(b) the claimant's written consent for the Secretary-General to appoint that arbitrator.

Article 4: Consent to Arbitration

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

2. The consent under paragraph 1 and the submission of a claim to arbitration under this Annex shall be deemed to satisfy the requirements of:

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

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

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

Article 5: Conditions and Limitations on Consent

1. No claim shall be submitted to arbitration under this Annex unless:

(a) the claimant (for claims brought under Article 3.1(a) (Submission of a Claim)) and the claimant or the enterprise (for claims brought under Article 3.1(b)) first initiated a proceeding before a competent court or administrative tribunal of the respondent with respect to the measures alleged to constitute a breach referred to in Article 3 (Submission of a Claim to Arbitration);

(b) the claimant or the enterprise obtained a final decision from a court of last resort of the respondent or 30 months have elapsed from the date the proceeding in subparagraph (a) was initiated;[24]

(c) no more than four years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under Article 3.1 (Submission of a Claim to Arbitration) and knowledge that the claimant (for claims brought under Article 3.1(a)) or the enterprise (for claims brought under Article 3.1(b)) has incurred loss or damage;

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

(e) the notice of arbitration is accompanied:

(i) for claims submitted to arbitration under Article 3.1(a) (Submission of a Claim to Arbitration), by the claimant's written waiver; and

(ii) for claims submitted to arbitration under Article 3.1(b) (Submission of a Claim to Arbitration), by the claimant's and the enterprise's written waivers,

of any right to initiate or continue before any court or administrative tribunal under the law of an Annex Party, or any other dispute settlement procedures, any proceeding with respect to any measure alleged to constitute a breach referred to in Article 3 (Submission of a Claim to Arbitration).

2. Notwithstanding paragraph 1(e), the claimant (for claims brought under Article 3.1(a) (Submission of a Claim to Arbitration)) and the claimant or the enterprise (for claims brought

[24] The provisions in subparagraph (a) and (b) do not apply to the extent recourse to domestic remedies was obviously futile or manifestly ineffective.

under Article 3.1(b)) may initiate or continue an action that seeks interim injunctive relief and does not involve the payment of monetary damages before a judicial or administrative tribunal of the respondent, provided that the action is brought for the sole purpose of preserving the claimant's or the enterprise's rights and interests during the pendency of the arbitration.

Article 6: Selection of Arbitrators

1. Unless the disputing parties agree otherwise, the tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

2. The Secretary-General shall serve as appointing authority for an arbitration under this Annex.

3. If a tribunal has not been constituted within a period of 75 days after the date that a claim is submitted to arbitration under this Annex, the Secretary-General, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed. The Secretary-General shall not appoint a national of either the respondent or the Party of the claimant as the presiding arbitrator unless the disputing parties agree otherwise.

4. For the purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator on a ground other than nationality:

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

(b) a claimant referred to in Article 3.1(a) (Submission of a Claim to Arbitration) may submit a claim to arbitration under this Annex, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant agrees in writing to the appointment of each individual member of the tribunal; and

(c) a claimant referred to in Article 3.1(b) (Submission of a Claim to Arbitration) may submit a claim to arbitration under this Annex, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant and the enterprise agree in writing to the appointment of each individual member of the tribunal.

5. Arbitrators appointed to a tribunal for claims submitted under Article 3.1 shall:

(a) comply with the International Bar Association Guidelines on Conflicts of Interest in International Arbitration, including guidelines regarding direct or indirect

conflicts of interest, or any supplemental guidelines or rules adopted by the Annex Parties;

(b) refrain from taking instructions from any organization or government regarding the dispute; and

(c) refrain, for the duration of the proceedings, from acting as counsel or as party-appointed expert or witness in any pending arbitration under the annexes to this Chapter.

6. Challenges to arbitrators shall be governed by the procedures in the UNCITRAL Arbitration Rules.

Article 7: Conduct of the Arbitration

1. The disputing parties may agree on the legal place of any arbitration under the arbitration rules applicable under Article 3.3 (Submission of a Claim to Arbitration). If the disputing parties fail to reach agreement, the tribunal shall determine the place in accordance with the applicable arbitration rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

2. A non-disputing Annex Party may make oral and written submissions to the tribunal regarding the interpretation of this Agreement.

3. After consultation with the disputing parties, the tribunal may accept and consider written *amicus curiae* submissions regarding a matter of fact or law within the scope of the dispute that may assist the tribunal in evaluating the submissions and arguments of the disputing parties from a person or entity that is not a disputing party but has a significant interest in the arbitral proceedings. Each submission shall identify the author; disclose any affiliation, direct or indirect, with any disputing party; and identify any person, government or other entity that has provided, or will provide, any financial or other assistance in preparing the submission. Each submission shall be in a language of the arbitration and comply with any page limits and deadlines set by the tribunal. The tribunal shall provide the disputing parties with an opportunity to respond to such submissions. The tribunal shall ensure that the submissions do not disrupt or unduly burden the arbitral proceedings, or unfairly prejudice any disputing party.

4. Without prejudice to a tribunal's authority to address other objections as a preliminary question, such as an objection that a dispute is not within the competence of the tribunal, including an objection to the tribunal's jurisdiction, a tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim submitted is not a claim for which an award in favor of the claimant may be made under Article 13 (Awards) or that a claim is manifestly without legal merit.

(a) An objection under this paragraph shall be submitted to the tribunal as soon as possible after the tribunal is constituted, and in no event later than the date the tribunal fixes for the respondent to submit its counter-memorial or, in the case of an amendment to the notice of arbitration, the date the tribunal fixes for the respondent to submit its response to the amendment.

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

(c) In deciding an objection under this paragraph that a claim submitted is not a claim for which an award in favor of the claimant may be made under Article 13 (Awards), the tribunal shall assume to be true the claimant's factual allegations in support of any claim in the notice of arbitration (or any amendment thereof) and, in disputes brought under the UNCITRAL Arbitration Rules, the statement of claim referred to in the relevant article of the UNCITRAL Arbitration Rules. The tribunal may also consider any relevant facts not in dispute.

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

5. In the event that the respondent so requests within 45 days after the tribunal is constituted, the tribunal shall decide on an expedited basis an objection under paragraph 4 or any objection that the dispute is not within the tribunal's competence, including an objection that the dispute is not within the tribunal's jurisdiction. The tribunal shall suspend any proceedings on the merits and issue a decision or award on the objection, stating the grounds therefor, no later than 150 days after the date of the request. However, if a disputing party requests a hearing, the tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, a tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

6. When the tribunal decides a respondent's objection under paragraph 4 or 5, it may, if warranted, award to the prevailing disputing party reasonable costs and attorney's fees incurred in submitting or opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether either the claimant's claim or the respondent's objection was frivolous, and shall provide the disputing parties a reasonable opportunity to comment.

7. For greater certainty, if an investor of an Annex Party submits a claim under this Annex, the investor has the burden of proving all elements of its claims, consistent with general principles of international law applicable to international arbitration.

8. A respondent may not assert as a defense, counterclaim, right of set-off or for any other reason, that the claimant has received or will receive indemnification or other compensation for all or part of the alleged damages pursuant to an insurance or guarantee contract.

9. A tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the tribunal's jurisdiction. A tribunal may not order attachment or enjoin the application of a measure alleged to constitute a breach referred to in Article 3 (Submission of a Claim to Arbitration). For the purposes of this paragraph, an order includes a recommendation.

10. The tribunal and the disputing parties shall endeavor to conduct the arbitration in an expeditious and cost-effective manner.

11. Following the submission of a claim to arbitration under this Annex, if the disputing parties fail to take any steps in the proceedings for more than 150 days, or such period as they may agree with the approval of the tribunal, the tribunal shall notify the disputing parties that they shall be deemed to have discontinued the proceedings if the parties fail to take any steps within 30 days after the notice is received. If the parties fail to take any steps within that time period, the tribunal shall take note of the discontinuance in an order. If a tribunal has not yet been constituted, the Secretary-General shall assume these responsibilities.

12. In any arbitration conducted under this Annex, at the request of a disputing party, a tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the disputing parties. Within 60 days after the tribunal transmits its proposed decision or award, the disputing parties may submit written comments to the tribunal concerning any aspect of its proposed decision or award. The tribunal shall consider any comments and issue its decision or award no later than 45 days after the expiration of the 60 day comment period.

Article 8: Transparency of Arbitral Proceedings

1. Subject to paragraphs 2 and 4, the respondent shall, after receiving the following documents, promptly transmit them to the non-disputing Annex Party and make them available to the public:

(a) the notice of intent;

(b) the notice of arbitration;

(c) pleadings, memorials and briefs submitted to the tribunal by a disputing party and any written submissions submitted pursuant to Article 7.2 (Conduct of the Arbitration) and Article 7.3 and Article 12 (Consolidation);

(d) minutes or transcripts of hearings of the tribunal, if available; and

(e) orders, awards and decisions of the tribunal.

2. The tribunal shall conduct hearings open to the public and shall determine, in consultation with the disputing parties, the appropriate logistical arrangements. If a disputing party intends to use information in a hearing that is designated as protected information or otherwise subject to paragraph 3 it shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect such information from disclosure which may include closing the hearing for the duration of the discussion of that information.

3. Nothing in this Annex, including paragraph 4(d), requires a respondent to make available to the public or otherwise disclose during or after the arbitral proceedings, including the hearing, protected information, or to furnish or allow access to information that it may withhold in accordance with Article 32.2 (Essential Security) or Article 32.5 (Disclosure of Information).[25]

4. Any protected information that is submitted to the tribunal shall be protected from disclosure in accordance with the following procedures:

(a) subject to subparagraph (d), neither the disputing parties nor the tribunal shall disclose to any non-disputing Annex Party or to the public any protected information if the disputing party that provided the information clearly designates it in accordance with subparagraph (b);

(b) any disputing party claiming that certain information constitutes protected information shall clearly designate the information according to any schedule set by the tribunal;

(c) a disputing party shall, according to any schedule set by the tribunal, submit a redacted version of the document that does not contain the protected information. Only the redacted version shall be disclosed in accordance with paragraph 1; and

(d) the tribunal, subject to paragraph 3, shall decide any objection regarding the designation of information claimed to be protected information. If the tribunal determines that the information was not properly designated, the disputing party that submitted the information may:

(i) withdraw all or part of its submission containing that information; or

(ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the tribunal's determination and subparagraph (c).

[25] For greater certainty, when a respondent chooses to disclose to the tribunal information that may be withheld in accordance with Article 32.2 (Essential Security) or Article 32.5 (Disclosure of Information), the respondent may still withhold that information from disclosure to the public.

In either case, the other disputing party shall, whenever necessary, resubmit complete and redacted documents which either remove the information withdrawn under subparagraph (d)(i) by the disputing party that first submitted the information or redesignate the information consistent with the designation under subparagraph (d)(ii) of the disputing party that first submitted the information.

5. Nothing in this Annex requires a respondent to withhold from the public information required to be disclosed by its laws. The respondent should endeavor to apply those laws in a manner sensitive to protecting from disclosure information that has been designated as protected information.

Article 9: Governing Law

1. Subject to paragraph 2, when a claim is submitted under Article 3.1 (Submission of a Claim to Arbitration), the tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

2. A decision of the Commission on the interpretation of a provision of this Agreement under Article 30.2 (Functions of the Commission) shall be binding on a tribunal, and any decision or award issued by a tribunal must be consistent with that decision.

Article 10: Interpretation of Annexes

1. If a respondent asserts as a defense that the measure alleged to be a breach is within the scope of a non-conforming measure set out in Annex I or Annex II, the tribunal shall, on request of the respondent, request the interpretation of the Commission on the issue. The Commission shall submit in writing any decision on its interpretation under Article 30.2 (Functions of the Commission) to the tribunal within 90 days of delivery of the request.

2. A decision issued by the Commission under paragraph 1 shall be binding on the tribunal, and any decision or award issued by the tribunal must be consistent with that decision. If the Commission fails to issue such a decision within 90 days, the tribunal shall decide the issue.

Article 11: Expert Reports

Without prejudice to the appointment of other kinds of experts when authorized by the applicable arbitration rules, a tribunal, on request of a disputing party or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning scientific matters raised by a disputing party in a proceeding, subject to any terms and conditions that the disputing parties may agree.

Article 12: Consolidation

1. If two or more claims have been submitted separately to arbitration under Article 3.1 (Submission of a Claim to Arbitration) and the claims have a question of law or fact in common and arise out of the same events or circumstances, any disputing party may seek a consolidation order in accordance with the agreement of all the disputing parties sought to be covered by the order or the terms of paragraphs 2 through 10.

2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General and to all the disputing parties sought to be covered by the order and shall specify in the request:

(a) the names and addresses of all the disputing parties sought to be covered by the order;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

3. Unless the Secretary-General finds within a period of 30 days after the date of receiving a request under paragraph 2 that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless all the disputing parties sought to be covered by the order agree otherwise, a tribunal established under this Article shall comprise three arbitrators:

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

(b) one arbitrator appointed by the respondent; and

(c) the presiding arbitrator appointed by the Secretary-General, provided that the presiding arbitrator is not a national of the respondent or of the Party of the claimants.

5. If, within a period of 60 days after the date when the Secretary-General receives a request made under paragraph 2, the respondent fails or the claimants fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General, on request of any disputing party sought to be covered by the order, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed.

6. If a tribunal established under this Article is satisfied that two or more claims that have been submitted to arbitration under Article 3.1 (Submission of a Claim to Arbitration) have a question of law or fact in common, and arise out of the same events or circumstances, the tribunal

may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims;

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

(c) instruct a tribunal previously established under Article 6 (Selection of Arbitrators) to assume jurisdiction over, and hear and determine together, all or part of the claims, provided that:

(i) that tribunal, on request of a claimant that was not previously a disputing party before that tribunal, shall be reconstituted with its original members, except that the arbitrator for the claimants shall be appointed pursuant to paragraphs 4(a) and 5; and

(ii) that tribunal shall decide whether a prior hearing shall be repeated.

7. If a tribunal has been established under this Article, a claimant that has submitted a claim to arbitration under Article 3.1 (Submission of a Claim to Arbitration) and that has not been named in a request made under paragraph 2 may make a written request to the tribunal that it be included in any order made under paragraph 6. The request shall specify:

(a) the name and address of the claimant;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

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

8. A tribunal established under this Article shall conduct its proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Annex.

9. A tribunal established under Article 6 (Selection of Arbitrators) shall not have jurisdiction to decide a claim, or a part of a claim, over which a tribunal established or instructed under this Article has assumed jurisdiction.

10. On the application of a disputing party, a tribunal established under this Article, pending its decision under paragraph 6, may order that the proceedings of a tribunal established under Article 6 (Selection of Arbitrators) be stayed, unless the latter tribunal has already adjourned its proceedings.

Article 13: Awards

1. When a tribunal makes a final award, the tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

(b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages and any applicable interest in lieu of restitution.[26]

2. For greater certainty, if an investor of an Annex Party submits a claim to arbitration under Article 3.1 (Submission of a Claim to Arbitration), it may recover only for loss or damage that is established on the basis of satisfactory evidence and that is not inherently speculative.

3. For greater certainty, if an investor of an Annex Party submits a claim to arbitration under Article 3.1(a) (Submission of a Claim to Arbitration), it may recover only for loss or damage incurred in its capacity as an investor of an Annex Party.

4. A tribunal may also award costs and attorney's fees incurred by the disputing parties in connection with the arbitral proceedings, and shall determine how and by whom those costs and attorney's fees shall be paid, in accordance with this Annex and the applicable arbitration rules.

5. Subject to paragraph 1, if a claim is submitted to arbitration under Article 3.1(b) (Submission of a Claim to Arbitration) and an award is made in favor of the enterprise:

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

(b) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise; and

(c) the award shall provide that it is made without prejudice to any right that any person may have under applicable domestic law with respect to the relief provided in the award.

6. A tribunal shall not award punitive damages.

7. An award made by a tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

[26] For greater certainty, in the final award the tribunal may not order the respondent to take or not to take other actions, including the amendment, repeal, adoption, or implementation of a law or regulation.

8. Subject to paragraph 9 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

9. A disputing party shall not seek enforcement of a final award until:

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

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

(ii) revision or annulment proceedings have been completed; and

(b) in the case of a final award under the ICSID Additional Facility Rules, the UNCITRAL Arbitration Rules, or the rules selected pursuant to Article 3.3(d) (Submission of a Claim to Arbitration):

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

(ii) a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.

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

11. If the respondent fails to abide by or comply with a final award, on delivery of a request by the Party of the claimant, a panel shall be established under Article 31.6 (Establishment of a Panel). The requesting Party may seek in those proceedings:

(a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and

(b) in accordance with Article 31.17 (Panel Report), a recommendation that the respondent abide by or comply with the final award.

12. A disputing party may seek enforcement of an arbitration award under the ICSID Convention, the New York Convention, or the Inter-American Convention regardless of whether proceedings have been taken under paragraph 11.

13. A claim that is submitted to arbitration under this Annex shall be considered to arise out of a commercial relationship or transaction for the purposes of Article I of the New York Convention and Article I of the Inter-American Convention.

Article 14: Service of Documents

Delivery of notice and other documents to an Annex Party shall be made to the place named for that Annex Party in Appendix 1 (Service of Documents on an Annex Party). An Annex Party shall promptly make publicly available and notify the other Annex Party of any change to the place referred to in that Appendix.

APPENDIX 1

SERVICE OF DOCUMENTS ON AN ANNEX PARTY

Mexico

Notices and other documents in disputes under this Annex shall be served on Mexico by delivery to:

Dirección General de Consultoría Jurídica de Comercio Internacional
Secretaría de Economía
Pachuca #189, piso 19
Col. Condesa
Demarcación Territorial Cuauhtémoc
Ciudad de México
C.P. 06140

United States

Notices and other documents in disputes under this Annex shall be served on the United States by delivery to:

Executive Director (L/H-EX)
Office of the Legal Adviser & Bureau of Legislative Affairs
U.S. Department of State
600 19th Street, NW
Washington, D.C. 20552

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

APPENDIX 2

PUBLIC DEBT

1. For greater certainty, no award shall be made in favor of a claimant for a claim under Article 3.1 (Submission of a Claim to Arbitration) with respect to default or non-payment of debt issued by a Party[27] unless the claimant meets its burden of proving that such default or non-payment constitutes a breach of a relevant obligation in the Chapter.

2. No claim that a restructuring of debt issued by a Party, standing alone, breaches an obligation in this Chapter shall be submitted to arbitration under Article 3.1, provided that the restructuring is effected as provided for under the debt instrument's terms, including the debt instrument's governing law.

[27] For purposes of this annex, "debt issued by a Party" includes, in the case of Mexico, "public debt" of Mexico as defined in Article 1 of the Federal Law on Public Debt.

APPENDIX 3

SUBMISSION OF A CLAIM TO ARBITRATION

An investor of the United States may not submit to arbitration a claim that Mexico has breached an obligation under this Chapter either:

(a) on its own behalf under Article 3.1(a) (Submission of a Claim to Arbitration); or

(b) on behalf of an enterprise of Mexico that is a juridical person that the investor owns or controls directly or indirectly under Article 3.1(b) (Submission of a Claim to Arbitration),

if the investor or the enterprise, respectively, has alleged that breach of an obligation under this Chapter in proceedings before a court or administrative tribunal of Mexico.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

ANNEX 14-E

MEXICO-UNITED STATES INVESTMENT DISPUTES RELATED TO COVERED GOVERNMENT CONTRACTS

1. Annex 14-D (Mexico-United States Investment Disputes) shall apply as modified by this Annex to the settlement of a qualifying investment dispute under this Chapter in the circumstances set out in paragraph 2.[28]

2. In the event that a disputing party considers that a qualifying investment dispute cannot be settled by consultation and negotiation:

(a) the claimant, on its own behalf, may submit to arbitration under Annex 14-D a claim:

(i) that the respondent has breached any obligation under this Chapter,[29] provided that:

(A) the claimant is:

(1) a party to a covered government contract; or

(2) engaged in activities in the same covered sector in the territory of the respondent as an enterprise of the respondent that the claimant owns or controls directly or indirectly and that is a party to a covered government contract; and

(B) the respondent is a party to another international trade or investment agreement that permits investors to initiate dispute settlement procedures to resolve an investment dispute with a government; and

(ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach;

(b) the claimant, on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, may submit to arbitration under Annex 14-D a claim:

[28] For greater certainty, Annex 14-D (Mexico-United States Investment Disputes) includes its appendices.

[29] For the purposes of this paragraph, the "treatment" referred to in Article 14.5 (Most-Favored-Nation Treatment) excludes provisions in other international trade or investment agreements that establish international dispute resolution procedures or impose substantive obligations; rather, "treatment" only includes measures adopted or maintained by the other Annex Party, which may include measures adopted or maintained pursuant to or consistent with substantive obligations in other international trade or investment agreements.

(i) that the respondent has breached any obligation under this Chapter, provided that:

(A) the enterprise is:

(1) a party to a covered government contract;

(2) engaged in activities in the same covered sector in the territory of the respondent as the claimant and the claimant is a party to a covered government contract; or

(3) engaged in activities in the same covered sector in the territory of the respondent as another enterprise of the respondent that the claimant owns or controls directly or indirectly and that is a party to a covered government contract; and

(B) the respondent is a party to another international trade or investment agreement that permits investors to initiate dispute settlement procedures to resolve an investment dispute with a government; and

(ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.[30]

3. For the purposes of paragraph 2, if a covered government contract is terminated in a manner inconsistent with an obligation under this Chapter, the claimant or enterprise that was previously a party to the contract shall be deemed to remain a party for the duration of the contract, as if it had not been terminated.

4. No claim shall be submitted to arbitration under paragraph 2 if:

(a) less than six months have elapsed from the events giving rise to the claim; and

(b) more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under paragraph 2 and knowledge that the claimant (for claims brought under paragraph 2(a)) or the enterprise (for claims brought under paragraph 2(b)) has incurred loss or damage.[31]

5. For greater certainty, the Annex Parties may agree to modify or eliminate this Annex.

[30] For greater certainty, in order for a claim to be submitted to arbitration under subparagraph (b), an investor of the Party of the claimant must own or control the enterprise on the date of the alleged breach and the date on which the claim is submitted to arbitration.

[31] For greater certainty, Article 5.1(a)-(c) of Annex 14-D do not apply to claims under paragraph 2.

6. For the purposes of this Annex:

(a) "covered government contract" means a written agreement between a national authority of an Annex Party and a covered investment or investor of the other Annex Party, on which the covered investment or investor relies in establishing or acquiring a covered investment other than the written agreement itself, that grants rights to the covered investment or investor in a covered sector;

(b) "covered sector" means:

(i) activities with respect to oil and natural gas that a national authority of an Annex Party controls, such as exploration, extraction, refining, transportation, distribution, or sale;

(ii) the supply of power generation services to the public on behalf of an Annex Party;

(iii) the supply of telecommunications services to the public on behalf of an Annex Party;

(iv) the supply of transportation services to the public on behalf of an Annex Party; or

(v) the ownership or management of infrastructure, such as roads, railways, bridges, canals, or dams, that are not for the exclusive or predominant use and benefit of the government of an Annex Party;

(c) "national authority" means an authority at the central level of government;[32] and

(d) "written agreement" means an agreement in writing, negotiated, and executed by two or more parties, whether in a single instrument or in multiple instruments.[33]

[32] For greater certainty, an authority at the central level of government includes any person, including a state enterprise or any other body, when it exercises any governmental authority delegated to it by an authority at the central level of government.

[33] For greater certainty, (a) a unilateral act of an administrative or judicial authority, such as a permit, license, certificate, approval, or similar instrument issued by an Annex Party in its regulatory capacity, or a subsidy or grant, or a decree, order or judgment, standing alone; and (b) an administrative or judicial consent decree or order, shall not be considered a written agreement.

CHAPTER 15

CROSS-BORDER TRADE IN SERVICES

Article 15.1: Definitions

For the purposes of this Chapter:

cross-border trade in services or **cross-border supply of services** means the supply of a service:

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

(b) in the territory of a Party by a person of that Party to a person of another Party; or

(c) by a national of a Party in the territory of another Party,

but does not include the supply of a service in the territory of a Party by a covered investment;

enterprise means an enterprise as defined in Article 1.9 (General Definitions), or a branch of an enterprise;

professional service means a service, the provision of which requires specialized post-secondary education, or equivalent training or experience, and for which the right to practice is granted or restricted by a Party, but does not include a service provided by a tradesperson, or a vessel or aircraft crew member;

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

service supplier of another Party means a person of a Party that seeks to supply or supplies a service; and

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

Article 15.2: Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to cross-border trade in services by a service supplier of another Party, including a measure relating to:

(a) the production, distribution, marketing, sale or delivery of a service[1];

(b) the purchase or use of, or payment for, a service,[2];

(c) the access to or use of distribution, transport, or telecommunications networks or services in connection with the supply of a service;

(d) the presence in the Party's territory of a service supplier of another Party; or

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

2. In addition to paragraph 1:

(a) Article 15.5 (Market Access) and Article 15.8 (Development and Administration of Measures) also apply to measures adopted or maintained by a Party relating to the supply of a service in its territory by a covered investment; and

(b) Annex 15-A (Delivery Services) shall also apply to measures adopted or maintained by a Party affecting the supply of delivery services, including by a covered investment.

3. This Chapter does not apply to:

(a) financial services as defined in Article 17.1 (Financial Services - Definitions), except that paragraph 2(a) applies if the financial service is supplied by a covered investment that is not a covered investment in a financial institution as defined in Article 17.1 (Financial Services - Definitions) in the Party's territory;

(b) government procurement**;**

(c) services supplied in the exercise of governmental authority; or

[1] For greater certainty, subparagraph (a) includes the production, distribution, marketing, sale or delivery of a service by electronic means.

[2] For greater certainty, subparagraph (b) includes the purchase or use of, or payment for, a service by electronic means.

(d) subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees, and insurance**.**

4. This Chapter does not apply to air services, including domestic and international air transportation services, whether scheduled or non-scheduled, or to related services in support of air services, other than the following:

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

(b) specialty air services.

5. This Chapter does not impose an obligation on a Party with respect to a national of another Party who seeks access to its employment market or who is employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

Article 15.3: National Treatment

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

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that government to services or service suppliers of the Party of which it forms a part.

3. For greater certainty, whether treatment referred to in paragraph 1 is accorded in "like circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services or service suppliers on the basis of legitimate public welfare objectives.

Article 15.4: Most-Favored-Nation Treatment

1. Each Party shall accord to services or service suppliers of another Party treatment no less favorable than that it accords, in like circumstances, to services and service suppliers of any other Party or a non-Party.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that government to services or service suppliers of any other Party or a non-Party.

3**.** For greater certainty, whether treatment referred to in paragraph 1 is accorded in "like circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between services or services suppliers on the basis of legitimate public welfare.

Article 15.5: Market Access

1. No Party shall adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, a measure that:

(a) imposes a limitation on:

(i) the number of service suppliers, whether in the form of a numerical quota, monopoly, exclusive service suppliers or the requirement of an economic needs test;

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

(iii) the total number of service operations or the total quantity of service output expressed in terms of a designated numerical unit in the form of a quota or the requirement of an economic needs test;[3] or

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

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

Article 15.6: Local Presence

No Party shall require a service supplier of another Party to establish or maintain a representative office or an enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 15.7:Non-Conforming Measures

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

1. Article 15.3 (National Treatment), Article 15.4 (Most-Favored-Nation Treatment), Article 15.5 (Market Access) and Article 15.6 (Local Presence) do not apply to:

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

(i) central level of government, as set out by that Party in its Schedule to Annex I;

(ii) regional level of government, as set out by that Party in its Schedule to Annex I; or

(iii) a local level of government;

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

(c) an amendment to a non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 15.3 (National Treatment), Article 15.4 (Most-Favored-Nation Treatment), Article 15.5 (Market Access) or Article 15.6 (Local Presence).

2. Article 15.3 (National Treatment), Article 15.4 (Most-Favored-Nation Treatment), Article 15.5 (Market Access) and Article 15.6 (Local Presence) do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out by that Party in its Schedule to Annex II.

3. If a Party considers that a non-conforming measure applied by a regional level of government of another Party, as referred to in sub-paragraph 1(a)(ii), creates a material impediment to the cross-border supply of services in relation to the former Party, it may request consultations with regard to that measure. These Parties shall enter into consultations with a view to exchanging information on the operation of the measure and to considering whether further steps are necessary and appropriate**.**

4. For greater certainty, a Party may request consultations with another Party regarding non-conforming measures applied by the central level of government, as referred to in subparagraph 1(a)(i).

Article 15.8: Development and Administration of Measures

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

2. If a Party adopts or maintains a measure relating to licensing requirements and procedures, or qualification requirements and procedures, affecting trade in services, the Party shall, with respect to that measure:

(a) ensure that the requirement or procedure is based on criteria that are objective and transparent. For greater certainty, such criteria may include, inter alia, competence and ability to supply a service, or potential health or environmental impacts of an authorization, and competent authorities may assess the weight given to such criteria;

(b) ensure that the competent authority reaches and administers a decision in an independent manner;

(c) ensure that the procedure does not in itself prevent fulfilment of a requirement; and

(d) to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation.[4]

3. If a Party requires an authorization for the supply of a service, it shall ensure that each of its competent authorities:

(a) to the extent practicable**,** permits an applicant to submit an application at any time;

(b) if a specific time period for applications exists, allows a reasonable period for the submission of an application;

(c) if an examination is required, schedules the examination at reasonably frequent intervals and provides a reasonable period of time to enable an applicant to request to take the examination;

(d) endeavours to accept an application electronically;

(e) to the extent practicable, provides an indicative timeframe for processing of an application;

(f) to the extent practicable, ascertains without undue delay the completeness of an application for processing under the Party's domestic law;

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

(g) accepts copies of documents that are authenticated in accordance with the Party's domestic law, in place of original documents, unless the competent authority requires original documents to protect the integrity of the authorization process;

(h) at the request of the applicant, provides without undue delay information concerning the status of the application;

(i) if an application is considered complete under the Party's domestic law, within a reasonable period of time after the submission of the application, ensures that the processing of the application is completed, and that the applicant is informed of the decision concerning the application, to the extent possible in writing[5];

(j) if an application is considered incomplete for processing under the Party's domestic law, within a reasonable period of time, to the extent practicable:

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

(ii) if the applicant requests, provides guidance on why the application is considered incomplete;

(iii) provides the applicant with an opportunity[6] to provide the additional information that is required for the application to be considered complete; and

if none of the above is practicable, and the application is rejected due to incompleteness, ensures that the applicant is informed of the rejection within a reasonable period of time;

(k) if an application is rejected, to the extent possible, either upon its own initiative or upon the request of the applicant, informs the applicant of the reasons for rejection and, if applicable, the timeframe for an appeal or review of the decision to reject the application and the procedures for resubmission of an application; and

(l) ensures that authorization, once granted, enters into effect without undue delay subject to the applicable terms and conditions.

6. Each Party shall ensure that any authorization fee charged by any of its competent authorities is reasonable, transparent, and does not, in itself, restrict the supply of the relevant

[5] Each competent authority can meet this requirement by informing an applicant in advance in writing, including through a published measure, that lack of response after a specified period of time from the date of submission of the application indicates either acceptance or rejection of the application. For greater certainty, "in writing" may include in electronic form.

[6] For greater certainty, such opportunity does not require a competent authority to provide extensions of deadlines.

service. For the purposes of this paragraph, an authorization 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.

7. Each Party shall encourage its competent authorities, when adopting a technical standard, to adopt technical standards developed through an open and transparent process, and shall encourage a body designated to develop a technical standard to use an open and transparent process.

8. If a Party requires authorization for the supply of a service, the Party shall provide to a service supplier or person seeking to supply a service the information necessary to comply with requirements or procedures for obtaining, maintaining, amending, and renewing that authorization. That information must include:

(a) any fee;

(b) any contact information of a relevant competent authority;

(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;

(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.

9. Paragraphs 1 through 8 do not apply to the aspects of a measure set out in an entry to a Party's Schedule to Annex I, or to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out by that Party in its Schedule to Annex II.

Article 15.9: Recognition

1. For the purposes of the fulfilment, in whole or in part, of a Party's standards or criteria for the authorization, licensing, or certification of a service supplier, and subject to the requirements of paragraph 4, a Party may recognize any education or experience obtained, requirements met, or licenses or certifications granted, in the territory of another Party or a non-Party. That recognition, which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the Party or non-Party concerned, or may be accorded autonomously.

2. If a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licenses or certifications granted, in the territory of another Party or a non-Party, Article 15.4 (Most-Favored-Nation Treatment) does not require the Party to accord recognition to the education or experience obtained, requirements met, or licenses or certifications granted, in the territory of any other Party.

3. If a Party is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, the Party shall afford adequate opportunity to another Party, on request, to negotiate its accession to that agreement or arrangement, or to negotiate a comparable agreement or arrangement. If a Party accords recognition of the type referred to in paragraph 1 autonomously, the Party shall afford adequate opportunity to another Party to demonstrate that education, experience, licences or certifications obtained, or requirements met in that other Party's territory should be recognized.

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

5. The Parties agree that, as set out in Annex 15-A (Professional Services), the Parties shall endeavour to facilitate trade in professional services.

Article 15.10: Small and Medium-Sized Enterprises

1. With a view to enhancing commercial opportunities in services for small- and medium-sized enterprises (SMEs), and further to Chapter X (Small and Medium-Sized Enterprises),] each Party shall endeavor to support the development of SME trade in services and SME-enabling business models, such as direct selling services,[7] including through measures that facilitate SME access to resources or protect individuals from fraudulent practices.

[7] Direct selling is the retail distribution of goods by an independent sales representative, and for which the representative is compensated based exclusively on the value of goods sold either by the representative or additional representatives recruited, trained, or otherwise supported by the representative. Such goods include any product that may be distributed by other retail distribution service suppliers without a prescription or other special authorization, and may include food products, such as food and nutritional supplements in tablet, powder, or liquid capsule form; cosmetics; common consumer products for which medical expertise in not required, such as cotton swabs; and other hygiene and cleaning products. The term "nutritional supplement" applies to all health-maintenance products not intended to cure or treat a disease, and that are sold without prescription or other special authorization.

2. Further to Chapter 28 (Good Regulatory Practices), each Party shall endeavor to adopt or maintain appropriate mechanisms that consider the effects of regulatory actions on SME service suppliers and that enable small businesses to participate in regulatory policy development.

3. Further to Article 15.8 (Development and Administration of Measures), each Party shall endeavor to ensure that authorization procedures for a service sector do not impose disproportionate burdens on SMEs.

Article 15.11: Denial of Benefits

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

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

Article 15.12: Payments and transfers

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

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

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

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

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

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

(d) criminal or penal offenses; or

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

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

Annex 15-A

Delivery Services

1, For the purposes of this Annex:

delivery services means the collection, sorting, transport, and delivery of documents, printed matter, parcels, goods, or other items;

postal monopoly means the exclusive right accorded to an operator within a Party's territory to supply specified delivery services pursuant to a measure of the Party; and

universal service means a delivery service that is made available to all users in a designated territory in accordance with standards of price and quality as defined by each Party.

For greater certainty, this Annex does not apply to maritime, internal waterway, air, rail, or road transportation services, including cabotage.

2. Each Party that maintains a postal monopoly shall define the scope of the monopoly on the basis of objective criteria, including quantitative criteria such as price or weight thresholds.

3. For greater certainty, each Party has the right to define the kind of universal service obligation it wishes to adopt or maintain. Each Party that maintains a universal service obligation shall administer it in a transparent, non-discriminatory, and impartial manner with regard to all service suppliers subject to the obligation.

4. No Party shall allow a supplier of a delivery service covered by a postal monopoly to:

(a) use revenues derived from the supply of such services to cross-subsidize the supply of a delivery service not covered by a postal monopoly[8]; or

(b) unjustifiably differentiate among mailers in like circumstances or consolidators in like circumstances with respect to tariffs or other terms and conditions for the supply of a delivery service covered by a postal monopoly.

[8] A Party shall be deemed in compliance with this paragraph if an independent audit determines on an annual basis that the Party's supplier of a delivery service covered by a postal monopoly has not used revenues derived from that monopoly to cross-subsidize its delivery services not covered by a postal monopoly. For greater certainty, this paragraph does not require a Party to ensure that a supplier of a delivery service covered by a postal monopoly maintain accounts in a sufficiently detailed manner to show the costs and revenues of each of its delivery services.

5. Each Party shall ensure that any supplier of services covered by a postal monopoly does not abuse its monopoly position to act in the Party's territory in a manner inconsistent with the Party's commitments under Article 14.4 (Investment - National Treatment), Article 15.3 (National Treatment), or Article 15.5 (Market Access) with respect to the supply of delivery services outside of the postal monopoly.

6. No Party shall:

(a) require the supply of a delivery service on a universal basis as a condition for an authorization or license to supply a delivery service not covered by a postal monopoly; or

(b) assess fees or other charges exclusively on the supply of any delivery service that is not a universal service for the purpose of funding the supply of a universal service.

7. Each Party shall ensure that any authority primarily responsible for regulating delivery services is not accountable to any supplier of delivery services, and that the decisions and procedures that the authority adopts are impartial, non-discriminatory, and transparent with respect to all delivery services not covered by a postal monopoly in its territory. [9]

8. No Party may require a supplier of a delivery service not covered by a postal monopoly to contract, or prevent such a supplier from contracting, with another service supplier to supply a segment of the delivery service.

[9] For greater certainty, and for the purposes of this paragraph, an "authority responsible for regulating delivery services" does not mean a customs authority.

ANNEX 15-B

Committee on Transportation Services

1. The Parties hereby establish a Committee on Transportation Services (Committee) composed of representatives of the relevant trade and transport-related national authorities of each Party. Each Party shall designate, no later than 6 months after the entry into force of this Agreement, the respective contact points for the Committee.

2. The Committee shall discuss issues as agreed upon by the Parties that may arise from the implementation and operation of the Parties' obligations related to transportation services in Chapters 15 (Cross- Border Trade in Services) and 14 (Investment), among others, as appropriate.

3. The Committee may invite, as appropriate, representatives of other relevant entities and representatives of the private sector to attend meetings of the Committee and report to the Committee on any discussions by these representatives.

4. The Committee shall take into consideration the discussions and outcomes related to the Committee from other fora in which the Parties participate in order to avoid duplication, and, as appropriate, incorporate those discussions and outcomes in the discussions of the Committee.

5. The Committee shall endeavor to meet within one year of the date of entry into force of this Agreement, and thereafter as necessary at such venues, format, and times as the Parties may decide.

6. The Committee shall, as appropriate, report to the Commission activities undertaken by the Parties pursuant to this Annex.

Annex 15-C

Professional Services

1. Each Party shall consult with relevant bodies in its territory to seek to identify professional services where at least two of the Parties are mutually interested in establishing a dialogue on issues that relate to the recognition of professional qualifications, licensing, or registration.

2. If a professional service described in Paragraph 1 is identified, each Party shall encourage its relevant bodies to establish dialogues with the relevant bodies of the other Parties, with a view to facilitating trade in professional services. The dialogues may consider, as appropriate:

(a) recognition of professional qualifications and facilitating licensing and registration procedures through mutual recognition agreements;

(b) autonomous recognition of the education or experience obtained by a candidate in the territory of another Party, for the purposes of fulfilling some or all of the licensing or examination requirements of that profession;

(c) the development of mutually acceptable standards and criteria for authorization of professional service providers from the territory of the other Party;

(d) temporary or project-specific licensing or registration based on a foreign supplier's home license or recognized professional body membership, without the need for further written examination;

(e) the form of association and procedures whereby a foreign-licensed supplier may work in association with a professional service supplier of the Party; or

(f) any other approaches to facilitate authorization to provide services by professionals licensed in another Party.

3. Each Party shall encourage its relevant bodies to take into account agreements that relate to professional services in the development of agreements on the recognition of professional qualifications, licensing, and registration.

4. Futher to any dialogue referred to in paragraph 2. (a)-(f), each Party shall encourage its respective relevant bodies, as appropriate, to consider undertaking any related activity within a mutually agreed time.

5. If relevant bodies enter into discussions for the purpose of creating a Mutual Recognition Agreement pursuant to paragraph 2. (a), discussions may be guided by Appendix 1 for the negotiation of such an agreement.

6. The Parties hereby establish a Professional Services Working Group (Working Group), composed of representatives of each Party.

7. The Working Group shall liaise, as appropriate, to support the Parties' relevant bodies in pursuing the activities listed in paragraph 2. This support may include providing points of contact, facilitating meetings, and providing information regarding regulation of professional services in the Parties' territories.

8. The Working Group shall meet within one year of the date of entry into force of this Agreement, and thereafter as decided by the Parties, to discuss activities covered by this Annex.

9. The Working Group shall, as appropriate, report to the Commission activities undertaken by the Parties pursuant to this Annex.

Appendix 1: Guidelines for Mutual Recognition Agreements or Arrangements for the Professional Services Sector

Introductory Notes

This Annex provides practical guidance for governments, negotiating entities or other entities entering into mutual recognition negotiations for the professional services sector. These guidelines are non-binding and are intended to be used by the Parties on a voluntary basis. They do not modify or affect the rights and obligations of the Parties under this Agreement.

The objective of these guidelines is to facilitate the negotiation of mutual recognition agreements or arrangements (hereinafter referred to as "MRAs").

The examples listed under this Annex are provided by way of illustration. The listing of these examples is indicative and is intended neither to be exhaustive, nor as an endorsement of the application of such measures by the Parties.

Section A – Conduct of Negotiations and Relevant Obligations

Opening of Negotiations

1. Parties intending to enter into negotiations towards an MRA are encouraged to inform the Professional Services Working Group of the Professional Services Annex to the Cross Border Trade in Services Chapter. The following information could be supplied:

(a) the entities involved in discussions (for example, governments, national organisations in the professional services sector or institutes which have authority, statutory or otherwise, to enter into such negotiations);
(b) a contact point to obtain further information;
(c) the subject of the negotiations (specific activity covered); and
(d) the expected time of the start of negotiations.

Single Negotiating Entity

2. Where no single negotiating entity exists, the Parties are encouraged to establish one.

Results

3. Upon the conclusion of an MRA, Parties are encouraged to inform the Professional Services Working Group, and may supply the following information in its notification:

(a) the content of a new MRA; or
(b) the significant modifications to an existing MRA.

Follow-up Actions

4. As a follow-up action to a conclusion of an MRA, Parties are encouraged to inform the Professional Services Working Group of the following:

(a) that the MRA comply with the provisions of this Chapter ; and
(b) measures and actions taken regarding the implementation and monitoring of the MRA.
(c) that the text of the MRA is publically available.

Section B – Form and Content of MRAs

Introductory Note

This Section sets out various issues that may be addressed in MRA negotiations and, if so agreed during the negotiations, included in the MRA. It includes some basic ideas on what a Party might require of foreign professionals seeking to take advantage of an MRA.

Participants

5. The MRA should identify clearly:

(a) the parties to the MRA (for example, governments, national professional organisations, or institutes);
(b) competent authorities or organisations other than the parties to the MRA, if any, and their position in relation to the MRA; and
(c) the status and area of competence of each party to the MRA.

Purpose of the MRA

6. The purpose of the MRA should be clearly stated.

Scope of the MRA

7. The MRA should set out clearly:

(a) its scope in terms of the specific profession or titles and professional activities it covers in the territories of the parties;
(b) who is entitled to use the professional titles concerned;
(c) whether the recognition mechanism is based on qualifications, on the licence obtained in the country of origin or on some other requirement; and
(d) whether it covers temporary access, permanent access, or both, to the profession concerned.

MRA Provisions

8. The MRA should clearly specify the conditions to be met for recognition in the territories of each Party and the level of equivalence agreed between the parties to the MRA. The precise terms of the MRA depend on the basis on which the MRA is founded, as discussed above. In case the requirements of the various sub-national jurisdictions of a party to an MRA are not identical, the difference should be clearly presented. The MRA should address the applicability of the recognition granted by one sub-national jurisdiction in the other sub-national jurisdictions of the party to the MRA.

9. Parties should seek to ensure that recognition does not require citizenship or any form of residency, or education, experience, or training in the territory of the host jurisdiction.

Eligibility for Recognition - Qualifications

10. If the MRA is based on recognition of qualifications, then it should, where applicable, state:

(a) the minimum level of education required (including entry requirements, length of study, and subjects studied);
(b) the minimum level of experience required (including location, length, and conditions of practical training or supervised professional practice prior to licensing, and framework of ethical and disciplinary standards);
(c) examinations passed, especially examinations of professional competence;
(d) the extent to which home country qualifications are recognised in the host country; and
(e) the qualifications which the parties are prepared to recognise, for instance, by listing particular diplomas or certificates issued by certain institutions, or by reference to particular minimum requirements to be certified by the authorities of the country of origin, including whether the possession of a certain level of qualification would allow recognition for some activities but not others.

Eligibility for Recognition - Registration

11. If the MRA is based on recognition of the licensing or registration decision made by regulators in the country of origin, it should specify the mechanism by which eligibility for such recognition may be established.

12.

(a) Where it is considered necessary to provide for additional requirements in order to ensure the quality of the service, the MRA should set out the conditions under which those requirements may apply, for example, in case of shortcomings in relation to qualification requirements in the host country or knowledge of local law, practice, standards, and regulations. This knowledge should be essential for practice in the host country or required because there are differences in the scope of licensed practice.

(b) Where additional requirements are deemed necessary, the MRA should set out in detail what they entail (for example, examination, aptitude test, additional practice in the host country or in the country of origin, practical training, and language used for examination).

Mechanisms for Implementation

13. The MRA could state:

(a) the rules and procedures to be used to monitor and enforce the provisions of the MRA;

(b) the mechanisms for dialogue and administrative cooperation between the parties; and

(c) the means of arbitration for disputes under the MRA.

14. As a guide to the treatment of individual applicants, the MRA could include details on:

(a) the focal point of contact in each party for information on all issues relevant to the application (name and address of competent authorities, licensing formalities, information on additional requirements which need to be met in the host country, etc.);

(b) the length of procedures for the processing of applications by the relevant authorities of the host country;

(c) the documentation required of applicants and the form in which it should be presented and any time limits for applications;

(d) acceptance of documents and certificates issued in the country of origin in relation to qualifications and licensing;

(e) the procedures of appeal to or review by the relevant authorities; and

(f) the fees that might be reasonably required.

15. The MRA could also include the following commitments:

(a) that requests about the measures will be promptly dealt with;
(b) that adequate preparation time will be provided where necessary;
(c) that any exams or tests will be arranged with reasonable periodicity;

(d) that fees to applicants seeking to take advantage of the terms of the MRA will be in proportion to the cost to the host country or organisation; and

(e) that information on any assistance programmes in the host country for practical training, and any commitments of the host country in that context, be supplied.

Licensing and Other Provisions in the Host Country

16. Where applicable:

(a) the MRA could also set out the means by which, and the conditions under which, a licence is actually obtained following the establishment of eligibility, and what such licence entails (a licence and its content, membership of a professional body, use of professional or academic titles, etc.);

(b) a licensing requirement, other than qualifications, should include, for example:

(i) an office address, an establishment requirement, or a residency requirement;

(ii) a language requirement;

(iii) proof of good conduct and financial standing;

(iv) professional indemnity insurance;

(v) compliance with host country's requirements for use of trade or firm names; and

(vi) compliance with host country ethics, for instance independence and incompatibility;

Revision of the MRA

17. If the MRA includes terms under which it can be reviewed or revoked, the details of such terms should be clearly stated.

ANNEX 15-D

Simultaneous Substitution

1. Canada shall rescind Broadcasting Regulatory Policy CRTC 2016-334 and Broadcasting Order CRTC 2016-335. With respect to simultaneous substitution of commercials during the retransmission in Canada of the program referenced in those measures, Canada may not accord the program treatment less favorable than the treatment accorded to other programs originating in the United States retransmitted in Canada.

2. The United States and Canada shall each provide in its copyright law that:

   (a) retransmission to the public of program signals not intended in the original transmission for free, over-the-air reception by the general public shall be permitted only with the authorization of the holder of the copyright in the program; and

   (b) where the original transmission of the program is carried in signals intended for free, over-the-air reception by the general public, willful retransmission in altered form or non-simultaneous retransmission of signals carrying a copyright holder's program shall be permitted only with the authorization of the holder of the copyright in the program.

3. Other than as provided for in paragraph 1, nothing in subparagraph 2 (b) shall be construed to prevent a Party from maintaining existing measures relating to retransmission of a program carried in signals intended for free, over-the-air reception by the general public; or introducing measures to enable the local licensee of the copyrighted program to exploit fully the commercial value of its license.

Home shopping programming services

4. Canada shall ensure that U.S. programming services specializing in home shopping, including modified versions of these U.S. programming services for the Canadian market, are authorized for distribution in Canada and may negotiate affiliation agreements with Canadian cable, satellite, and IPTV distributors.

ANNEX 15-E

Mexico's Cultural Exceptions

Recognizing that culture is an important component of the creative, symbolic and economic dimension of human development,

Affirming the fundamental right of freedom of expression and the right to plural and diverse information,

Recognizing that states have the sovereign right to preserve, develop and implement their cultural policies, to support their cultural industries for the purpose of strengthening the diversity of cultural expressions, and to preserve their cultural identity,

In order to preserve and promote the development of Mexican culture, Mexico has negotiated reservations in its schedules to Annex I and Annex II for certain obligations in Chapter 14 (Investment) and Chapter 15 (Cross-Border Trade in Services), which are summarized below:

In Annex I:

Broadcasting (radio and free-to-air television):

Reservations taken against:

- National Treatment obligations for Investment and Cross-Border Trade in Services Chapters
- Local Presence obligation for Cross-Border Trade in Services Chapter
    - Sole concessions and frequency band concessions will be granted only to Mexican nationals or enterprises constituted under Mexican laws and regulations.
    - Investors of a Party or their investments may participate up to 49 per cent in concessionaire enterprises providing broadcasting services. This maximum foreign investment will be applied according to the reciprocity existent with the country in which the investor or trader who ultimately controls it, directly or indirectly, is constituted.
    - Concessions for indigenous social use shall be granted to indigenous people and indigenous communities of Mexico, with the objective to promote, develop and preserve languages, culture, knowledge, traditions, identity and their internal rules that, under principles of gender equality, enable the integration of indigenous women in the accomplishment of the purposes for which the concession is granted.
    - Under no circumstances may a concession, the rights conferred therein, facilities, auxiliary services, offices or accessories and properties affected thereto, be assigned, encumbered, pledged or given in trust, mortgaged, or transferred totally or partially to any foreign government or state.

- The State shall guarantee that broadcasting promotes the values of national identity.
- The broadcasting concessionaires shall use and stimulate local and national artistic values and expressions of Mexican culture, according to the characteristics of its programming.
- The daily programming with personal performances shall include more time covered by Mexicans.

Newspaper publishing

Reservation taken against:

- National Treatment obligation for Investment Chapter
  - Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the printing or publication of daily newspapers written primarily for a Mexican audience and distributed in the territory of Mexico.

Cinema services

Reservation taken against:

- National Treatment obligation for Investment Chapter
- Most-Favored-Nation Treatment obligation for Investment and Cross-Border Trade in Services Chapters
  - Exhibitors shall reserve 10 per cent of the total screen time to the projection of national films.

In Annex II:

Audiovisual services

Reservation taken against:

- Market Access obligation for Cross-Border Trade in Services Chapter
  - Mexico is taking only limited commitments in the Market Access obligation with respect to the audiovisual services sectors.

CHAPTER 16

TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 1601: Definitions

For the purposes of this Chapter:

business person means a citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities;

citizen means, with respect to Mexico, a national or a citizen according to the existing provisions of Articles 30 and 34, respectively, of the Mexican Constitution; and

temporary entry means entry into the territory of a Party by a business person of another Party without the intent to establish permanent residence.

Article 1602: Scope

1. This Chapter applies to measures affecting the temporary entry of business persons of a Party into the territory of another Party.

2. This Chapter does not apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, nationality, residence or employment on a permanent basis.

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

Article 1603: General Obligations

1. Each Party shall apply its measures relating to this Chapter expeditiously so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

2. The Parties shall endeavor to develop and adopt common criteria, definitions and interpretations for the implementation of this Chapter.

Article 1604: Grant of Temporary Entry

1. Each Party shall grant temporary entry to a business person who is otherwise qualified for entry under its measures relating to public health and safety and national security, in accordance with this Chapter, including Annex 1603.

2. A Party may refuse to grant temporary entry or issue an immigration document authorizing employment to a business person where the temporary entry of that person might adversely affect:

   (a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or

   (b) the employment of any person who is involved in that dispute.

3. When a Party refuses pursuant to paragraph 2 to grant temporary entry or issue an immigration document authorizing employment, it shall:

   (a) provide written notice to the business person of the reasons for the refusal; and

   (b) promptly provide written notice to the Party whose business person has been refused entry of the reasons for the refusal.

4. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

5. The sole fact that a Party grants temporary entry to a business person of another Party pursuant to this Chapter shall not be construed to exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practice a profession or otherwise engage in business activities.

Article 1605: Provision of Information

1. Further to Article 29.2 (Publication and Administration - Publication), each Party shall publish online or otherwise make publicly available explanatory material regarding the requirements for temporary entry under this Chapter that will enable a business person of another Party to become acquainted with them.

2. Each Party shall collect and maintain, and make available to the other Parties in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Parties who have been issued immigration documentation, including, where practicable, data specific to each occupation, profession, or activity.

Article 1606: Working Group

1. The Parties hereby establish a temporary entry working group, comprising representatives of each Party, including representatives of immigration authorities.

2. The working group shall meet at least once each year to consider:

(a) the implementation and administration of this Chapter;

(b) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;

(c) the waiving of labor certification tests or procedures of similar effect for spouses of business persons who have been granted temporary entry for more than one year under Section B, C or D of Annex 1603;

(d) proposed modifications of or additions to this Chapter; and

(e) issues of common interest related to temporary entry of business persons, such as the use of technologies related to processing of applications, that can be further explored among the Parties in other fora.

Article 1607: Dispute Settlement

1. A Party may not initiate proceedings under Article 31.6 (Dispute Settlement – Commission Good Offices, Conciliation and Mediation) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 1603(1) unless:

(a) the matter involves a pattern of practice; and

(b) the business person has exhausted the available administrative remedies regarding the particular matter.

2. The remedies referred to in paragraph (1)(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 1608: Relation to Other Chapters

Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions) , Chapter 30 (Administrative and Institutional Provisions), Chapter 31 (Dispute Settlement), Chapter 34

(Final Provisions), Article 29.2 (Publication and Administration - Publication), and Article 29.3 (Publication and Administration –Administrative Proceedings), no provision of this Agreement shall impose an obligation on a Party regarding its immigration measures.

Annex 1603

Temporary Entry for Business Persons

Section A - Business Visitors

1. Each Party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with the Party's measures applicable to temporary entry, on presentation of:

(a) proof of citizenship of a Party;

(b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and

(c) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labor market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

(a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and

(b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory.

A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. Where the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

3. Nothing in paragraph 1 shall be construed to limit the ability of a business person seeking to engage in a business activity other than those set out in Appendix 1603.A.1 to seek temporary entry under a Party's measures relating to the entry of business persons.

4. No Party shall:

(a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labour certification tests or other procedures of similar effect; or

(b) impose or maintain a numerical restriction relating to temporary entry under paragraph 1.

5. Notwithstanding paragraph 4, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult, on request, with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section B - Traders and Investors

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to:

(a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a citizen and the territory of the Party into which entry is sought, or

(b) establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital,

in a capacity that is supervisory, executive or involves essential skills, provided that the business person otherwise complies with the Party's measures applicable to temporary entry.

2. No Party shall:

(a) as a condition for temporary entry under paragraph 1, require labour certification tests or other procedures of similar effect; or

(b) impose or maintain a numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section C - Intra-Company Transferees

1. Each Party shall grant temporary entry and provide confirming documentation to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive or involves specialized knowledge, provided that the business person otherwise complies with the Party's measures applicable to temporary entry. A Party may require the business person to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for admission.

2. No Party shall:

(a) as a condition for temporary entry under paragraph 1, require labour certification tests or other procedures of similar effect; or

(b) impose or maintain a numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section D – Professionals

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1, if the business person otherwise complies with the Party's measures applicable to temporary entry, on presentation of:

(a) proof of citizenship of a Party; and

(b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.

2. No Party shall:

(a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labour certification tests or other procedures of similar effect; or

(b) impose or maintain a numerical restriction relating to temporary entry under paragraph.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Appendix 1603.A.1

Business Visitors

Research and Design

- Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of another Party.

Growth, Manufacture and Production

- Harvester owner supervising a harvesting crew admitted under a Party's law.
- Purchasing and production management personnel conducting commercial transactions for an enterprise located in the territory of another Party.

Marketing

- Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise located in the territory of another Party.
- Trade fair and promotional personnel attending a trade convention.

Sales

- Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of another Party but not delivering goods or providing services.
- Buyers purchasing for an enterprise located in the territory of another Party.

Distribution

- Transportation operators transporting goods or passengers to the territory of a Party from the territory of another Party or loading and transporting goods or passengers from the territory of a Party, with no unloading in that territory, to the territory of another Party.
- With respect to temporary entry into the territory of the United States, Canadian customs brokers performing brokerage duties relating to the export of goods from the territory of the United States to or through the territory of Canada.
- With respect to temporary entry into the territory of Canada, United States customs brokers performing brokerage duties relating to the export of goods from the territory of Canada to or through the territory of the United States.
- Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

After Sales Services

- Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

- Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1

Commercial Transactions

- Management and supervisory personnel engaging in a commercial transaction for an enterprise located in the territory of another Party.
- Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the territory of another Party.

Public Relations and Advertising

- Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.

Tourism

- Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of another Party.

Tour Bus Operation

- Tour bus operators entering the territory of a Party:

  (a) with a group of passengers on a bus tour that has begun in, and will return to, the territory of another Party;

  (b) to meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in the territory of another Party; or

(c) with a group of passengers on a bus tour to be unloaded in the territory of the Party into which temporary entry is sought, and returning with no passengers or reloading with the group for transportation to the territory of another Party.

Translation

- Translators or interpreters performing services as employees of an enterprise located in the territory of another Party.

Definitions

For the purposes of this Appendix:

territory of another Party means the territory of a Party other than the territory of the Party into which temporary entry is sought;

tour bus operator means a natural person, including relief personnel accompanying or following to join, necessary for the operation of a tour bus for the duration of a trip; and

transportation operator means a natural person, other than a tour bus operator, including relief personnel accompanying or following to join, necessary for the operation of a vehicle for the duration of a trip.

Appendix 1603.D.1

PROFESSIONALS

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS
General	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license[2]
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma[3] or PostSecondary Certificate,[4] and three years experience
Disaster Relief Insurance Claims Adjuster (claims Adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims.
Economist	Baccalaureate or Licenciatura Degree

[1] A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

[2] "State/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

[3] "Post-Secondary Diploma" means a credential issued, on completion of two or more years of postsecondary education, by an accredited academic institution in Canada or the United States.

[4] "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of postsecondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license
Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
Graphic Designer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or PostSecondary Diploma or PostSecondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
Landscape Architect	Baccalaureate or Licenciatura Degree
Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience

	in a field of specialty related to the consulting agreement
Mathematician (including Statistician)[5]	Baccalaureate or Licenciatura Degree
Range Manager/Range Conservationalist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist[6]	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree
Medical/Allied Professional	
Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license

[5] In accordance with the NAFTA 1994 Commission decision of October 7, 2003, the term "Mathematician" includes the profession of Actuary.

[6] A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States)[7]	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license
Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial license
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Psychologist	State/provincial license; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial license; or Licenciatura Degree
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license
Scientist	
Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree

[7] A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist[8]	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree

[8] In accordance with the NAFTA 1994 Commission decision of October 7, 2003, the term "Biologist" includes the profession of Plant Pathologist.

Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree
Teacher	
College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

CHAPTER 17

FINANCIAL SERVICES

Article 17.1: Definitions

For the purposes of this Chapter:

covered person means

(a) a financial institution of another Party; or

(b) a cross-border financial service supplier of another Party that is subject to regulation, supervision, and licensing, authorization, or registration by a financial regulatory authority of the Party[1];

computing facilities means computer servers and storage devices for the processing or storage of information for the conduct of business within the scope of the license, authorization, or registration of a covered person, but does not include computer servers or storage devices of or used to access:

(a) financial market infrastructures;

(b) exchanges or markets for securities or for derivatives such as futures, options, and swaps; or

(c) non-governmental bodies that exercise regulatory or supervisory authority over covered persons;

cross-border financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such a service;

[1] For greater certainty, whenever a cross-border financial service supplier of another Party is subject to regulation, supervision, and licensing, authorization, or registration by a financial regulatory authority of the Party, that supplier is a covered person for the purposes of this Chapter. For greater certainty, if a financial regulatory authority of the Party foregoes imposition of certain regulatory or supervisory requirements on the condition that a cross-border financial service supplier of another Party comply with certain regulatory or supervisory requirements imposed by a financial regulatory authority of the other Party, that supplier is a covered person.

cross-border trade in financial services or **cross-border supply of financial services** means the supply of a financial service:

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

(b) in the territory of a Party by a person of that Party to a person of another Party; or

(c) by a national of a Party in the territory of another Party,

but does not include the supply of a financial service in the territory of a Party by a covered investment;

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

financial institution of another Party means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of another Party;

financial market infrastructures means multi-participant systems in which covered persons participate with other financial service suppliers, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions;

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

Insurance and insurance-related services

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

(i) life;

(ii) non-life;

(b) reinsurance and retrocession;

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

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

Banking and other financial services (excluding insurance)

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

(f) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(g) financial leasing;

(h) all payment and money transmission services, including credit, charge and debit cards, travelers checks, and bankers drafts;

(i) guarantees and commitments;

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

(i) money market instruments (including checks, bills, certificates of deposits);

(ii) foreign exchange;

(iii) derivative products, including futures and options;

(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(v) transferable securities; and

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

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

(l) money broking;

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

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

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

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

financial service supplier of a Party means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;

investment means "investment" as defined in Article 14.1 (Investment – Definitions), except that with respect to "loans" and "debt instruments" referred to in that Article:

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

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

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

investor of a Party means a Party, or a person of a Party, that attempts to make[2], is making, or has made an investment in the territory of another Party;

new financial service means a financial service not supplied in the Party's territory that is supplied within the territory of another Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

person of a Party means "person of a Party" as defined in Article 1.3 (General Definitions) and, for greater certainty, does not include a branch of an enterprise of a non-Party;

public entity means a central bank or monetary authority of a Party, or any financial institution that is owned or controlled by a Party; and

[2] For greater certainty, the Parties understand that an investor "attempts to make" an investment when that investor has taken concrete action or actions to make an investment, such as channeling resources or capital in order to set up a business, or applying for permits or licenses.

self-regulatory organization means a non-governmental body, including a securities or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial service suppliers or financial institutions by statute or delegation from central or regional government.

Article 17.2: Scope

1. This Chapter applies to a measure adopted or maintained by a Party relating to:

   (a) a financial institution of another Party;

   (b) an investor of another Party, and an investment of that investor, in a financial institution in the Party's territory; and

   (c) cross-border trade in financial services.

2. Chapter 14 (Investment) and Chapter 15 (Cross-Border Trade in Services) apply to a measure described in paragraph 1 only to the extent that those Chapters are incorporated into this Chapter.

   (a) Article 14.6 (Investment – Minimum Standard of Treatment), Article 14.7 (Investment –Treatment in the Case of Armed Conflict or Civil Strife), Article 14.8 (Investment, Expropriation and Compensation), Article 14.9 (Investment – Transfers), Article 14.13X (Investment – Special Formalities and Information Requirements), Article 15.11 (Cross-Border Trade in Services, Denial of Benefits), Article 14.16 (Investment –Investment and Environmental, Health, Safety, and other Regulatory Objectives) and Article 14.14 (Investment – Denial of Benefits) are incorporated into and made a part of this Chapter.

   (b) Article 15.12 (Cross-Border Trade in Services – Payments and Transfers) is incorporated into and made a part of this Chapter to the extent that cross-border trade in financial services is subject to obligations pursuant to Article 17.3.3 (National Treatment), Article 17.5.1 (b) and (c) (Market Access), and Article 17.6 (Cross-Border Trade Standstill).

3. This Chapter does not apply to a measure adopted or maintained by a Party relating to:

   (a) an activity or a service forming part of a public retirement plan or statutory system of social security; or

   (b) an activity or a service conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter shall apply to the extent that a Party allows any of the activities or services referred to in subparagraph (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

4. This Chapter does not apply to government procurement of financial services.

5. This Chapter does not apply to a subsidy or a grant provided by a Party, including a government supported loan, guarantee, and insurance, with respect to the cross-border supply of financial services by a cross-border supplier of another Party.

Article 17.3: National Treatment

1. Each Party shall accord to an investor of another Party treatment no less favorable than that it accords to its own investors, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions, and investments in financial institutions in its territory.

2. Each Party shall accord to a financial institution of another Party, and to an investment of an investor of another Party in a financial institution, treatment no less favorable than that it accords to its own financial institutions, and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.

3. Each Party shall accord to:

(a) a financial service or a cross-border financial service supplier of another Party seeking to supply or supplying the financial services as specified by the Party in Annex 17-A (Cross-Border Trade); and

(b) a financial service or a cross-border financial service supplier of another Party seeking to supply or supplying financial services subject to paragraph 4,

treatment no less favorable than that it accords to its own financial services and financial service suppliers, in like circumstances**.**

4. Subparagraph 3(b) does not require a Party to permit a cross-border financial service supplier of another Party to do business or solicit in the Party's territory. A Party may define "doing business" and "solicitation" in its law for the purposes of this paragraph.

5. The treatment to be accorded by a Party under paragraphs 1, 2, and 3 means, with respect to a government other than at the central level, treatment no less favorable than the most favorable

treatment accorded, in like circumstances, by that government to financial institutions of the Party; investors of the Party, and investments of those investors, in financial institutions; or financial services or financial service suppliers, of the Party.

6. For greater certainty, whether treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors in financial institutions, investments in financial institutions, financial institutions, or financial services or financial service suppliers on the basis of legitimate public welfare objectives.

Article 17.4: Most-Favored-Nation Treatment

1. Each Party shall accord to:

(a) an investor of another Party, treatment no less favorable than that it accords to investors of any other Party or of a non-Party, in like circumstances;

(b) a financial institution of another Party, treatment no less favorable than that it accords to financial institutions of any other Party or of a non-Party, in like circumstances;

(c) an investment of an investor of another Party in a financial institution, treatment no less favorable than that it accords to investments of investors of any other Party or of a non-Party in financial institutions, in like circumstances; and

(d) a financial service or cross-border financial service supplier of another Party, treatment no less favorable than that it accords to financial services and cross-border financial service suppliers of any other Party or of a non-Party, in like circumstances.

2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a government other than at the central level, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that government to financial institutions of any other Party or a non-Party; investors of any other Party or a non-Party, and investments of those investors, in financial institutions; or financial services or cross-border financial service suppliers of any other Party or non-Party.

3. For the purposes of this Article, the "treatment" referred to in paragraph 1 excludes provisions in other trade or investment agreements that establish international dispute resolution procedures or impose substantive obligations; rather, "treatment" only includes measures adopted or maintained by the other Annex Party, which may include measures adopted or maintained pursuant to or consistent with substantive obligations in other trade or investment agreements.

4. For greater certainty, whether treatment is accorded in "like circumstances" under this Article depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors in financial institutions, investments in financial institutions, financial institutions, or financial services or financial service suppliers on the basis of legitimate public welfare objectives.

Article 17.5: Market Access

1. No Party shall adopt or maintain with respect to:

(a) a financial institution of another Party or, an investor of another Party seeking to establish those institutions;

(b) a cross-border financial service supplier of another Party seeking to supply or supplying the financial services as specified by the Party in Annex 17-A (Cross-Border Trade); or

(c) a cross-border financial service supplier of another Party seeking to supply or supplying financial services, subject to paragraph 2,

either on the basis of a regional subdivision or on the basis of its entire territory, a measure that:

(d) imposes a limitation on:

(i) the number of financial institutions or cross-border financial service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

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

(iii) the total number of financial service operations or the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;[3] or

(iv) the total number of natural persons that may be employed in a particular financial service sector or that a financial institution or cross-border service supplier may employ and who are necessary for, and directly

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

related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(e) restricts or requires specific types of legal entity or joint venture through which a financial institution or cross-border service supplier may supply a service.

2. Subparagraph 1(c) does not require a Party to permit a cross-border financial service supplier of another Party to do business or solicit in the Party's territory. A Party may define "doing business" and "solicitation" in its law for the purposes of this paragraph.

3. No Party shall require a cross-border financial service supplier of another Party to establish or maintain a representative office or an enterprise, or to be resident, in its territory as a condition for the cross-border supply of a financial service, with respect to the financial services referred to in Article 17.6 (Cross-Border Trade Standstill) and the financial services as specified by the Party in Annex 17-A (Cross-Border Trade).

4. For greater certainty, a Party may require the registration or authorization of a cross-border financial service supplier of another Party or of a financial instrument.

Article 17.6: Cross-Border Trade Standstill

No Party shall adopt a measure restricting any type of cross-border trade in financial services by cross-border financial service suppliers of another Party that the Party permitted on January 1, 1994, or that is inconsistent with Article 17.3.3 (National Treatment), with respect to the supply of those services.

Article 17.7: New Financial Services[4]

1. Each Party shall permit a financial institution of another Party to supply a new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without adopting a law or modifying an existing law.[5] Notwithstanding Article 17.5.1(a) and (e) (Market Access), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. If a Party requires a financial institution to obtain authorization to supply a new financial service, the Party shall decide within a reasonable period of time whether to issue the authorization and may refuse the authorization only for prudential reasons.

[4] The Parties understand that nothing in this Article prevents a financial institution of a Party from applying to another Party to request that it authorize the supply of a financial service that is not supplied in the territory of any Party. That application shall be subject to the law of the Party to which the application is made and, for greater certainty, shall not be subject to this Article.

[5] For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.

Article 17.8: Treatment of Customer Information

Nothing in this Chapter requires a Party to disclose information related to the financial affairs or accounts of individual customers of financial institutions or cross-border financial service suppliers.

Article 17.9: Senior Management and Boards of Directors

1. No Party shall require a financial institution of another Party to engage a natural person of a particular nationality as senior managerial or other essential personnel.

2. No Party shall require that more than a simple majority of the board of directors of a financial institution of another Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

Article 17.10: Non-Conforming Measures

1. Article 17.3 (National Treatment), Article 17.4 (Most-Favored-Nation Treatment), Article 17.5 (Market Access), and Article 17.9 (Senior Management and Boards of Directors) shall not apply to:

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

(i) the central level of government, as set out by that Party in Section A of its Schedule to Annex III;

(ii) a regional level of government, as set out by that Party in Section A of its Schedule to Annex III;

(iii) a local level of government;

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

(c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure as it existed:

(i) immediately before the amendment, with Articles 17.3.1 and 17.3.2

(National Treatment), Article 17.4 (Most-Favored-Nation Treatment), Article 17.5.1(a) (Market Access), or Article 17.9 (Senior Management and Boards of Directors); or

(ii) on the date of entry into force of the Agreement for the Party applying the non-conforming measure with Article 17.3.3 (National Treatment), Article 17.5.1(b) (Market Access), or Article 17.5.1(c) (Market Access).

2. Article 17.3 (National Treatment), Article 17.4 (Most-Favored-Nation Treatment), Article 17.5 (Market Access), Article 17.6 (Cross-Border Trade Standstill), and Article 17.9 (Senior Management and Boards of Directors) shall not apply to a measure that a Party adopts or maintains with respect to a sector, subsector, or an activity, as set out by that Party in Section B of its Schedule to Annex III.

3. A non-conforming measure, set out in a Party's Schedule to Annex I or II as not subject to Article 14.4 (Investment – National Treatment), Article 14.5 (Investment – Most-Favored-Nation Treatment), Article 14.11 (Investment – Senior Management and Boards of Directors), Article 15.3 (Cross Border Trade in Services – National Treatment) or Article 15.4 (Cross Border Trade in Services – Most-Favored-Nation Treatment), shall be treated as a non-conforming measure not subject to Article 17.3 (National Treatment), Article 17.4 (Most-Favored-Nation Treatment) or Article 17.9 (Senior Management and Boards of Directors), as the case may be, to the extent that the measure, sector, subsector or activity set out in the Party's schedule to Annex I or II is covered by this Chapter.

4. (a) Article 17.3 (National Treatment) shall not apply to a measure that falls within an exception to, or derogation from, the obligations which are imposed by:

(i) Article 20.5 (Intellectual Property National Treatment); or

(ii) Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 20 (Intellectual Property).

(b) Article 17.4 (Most-Favored-Nation Treatment) shall not apply to any measure that falls within Article 5 of the TRIPS Agreement, or an exception to, or derogation from, the obligations which are imposed by:

(i) Article 20.5 (Intellectual Property, National Treatment); or

(ii) Article 4 of the TRIPS Agreement.

Article 17.11: Exceptions

1. Notwithstanding the other provisions of this Agreement except for Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Agriculture), Chapter 4 (Rules of Origin), Chapter 5 (Origin Procedures), Chapter 6 (Textiles and Apparel), Chapter 7 (Customs Administration and Trade Facilitation), Chapter 10 (Trade Remedies), Chapter 9 (Sanitary and Phytosanitary Measures), and Chapter 11 (Technical Barriers to Trade), a Party shall not be prevented from adopting or maintaining a measure for prudential reasons,[6] including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. If the measure does not conform with the provisions of this Agreement to which this exception applies, they shall not be used as a means of avoiding the Party's commitments or obligations under those provisions.

2. Nothing in this Chapter, Chapter 14 (Investment), Chapter 15 (Cross- Border Trade in Services), Chapter 18 (Telecommunications) including specifically Article 18.26 (Relation to Other Chapters), or Chapter 19 (Digital Trade), shall apply to a non-discriminatory measure of general application taken by a public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 14.10 (Performance Requirements) with respect to a measure covered by Chapter 14 (Investment), under Article 14.9 (Investment, Transfers) or Article 15.12 (Cross Border Trade in Services, Payments and Transfers).

3. Notwithstanding Article 14.9 (Investment, Transfers) and Article 15.12 (Cross Border Trade in Services – Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit a transfer by a financial institution or a cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of a measure relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining a measure necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject to the requirement that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between

[6] The Parties understand that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers as well as the safety, and financial and operational integrity of payment and clearing systems.

Parties or between Parties and non-Parties where like conditions prevail, or a disguised restriction on investment in financial institutions or cross-border trade in financial services as covered by this Chapter.

Article 17.12: Recognition

1. A Party may recognize prudential measures of another Party or a non- Party in the application of a measure covered by this Chapter. That recognition may be:

   (a) accorded autonomously;

   (b) achieved through harmonization or other means; or

   (c) based upon an agreement or arrangement with another Party or a non-Party.

2. A Party that accords recognition of prudential measures under paragraph 1 shall provide adequate opportunity to another Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the relevant Parties.

3. If a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances set out in paragraph 2 exist, that Party shall provide adequate opportunity to another Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

4. For greater certainty, nothing in Article 17.4 (Most-Favored-Nation Treatment) requires a Party to accord recognition to prudential measures of any other Party.

Article 17.13: Transparency and Administration of Certain Measures

1. Chapter 28 (Good Regulatory Practices) and Chapter 29 (Publication and Administration) shall not apply to a measure relating to the subject matter of this Chapter.

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

3. Each Party shall, to the extent practicable:

   (a) publish in advance any such regulation that it proposes to adopt and the purpose of the regulation; and

   (b) provide interested persons and other Parties with a reasonable opportunity to

comment on that proposed regulation.

4. At the time that it adopts a final regulation, a Party should, to the extent practicable, address in writing the substantive comments received from interested persons and other Parties with respect to the proposed regulation. For greater certainty, a Party may address those comments collectively on an official government website.

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

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

7. If a Party requires authorization for the supply of a financial service, it shall ensure that its financial regulatory authorities:

(a) to the extent practicable, permit an applicant to submit an application at any time;

(b) allow a reasonable period for the submission of an application if specific time periods for applications exist;

(c) provide to service suppliers and persons seeking to supply a service the information necessary to comply with the requirements and procedures for obtaining, maintaining, amending, and renewing such authorization;

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

(e) endeavor to accept applications in electronic format;

(f) accept copies of documents that are authenticated in accordance with the Party's domestic law, in place of original documents, unless the financial regulatory authorities require original documents to protect the integrity of the authorisation process;

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

(h) in the case of an application considered complete under domestic laws and regulations, within a reasonable period of time taking into account the available resources of the competent authority after the submission of the application, ensure that the processing of an application is completed, and that the applicant is informed of the decision concerning the application, to the extent possible in writing;

(i) in the case of an application considered incomplete under domestic law, within a reasonable period of time, to the extent practicable:

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

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

(iii) provide the applicant with the opportunity[7] to provide the additional information that is required to complete the application; and

if none of the actions in subparagraphs (i) through (iii) is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time;

(j) in the case of a rejected application, to the extent practicable, either on its own initiative or upon the request of the applicant, inform the applicant of the reasons for rejection and, if applicable, the procedures for resubmission of an application;

(k) with respect to authorization fees[8] charged by financial regulatory authorities:

(i) provide applicants with a schedule of fees or information on how fee amounts are calculated; and

(ii) do not use the fees as a means of avoiding the Party's commitments or obligations under this Chapter; and

(l) ensure that authorization, once granted, enters into effect without undue delay.

Article 17.14: Self-Regulatory Organizations

If a Party requires a financial institution or a cross-border financial service supplier of another Party to be a member of, participate in, or have access to, a self-regulatory organization in order to provide a financial service in or into its territory, it shall ensure that the self-regulatory organization observes the obligations contained in this Chapter.

[7] For greater certainty, such opportunity does not require a competent authority to provide extensions of deadlines.
[8] Authorization fees include licensing fees and fees relating to qualification procedures but do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

Article 17.15: Payment and Clearing Systems

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

Article 17.16: Expedited Availability of Insurance Services

The Parties recognize the importance of maintaining and developing regulatory procedures to expedite the offering of insurance services by licensed suppliers. These procedures may include: allowing introduction of products unless those products are disapproved within a reasonable period of time; not requiring product approval or authorization of insurance lines for insurance other than insurance sold to individuals or compulsory insurance; or not imposing limitations on the number or frequency of product introductions. If a Party maintains regulatory product approval procedures, that Party shall endeavor to maintain or improve those procedures, as appropriate, to expedite availability of insurance services by licensed suppliers.

Article 17.19: Transfer of Information

No Party shall prevent a covered person from transferring information, including personal information, into and out of the Party's territory by electronic or other means when this activity is for the conduct of business within the scope of the license, authorization, or registration of that covered person. Nothing in this Article restricts the right of a Party to adopt or maintain measures to protect personal data, personal privacy and the confidentiality of individual records and accounts, provided that such measures are not used to circumvent the commitments or obligations of this Article.

Article 17.20: Location of Computing Facilities

1. The Parties recognize that immediate, direct, complete, and ongoing access by a Party's financial regulatory authorities to information of covered persons, including information underlying the transactions and operations of such persons, is critical to financial regulation and supervision, and recognize the need to eliminate any potential limitations on such access.

2. No Party shall require a covered person to use or locate computing facilities in the Party's territory as a condition for conducting business in that territory, so long as the Party's financial regulatory authorities, for regulatory and supervisory purposes, have immediate, direct, complete, and ongoing access to information processed or stored on computing facilities that the covered

person uses or locates outside the Party's territory.[9]

3. Each Party shall, to the extent practicable, provide a covered person with a reasonable opportunity to remediate a lack of access to information as described in paragraph 2 before the Party requires the covered person to use or locate computing facilities in the Party's territory or the territory of another jurisdiction.[10]

4. Nothing in this Article restricts the right of a Party to adopt or maintain measures to protect personal data, personal privacy and the confidentiality of individual records and accounts, provided that such measures are not used to circumvent the commitments or obligations of this Article.

Article 17.21: Committee on Financial Services

1. The Parties hereby establish a Committee on Financial Services (Committee). The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex 17-B (Authorities Responsible for Financial Services).

2. The Committee shall supervise the implementation of this Chapter and its further elaboration, including by considering issues regarding financial services that are referred to it by a Party.

3. The Committee shall meet as the Parties decide to assess the functioning of this Agreement as it applies to financial services. The Committee shall inform the Commission of the results of any meeting. The Parties may invite, as appropriate, representatives of their domestic financial regulatory authorities to attend meetings of the Committee.

[9] For greater certainty, access to information includes access to information of a covered person that is processed or stored on computing facilities of the covered person or on computing facilities of a third-party service supplier. For greater certainty, a Party may adopt or maintain a measure that is not inconsistent with this Agreement, including any measure consistent with Article 17.11.1 (Exceptions), including a measure requiring a covered person to obtain prior authorization from a financial regulatory authority to designate a particular enterprise as a recipient of such information, or a measure adopted or maintained by a financial regulatory authority in the exercise of its authority over a covered person's business continuity planning practices with respect to maintenance of the operation of computing facilities.

[10] For greater certainty, so long as a Party's financial regulatory authorities do not have access to information as described in paragraph 2, the Party may, subject to paragraph 3, require a covered person to use or locate computing facilities either in the territory of the Party or the territory of another jurisdiction where the Party has such access.

Article 17.22: Consultations

1. A Party may request, in writing, consultations with another Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request to hold consultations. The consulting Parties shall report the results of their consultations to the Committee.

2. A Party may request information on any existing non-conforming measure of another Party as referred to in Article 17.10.1 (Non-Conforming Measures). Each Party's financial authorities specified in Annex 17-B (Authorities Responsible for Financial Services) shall be the contact point to respond to those requests and to facilitate the exchange of information regarding the operation of measures covered by those requests.

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

Article 17.23: Dispute Settlement

1. Chapter 31 (Dispute Settlement) shall apply as modified by this Article to the settlement of disputes arising under this Chapter.

2. For disputes arising under this Chapter or a dispute in which a Party invokes Article 17.11 (Exceptions), when selecting panelists to compose a panel under Article 31.10 (Dispute Settlement, Panel Composition), each disputing Party shall select panelists so that:

(a) the chairperson has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in paragraph 1 of Article 31.9 (Dispute Settlement, Qualification of Panelists); and

(b) each of the other panelists:

(i) has expertise or experience in financial services law or practice, such as the regulation of financial institutions, and meets the qualifications set out in paragraph (1)(b) through (1)(d) of Article 31.10 (Dispute Settlement, Panel Composition); or

(ii) meets the qualifications set out in paragraph 1 of Article 31.9 (Dispute Settlement, Qualification of Panelists).

3. If a Party seeks to suspend benefits in the financial services sector, a panel that reconvenes to make a determination on the proposed suspension of benefits, in accordance with Article 31.20 (Dispute Settlement, Non-Implementation – Suspension of Benefits), shall seek the views of financial services experts, as necessary.

4. Notwithstanding Article 31.20 (Dispute Settlement, Non-Implementation – Suspension of Benefits), when a panel's determination is that a Party's measure is inconsistent with this Agreement and the measure affects:

(a) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector; or

(b) the financial services sector and any other sector, the complaining Party may not suspend benefits in the financial services sector that have an effect that exceeds the effect of the measure in the complaining Party's financial services sector.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

ANNEX 17-A

CROSS-BORDER TRADE

Canada[1]

Insurance and Insurance-Related Services

1. Articles 14.3.3 (National Treatment) and 14.5.1 (Market Access) apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 14.1 (Definitions), with respect to:

(a) insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance as described in subparagraph (d) of the definition of "financial service" in Article 14.1 (Definitions); and

(d) insurance intermediation such as brokerage and agency, as referred to in subparagraph (c) of the definition of "financial service" in Article 14.1 (Definitions) of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

Banking and Other Financial Services (excluding insurance)

2. Articles 14.3.3 (National Treatment) and 14.5.1 (Market Access) apply to the cross-border supply of or trade in financial services, as defined in subparagraphs (a) of the definition of "cross-border supply of financial services" in Article 14.1 (Definitions), with respect to:

(a) the provision and transfer of financial information and financial data processing as described in subparagraph (o) of the definition of "financial service" in Article 14.1 (Definitions);

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services as described in subparagraph (p) of the definition of financial service" in Article 14.1 (Definitions); and

(c) electronic payment services for payment card transactions falling within

[1] For greater clarity, Canada requires that a cross-border financial services supplier maintain a local agent and records in Canada.

subparagraph (h) of the definition of "financial service" in Article 14.1 (Definitions), and within subcategory 71593 of the United Nations Central Product Classification, Version 2.1, and including only:

i. the processing of financial transactions, such as verification of financial balances, authorization of transactions, notification of banks (or credit card issuers) of individual transactions and provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorized transactions; and

ii. those services that are provided on a business-to-business basis and use proprietary networks to process payment transactions,

but not including the transfer of funds to and from transactors' accounts.[2]

(d) the following services where they are provided to a collective investment scheme located in Canada:

(i) investment advice; and

(ii) portfolio management services, excluding:

a. trustee services; and

b. custodial services and execution services that are not related to managing a collective investment scheme.

3. For the purposes of paragraph 3, in Canada:

(a) **payment card** means a "payment card" as defined under the Payment Card Networks Act as of January 1, 2015. For greater certainty, physical and electronic forms or credit and debit cards are included in the definition. For greater certainty, credit cards include pre-paid cards.

(b) a **collective investment scheme** means, an *"investment fund"*[3] as defined under the relevant Securities Act.

[2] Nothing in this subparagraph shall prevent a Party from adopting or maintaining measures to protect personal data, personal privacy, and the confidentiality of individual records and accounts, provided that such measures are not used to circumvent the commitments or obligations of this subparagraph. For greater certainty, nothing in this subparagraph prevents a Party from adopting or maintaining measures that regulate fees, such as interchange or switching fees, or that impose fees.

[3] In Canada, a financial institution organized in the territory of another Party can only provide custodial services to a collective investment scheme located in Canada if the financial institution has shareholders' equity equivalent to at least $100 million.

Mexico

Insurance and insurance-related services

1. Article 17.3.3 (National Treatment) and Article 17.5.1 (Market Access) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 17.1 (Definitions), with respect to:

(a) insurance of risks relating to:

(i) maritime shipping and commercial aviation, space launching and freight (including satellites), with such insurance to cover all or any of the following: the goods being transported; and the vehicle transporting the goods, when such vehicles have foreign registration or are property of persons domiciled abroad, and

(ii) goods in international transit; and

(b) any other insurance of risks, if the person seeking to purchase the insurance demonstrates that none of the insurance companies authorized to operate in Mexico is able or deems convenient to enter into such insurance proposed to it;

(c) reinsurance and retrocession;

(d) insurance intermediation, as referred to in subparagraph (c) of the definition of "financial service" in Article 17.1 (Definitions), and services auxiliary to insurance, as referred to in subparagraph (d) of the definition of "financial service" in Article 17.1 (Definitions), only in respect of insurance referred to in the section of Mexico in this annex.

Banking and other financial services (excluding insurance)

2. Article 17.3.3 (National Treatment) and Article 17.5.1 (Market Access) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 17.1 (Definitions), with respect to:

(a) provision and transfer of financial information, and financial data processing and related software, as referred to in subparagraph (o) of the definition of "financial service" in Article 14.1 (Definitions);

(b) advisory and other auxiliary services,[4] excluding intermediation, and credit reference and analysis, relating to banking and other financial services, as referred to in subparagraph (p) of the definition of "financial service" in Article 17.1 (Definitions);

(c) the following services where they are provided to a collective investment scheme in Mexico:

(iii) investment advice; and

(iv) portfolio management services, excluding:

a. trustee services; and

b. custodial services and execution services that are not related to managing a collective investment scheme; and

(d) electronic payment services for payment card transactions falling within subparagraph (h) of the definition of "financial service" in Article 17.1 (Definitions), and within subcategory 71593 of the United Nations Central Product Classification, Version 2.1, and including only:

(i) receiving and sending messages for: authorization requests, authorization responses (approvals or declines), stand-in authorizations, adjustments, refunds, returns, retrievals, charge backs and related administrative messages;

(ii) calculation of fees and balances derived from transactions of acquirers and issuers, and receiving and sending messages related to this process to acquirers and issuers, and their agents and representatives;

(iii) the provision of periodic reconciliation, summaries and instructions regarding the net financial position of acquirers and issuers, and their agents and representatives for approved transactions;

(iv) value-added services related to the main processing activities referred to in subparagraphs (i), (ii) and (iii), such as fraud prevention and mitigation activities, and administration of loyalty programs; and

(v) those services that are provided on a business-to-business basis and use proprietary networks to process payment transactions, as referenced in subparagraphs (i-iv),

but not including the transfer of funds to and from transactors' accounts,

For Mexico, a **payment card** means a credit card, debit card, and reloadable card in

[4] The Parties understand that advisory and other auxiliary financial services do not include those services referred to in subparagraphs (e) through (o) of the definition of "financial service" in Article 17.1 (Definitions).

physical form or electronic format, as defined under Mexican law.[5]

4. For the purposes of paragraph 2(b) and 2(c), in Mexico a **collective investment scheme** means, the "Managing Companies of Investment Funds (*Sociedades Operadoras de Fondos de Inversión*)" established under the Investment Funds Law (*Ley de Fondos de Inversión*). A financial institution organized in the territory of another Party will only be authorized to provide portfolio management services to a collective investment scheme located in Mexico if it provides the same services in the territory of the Party where it is established.

[5] Nothing in this subparagraph shall prevent a Party from adopting or maintaining measures to protect personal data, personal privacy, and the confidentiality of individual records and accounts, provided that such measures are not used to circumvent the commitments or obligations of this subparagraph. For greater certainty, nothing in this subparagraph prevents a Party from adopting or maintaining measures that regulate fees, such as interchange or switching fees, or that impose fees.

United States

Insurance and insurance-related services

1. Article 17.3.3 (National Treatment) and Article 17.5.1 (Market Access) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 17.1 (Definitions), with respect to:

(a) insurance of risks relating to:

(i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability arising therefrom; and

(ii) goods in international transit; and

(b) reinsurance and retrocession; services auxiliary to insurance, as referred to in subparagraph (d) of the definition of "financial service" in Article 17.1 (Definitions); and insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of "financial service" in Article 17.1 (Definitions).

Banking and other financial services (excluding insurance)

2. Article 17.3.3 (National Treatment) and 17.5.1 (Market Access) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of "cross-border supply of financial services" in Article 17.1 (Definitions), with respect to:

(a) provision and transfer of financial information, and financial data processing and related software, as referred to in subparagraph (o) of the definition of "financial service" in Article 17.1 (Definitions);

(b) advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services, as referred to in subparagraph (p) of the definition of "financial service" in Article 17.1 (Definitions);

(c) investment advice to a collective investment scheme located in the Party's territory;

(d) portfolio management services, excluding

(i) trustee services; and

(ii) custodial services and execution services that are not related to managing a collective investment scheme; and

(e) electronic payment services for payment card transactions falling within subparagraph (h) of the definition of "financial service" in Article 17.1 (Definitions), and within subcategory 71593 of the United Nations Central Product Classification, Version 2.1, and including only:

(i) the processing of financial transactions such as verification of financial balances, authorization of transactions, notification of banks (or credit card issuers) of individual transactions and provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorized transactions; and

(ii) those services that are provided on a business-to-business basis and use proprietary networks to process payment transactions,

but not including the transfer of funds to and from transactors' accounts.

For the United States, a **payment card** means a credit card, charge card, debit card, check card, automated teller machine (ATM) card, prepaid card, and other physical or electronic products or services for performing similar functions as such cards, and the unique account number associated with that card, product, or service.[1]

3. For the purposes of subparagraphs 2(c) and 2(d), for the United States, a **collective investment scheme** means an investment company registered with the Securities and Exchange Commission under the *Investment Company Act of 1940*.[2]

[1] Nothing in this subparagraph shall prevent a Party from adopting or maintaining measures to protect personal data, personal privacy, and the confidentiality of individual records and accounts, provided that such measures are not used to circumvent the commitments or obligations of this subparagraph. For greater certainty, nothing in this subparagraph prevents a Party from adopting or maintaining measures that regulate fees, such as interchange or switching fees, or that impose fees.

[2] Custodial services are included in the scope of the commitment made by the United States under this Annex only with respect to investments for which the primary market is outside the territory of the Party.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

ANNEX 17-B

AUTHORITIES RESPONSIBLE FOR FINANCIAL SERVICES

The authorities for each Party responsible for financial services are:

(a) for Canada, the Department of Finance of Canada;

(b) for Mexico, the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*);

(c) for United States, the Department of the Treasury for purposes of Annex 17-C, Mexico-United States Investment Disputes and for all matters involving banking, securities, and financial services other than insurance, and the Department of the Treasury, in cooperation with the Office of the U.S. Trade Representative, for insurance matters.

ANNEX 17-C

MEXICO-UNITED STATES INVESTMENT DISPUTES IN FINANCIAL SERVICES

1. Annex 14-D (Mexico-United States Investment Disputes) shall apply as modified by this Annex to the settlement of a qualifying investment dispute under this Chapter.

2. In the event that a disputing party considers that a qualifying investment dispute under this Chapter cannot be settled by consultation and negotiation:

(a) the claimant, on its own behalf, may submit to arbitration under Annex 14-D a claim:

(i) that the respondent has breached:

(A) Article 17.3.1 (National Treatment), Article 17.3.2 (National Treatment), or Article 17.4.1(a) (Most-Favored-Nation Treatment), Article 17.4.1(b) (Most-Favored-Nation Treatment), Article 17.4.1(c) Most-Favored-Nation Treatment)[1] except with respect to the establishment or acquisition of an investment; or

(B) Article 14.8 (Investment, Expropriation and Compensation) as incorporated into this Chapter under Article 17.2.2(a) (Scope), except with respect to indirect expropriation; and

(ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach; and

(b) the claimant, on behalf of a financial institution of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, may submit to arbitration under Annex 14-D a claim:

(i) that the respondent has breached:

(A) Article 17.3.1 (National Treatment), Article 17.3.2 (National Treatment), Article 17.4.1(a) (Most-Favored-Nation Treatment), Article 17.4.1(b) (Most-Favored-Nation Treatment), or Article

[1] For the purposes of this paragraph and paragraph (b), the "treatment" referred to in Article 17.4.1(a) (Most-Favored-Nation Treatment), Article 17.4.1(b) (Most-Favored-Nation Treatment), and Article 17.4.1(c) Most-Favored-Nation Treatment) excludes provisions in other trade or investment agreements that establish international dispute resolution procedures or impose substantive obligations; rather, "treatment" only includes measures adopted or maintained by the other Annex Party, which may include measures adopted or maintained pursuant to or consistent with substantive obligations in other trade or investment agreements.

17.4.1(c) (Most-Favored-Nation Treatment), except with respect to the establishment or acquisition of an investment; or

(B) Article 14.8 (Investment, Expropriation and Compensation) as incorporated into this Chapter under Article 17.2.2(a), except with respect to indirect expropriation; and

(ii) that the financial institution has incurred loss or damage by reason of, or arising out of, that breach.

3. If an investor of an Annex Party submits a claim to arbitration under Annex 14-D as modified by this Annex:

(a) the presiding arbitrator and the other arbitrators shall be selected so that the presiding arbitrator has expertise or experience in financial services law or practice such as the regulation of financial institutions, and, to the extent practicable, the other arbitrators have expertise or experience in financial services law or practice such as the regulation of financial institutions; and

(b) the respondent shall endeavor to consult with its domestic financial regulatory authorities on the claim.

4. No claim shall be submitted to arbitration under Annex 14-D as modified by this Annex unless the conditions in Article 5.1 of Annex 11-D are satisfied, except the relevant time periods in subparagraph (b) and (c) of that article shall each be 18 months.

5. If an investor of an Annex Party submits a claim to arbitration under Annex 11-D as modified by this Annex, and the respondent invokes Article 17.11 (Exceptions) as a defense, the following provisions of this Article shall apply.

(a) The respondent shall, no later than the date the tribunal fixes for the respondent to submit its counter-memorial, or in the case of an amendment to the notice of arbitration, the date the tribunal fixes for the respondent to submit its response to the amendment, submit in writing to the authorities responsible for financial services of the Annex Party of the claimant, as set out in Annex 17-B (Authorities Responsible for Financial Services), a request for a joint determination by the authorities of the respondent and the Annex Party of the claimant on the issue of whether and to what extent Article 17.11 (Exceptions) is a valid defense to the claim.

(i) The respondent shall set out in the request the text of a proposed joint determination that specifies the claims to which it considers Article 17.11 (Exceptions) a valid defense.

(ii) The respondent shall promptly provide the tribunal, if constituted, a copy of the request.

(iii) The authorities of the Annex Party of the claimant shall notify the authorities of the respondent in writing that the request has been received.

(iv) The arbitration may proceed with respect to the claim only as provided in subparagraph (f).[2]

(b) The authorities referred to in subparagraph (a) shall attempt in good faith to make a joint determination as described in that subparagraph within 120 days of the date of the written request for that determination. The authorities may, in extraordinary circumstances, agree to extend the date for a joint determination for up to 60 additional days.

(c) The authorities of the Annex Party of the claimant shall notify the authorities of the respondent within 120 days of the date of the written request for a joint determination under subparagraph (a), or within the period agreed under subparagraph (b), whichever is longer, whether the authorities of the Annex Party of the claimant agree to the proposed joint determination submitted under subparagraph (a)(i), propose an alternative joint determination, or will not, for any reason, agree to a joint determination.

(d) If the authorities of the Annex Party of the claimant make no notification under subparagraph (c), they shall be presumed to take a position that is consistent with that of the authorities of the respondent, and a joint determination shall deemed to be made regarding the issue of whether and to what extent Article 17.11 (Exceptions) is a valid defense to the claim as set out in the proposed joint determination submitted under subparagraph (a)(i).

(e) Any joint determination made or deemed to be made shall be transmitted promptly to the disputing parties, the Committee and, if constituted, to the tribunal. The joint determination shall be binding on the tribunal and any decision or award issued by the tribunal must be consistent with that determination.

(f) If the authorities referred to in subparagraph (a), within 120 days of the date of the written request for a joint determination under subparagraph (a) or within the date agreed under subparagraph (d), whichever is longer, have not made a determination as described in subparagraph (a), the tribunal shall decide the issue left unresolved by the authorities.

[2] The term "joint determination" as used in this subparagraph refers to a determination by the authorities responsible for financial services of the respondent and of the Annex Party of the claimant, as set out in Annex 17-B (Authorities Responsible for Financial Services).

(i) The tribunal shall draw no inference regarding the application of Article 17.11 (Exceptions) from the fact that the competent authorities have not made a determination as described in subparagraph (a).

(ii) The Annex Party of the claimant may make oral and written submissions to the tribunal regarding the issue of whether and to what extent Article 17.11 (Exceptions) is a valid defense to the claim. Unless it makes such a submission, the Annex Party of the claimant shall be presumed, for purposes of the arbitration, to take a position on Article 17.11 (Exceptions) not inconsistent with that of the respondent.

(g) The arbitration referred to in subparagraph (a) may proceed with respect to the claim:

(i) 10 days after the date a joint determination under subparagraph (a) has been received by the disputing parties and, if constituted, the tribunal; or

(ii) 10 days after the expiration of the 120-day period following the request for a joint determination under subparagraph (a) or the expiration of the period agreed under subparagraph (b), whichever is longer.

(h) On the request of the respondent made within 30 days after the expiration of the 120-day period following the request for a joint determination under subparagraph (a), or within 30 days of the period agreed under subparagraph (b), whichever is longer, or, if the tribunal has not been constituted as of the expiration of the 120-day or the period agreed under subparagraph (b), within 30 days after the tribunal is constituted, the tribunal shall address and decide the issue or issues left unresolved by the authorities as referred to in subparagraph (c) prior to deciding the merits of the claim for which Article 17.11 (Exceptions) has been invoked by the respondent as a defense. Failure of the respondent to make such a request is without prejudice to the right of the respondent to invoke Article 17.11 (Exceptions) as a defense at any appropriate phase of the arbitration.

6. If a respondent asserts that the measure alleged to be a breach is within the scope of a non-conforming measure set out in Annex III, Article 10 of Annex 14-D (Mexico-United States Investment Disputes, Interpretation of Annexes) shall apply to any request of the respondent for an interpretation of the Commission on the issue.

ANNEX 14-D

LOCATION OF COMPUTING FACILITIES

Article 14.20 (Location of Computer Facilities) does not apply to existing measures of Canada for one year after the entry into force of this Agreement.

CHAPTER 18

TELECOMMUNICATIONS

Article 18.1: Definitions

For the purposes of this Chapter:

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

dialing parity means the ability of an end-user to use an equal number of digits to access a particular public telecommunications service, regardless of which public telecommunications services supplier the end-user chooses;

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;

enterprise means an enterprise as defined in Article 1.4 (General Definitions) and a branch of an enterprise;

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

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

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

interconnection means linking suppliers providing public telecommunications 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;

leased circuit means a telecommunications facility between two or more designated points that is set aside for the dedicated use of, or availability to, a user and supplied by a supplier of a fixed telecommunications service;

license means any authorization that a Party may require of a person, in accordance with its laws and regulations, in order for that person to offer a telecommunications service, including concessions, permits or registrations;

major supplier means a supplier of public telecommunications 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 services as a result of:

(a) control over essential facilities, or
(b) use of its position in the market[1]

mobile service means a public telecommunications service supplied through mobile wireless means;

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

non-discriminatory means according treatment no less favorable than that accorded to any other user of like public telecommunications services in like circumstances, including with respect to timeliness;

number portability means the ability of end-users of public telecommunications services to retain the same telephone numbers when switching between suppliers of public telecommunications services;

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

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

public telecommunications service means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally that typically involves the transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information. These services may include telephone and data transmission;

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

[1] For Mexico, a major supplier includes a preponderant economic agent deemed as such by virtue of their national share in the provision of telecommunication services, when it directly or indirectly holds more than fifty percent national share. This percentage shall be measured either by the number of users, subscribers, traffic on their networks or the utilized capacity of said networks, according to the information held by the Federal Telecommunications Institute.

roaming service means a mobile service provided pursuant to an agreement between suppliers of public telecommunications services that enables end-users to use their mobile handset or other device for voice, data, or messaging services while outside the home public telecommunications network of the mobile handset or other device;

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

telecommunications regulatory body means a body or bodies responsible for the regulation of telecommunications;

user means a service consumer or a service supplier; and

value-added services means those telecommunications services employing computer processing applications that:

(a) act on the format, content, code, protocol or similar aspects of a customer's transmitted information;

(b) provide a customer with additional, different or restructured information; or

(c) involve customer interaction with stored information;

virtual co-location means an arrangement whereby a requesting supplier that seeks co-location may specify equipment to be used in the premises of a major supplier but does not obtain physical access to those premises and allows the major supplier to install, maintain, and repair that equipment.

Article 18.2: Scope

1. This Chapter applies to any measure affecting trade in telecommunications services, including:

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

(b) any measure relating to obligations of suppliers of public telecommunications services;

(c) any other measure relating to public telecommunications networks or services; and

(d) any measure relating to the supply of value-added services.

2. Except to ensure that an enterprise operating a broadcast station or cable system has continued access to and use of public telecommunications networks and services, as provided under Article 18.3(Access and Use), this Chapter does not apply to any measure relating to broadcast or cable distribution of radio or television programming.[2]

3. Nothing in this Chapter shall be construed to:

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

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

4. Annex 18-A (Rural Telephone Suppliers) includes additional provisions relating to the scope of this Chapter.

Article 18.3: Access and Use

1. Each Party shall ensure that any enterprise of another Party has access to and use of any public telecommunications network or service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions. This obligation shall be applied, *inter alia*, to paragraphs 2 through 6.[3]

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

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

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

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

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

(e) use operating protocols of its choice.

[2] For greater certainty, to the extent that services suppliers engaged in the broadcast or cable distribution of radio or television programming are also engaged in the supply of public telecommunications services, measures relating to the supply of those public telecommunications by those services suppliers are covered by this Chapter.
[3] For greater certainty, this Article does not prohibit any Party from requiring an enterprise to obtain a license to supply any public telecommunications service within its territory.

3. Each Party shall ensure that any enterprise of the other Party may use public telecommunications networks or services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of any Party.

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

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

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

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

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

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

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

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

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

Article 18.4: Obligations Relating to Suppliers of Public Telecommunications Services

Interconnection

1. Each Party shall ensure that suppliers of public telecommunications services in its territory provide, directly or indirectly within the same territory, interconnection with suppliers of public telecommunications services of another Party.

2. Each Party shall provide its telecommunications regulatory body with the authority to require interconnection at reasonable rates.

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

Resale

4. No Party shall prohibit the resale of any public telecommunications service.

Roaming

5. No Party shall prohibit suppliers of public telecommunications services from entering into agreements to provide roaming services, including agreements to provide roaming service to devices that is not limited to a transient presence in a Party's territory.

Number Portability

6. Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability without impairment to quality and reliability, on a timely basis, and on reasonable and non-discriminatory terms and conditions[4].

Dialing Parity

7. Each Party shall ensure that suppliers of public telecommunications services in its territory provide dialing parity within the same category of service to suppliers of public telecommunications services of another Party.[5]

Access to Numbers

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

[4] With respect to Mexico, this obligation shall apply only to end users switching suppliers within the same category of service until such time as Mexico determines, pursuant to periodic review, that it is economically and technically feasible to implement number portability without such restriction. With respect to the United States and Canada, this obligation is limited to the ability of end-users to retain at the same location the same telephone numbers, until such time as the Party determines, pursuant to periodic review, that it is economically and technically feasible to implement number portability without such restriction in its territory.

[5] For greater certainty, this paragraph shall not be construed to apply to pre-subscribed long distance service.

Article 18.5: Treatment by Major Suppliers of Public Telecommunications Services

Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications services of another Party treatment no less favorable than that major supplier accords in like circumstances to itself, its subsidiaries, its affiliates, or non-affiliated service suppliers regarding:

(a) the availability, provisioning, rates, or quality of like public telecommunications services; and

(b) the availability of technical interfaces necessary for interconnection.

Article 18.6: Competitive Safeguards

1. Each Party shall 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.[6]

2. The anti-competitive practices referred to in paragraph 1 include in particular:

(a) engaging in anti-competitive cross-subsidization;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available, on a timely basis, to suppliers of public telecommunications services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

Article 18.7: Resale[7]

Each Party shall ensure that a major supplier in its territory does not impose unreasonable or discriminatory conditions or limitations on the resale of its public telecommunications services.

[6] Mexico reaffirms the principles underlying the Decree amending and supplementing certain provisions of the Articles 6, 7, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States, in telecommunications, Diario Oficial de la Federacion, June 11, 2013 and, as set out therein, shall impose on a major supplier the necessary measures to prevent impairment of competition. For Mexico, any changes to the measures concerning the rates, terms, and conditions of access to and use of the networks, facilities, and services of a major supplier shall be consistent with the objective of advancing effective competition and preventing monopolistic practices and shall not impair the conditions of competition in the corresponding market.

[7] For the purposes of this Article, a supplier of mobile services is not a major supplier unless a Party determines that the supplier meets the definition of "major supplier" set out in Article 18.1.

Article 18.8: Unbundling of Network Elements

Each Party shall provide its telecommunications regulatory body the authority to require a major supplier in its territory to offer to public telecommunications service suppliers access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent for the supply of public telecommunications services. 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.

Article 18.9: Interconnection with Major Suppliers

General Terms and Conditions

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications services of another Party:

(a) at any technically feasible point in the major supplier's network;

(b) under non-discriminatory terms, conditions (including technical standards and specifications), and rates;

(c) of a quality no less favorable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;

(d) in a timely manner, on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers do not have to pay for network components or facilities that they do not require for the service to be provided; and

(e) on request, at points in addition to the network termination points made generally available to users, subject to charges that reflect the cost of construction of necessary additional facilities.

Options for Interconnecting with Major Suppliers

2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of another Party the opportunity to interconnect their facilities and equipment with those of the major supplier through:

(a) a reference interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications services; or

(b) the terms and conditions of an interconnection agreement in effect.

3. In addition to the options provided in paragraph 2, each Party shall ensure that suppliers of public telecommunications services of another Party have the opportunity to interconnect their facilities and equipment with those of the major supplier through the negotiation of a new interconnection agreement.

Public Availability of Interconnection Offers and Agreements

4. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

5. Each Party shall provide means for suppliers of another Party to obtain the rates, terms, and conditions necessary for interconnection offered by a major supplier. Those means include, at a minimum, ensuring:

(a) the public availability of rates, terms and conditions for interconnection with a major supplier set by the telecommunications regulatory body;

(b) the public availability of interconnection agreements that are in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory; and

(c) the public availability of any reference interconnection offer.

Article 18.10: Provisioning and Pricing of Leased Circuits Services

1. Each Party shall ensure that a major supplier in its territory provides service suppliers of another Party leased circuits services that are public telecommunications services in a reasonable period of time on terms and conditions, and at rates, that are reasonable and non-discriminatory, and based on a generally available offer.

2. In carrying out paragraph 1, each Party shall provide its telecommunications regulatory body the authority to require a major supplier in its territory to offer leased circuits services that are public telecommunications services to service suppliers of another Party at capacity-based, cost-oriented prices.

Article 18.11: Co-Location [8]

1. Subject to paragraphs 2 and 3, each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications services of another Party in the Party's territory physical co-location of equipment necessary for interconnection or access to unbundled network elements based on a generally available offer, on a timely basis, and on terms and conditions and at cost-oriented 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 ensure that a major supplier in its territory provides an alternative solution, such as virtual co-location or some other arrangement that facilitates interconnection or access to unbundled network elements, based on a generally available offer, on a timely basis, and on terms and conditions, and at cost-oriented 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. When the Party makes this determination, it shall take into account factors such as the state of competition in the market where co-location is required, whether those premises can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

4. If a Party does not require that a major supplier offer co-location at certain premises, it nonetheless shall allow service suppliers to request that those premises be offered for co-location consistent with paragraph 1, without prejudice to the Party's decision on that a request.

Article 18.12: Access to Poles, Ducts, Conduits, and Rights-of-Way [9]

Each Party shall ensure that a major supplier in its territory provides access, subject to technical feasibility, to poles, ducts, conduits, rights-of-way, and any other structures as determined by the Party, owned or controlled by the major supplier, to suppliers of public telecommunications services of another Party in the Party's territory on a timely basis, on terms and conditions and at rates, that are reasonable, non-discriminatory, and transparent.

Article 18.13: Submarine Cable Systems

Each Party shall ensure that any major supplier who controls international submarine cable landing stations in the Party's territory for which there are no economically or technically feasible

[8] For the purposes of this Article, a supplier of mobile services is not a major supplier unless a Party determines that the supplier meets the definition of "major supplier" set out in Article 18.1.

[9] For the purposes of this Article, a supplier of mobile services is not a major supplier unless a Party determines that the supplier meets the definition of "major supplier" set out in Article 18.1.

alternatives provides access to those landing stations consistent with the provisions of Article 18.9 (Interconnection with Major Suppliers), Article 18.10 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers) and Article 18.11 (Co-Location by Major Suppliers), to public telecommunications suppliers of another Party. [10]

Article 18.14: Conditions for the Supply of Value-Added Services[11]

1. The Parties recognize the importance of value-added services to innovation, competition, and consumer welfare. If a Party engages in direct regulation of value-added services, it should not impose on suppliers of value-added services requirements applicable to suppliers of public telecommunications services without due consideration of the legitimate public policy objectives and the technical feasibility of the requirements, and the characteristics of the value-added services at issue.

2. Pursuant to paragraph 1, each Party shall:

(a) Ensure that:

(i) any licensing, permit, registration, or notification procedure that it adopts or maintains relating to the provision of value-added services is transparent and non-discriminatory, and that applications filed thereunder are processed expeditiously; and

(ii) information required under that procedure is limited to that necessary to demonstrate that the applicant has the financial solvency to begin providing services or to assess conformity of the applicant's terminal or other equipment with the Party's applicable standards or technical regulations; and

(b) Not require an enterprise in its territory that supplies value-added services to:

(i) supply those services to the public generally;

(ii) cost-justify its rates for those services;

(iii) file a tariff for those services;

(iv) connect its networks with any particular customer or network for the supply of those services; or

[10] Mexico, based on its evaluation of the state of competition of the Mexican submarine cable systems market, has not applied major supplier-related measures to submarine cable landing stations pursuant to this Article.

[11] For greater certainty, this article should not be understood to reflect a Party's view on whether a service should be categorized as a value-added service or a public telecommunications service.

(v) conform with any particular standard or technical regulation of the telecommunications regulatory body for connecting to any other network, other than a public telecommunications network.

3. Notwithstanding paragraphs 2(a)(ii) and 2(b), a Party may take the actions described in paragraphs 2(a)(ii) and 2(b) to remedy a practice of a supplier of value-added services that the Party has found in a particular case to be anticompetitive under its law or regulations, or to otherwise promote competition or safeguard the interests of consumers.

Article 18.15: Flexibility in the Choice of Technology

1. No Party shall prevent suppliers of public telecommunications services from choosing the technologies they wish to use to supply their services, subject to requirements necessary to satisfy legitimate public policy interests, provided that any measure restricting that choice is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade.

2. For greater certainty, a Party adopting those measures shall do so consistent with Article 18.24 (Transparency).

Article 18.16: Approaches to Regulation

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

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

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

(b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by telecommunications suppliers that do not own network facilities;[12] or

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

[12] Consistent with this subparagraph, the United States, based on its evaluation of the state of competition of the U.S. commercial mobile market, has not applied major supplier-related measures pursuant to Article 18.5 (Treatment by Major Suppliers of Public Telecommunications Services), Article 18.7 (Resale), Article 18.9 (Interconnection with Major Suppliers), Article 18.11 (Co-Location), or Article 18.12 (Access to Poles, Ducts, Conduits, and Rights-of Way) to the commercial mobile market.

3. If a Party engages in direct regulation, it may nonetheless forbear, to the extent provided for in its law, from applying that regulation to a service that the Party classifies as a public telecommunications service, if its telecommunications regulatory body determines that:

(a) enforcement of the regulation is not necessary to prevent unreasonable or discriminatory practices;

(b) enforcement of the regulation is not necessary for the protection of consumers; and

(c) forbearance is consistent with the public interest, including promoting and enhancing competition between suppliers of public telecommunications services.

Article 18.17: Telecommunications Regulatory Bodies

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, a supplier of public telecommunications services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest[13] or maintain an operating or management role in any supplier of public telecommunications services.[14]

2. Each Party shall ensure that its regulatory decisions and procedures, including decisions and procedures relating to licensing, interconnection with public telecommunications networks and services, tariffs, and assignment or allocation of spectrum for commercial telecommunications services, are impartial with respect to all market participants

3. Each Party shall ensure that its telecommunications regulatory body has the authority to impose requirements on a major supplier that are additional to or different from requirements imposed on other suppliers in the telecommunications sector.

Article 18.18: State-Owned Enterprises

No Party shall accord more favorable treatment to a supplier of telecommunications services in its territory than that accorded to a like service supplier of another Party on the basis that the supplier receiving more favorable treatment is owned or controlled by the central level of government of the Party.

[13] This paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of public telecommunications services.

[14] For Mexico, the telecommunications regulatory body is autonomous from the Executive Branch of government, is independent regarding its decisions and functioning, and has the purpose of regulating and promoting competition and efficient development of telecommunications, as set out in existing Mexican law.

Article 18.19: Universal Services

Each Party has the right to define the kind of universal service obligation 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 18.20: Licensing Process

1. If a Party requires a supplier of public telecommunications services to have a license, the Party shall make publicly available:

(a) all the licensing criteria and procedures that it applies;

(b) the period that it normally requires to reach a decision concerning an application for a license; and

(c) the terms and conditions of all licenses in effect.

2. Each Party shall ensure that, on request, an applicant or licensee receives the reasons for the:

(a) denial of a license;

(b) imposition of supplier-specific conditions on a license;

(c) revocation of a license; or

(d) refusal to renew a license.

Article 18.21: Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, 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 frequency bands allocated and assigned to specific suppliers but retains the right not to provide detailed identification of frequencies that are allocated or assigned for specific government uses.

3. For greater certainty, a Party's measures allocating and assigning spectrum and managing frequency are not *per se* inconsistent with Article 15.5 (CBTS - Market Access) either as it applies to cross-border trade in services or through the operation of Article 15.2 (CBTS - Scope) to an

investor or covered investment of another Party. Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications services, provided that the Party does so in a manner that is consistent with this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavor to rely on an open and transparent process that considers the public interest, including the promotion of competition.

5. Each Party shall endeavor to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services. To this end, each Party shall have the authority to use mechanisms such as auctions, if appropriate, to assign spectrum for commercial use.

Article 18.22: Enforcement

Each Party shall provide its competent authority the authority to enforce the Party's measures relating to the obligations set out in Article 18.3 (Access and Use), Article 18.4. (Obligations Relating to Suppliers of Public Telecommunications Services), Article 18.5 (Treatment by Major Suppliers of Public Telecommunications Services), Article 18.6 (Competitive Safeguards), Article 18.7 (Resale), Article 18.8 (Unbundling of Network Elements), Article 18.9 (Interconnection with Major Suppliers), Article 18.10 (Provisioning and Pricing of Leased Circuits Services), Article 18.11 (Co-Location), Article 18.12 (Access to Poles, Ducts, Conduits and Rights-of-way) and Article 18.13 (Submarine Cable Systems). That authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), corrective orders, or the modification, suspension, or revocation of licenses.

Article 18.23: Resolution of Disputes

1. Further to Article 29.3 (Publication and Administration - Administrative Proceedings) and Article 29.4 (Publication and Administration - Review and Appeal), each Party shall ensure that:

Recourse

(a) enterprises have recourse to the telecommunications regulatory body of the Party to resolve disputes with a supplier of public telecommunications services regarding the Party's measures relating to matters set out in Article 18.3 (Access and Use), Article 18.4. (Obligations Relating to Suppliers of Public Telecommunications Services), Article 18.5 (Treatment by Major Suppliers of Public Telecommunications Services), Article 18.6 (Competitive Safeguards), Article 18.7 (Resale), Article 18.8 (Unbundling of Network Elements), Article 18.9

(Interconnection with Major Suppliers), Article 18.10 (Provisioning and Pricing of Leased Circuits Services), Article 18.11 (Co-Location), Article 18.12 (Access to Poles, Ducts, Conduits and Rights-of-way) and Article 18.13 (Submarine Cable Systems);

(b) if the telecommunications regulatory body declines to initiate any action on a request to resolve a dispute, it shall, on request, provide a written explanation for its decision within a reasonable period of time;[15]

(c) suppliers of public telecommunications services of another Party that have requested interconnection with a major supplier in the Party's territory have, within a reasonable and publicly specified period of time after the supplier requests interconnection, recourse to its telecommunications regulatory body to resolve disputes regarding the appropriate terms, conditions and rates for interconnection with that major supplier; and

Reconsideration[16]

(d) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may appeal to or petition the body to reconsider that determination or decision. No Party shall permit the making of an application for reconsideration to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the regulatory body issues an order that the determination or decision not be enforced while the proceeding is pending. A Party may limit the circumstances under which reconsideration is available, in accordance with its laws and regulations.

Judicial Review

2. No Party shall permit the making of an application for judicial review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the judicial body issues an order that the determination or decision not be enforced while the proceeding is pending.

[15] For the United States, this subparagraph applies only to the national regulatory body.

[16] This paragraph does not apply to Mexico. For Mexico, the general rules, acts or omissions of the Federal Telecommunications Institute may only be challenged through an indirect amparo trial before federal courts specialized in competition, broadcasting and telecommunications and shall not be subject to injunction (*suspensión*).

Article 18.24: Transparency

1. Further to Article 29.2 (Publication and Administration - Publication), each Party shall ensure that when its telecommunications regulatory body seeks input [17] for a proposal for a regulation, that body shall:

   (a) make the proposal public or otherwise available to any interested persons;

   (b) include an explanation of the purpose of and reasons for the proposal;

   (c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment;

   (d) to the extent practicable, make publicly available all relevant comments filed with it; and

   (e) respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation.[18]

2. Further to Article 29.2 (Publication and Administration - Publication), each Party shall ensure that its measures relating to public telecommunications services are made publicly available, including:

   (a) tariffs and other terms and conditions of service;

   (b) specifications of technical interfaces;

   (c) conditions for attaching terminal or other equipment to the public telecommunications network;

   (d) licensing, permit, registration, or notification requirements, if any;

   (e) general procedures relating to resolution of telecommunications disputes provided for in Article 18.23 (Resolution of Telecommunications Disputes); and

   (f) any measures of the telecommunications regulatory body if the government delegates to other bodies the responsibility for preparing, amending, and adopting standards-related measures affecting access and use.

[17] For greater certainty, seeking input does not include internal governmental deliberations.
[18] For greater certainty, a Party may consolidate its responses to the comments received from interested persons.

Article 18.25: International Roaming Services

1. The Parties shall endeavor 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 may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:

(a) ensuring that information regarding retail rates is easily accessible to consumers; and

(b) minimizing impediments to the use of technological alternatives to roaming, whereby consumers when visiting the territory of a Party from the territory of another Party can access telecommunications services using the device of their choice.

Article 18.26: Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, this Chapter shall prevail to the extent of the inconsistency.

Article 18.27: Committee on Telecommunications

1. The Parties hereby establish a Committee on Telecommunications (Committee) composed of government representatives of each Party.

2. The Committee shall:

(a) review and monitor the implementation and operation of this Chapter, with a view to ensuring the effective implementation of the Chapter by enabling responsiveness to technological and regulatory developments in telecommunications to ensure the continuing relevance of this Chapter to Parties, service suppliers and end users;

(b) discuss any issues related to this Chapter and any other issues relevant to the telecommunications sector as may be decided by the Parties;

(c) report to the Commission on the findings and the outcomes of discussions of the Committee; and

(d) carry out other functions delegated to it by the Commission.

3. The Committee shall meet at such venues and times as the Parties may decide.

4. The Parties may decide to invite representatives of relevant entities other than the Parties, including representatives of private sector entities, having the necessary expertise relevant to the issues to be discussed, to attend meetings of the Committee.

Annex A - Rural Telephone Suppliers

United States

The United States may exempt rural local exchange carriers and rural telephone companies, as defined, respectively, in sections 251(f)(2) and 3(44) of the Communications Act of 1934, as amended, (47 U.S.C. Section 251(f)(2) and Section 153(44)), from the obligations contained in Article 18.4.6 (Obligations Relating to Suppliers of Public Telecommunications Services – Number Portability), Article 18.4.7 (Obligations Relating to Suppliers of Public Telecommunications Services – Dialing Parity), Article 18.7 (Resale), Article 18.8 (Unbundling of Network Elements), Article 18.9 (Interconnection with Major Suppliers), and Article 18.11 (Co-location).

CHAPTER 19

DIGITAL TRADE

Article 19.1: Definitions

For the purposes of this Chapter:

algorithm means a defined sequence of steps, taken to solve a problem or obtain a result;

computing facilities means computer servers and storage devices for processing or storing information for commercial use;

covered person means:

(a) a covered investment as defined in 14.1 (Investment Chapter, Definitions);

(b) an investor of a Party as defined in Article 14.1 (Investment Chapter, Definitions), or

(c) a service supplier of a Party as defined in Article 15.1 (Cross-border Services Chapter, Definitions),

but does not include a covered person as defined in Article 17.1 (Financial Services Chapter, Definitions);

digital product means a computer program, 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]

electronic authentication means the process or act of verifying the identity of a party to an electronic communication or transaction and ensuring the integrity of an electronic communication;

electronic signature means data in electronic form that is in, affixed to, or logically associated with, an electronic document or message, and that may be used to identify the signatory in relation to the electronic document or message and indicate the signatory's approval of the information contained in the electronic document or message;

[1] For greater certainty, digital product does not include a digitized representation of a financial instrument, including money.
[2] This definition should not be understood to reflect a Party's view that digital products are a good or are a service.

government information means non-proprietary information, including data, held by the central government;

information content provider means any person or entity that creates or develops, in whole or in part, information provided through the Internet or any other interactive computer service;

interactive computer service means any system or service that provides or enables electronic access by multiple users to a computer server;

personal information means any information, including data, about an identified or identifiable natural person;

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; and

unsolicited commercial electronic communication means an electronic message, which is sent to an electronic address of a person for commercial or marketing purposes without the consent of the recipient or despite the explicit rejection of the recipient.[3]

Article 19.2: Scope and General Provisions

1. The Parties recognize the economic growth and opportunities provided by digital trade and the importance of frameworks that promote consumer confidence in digital trade and of avoiding unnecessary barriers to its use and development.

2. This Chapter applies to measures adopted or maintained by a Party that affect trade by electronic means.

3. This Chapter does not apply:

(a) to government procurement; or

(b) except for Article 19.18 (Open Government Data), to information held or processed by or on behalf of a Party, or measures related to that information, including measures related to its collection.

4. For greater certainty, measures affecting the supply of a service delivered or performed electronically are subject to Chapter 14 (Investment), Chapter 15 (Cross-Border Trade in Services) and Chapter 17 (Financial Services), including any exceptions or non-conforming measures set out in this Agreement that are applicable to those obligations.

[3] For the United States, unsolicited commercial electronic communication does not include an electronic message sent primarily for purposes other than commercial or marketing purposes.

Article 19.3: Customs Duties

1. No Party shall impose customs duties fees, or other charges on or in connection with the importation or exportation of digital products transmitted electronically, between a person of one Party and a person of another Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees or other charges on digital products transmitted electronically, provided that those taxes, fees or charges are imposed in a manner consistent with this Agreement.

Article 19.4: Non-Discriminatory Treatment of Digital Products

1. No Party shall accord less favorable treatment to digital products created, produced, published, contracted for, commissioned or first made available on commercial terms in the territory of another Party, or to digital products of which the author, performer, producer, developer or owner is a person of another Party, than it accords to other like digital products.[4]

2. The Parties understand that this Article does not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.

Article 19.5: 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*.

2. Each Party shall endeavor to:

   (a) avoid any unnecessary regulatory burden on electronic transactions; and

   (b) facilitate input by interested persons in the development of its legal framework for electronic transactions.

Article 19.6: Electronic Authentication and Electronic Signatures

1. Except in circumstances 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. No Party shall adopt or maintain measures for electronic authentication and electronic

[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 Article 19.4.1.

signatures that would:

(a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods or electronic signatures 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 or electronic signatures.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the electronic signature or method of authentication meets certain performance standards or is certified by an authority accredited in accordance with its law.

4. Each Party shall encourage the use of interoperable electronic authentication.

Article 19.7: Online Consumer Protection

1. The Parties recognize the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent and deceptive commercial activities as referred to in Article 21.4.2 (Competition Policy – Consumer Protection) when they engage in digital trade.

2. Each Party shall adopt or maintain consumer protection laws to proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.

3. The Parties recognize that cooperation between their respective national consumer protection agencies or other relevant bodies on activities related to cross-border digital trade in order to enhance consumer welfare is important and in the public interest. To this end, the Parties affirm that the cooperation sought under Article 21.4.4 and Article 21.4.5 (Competition Policy – Consumer Protection) includes cooperation with respect to online commercial activities.

Article 19.8: Personal Information Protection

1. The Parties recognize the economic and social benefits of protecting the personal information of users of digital trade 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 information of the users of digital trade. In the development of its legal framework for the protection of personal information, each Party should take into account principles and guidelines of relevant international bodies[5], such as the APEC Privacy Framework

[5] 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

and the OECD Recommendation of the Council concerning Guidelines governing the Protection of Privacy and Transborder Flows of Personal Data (2013).

3. The Parties recognize that these key principles include: limitation on collection; choice; data quality; purpose specification; use limitation; security safeguards; transparency; individual participation; and accountability. The Parties also recognize the importance of ensuring compliance with measures to protect personal information and ensuring that any restrictions on cross-border flows of personal information are necessary and proportionate to the risks presented.

4. Each Party shall endeavor to adopt non-discriminatory practices in protecting users of digital trade from personal information protection violations occurring within its jurisdiction.

5. Each Party shall publish information on the personal information protections it provides to users of digital trade, including how:

(a) individuals can pursue remedies; and

(b) business can comply with any legal requirements.

6. Recognizing that the Parties may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. The Parties shall endeavor to exchange information on the mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them. The Parties recognize that the APEC Cross-Border Privacy Rules system is a valid mechanism to facilitate cross-border information transfers while protecting personal information.

Article 19.9: Paperless Trading

Each Party shall endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

Article 19.10: Principles on Access to and Use of the Internet for Digital Trade

The Parties recognize the benefits of consumers in their territories having the ability to:

(a) access and use services and applications of a consumer's choice available on the Internet, subject to reasonable network management;

(b) connect the end-user devices of a consumer's choice to the Internet, provided that such devices do not harm the network; and

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privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.

(c) access information on the network management practices of a consumer's Internet access service supplier.

Article 19.11: Cross-Border Transfer of Information by Electronic Means

1. No Party shall prohibit or restrict the cross-border transfer of information, including personal information, by electronic means if this activity is for the conduct of the business of a covered person.

2. Nothing in this Article shall prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 necessary 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 necessary to achieve the objective.[6]

Article 19.12: Location of Computing Facilities

No 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.

Article 19.13: Unsolicited Commercial Electronic Communications

1. Each Party shall adopt or maintain measures providing for the limitation of unsolicited commercial electronic communications.

2. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic communications sent to an electronic mail address that:

(a) Require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages; or

(b) Require the consent, as specified according to the laws and regulations of each Party, of recipients to receive commercial electronic messages.

3. Each Party shall endeavor to adopt or maintain measures that enable consumers to reduce

[6] A measure does not meet the conditions of this paragraph if it accords different treatment to data transfers solely on the basis that they are cross-border in a manner that modifies the conditions of competition to the detriment of service suppliers of another Party.

or prevent unsolicited commercial electronic communications sent other than to an electronic mail address.

4. Each Party shall provide recourse against suppliers of unsolicited commercial electronic communications that do not comply with the measures adopted or maintained pursuant to paragraph 2 or 3.

5. The Parties shall endeavor to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic communications.

Article 19.14: Cooperation

1. Recognizing the global nature of digital trade, the Parties shall endeavor to:

(a) exchange information and share experiences on regulations, policies, enforcement and compliance regarding digital trade, including:

(i) personal information protection, particularly with the view to strengthening existing international mechanisms for cooperation in the enforcement of laws protecting privacy;

(ii) security in electronic communications;

(iii) authentication; and

(iv) government use of digital tools and technologies to achieve better government performance;

(b) cooperate and maintain a dialogue on the promotion and development of mechanisms, including the APEC Cross-Border Privacy Rules, that further global interoperability of privacy regimes;

(c) participate actively in regional and multilateral fora to promote the development of digital trade;

(d) encourage development by the private sector of methods of self-regulation that foster digital trade, including codes of conduct, model contracts, guidelines and enforcement mechanisms;

(e) promote access for persons with disabilities to information and communications technologies; and

(f) promote, through international cross-border cooperation initiatives, the development of mechanisms to assist users to submit cross-border complaints regarding protection of personal information.

2. The Parties shall consider establishing a forum to address any of the issues listed above, or any other matter pertaining to the operation of this chapter.

Article 19.15: Cybersecurity

1. The Parties recognize that threats to cybersecurity undermine confidence in digital trade. Accordingly, the Parties shall endeavor to:

(a) build the capabilities of their national entities responsible for cybersecurity incident response; and

(b) strengthen existing collaboration mechanisms for cooperating to identify and mitigate malicious intrusions or dissemination of malicious code that affect electronic networks and use those mechanisms to swiftly address cybersecurity incidents, as well as the sharing of information for awareness and best practices.

2. Given the evolving nature of cybersecurity threats, the Parties recognize that risk-based approaches may be more effective than prescriptive regulation in addressing those threats. Accordingly, each Party shall endeavor to employ, and encourage enterprises within its jurisdiction to use, risk-based approaches that rely on consensus-based standards and risk management best practices to identify and protect against cybersecurity risks and to detect, respond to, and recover from cybersecurity events.

Article 19.16. Source Code

1. No Party shall require the transfer of, or access to, source code of software owned by a person of another Party, or to an algorithm expressed in that source code, as a condition for the import, distribution, sale or use of that software, or of products containing that software, in its territory.

2. Nothing in this Article shall preclude a regulatory body or judicial authority of a Party from requiring a person of another Party to preserve and make available the source code of software, or an algorithm expressed in that source code, to the regulatory body for a specific investigation, inspection, examination enforcement action or judicial proceeding[7], subject to safeguards against unauthorized disclosure.

Article 19.17: Interactive Computer Services

1. The Parties recognize the importance of the promotion of interactive computer services,

[7] Such disclosure shall not be construed to negatively affect the software source code's status as a trade secret, if such status is claimed by the trade secret owner.

including for small and medium-sized enterprises, as vital to the growth of digital trade.

2. To that end, other than as provided in paragraph 4 below, no Party shall adopt or maintain measures that treat a supplier or user of an interactive computer service as an information content provider in determining liability for harms related to information stored, processed, transmitted, distributed, or made available by the service, except to the extent the supplier or user has, in whole or in part, created, or developed the information.[8]

3. No Party shall impose liability on a supplier or user of an interactive computer service on account of:

(a) any action voluntarily taken in good faith by the supplier or user to restrict access to or availability of material that is accessible or available through its supply or use of the interactive computer services and that the supplier or user considers to be harmful or objectionable; or

(b) any action taken to enable or make available the technical means that enable an information content provider or other persons to restrict access to material that it considers to be harmful or objectionable.

4. Nothing in this Article shall:

(a) apply to any measure of a Party pertaining to intellectual property, including measures addressing liability for intellectual property infringement; or

(b) be construed to enlarge or diminish a Party's ability to protect or enforce an intellectual property right; or

(c) be construed to prevent:

(i) a Party from enforcing any criminal law; or

(ii) a supplier or user of an interactive computer service from complying with a specific, lawful order of a law enforcement authority.[9]

5. This Article is subject to Annex 19-A.

Article 19.18: Open Government Data

1. The Parties recognize that facilitating public access to and use of government information

[8] For greater certainty, a Party may comply with this Article through its laws, regulations, or application of existing legal doctrines as applied through judicial decisions.

[9] The Parties understand that measures referenced in paragraph 4(c)(ii) shall be not inconsistent with paragraph 2 in situations where paragraph 2 is applicable.

fosters economic and social development, competitiveness, and innovation.

2. To the extent that a Party chooses to make government information, including data, available to the public, it shall endeavor to ensure that the information is in a machine-readable and open format and can be searched, retrieved, used, reused, and redistributed.

3. Parties shall endeavor to cooperate to identify ways in which each Party can expand access to and use of government information, including data, that the Party has made public, with a view to enhancing and generating business opportunities, especially for small and medium-sized enterprises.

ANNEX 19-A

1. Article 19.17 shall not apply with respect to Mexico until three years after entry into force of this agreement.

2. The Parties understand that Articles 145 and 146 of Mexico's *Ley Federal de Telecomunicaciones y Radiodifusión*, as in force on the date of entry into force of this Agreement, are not inconsistent with Article 19.7.3. In a dispute with respect to this article, subordinate measures adopted or maintained under the authority of and consistent with Articles 145 and 146 of Mexico's *Ley Federal de Telecomunicaciones y Radiodifusión* shall be presumed to be not inconsistent with Article 19.7.3.

3. The Parties understand that Mexico will comply with the obligations in Article 19.7.3 in a manner that is both effective and consistent with the *Constitución Política de los Estados Unidos Mexicanos, specifically Articles 6 and 7.*

4. For greater certainty, Article 19.17 is subject to Article 32.1 (General Exceptions), which, among other things, provides that, for purposes of Chapter 19, the exception for measures necessary to protect public morals pursuant to paragraph (a) of Article XIV of GATS is incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties agree that measures necessary to protect against online sex trafficking, sexual exploitation of children, and prostitution, such as Public Law 115-164, the "Allow States and Victims to Fight Online Sex Trafficking Act of 2017," which amends the Communications Act of 1934, and any relevant provisions of *Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos delitos*, are measures necessary to protect public morals.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

CHAPTER 20

INTELLECTUAL PROPERTY RIGHTS

Section A: General Provisions

Article 20.A.1: Definitions

1. For the purposes of this Chapter:

Berne Convention means the *Berne Convention for the Protection of Literary and Artistic Works*, as revised at Paris, July 24, 1971;

Brussels Convention means the *Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite*, done at Brussels on May 21, 1974;

Budapest Treaty means the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure* (1977), as amended on September 26, 1980;

Declaration on TRIPS and Public Health means the *Declaration on the TRIPS Agreement and Public Health* (WT/MIN(01)/DEC/2), adopted on November 14, 2001;

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;

Hague Agreement means the *Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs*, done at Geneva, July 2, 1999;

intellectual property refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II of the TRIPS Agreement;

Madrid Protocol means the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*, done at Madrid, June 27, 1989;

Paris Convention means the *Paris Convention for the Protection of Industrial Property,* as revised at Stockholm, July 14, 1967;

PLT means the Patent Law Treaty adopted by the WIPO Diplomatic Conference on June 1, 2000;

performance means a performance fixed in a phonogram unless otherwise specified;

with respect to copyright and related rights, the term **right to authorize or prohibit** refers to exclusive rights;

Singapore Treaty means the *Singapore Treaty on the Law of Trademarks*, done at Singapore, March 27, 2006;

UPOV 1991 means the *International Convention for the Protection of New Varieties of Plants*, as revised at Geneva, March 19, 1991;

WCT means the *WIPO Copyright Treaty*, done at Geneva, December 20, 1996;

WIPO means the World Intellectual Property Organization;

for greater certainty, **work** includes a cinematographic work, photographic work and computer program; and

WPPT means the *WIPO Performances and Phonograms Treaty*, done at Geneva, December 20, 1996.

2. For the purposes of Article 20.A.8 (National Treatment), Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 20.H.6 (Related Rights):

a **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 20.A.7 (International Agreements) or the TRIPS Agreement.

Article 20.A.2: Objectives

The protection and enforcement of intellectual property rights should contribute to the promotion of 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 20.A.3: Principles

1. 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.

2. Appropriate measures, provided that they are consistent with the provisions of this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

Article 20.A.4: Understandings in Respect of this Chapter

Having regard to the underlying public policy objectives of national systems, the Parties recognize the need to:

(a) promote innovation and creativity;

(b) facilitate the diffusion of information, knowledge, technology, culture and the arts; and

(c) foster competition and open and efficient markets;

through their respective intellectual property systems, while respecting the principles of transparency and due process, and taking into account the interests of relevant stakeholders, including right holders, service providers, users and the public.

Article 20.A.5: Nature and Scope of Obligations

Each Party shall provide in its territory to the nationals of another Party adequate and effective protection and enforcement of intellectual property rights, while ensuring that measures to enforce intellectual property rights do not themselves become barriers to legitimate trade.

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 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 20.A.6: Understandings Regarding Certain Public Health Measures

1. The Parties affirm their commitment to the Declaration on TRIPS and Public Health. In particular, the Parties have reached the following understandings regarding this Chapter:

(a) The obligations of this Chapter do not and should not prevent a Party from taking measures to protect public health. Accordingly, while reiterating their commitment to this Chapter, the Parties affirm that this Chapter can and should be interpreted and implemented in a manner supportive of each Party's right to protect public health and, in particular, to promote access to medicines for all. Each Party has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

(b) In recognition of the commitment to access to medicines that are supplied in accordance with the Decision of the WTO General Council of August 30, 2003 on the *Implementation of Paragraph Six of the Doha Declaration on the TRIPS Agreement and Public Health* (WT/L/540) and the WTO General Council Chairman's Statement Accompanying the Decision (JOB(03)/177, WT/GC/M/82), as well as the Decision of the WTO General Council of December 6, 2005 on the *Amendment of the TRIPS Agreement*, (WT/L/641) and the WTO General Council Chairperson's Statement Accompanying the Decision (JOB(05)/319 and Corr. 1,WT/GC/M/100) (collectively, the "TRIPS/health solution"), this Chapter does not and should not prevent the effective utilization of the TRIPS/health solution.

(c) With respect to the aforementioned matters, if any waiver of any provision of the TRIPS Agreement, or any amendment of the TRIPS Agreement, enters into force with respect to the Parties, and a Party's application of a measure in conformity with that waiver or amendment is contrary to the obligations of this Chapter, the Parties shall immediately consult in order to adapt this Chapter as appropriate in the light of the waiver or amendment.

Article 20.A.7: International Agreements

1. Each Party affirms that it has ratified or acceded to the following agreements:

(a) *Patent Cooperation Treaty,* as amended September 28, 1979;

(b) Paris Convention;

(c) Berne Convention;

(e) WCT; and

(f) WPPT.

2. Each Party shall ratify or accede to each of the following agreements, if it is not already a party to that agreement, by the date of entry into force of this Agreement:

(a) Madrid Protocol;

(b) Budapest Treaty;

(c) Singapore Treaty;[1]

[1] A Party may satisfy the obligations in paragraph 2(a) and 2(c) by ratifying or acceding to either the Madrid Protocol or the Singapore Treaty.

(d) UPOV 1991;

(e) Hague Agreement; and

(f) Brussels Convention.

3. The Parties shall give due consideration to ratifying or acceding to the Patent Law Treaty, done at Geneva June 1, 2000; or, in the alternative, shall adopt or maintain procedural standards consistent with the objective of the Patent Law Treaty.

Article 20.A.8: National Treatment

1. In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to nationals of another Party treatment no less favorable than it accords to its own nationals with regard to the protection[2] of intellectual property rights.

2. A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of another 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.

[2] For the purposes of this paragraph, "protection" shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter. Further, for the purposes of this paragraph, "protection" also includes the prohibition on the circumvention of effective technological measures set out in Article 20.H.11 (TPMs) and the provisions concerning rights management information set out in Article 20.H.12 (RMI). For greater certainty, "matters affecting the use of intellectual property rights specifically covered by this Chapter" in respect of works, performances and phonograms, include any form of payment, such as licensing fees, royalties, equitable remuneration, or levies, in respect of uses that fall under the copyright and related rights in this Chapter. The preceding sentence is without prejudice to a Party's interpretation of "matters affecting the use of intellectual property rights" in footnote 3 of the TRIPS Agreement.

Article 20.A.9: Transparency

1. Further to Article 20.J.3 (Enforcement Practices with Respect to Intellectual Property Rights), each Party shall endeavor to make available on the Internet its laws, regulations, procedures and administrative rulings of general application concerning the protection and enforcement of intellectual property rights.

2. Each Party shall, subject to its law, endeavor to make available on the Internet information that it makes public concerning applications for trademarks, geographical indications, designs, patents and plant variety rights.[3, 4]

3. Each Party shall, subject to its law, make available on the Internet information that it makes public concerning registered or granted trademarks, geographical indications, designs, patents and plant variety rights, sufficient to enable the public to become acquainted with those registered or granted rights.[5]

Article 20.A.10: Application of Chapter to Existing Subject Matter and Prior Acts

1. Unless otherwise provided in this Chapter, including in Article 20.H.8 (Application of Article 18 of the Berne Convention and Article 14.6 of the TRIPS Agreement), this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into force of this Agreement 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.

2. Unless provided in Article 20.H.8 (Application of Article 18 of the Berne Convention and Article 14.6 of the TRIPS Agreement), a Party shall not be required to restore protection to subject matter that on the date of entry into force of this Agreement has fallen into the public domain in its territory.

3. This Chapter does not give rise to obligations in respect of acts that occurred before the date of entry into force of this Agreement.

[3] For greater certainty, paragraphs 2 and 3 are without prejudice to a Party's obligations under Article 20.C.7 (Electronic Trademarks System).

[4] For greater certainty, paragraph 2 does not require a Party to make available on the Internet the entire dossier for the relevant application.

[5] For greater certainty, paragraph 3 does not require a Party to make available on the Internet the entire dossier for the relevant registered or granted intellectual property right.

Article 20.A.11: 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.[6]

Section B: Cooperation

Article 20.B.1: Contact Points for Cooperation

Each Party may designate and notify the other Parties one or more contact points for the purpose of cooperation under this Section.

Article 20.B.2: Cooperation

The Parties shall endeavor to cooperate on the subject matter covered by this Chapter, such as through appropriate coordination and exchange of information between the respective intellectual property offices of the Parties, or other agencies or institutions, as determined by each Party.

Article 20.B.3: Committee

1. The Parties hereby establish a Committee on Intellectual Property Rights (Committee), composed of government representatives of each Party.

2. The Committee shall:

   (a) exchange information, pertaining to intellectual property rights matters, including how intellectual property protection contributes to innovation, creativity, economic growth, and employment, such as:

      (i) developments in domestic and international intellectual property law and policy;

      (ii) economic benefits related to trade and other analysis of the contributions arising from the protection and enforcement of intellectual property rights;

[6] For greater certainty, this Article is without prejudice to any provisions addressing the exhaustion of intellectual property rights in international agreements to which a Party is a party.

(iii) intellectual property issues particularly relevant to small and medium-sized enterprises; science, technology and innovation activities; and to the generation, transfer and dissemination of technology;

(iv) approaches for reducing the infringement of intellectual property rights, as well as effective strategies for removing the underlying incentives for infringement;

(v) programs on education and awareness related to intellectual property and build capacity regarding intellectual property rights matters; and

(vi) implementation of multilateral intellectual property agreements, such as those concluded or administered under the auspices of WIPO.

(b) work towards strengthening border enforcement of intellectual property rights through the promotion of collaborative operations in customs and exchange of best practices;

(c) exchange information regarding trade secret-related matters, including the value of trade secrets and the economic loss associated with trade secret misappropriation;

(d) discuss proposals to enhance procedural fairness in patent litigation, including with respect to choice of venue; and

(e) upon request of any Party and in the interest of advancing transparency, endeavor to reach a mutually agreeable solution before taking measures in connection with future requests of recognition or protection of a geographical indication from any other country through a trade agreement.

3. The Parties shall endeavor to cooperate on providing technical assistance regarding trade secret protection to the relevant authorities of non-Parties and identify appropriate opportunities to increase cooperation between the Parties on trade-related intellectual property rights protection and enforcement.

4. The Committee shall meet within one year after the date of entry into force of this Agreement and thereafter meet as necessary.

Article 20.B.4: Patent Cooperation and Work Sharing

1. The Parties recognize the importance of improving the quality and efficiency of their respective patent registration systems as well as simplifying and streamlining the procedures and processes of their respective patent offices to benefit of all users of the patent system and the public as a whole.

2. Further to paragraph 1, the Parties shall endeavor to cooperate among their respective patent offices to facilitate the sharing and use of search and examination work of the Parties. This

may include:

(a) making search and examination results available to the patent offices of other Parties;[7] and

(b) exchanging information on quality assurance systems and quality standards relating to patent examination.

3. In order to reduce the complexity and cost of obtaining the grant of a patent, the Parties shall endeavor to cooperate to reduce differences in the procedures and processes of their respective patent offices.

Article 20.B.5: Cooperation on Request

Cooperation activities undertaken under this Chapter shall be subject to the availability of resources, and on request, and on terms and conditions mutually agreed upon between the Parties involved. The Parties affirm that cooperation under this Section is additional to and without prejudice to other past, ongoing and future cooperation activities, both bilateral and multilateral, between the Parties, including between their respective intellectual property offices.

Section C: Trademarks

Article 20.C.1: 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 20.C.2: 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

[7] The Parties recognize the importance of multilateral efforts to promote the sharing and use of search and examination results, with a view to improving the quality of search and examination processes and to reducing the costs for both applicants and patent offices.

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.[8]

Article 20.C.3: 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[9] 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 20.C.4: 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 20.C.5: 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.

2. Article 6*bis* 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,[10] 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 recognizes 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

[8] Consistent with the definition of a geographical indication in Article 20.A.1 (Definitions), 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.

[9] 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.

[10] 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.

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 September 20 to 29, 1999.

4. Each Party shall provide for appropriate measures to refuse the application or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark[11], 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 20.C.6: 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 a 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 a trademark;

(c) providing an opportunity to oppose the registration of a trademark and an opportunity to seek cancellation[12] of a trademark through, at a minimum, administrative procedures; and

(d) requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which may be provided by electronic means.

Article 20.C.7: Electronic Trademarks System

Further to the Article 20.A.9.3 (Transparency), 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.

[11] 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.

[12] For greater certainty, cancellation for the purposes of this Section may be implemented through nullification or revocation proceedings.

Article 20.C.8: 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, June 15, 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;[13] 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 20.C.9: 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.

Article 20.C.10: Non-Recordal of a License

No Party shall require recordal of trademark licenses:

(a) to establish the validity of the licenses; 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.

Article 20.C.11: Domain Names

1. 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:

[13] 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.

(a) an appropriate procedure for the settlement of disputes that, based on, or modelled along the same lines as, the principles established in the *Uniform Domain-Name Dispute-Resolution Policy* 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 protection of privacy and personal data.

2. In connection with each Party's system for the management of ccTLD domain names, appropriate remedies[14] shall be available at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trademark.

Section D: Country Names

Article 20.D.1: 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 E: Geographical Indications

Article 20.E.1: Recognition of Geographical Indications

The Parties recognize that geographical indications may be protected through a trademark or *sui generis* system or other legal means.

[14] The Parties understand that such remedies may, but need not, include, among other things, revocation, cancellation, transfer, damages or injunctive relief.

Article 20.E.2: 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:

(a) accept those applications or petitions without requiring intercession by a Party on behalf of its nationals;[15]

(b) process those applications or petitions without imposition of overly burdensome formalities;

(c) 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;

(d) make available information sufficient to allow the general public to obtain guidance concerning the procedures for filing applications or petitions and the processing of those applications or petitions in general; and allow an applicant, a petitioner, or their representative to ascertain the status of specific applications and petitions;

(e) require that applications or petitions may specify particular translation or transliteration for which protection is being sought;

(f) examine applications or petitions;

(g) ensure that those applications or petitions are published for opposition and provide procedures for opposing geographical indications that are the subject of applications or petitions;

(h) provide a reasonable period of time during which any interested person may oppose the application or petition;

(i) require that administrative decisions in opposition proceedings to be reasoned and in writing, which may be provided by electronic means;

(j) require that administrative decisions in cancellation proceedings to be reasoned and in writing, which may be provided by electronic means; and

[15] This subparagraph also applies to judicial procedures that protect or recognize a geographical indication.

(k) provide for cancellation[16] of the protection or recognition afforded to a geographical indication.

Article 20.E.3: Grounds of Denial, Opposition, and Cancellation[17]

1. If a Party protects or recognizes a geographical indication through the procedures referred to in Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that Party shall provide procedures that allow interested persons to object to the protection or recognition of a geographical indication, and that allow for any such protection or recognition to be refused or otherwise not afforded, at least, on the following grounds:

(a) the geographical indication is likely to cause confusion with a trademark that is the subject of a pre-existing good faith pending application or registration in the territory of the Party;

(b) the geographical indication is likely to cause confusion with a pre-existing trademark, the rights to which have been acquired in accordance with the Party's law; and

(c) the geographical indication is a term customary in common language as the common name[18, 19, 20] for the relevant good in the territory of the Party.

2. If a Party has protected or recognized a geographical indication through the procedures referred to in Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that Party shall provide procedures that allow for interested persons to seek the cancellation of a geographical indication, and that allow for the protection or recognition

[16] For greater certainty, for the purposes of this Section, cancellation may be implemented through nullification or revocation proceedings.

[17] A Party is not required to apply this article to geographical indications for wines and spirits or to applications or petitions for those geographical indications.

[18] If a Party refuses to protect or recognize a compound geographical indication on the grounds that an individual term of that geographical indication is the common name for the relevant good in the territory of a Party, the Party may withdraw its refusal of protection or recognition if the applicant or registrant agrees to disclaim any claim of exclusive rights to the particular individual term that was the basis for the refusal.

[19] For greater certainty, if a Party provides for the procedures in Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and this Article to be applied to geographical indications for wines and spirits or applications or petitions for those geographical indications, that Party is not required to protect or recognize a geographical indication of any other Party with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in the territory of that Party.

[20] For greater certainty, a term customary in common language as the common name may refer to single-component terms or individual components of multi-component terms.

to be cancelled, at least, on the grounds listed in paragraph 1. A Party may provide that the grounds listed in paragraph 1 apply as of the time of filing the request for protection or recognition of a geographical indication in the territory of the Party.[21]

3. No Party shall preclude the possibility that the protection or recognition of a geographical indication may be cancelled, or otherwise cease, on the basis that the protected or recognized term has ceased meeting the conditions upon which the protection or recognition was originally granted in that Party.

4. If a Party has in place a *sui generis* system for protecting unregistered geographical indications by means of judicial procedures, that Party shall provide that its judicial authorities have the authority to deny the protection or recognition of a geographical indication if any of the circumstances identified in paragraph 1 has been established.[22] That Party shall also provide a process that allows interested persons to commence a proceeding on the grounds identified in paragraph 1.

5. If a Party provides protection or recognition of a geographical indication through the procedures referred to in Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications) to the translation or transliteration of that geographical indication, that Party shall make available procedures that are equivalent to, and grounds that are the same as, those referred to in paragraphs 1 and 2 with respect to that translation or transliteration.

Article 20.E.4: Guidelines for Determining Whether a Term is the Term Customary in the Common Language

With respect to the procedures in Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 20.E.3 (Grounds of Denial, Opposition, and Cancellation), in determining whether a term is the term customary in common language as the common name for the relevant good in the territory of a Party, that Party's authorities shall have the authority to take into account how consumers understand the term in the territory of that Party. Factors relevant to such consumer understanding may include:

(a) whether the term is used to refer to the type of good in question, as indicated by competent sources such as dictionaries, newspapers and relevant websites;

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[21] For greater certainty, if the grounds listed in paragraph 1 did not exist in a Party's law as of the time of filing of the request for protection or recognition of a geographical indication under Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that Party is not required to apply those grounds for the purposes of paragraph 2 or paragraph 4 of this Article in relation to that geographical indication.

[22] As an alternative to this paragraph, if a Party has in place a *sui generis* system of the type referred to in this paragraph as of the applicable date under Article 20.E.7.6 (International Agreements), that Party shall at least provide that its judicial authorities have the authority to deny the protection or recognition of a geographical indication if the circumstances identified in paragraph 1(c) have been established.

(b) how the good referenced by the term is marketed and used in trade in the territory of that Party;

(c) whether the term is used, as appropriate, in relevant international standards recognized by the Parties to refer to a type or class of good in the territory of the Party, such as pursuant to a standard promulgated by the Codex Alimentarius; and

(e) whether the product in question is imported into the Party's territory, in significant quantities[23], from a place other than the territory identified in the application or petition, and whether those imported products are named by the term.

Article 20.E.5: Multi-Component Terms

With respect to the procedures in Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 20.E.3 (Grounds of Denial, Opposition, and Cancellation), an individual component of a multi-component term that is protected as a geographical indication in the territory of a Party shall not be protected in that Party if that individual component is a term customary in the common language as the common name for the associated good.

Article 20.E.6: 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 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that protection or recognition shall commence no earlier than the filing date[24] in the Party or the registration date in the Party, as applicable.

Article 20.E.7: International Agreements

1. If a Party protects or recognizes a geographical indication pursuant to an international agreement, as of the applicable date under paragraph 6, involving a Party or a non-Party and that geographical indication is not protected through the procedures referred to in Article 20.E.2

[23] In determining whether the product in question is imported in significant quantities, a Party may consider the amount of importation at the time of the application or petition.

[24] For greater certainty, the filing date referred to in this paragraph includes, as applicable, the priority filing date under the Paris Convention. No Party shall use the date of protection in a country of origin of a geographical indication to establish a priority date in the territory of the Party, unless filed within the Paris Convention priority period.

(Administrative Procedures for the Protection or Recognition of Geographical Indications)[25] or Article 20.E.3 (Grounds of Denial, Opposition and Cancellation), that Party at least shall apply procedures and grounds that are equivalent to those in Article 20.E.2(f), (g), (h), and (i) (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 20.E.3.1 (Grounds of Denial, Opposition and Cancellation), as well as:

(a) make available information sufficient to allow the general public to obtain guidance concerning the procedures for protecting or recognizing the geographical indication and allow interested persons to ascertain the status of requests for protection or recognition;

(b) make available to the public, online, details regarding the terms that the Party is considering protecting or recognizing through an international agreement involving a Party or a non-Party, including specifying whether the protection or recognition is being considered for any translations or transliterations of those terms, and with respect to multi-component terms, specifying the components, if any, for which protection or recognition is being considered, or the components that are disclaimed;

(c) in respect of opposition procedures, provide a reasonable period of time for interested persons to oppose the protection or recognition of the terms referred to in subparagraph (b). That period shall provide a meaningful opportunity for any interested person to participate in an opposition process; and

(d) inform the other Parties of the opportunity to oppose, no later than the commencement of the opposition period.

2. In respect of international agreements referred to in paragraph 6 that permit the protection or recognition of a new geographical indication, a Party shall:[26, 27]

(a) apply paragraph 1(b) and apply at least procedures and grounds that are equivalent to those in Article 20.E.2 (f), (g), (h), and (i) (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 20.E.3.1 (Grounds of Denial, Opposition, and Cancellation);

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[25] Each Party shall apply Article 20.E.4 (Guidelines for Determining Whether a Term is the Term Customary in the Common Language) and Article 20.E.5 (Multi-Component Terms) in determining whether to grant protection or recognition of a geographical indication pursuant to this paragraph.

[26] In respect of an international agreement referred to in paragraph 6 that has geographical indications that have been identified, but have not yet received protection or recognition in the territory of the Party that is a party to that agreement, that Party may fulfil the obligations of paragraph 2 by complying with the obligations of paragraph 1.

[27] A Party may comply with this Article by applying Article 20.E.2 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 20.E.3 (Grounds of Denial, Opposition, and Cancellation).

(b) provide an opportunity for interested persons to comment regarding the protection or recognition of the new geographical indication for a reasonable period of time before such a term is protected or recognized; and

(c) inform the other Parties of the opportunity to comment, no later than the commencement of the period for comment.

3. For the purposes of this Article, a Party shall not preclude the possibility that the protection or recognition of a geographical indication could cease.

4. For the purposes of this Article, a Party is not required to apply Article 20.E.3 (Grounds of Denial, Opposition, and Cancellation), or obligations equivalent to Article 20.E.3, to geographical indications for wines and spirits or applications for those geographical indications.

5. Protection or recognition provided pursuant to paragraph 1 shall commence no earlier than the date on which the agreement enters into force or, if that Party grants that protection or recognition on a date after the entry into force of the agreement, on that later date.

6. No Party shall be required to apply this Article to geographical indications that have been specifically identified in, and that are protected or recognized pursuant to, an international agreement involving a Party or a non-Party, provided that the agreement:

(a) was concluded, or agreed in principle[28], prior to the date of conclusion, or agreement in principle, of this Agreement;

(b) was ratified by a Party prior to the date of ratification of this Agreement by that Party; or

(c) entered into force for a Party prior to the date of entry into force of this Agreement for that Party.

[28] For the purpose of this Article, an agreement "agreed in principle" means an agreement involving another government, government entity or international organization in respect of which a political understanding has been reached and the negotiated outcomes of the agreement have been publically announced.

Section F: Patents and Undisclosed Test or Other Data

Subsection A: General Patents

Article 20.F.1: Patentable Subject Matter

1. Subject to paragraphs 3 and 4, each Party shall make patents available for any invention, whether a product or process, in all fields of technology, provided that the invention is new, involves an inventive step and is capable of industrial application.[29]

2. Subject to paragraphs 3 and 4 and consistent with paragraph 1, each Party confirms that patents are available for inventions claimed as at least one of the following: new uses of a known product, new methods of using a known product, or new processes of using a known product.

3. A Party may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to nature or the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its law. A Party may also exclude from patentability:

(a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals;

(b) animals other than microorganisms, and essentially biological processes for the production of plants or animals, other than non-biological and microbiological processes.

4. A Party may also exclude from patentability plants other than microorganisms. However, consistent with paragraph 1 and subject to paragraph 3, each Party confirms that patents are available at least for inventions that are derived from plants.

Article 20.F.2: Grace Period

1. 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:[30]

[29] For the purposes of this Section, a Party may deem the terms "inventive step" and "capable of industrial application" to be synonymous with the terms "non-obvious" and "useful", respectively. In determinations regarding inventive step, or non-obviousness, each Party shall consider whether the claimed invention would have been obvious to a person skilled, or having ordinary skill in the art, having regard to the prior art.

[30] 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.

(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 twelve months prior to the filing date in the territory of the Party.

Article 20.F.3: Patent Revocation

1. Each Party shall provide that a patent may be cancelled, revoked or nullified only on grounds that would have justified a refusal to grant the patent. A Party may also provide that fraud, misrepresentation or inequitable conduct may be the basis for cancelling, revoking or nullifying a patent or holding a patent unenforceable.

2. Notwithstanding paragraph 1, a Party may provide that a patent may be revoked, provided it is done in a manner consistent with Article 5A of the Paris Convention and the TRIPS Agreement.

Article 20.F.4: 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 patent owner, taking account of the legitimate interests of third parties.

Article 20.F.5: Other Use Without Authorization of the Right Holder

The Parties understand that nothing in this Chapter limits a Party's rights and obligations under Article 31 of the TRIPS Agreement, any waiver or any amendment to that Article that the Parties accept.

Article 20.F.6: Amendments, Corrections and Observations

Each Party shall provide a patent applicant with at least one opportunity to make amendments, corrections and observations in connection with its application.[31]

Article 20.F.7: Publication of Patent Applications

[31] A Party may provide that such amendments or corrections shall not exceed the scope of the disclosure of the invention, as of the filing date.

1. Recognizing the benefits of transparency in the patent system, each Party shall endeavour to publish unpublished pending patent applications promptly after the expiration of 18 months from the filing date or, if priority is claimed, from the earliest priority date.

2. If a pending application is not published promptly in accordance with paragraph 1, a Party shall publish that application or the corresponding patent, as soon as practicable.

3. Each Party shall provide that an applicant may request the early publication of an application prior to the expiration of the period referred to in paragraph 1.

Article 20.F.8: Information Relating to Published Patent Applications and Granted Patents

For published patent applications and granted patents, and in accordance with the Party's requirements for prosecution of such applications and patents, each Party shall make available to the public at least the following information, to the extent that such information is in the possession of the competent authorities and is generated on, or after, the date of the entry into force of this Agreement for that Party:

(a) search and examination results, including details of, or information related to, relevant prior art searches;

(b) as appropriate, non-confidential communications from applicants; and

(c) patent and non-patent related literature citations submitted by applicants and relevant third parties.

Article 20.F.9: Patent Term Adjustment for Unreasonable Granting Authority Delays

1. Each Party shall make best efforts to process patent applications in an efficient and timely manner, with a view to avoiding unreasonable or unnecessary delays.

2. A Party may provide procedures for a patent applicant to request to expedite the examination of its patent application.

3. If there are unreasonable delays in a Party's issuance of a patent, that Party shall provide the means to, and at the request of the patent owner shall, adjust the term of the patent to compensate for such delays.

4. For the purposes of this Article, an unreasonable delay at least shall include a delay in the issuance of a patent of more than five years from the date of filing of the application in the territory of the Party, or three years after a request for examination of the application has been made, whichever is later. A Party may exclude, from the determination of such delays, periods of time

that do not occur during the processing[32] of, or the examination of, the patent application by the granting authority; periods of time that are not directly attributable[33] to the granting authority; as well as periods of time that are attributable to the patent applicant.[34]

[32] For the purposes of this paragraph, a Party may interpret processing to mean initial administrative processing and administrative processing at the time of grant.

[33] A Party may treat delays "that are not directly attributable to the granting authority" as delays that are outside the direction or control of the granting authority.

[34] Notwithstanding Article 20.A.10 (Application of Chapter to Existing Subject Matter and Prior Acts), this Article shall apply to all patent applications filed after the date of entry into force of this Agreement for that Party, or the date two years after the signing of this Agreement, whichever is later for that Party.

Subsection B: Measures Relating to Agricultural Chemical Products

Article 20.F.10: Protection of Undisclosed Test or Other Data for Agricultural Chemical Products

1. If a Party requires, as a condition for granting marketing approval[35] for a new agricultural chemical product, the submission of undisclosed test or other data concerning the safety and efficacy of the product[36], that Party shall not permit third persons, without the consent of the person that previously submitted such information, to market the same or a similar[37] product on the basis of that information or the marketing approval granted to the person that submitted such test or other data for at least 10 years[38] from the date of marketing approval of the new agricultural chemical product in the territory of the Party.

2. If a Party permits, as a condition of granting marketing approval for a new agricultural chemical product, the submission of evidence of a prior marketing approval of the product in another territory, that Party shall not permit third persons, without the consent of the person that previously submitted undisclosed test or other data concerning the safety and efficacy of the product in support of that prior marketing approval, to market the same or a similar product based on that undisclosed test or other data, or other evidence of the prior marketing approval in the other territory, for at least 10 years from the date of marketing approval of the new agricultural chemical product in the territory of the Party.

3. For the purposes of this Article, a new agricultural chemical product is one that contains a chemical entity that has not been previously approved in the territory of the Party for use in an agricultural chemical product.

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[35] For the purposes of this Chapter, the term "marketing approval" is synonymous with "sanitary approval" under a Party's law.

[36] Each Party confirms that the obligations of this Article apply to cases in which the Party requires the submission of undisclosed test or other data concerning: (a) only the safety of the product, (b) only the efficacy of the product or (c) both.

[37] For greater certainty, for the purposes of this Section, an agricultural chemical product is "similar" to a previously approved agricultural chemical product if the marketing approval, or, in the alternative, the applicant's request for such approval, of that similar agricultural chemical product is based upon the undisclosed test or other data concerning the safety and efficacy of the previously approved agricultural chemical product, or the prior approval of that previously approved product.

[38] For greater certainty, a Party may limit the period of protection under this Article to 10 years.

Subsection C: Measures Relating to Pharmaceutical Products

Article 20.F.11: Patent Term Adjustment for Unreasonable Curtailment

1. Each Party shall make best efforts to process applications for marketing approval of pharmaceutical products in an efficient and timely manner, with a view to avoiding unreasonable or unnecessary delays.

2. With respect to a pharmaceutical product that is subject to a patent, each Party shall make available an adjustment[39] of the patent term to compensate the patent owner for unreasonable curtailment of the effective patent term as a result of the marketing approval process.

3. For greater certainty, in implementing the obligations of this Article, each Party may provide for conditions and limitations, provided that the Party continues to give effect to this Article.

4. With the objective of avoiding unreasonable curtailment of the effective patent term, a Party may adopt or maintain procedures that expedite the processing of marketing approval applications.

Article 20.F.12: Regulatory Review Exception

Without prejudice to the scope of, and consistent with, Article 20.F.4 (Exceptions), each Party shall adopt or maintain a regulatory review exception for pharmaceutical products.

Article 20.F.13: Protection of Undisclosed Test or Other Data

1. (a) If a Party requires, as a condition for granting marketing approval for a new pharmaceutical product, the submission of undisclosed test or other data concerning the safety and efficacy of the product[40], that Party shall not permit third persons,

[39] For greater certainty, a Party may alternatively make available a period of additional *sui generis* protection to compensate for unreasonable curtailment of the effective patent term as a result of the marketing approval process. The *sui generis* protection shall confer the rights conferred by the patent, subject to any conditions and limitations pursuant to paragraph 3.

[40] Each Party confirms that the obligations of this Article, and Article 20.F.14 (Biologics) apply to cases in which the Party requires the submission of undisclosed test or other data concerning: (a) only the safety of the product, (b) only the efficacy of the product or (c) both.

without the consent of the person that previously submitted such information, to market the same or a similar[41] product on the basis of:

(i) that information; or

(ii) the marketing approval granted to the person that submitted such information,

for at least five years[42] from the date of marketing approval of the new pharmaceutical product in the territory of the Party.

(b) If a Party permits, as a condition of granting marketing approval for a new pharmaceutical product, the submission of evidence of prior marketing approval of the product in another territory, that Party shall not permit third persons, without the consent of a person that previously submitted such information concerning the safety and efficacy of the product, to market a same or a similar product based on evidence relating to prior marketing approval in the other territory for at least five years from the date of marketing approval of the new pharmaceutical product in the territory of that Party.

2. Each Party shall:[43]

(a) apply paragraph 1, *mutatis mutandis*, for a period of at least three years with respect to new clinical information submitted as required in support of a marketing approval of a previously approved pharmaceutical product covering a new indication, new formulation or new method of administration; or, alternatively,

(b) apply paragraph 1, *mutatis mutandis*, for a period of at least five years to new pharmaceutical products that contain a chemical entity that has not been previously approved in that Party.[44]

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[41] For greater certainty, for the purposes of this Section, a pharmaceutical product is "similar" to a previously approved pharmaceutical product if the marketing approval, or, in the alternative, the applicant's request for such approval, of that similar pharmaceutical product is based upon the undisclosed test or other data concerning the safety and efficacy of the previously approved pharmaceutical product, or the prior approval of that previously approved product.

[42] For greater certainty, a Party may limit the period of protection under paragraph 1 to five years, and the period of protection under Article 20.F.14.1(a) (Biologics) to 10 years.

[43] A Party that provides a period of at least 8 years of protection pursuant to paragraph 1 is not required to apply paragraph 2.

[44] For the purposes of Article 20.F.13.2(b) (Protection of Undisclosed Test or Other Data), a Party may choose to protect only the undisclosed test or other data concerning the safety and efficacy relating to the chemical entity that has not been previously approved.

3. Notwithstanding paragraphs 1 and 2 and Article 20.F.14 (Biologics), a Party may take measures to protect public health in accordance with:

(a) the Declaration on TRIPS and Public Health;

(b) any waiver of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement to implement the Declaration on TRIPS and Public Health and that is in force between the Parties; or

(c) any amendment of the TRIPS Agreement to implement the Declaration on TRIPS and Public Health that enters into force with respect to the Parties.

Article 20.F.14: Biologics

1. With regard to protecting new biologics, a Party shall, with respect to the first marketing approval in a Party of a new pharmaceutical product that is or contains a biologic,[45, 46] provide effective market protection through the implementation of Article 20.F.13.1 (Protection of Undisclosed Test or Other Data) and Article 20.F.13.3 (Protection of Undisclosed Test or Other Data), *mutatis mutandis*, for a period of at least ten years from the date of first marketing approval of that product in that Party.

2. Each Party shall apply this Article to, at a minimum[47], a product that is produced using biotechnology processes and that is, or, alternatively, contains, a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein, or analogous product, for use in human beings for the prevention, treatment, or cure of a disease or condition.

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[45] Nothing requires a Party to extend the protection of this paragraph to:

(a) any second or subsequent marketing approval of such a pharmaceutical product; or

(b) a pharmaceutical product that is or contains a previously approved biologic.

[46] Each Party may provide that an applicant may request approval of a pharmaceutical product that is or contains a biologic under the procedures set forth in Article 20.F.13.1(a) (Protection of Undisclosed Test or Other Data subparagraph 1(a)) and Article 20.F.13.1(b) (Protection of Undisclosed Test or Other Data subparagraph 1(b)) on or before March 23, 2020, provided that other pharmaceutical products in the same class of products have been approved by that Party under the procedures set forth in in Article 20.F.13.1(a) (Protection of Undisclosed Test or Other Data subparagraph 1(a)) and Article 20.F.13.1(b) (Protection of Undisclosed Test or Other Data subparagraph 1(b)) before the date of entry into force of this Agreement for that Party.

[47] For greater certainty, for the purposes of this Article, the Parties understand that "at a minimum" means that a Party may limit the application to the scope specified in this paragraph.

Article 20.F.15: Definition of New Pharmaceutical Product

For the purposes of Article 20.F.13.1 (Protection of Undisclosed Test or Other Data), a **new pharmaceutical product** means a pharmaceutical product that does not contain a chemical entity that has been previously approved in that Party.

Article 20.F.16: Measures Relating to the Marketing of Certain Pharmaceutical Products

1. If a Party permits, as a condition of approving the marketing of a pharmaceutical product, persons, other than the person originally submitting the safety and efficacy information, to rely on evidence or information concerning the safety and efficacy of a product that was previously approved, such as evidence of prior marketing approval by the Party or in another territory, that Party shall provide:

(a) a system to provide notice to a patent holder[48] or to allow for a patent holder to be notified prior to the marketing of such a pharmaceutical product, that such other person is seeking to market that product during the term of an applicable patent claiming the approved product or its approved method of use;

(b) adequate time and sufficient opportunity for such a patent holder to seek, prior to the marketing of an allegedly infringing product, available remedies in subparagraph (c); and

(c) procedures, such as judicial or administrative proceedings, and expeditious remedies, such as preliminary injunctions or equivalent effective provisional measures, for the timely resolution of disputes concerning the validity or infringement of an applicable patent claiming an approved pharmaceutical product or its approved method of use.

2. As an alternative to paragraph 1, a Party shall instead adopt or maintain a system other than judicial proceedings that precludes, based upon patent-related information submitted to the marketing approval authority by a patent holder or the applicant for marketing approval, or based on direct coordination between the marketing approval authority and the patent office, the issuance of marketing approval to any third person seeking to market a pharmaceutical product subject to a patent claiming that product, unless by consent or acquiescence of the patent holder.

[48] For greater certainty, for the purposes of this Article, a Party may provide that a "patent holder" includes a patent licensee or the authorized holder of marketing approval.

Article 20.F.17: Alteration of Period of Protection

Subject to Article 20.F.13.3 (Protection of Undisclosed Test or Other Data), if a product is subject to a system of marketing approval in the territory of a Party pursuant to Article 20.F.10 (Protection of Undisclosed Test or Other Data for Agricultural Chemical Products), Article 20.F.13 or Article 20.F.14 (Biologics) and is also covered by a patent in the territory of that Party, the Party shall not alter the period of protection that it provides pursuant to Article 20.F.10, Article 20.F.13 or Article 20.F.14 in the event that the patent protection terminates on a date earlier than the end of the period of protection specified in Article 20.F.10, Article 20.F.13 or Article 20.F.14.

Section G: Industrial Designs

Article 20.G.1: Protection

1. Each Party shall ensure adequate and effective protection of industrial designs consistent with Articles 25 and 26 of the TRIPS Agreement.

2. Consistent with paragraph 1, each Party confirms that protection is available for designs embodied in a part of an article.

Article 20.G.2: Non-Prejudicial Disclosures/Grace Period[49]

Each Party shall disregard at least information contained in public disclosures used to determine if an industrial design is new, original, or, where applicable, non-obvious, if the public disclosure:[50]

(a) was made by the design applicant or by a person that obtained the information directly or indirectly from the design applicant; and

(b) occurred within twelve months prior to the filing date in the territory of the Party.

Article 20.G.3: Electronic Industrial Design System

Each Party shall provide:

[49] Articles 20.G.2 (Non-Prejudicial Disclosures/Grace Period) and 20.G.3 (Electronic Industrial Design System) shall apply with respect to industrial design patent systems or industrial design registration systems.

[50] For greater certainty, a Party may limit the application of this Article to disclosures made by, or obtained directly or indirectly from, the creator or co-creator and provide that, for the purposes of this Article, information obtained directly or indirectly from the design applicant may be information contained in the public disclosure that was authorised by, or derived from, the design applicant.

(a) a system for the electronic application for industrial design rights; and

(b) a publically available electronic information system, which shall include an online database of protected industrial designs.

Article 20.G.4: Term of Protection

Each Party shall provide a term of protection for industrial designs of at least 15 years from either: (a) the date of filing or (b) the date of grant or registration.

Section H: Copyright and Related Rights

Article 20.H.1: Definitions

For the purposes of Article 20.H.2 (Right of Reproduction) and Article 20.H.4 (Right of Distribution) through Article 20.H.13 (Collective Management), the following definitions apply with respect to performers and producers of phonograms:

broadcasting means the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof; such transmission by satellite is also "broadcasting"; transmission of encrypted signals is "broadcasting" if the means for decrypting are provided to the public by the broadcasting organization or with its consent; "broadcasting" does not include transmission over computer networks or any transmissions where the time and place of reception may be individually chosen by members of the public;

communication to the public of a performance or a phonogram means the transmission to the public by any medium, other than by broadcasting, of sounds of a performance or the sounds or the representations of sounds fixed in a phonogram;

fixation means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced, or communicated through a device;

performers means actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;

phonogram means the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audio-visual work;

producer of a phonogram means a person that takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds; and

publication of a performance or phonogram means the offering of copies of the performance or the phonogram to the public, with the consent of the right holder, and provided that copies are offered to the public in reasonable quantity.

Article 20.H.2: Right of Reproduction

Each Party shall provide[51] to authors, performers and producers of phonograms[52] the exclusive right to authorize or prohibit all reproduction of their works, performances or phonograms in any manner or form, including in electronic form.

Article 20.H.3: Right of Communication to the Public

Without prejudice to Article 11(1)(ii), Article 11*bis*(1)(i) and (ii), Article 11*ter*(1)(ii), Article 14(1)(ii), and Article 14*bis*(1) of the Berne Convention, each Party shall provide to authors the exclusive right to authorize or prohibit the communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.[53]

Article 20.H.4: Right of Distribution

Each Party shall provide to authors, performers and producers of phonograms the exclusive right to authorize or prohibit the making available to the public of the original and copies[54] of their works, performances and phonograms through sale or other transfer of ownership.

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[51] For greater certainty, the Parties understand that it is a matter for each Party's law to prescribe that works, performances or phonograms in general or any specified categories of works, performances and phonograms are not protected by copyright or related rights unless the work, performance or phonogram has been fixed in some material form.

[52] References to "authors, performers, and producers of phonograms" refer also to any of their successors in interest.

[53] The Parties understand that the mere provision of physical facilities for enabling or making a communication does not in itself amount to communication within the meaning of this Chapter or the Berne Convention. The Parties further understand that nothing in this Article precludes a Party from applying Article 11*bis*(2) of the Berne Convention.

[54] The expressions "copies" and "original and copies", that are subject to the right of distribution in this Article, refer exclusively to fixed copies that can be put into circulation as tangible objects.

Article 20.H.5: No Hierarchy

Each Party shall provide that in cases in which authorization is needed from both the author of a work embodied in a phonogram and a performer or producer that owns rights in the phonogram:

(a) the need for the authorization of the author does not cease to exist because the authorization of the performer or producer is also required; and

(b) the need for the authorization of the performer or producer does not cease to exist because the authorization of the author is also required.

Article 20.H.6: Related Rights

1. In addition to protection afforded to performers and producers of phonograms as "nationals" under Article 20.A.8 (National Treatment), each Party shall accord the rights provided for in this Chapter to performances or phonograms first published or first fixed[55] in the territory of another Party.[56] A performance or phonogram shall be considered first published in the territory of a Party if it is published in the territory of that Party within 30 days of its original publication.

2. Each Party shall provide to performers the exclusive right to authorize or prohibit:

(a) the broadcasting and communication to the public of their unfixed performances, unless the performance is already a broadcast performance; and

(b) the fixation of their unfixed performances.

3. (a) Each Party shall provide to performers and producers of phonograms the exclusive right to authorize or prohibit the broadcasting or any communication to the public of their performances or phonograms, by wire or wireless means[57] and the making available to the public of those performances or phonograms in such a way that members of the public may access them from a place and at a time individually chosen by them.

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[55] For the purposes of this Article, fixation means the finalization of the master tape or its equivalent.

[56] For greater certainty, consistent with Article 20.A.8 (National Treatment), each Party shall accord to performances and phonograms first published or first fixed in the territory of another Party treatment no less favorable than it accords to performances or phonograms first published or first fixed in its own territory.

[57] For greater certainty, the obligation under this paragraph does not include broadcasting or communication to the public, by wire or wireless means, of the sounds or representations of sounds fixed in a phonogram that are incorporated in a cinematographic or other audio-visual work.

(b) Notwithstanding subparagraph (a) and Article 20.H.9 (Limitations and Exceptions), the application of the right referred to in subparagraph (a) to analog transmissions and non-interactive free over-the-air broadcasts, and exceptions or limitations to this right for those activities, is a matter of each Party's law. [58]

(c) Each party may adopt limitations to this right in respect of other noninteractive transmissions in accordance with Article 20.H.9.1 (Limitations and Exceptions), provided that the limitations do not prejudice the right of the performer or producer of phonograms to obtain equitable remuneration.

Article 20.H.7: Term of Protection for Copyright and Related Rights

Each Party shall provide that in cases in which the term of protection of a work, performance or phonogram is to be calculated:

(a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death;[59] and

(b) on a basis other than the life of a natural person, the term shall be:

(i) not less than 75 years from the end of the calendar year of the first authorized publication[60] of the work, performance or phonogram; or

(ii) failing such authorized publication within 25 years from the creation of the work, performance or phonogram, not less than 70 years from the end of the calendar year of the creation of the work, performance or phonogram.

[58] For the purposes of this subparagraph the Parties understand that a Party may provide for the retransmission of non-interactive, free over-the-air broadcasts, provided that these retransmissions are lawfully permitted by that Party's government communications authority; any entity engaging in these retransmissions complies with the relevant rules, orders or regulations of that authority; and these retransmissions do not include those delivered and accessed over the Internet. For greater certainty this footnote does not limit a Party's ability to avail itself of this subparagraph.

[59] The Parties understand that if a Party provides its nationals a term of copyright protection that exceeds life of the author plus 70 years, nothing in this Article or Article 20.A.8 (National Treatment) shall preclude that Party from applying Article 7(8) of the Berne Convention with respect to the term in excess of the term provided in this subparagraph of protection for works of another Party.

[60] For greater certainty, for the purposes of subparagraph (b), if a Party's law provides for the calculation of term from fixation rather than from the first authorized publication that Party may continue to calculate the term from fixation.

Article 20.H.8: Application of Article 18 of the Berne Convention and Article 14.6 of the TRIPS Agreement

Each Party shall apply Article 18 of the Berne Convention and Article 14.6 of the TRIPS Agreement, *mutatis mutandis*, to works, performances and phonograms, and the rights in and protections afforded to that subject matter as required by this Section.

Article 20.H.9: 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 20.H.10: Contractual Transfers

Each Party shall provide that for copyright and related rights, any person acquiring or holding any economic right[61] in a work, performance or phonogram:

(a) may freely and separately transfer that right by contract; and

[61] For greater certainty, this provision does not affect the exercise of moral rights.

(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.[62]

Article 20.H.11: Technological Protection Measures (TPMs)[63]

1. In order to provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that authors, performers, and producers of phonograms use in connection with the exercise of their rights and that restrict unauthorized acts in respect of their works, performances, and phonograms, each Party shall provide[64] that any person who:

(a) knowingly, or having reasonable grounds to know[65], circumvents without authority any effective technological measure that controls access to a protected work, performance, or phonogram[66]; or

(b) manufactures, imports, distributes, offers for sale or rental to the public, or otherwise provides devices, products, or components, or offers to the public or provides services, that:

(i) are promoted, advertised, or otherwise marketed by that person for the purpose of circumventing any effective technological measure,

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[62] 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.

[63] Nothing in this Agreement requires a Party to restrict the importation or domestic sale of a device that does not render effective a technological measure the only purpose of which is to control market segmentation for legitimate physical copies of a cinematographic film, and is not otherwise a violation of its law.

[64] A Party that, prior to the date of entry into force of this Agreement, maintains legal protections for technological protection measures consistent with Article 18.H.11.1, may maintain its current scope of limitations, exceptions, and regulations regarding circumvention.

[65] For greater certainty, for the purposes of this subparagraph, a Party may provide that reasonable grounds to know may be demonstrated through reasonable evidence, taking into account the facts and circumstances surrounding the alleged illegal act.

[66] For greater certainty, no Party is required to impose civil or criminal liability under this subparagraph for a person that circumvents any effective technological measure that protects any of the exclusive rights of copyright or related rights in a protected work, performance or phonogram, but does not control access to that work, performance or phonogram.

(ii) have only a limited commercially significant purpose or use other than to circumvent any effective technological measure, or

(iii) are primarily designed, produced, or performed for the purpose of circumventing any effective technological measure,

shall be liable and subject to the remedies provided for in Article 20.J.4.18 (Civil and Administrative Procedures and Remedies).[67]

Each Party shall provide for criminal procedures and penalties to be applied when any person, other than a non-profit library, archive, educational institution, or public noncommercial broadcasting entity, is found to have engaged willfully and for the purposes of commercial advantage or private financial gain in any of the foregoing activities.

Such criminal procedures and penalties shall include the application to such activities listed in subparagraphs (a), (c), and (f) of Article 20.J.7.6 as applicable to infringements, *mutatis mutandis*.

2. In implementing paragraph 1, no Party shall be obligated to require that the design of, or the design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure, so long as the product does not otherwise violate any measure implementing paragraph 1.

3. Each Party shall provide that a violation of a measure implementing this Article is a separate cause of action, independent of any infringement that might occur under the Party's law on copyright and related rights.

4. Each Party shall confine exceptions and limitations to measures implementing paragraph 1 to the following activities, which shall be applied to relevant measures in accordance with paragraph 5[68]:

(a) noninfringing reverse engineering activities with regard to a lawfully obtained copy of a computer program, carried out in good faith with respect to particular elements of that computer program that have not been readily available to the person engaged in those activities, for the sole purpose of achieving interoperability of an independently created computer program with other programs;

(b) noninfringing good faith activities, carried out by an appropriately qualified researcher who has lawfully obtained a copy, unfixed performance, or display of

[67] For greater certainty, no Party is required to impose liability under this Article and Article 20.H.12 (RMI) for actions taken by that Party or a third person acting with authorization or consent of the Party.

[68] Any Party may request consultations with the other Parties to consider how to address, under paragraph 4, activities of a similar nature that a Party identifies after the date this Agreement enters into force.

a work, performance, or phonogram and who has made a good faith effort to obtain authorization for such activities, to the extent necessary for the sole purpose of research consisting of identifying and analyzing flaws and vulnerabilities of technologies for scrambling and descrambling of information;

(c) the inclusion of a component or part for the sole purpose of preventing the access of minors to inappropriate online content in a technology, product, service, or device that itself is not prohibited under the measures implementing paragraph (1)(b);

(d) noninfringing good faith activities that are authorized by the owner of a computer, computer system, or computer network for the sole purpose of testing, investigating, or correcting the security of that computer, computer system, or computer network;

(e) noninfringing activities for the sole purpose of identifying and disabling a capability to carry out undisclosed collection or dissemination of personally identifying information reflecting the online activities of a natural person in a way that has no other effect on the ability of any person to gain access to any work;

(f) lawfully authorized activities carried out by government employees, agents, or contractors for the purpose of law enforcement, intelligence, essential security, or similar governmental purposes;

(g) access by a nonprofit library, archive, or educational institution to a work, performance, or phonogram not otherwise available to it, for the sole purpose of making acquisition decisions; and

(h) in addition, a Party may provide additional exceptions or limitations for noninfringing uses of a particular class of works, performances, or phonograms, when an actual or likely adverse impact on those noninfringing uses is demonstrated by substantial evidence in a legislative, regulatory or administrative proceeding in accordance with the Party's law.

5. The exceptions and limitations to measures implementing paragraph 1 for the activities set forth in paragraph 4 may only be applied as follows, and only to the extent that they do not impair the adequacy of legal protection or the effectiveness of legal remedies against the circumvention of effective technological measures under the Party's legal system:

(a) Measures implementing subparagraph (1)(a) may be subject to exceptions and limitations with respect to each activity set forth in paragraph (4).

(b) Measures implementing subparagraph (1)(b), as they apply to effective technological measures that control access to a work, performance, or phonogram, may be subject to exceptions and limitations with respect to

activities set forth in subparagraph (4) (a), (b), (c), (d), and (f).

(c) Measures implementing paragraph (1)(b), as they apply to effective technological measures that protect any copyright or any rights related to copyright, may be subject to exceptions and limitations with respect to activities set forth in subparagraph (4)(a) and (f).

6. **Effective technological measure** means any technology, device, or component that, in the normal course of its operation, controls access to a protected work, performance, or phonogram, or protects any copyright or any rights related to copyright.[69]

Article 20.H.12: Rights Management Information (RMI)[70]

1. In order to provide adequate and effective legal remedies to protect RMI:

(a) each Party shall provide that any person that, without authority, and knowing, or having reasonable grounds to know, that it would induce, enable, facilitate or conceal an infringement of the copyright or related right of authors, performers or producers of phonograms:

(i) knowingly[71] removes or alters any RMI;

(ii) knowingly distributes or imports for distribution RMI knowing that the RMI has been altered without authority;[72] or

(iii) knowingly distributes, imports for distribution, broadcasts, communicates or makes available to the public copies of works, performances or phonograms, knowing that RMI has been removed or altered without authority,

is liable and subject to the remedies set out in Article 20.J.4 (Civil and Administrative Procedures and Remedies).

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[69] For greater certainty, a technological measure that can, in a usual case, be circumvented accidentally is not an "effective" technological measure.

[70] A Party may comply with the obligations in this Article by providing legal protection only to electronic RMI.

[71] For greater certainty, a Party may extend the protection afforded by this paragraph to circumstances in which a person engages without knowledge in the acts in sub-subparagraphs (i), (ii) and (iii), and to other related right holders.

[72] A Party may also meet its obligation under this sub-subparagraph, if it provides effective protection for original compilations, provided that the acts described in this sub-subparagraph are treated as infringements of copyright in those original compilations.

Each Party shall provide for criminal procedures and penalties to be applied if any person is found to have engaged willfully and for purposes of commercial advantage or financial gain in any of the above activities.

A Party may provide that the criminal procedures and penalties do not apply to a non-profit library, museum, archive, educational institution or public non-commercial broadcasting entity.[73]

2. For greater certainty, nothing prevents a Party from excluding from a measure that implements paragraph 1 a lawfully authorized activity that is carried out for the purpose of law enforcement, essential security interests or other related governmental purposes, such as the performance of a statutory function.

3. For greater certainty, nothing in this Article shall obligate a Party to require a right holder in a work, performance or phonogram to attach RMI to copies of the work, performance or phonogram, or to cause RMI to appear in connection with a communication of the work, performance or phonogram to the public.

4. **RMI** means:

(a) information that identifies a work, performance or phonogram, the author of the work, the performer of the performance or the producer of the phonogram; or the owner of any right in the work, performance or phonogram;

(b) information about the terms and conditions of the use of the work, performance or phonogram; or

(c) any numbers or codes that represent the information referred to in subparagraphs (a) and (b),

if any of these items is attached to a copy of the work, performance or phonogram or appears in connection with the communication or making available of a work, performance or phonogram to the public.

Article 20.H.13: Collective Management

The Parties recognize the important role of collective management societies for copyright and related rights in collecting and distributing royalties[74] based on practices that are fair, efficient,

[73] For greater certainty, a Party may treat a broadcasting entity established without a profit-making purpose under its law as a public non-commercial broadcasting entity.

[74] For greater certainty, royalties may include equitable remuneration.

transparent and accountable, which may include appropriate record keeping and reporting mechanisms.

Section I: Trade Secrets[75, 76]

In the course of ensuring effective protection against unfair competition as provided in Article 10bis of the Paris Convention, each Party shall ensure that persons have the legal means to prevent trade secrets lawfully in their control from being disclosed to, acquired by, or used by others (including state-owned enterprises) without their consent in a manner contrary to honest commercial practices.

Article 20.I.1: Civil Protection and Enforcement

In fulfilling its obligation under paragraphs 1 and 2 of Article 39 of the TRIPS Agreement, each Party shall:

(a) provide civil judicial procedures[77] for any person lawfully in control of a trade secret to prevent, and obtain redress for, the misappropriation of the trade secret by any other person; and

(b) not limit the duration of protection for a trade secret, so long as the conditions in Article 20.I.3 (Definitions) exist.

Article 20.I.2: Criminal Enforcement

1. Subject to paragraph 2, each Party shall provide for criminal procedures and penalties for the unauthorized and willful misappropriation[78] of a trade secret.

2. With respect to the relevant acts referred to in paragraph 1, a Party may, as appropriate, limit the availability of its procedures, or limit the level of penalties available, to one or more of the following cases in which:

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[75] For greater certainty, the enforcement obligations and principles set forth in Section J also apply to the obligations in this section, as relevant.

[76] For greater certainty, this Section is without prejudice to a Party's measures protecting good faith lawful disclosures to provide evidence of a violation of that Party's law.

[77] For greater certainty, civil judicial procedures do not have to be federal provided that such procedures are available.

[78] For the purposes of this Article, "willful misappropriation" requires a person to have known that the trade secret was acquired in a manner contrary to honest commercial practices.

(a) the acts are for the purposes of commercial advantage or financial gain;

(b) the acts are related to a product or service in national or international commerce; or

(c) the acts are intended to injure the owner of such trade secret.

Article 20.I.3: Definitions

For the purposes of this section:

Trade secret means information that:

(a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

(b) has actual or potential commercial value because it is secret; and

(c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

Misappropriation means the acquisition, use, or disclosure of a trade secret in a manner contrary to honest commercial practices, including the acquisition, use, or disclosure of a trade secret by a third party that knew, or had reason to know, that the trade secret was acquired in a manner contrary to honest commercial practices.[79]

Misappropriation does not include situations in which a person:

(a) reverse engineered an item lawfully obtained;

(b) independently discovered information claimed as a trade secret; or

(c) acquired the subject information from another person in a legitimate manner without an obligation of confidentiality or knowledge that the information was a trade secret.

Manner contrary to honest commercial practices means at least practices such as breach of contract, breach of confidence and inducement to breach, and includes the acquisition of

[79] For greater certainty, "misappropriation" as defined in this paragraph includes cases in which the acquisition, use, or disclosure involves a computer system.

undisclosed information by third parties that knew, or were grossly negligent in failing to know, that those practices were involved in the acquisition.

Article 20.I.4: Provisional Measures

In the civil judicial proceedings described in Article 20.I.1 (Civil Protection and Enforcement), each Party shall provide that its judicial authorities have the authority to order prompt and effective provisional measures, such as orders to prevent the misappropriation of the trade secret and to preserve relevant evidence.

Article 20.I.5: Confidentiality

In connection with the civil judicial proceedings described in Article 20.I.1 (Civil Protection and Enforcement), each Party shall provide that its civil judicial authorities have the authority to:

(a) order specific procedures to protect the confidentiality of any trade secret, alleged trade secret, and any other information asserted by an interested party to be confidential; and

(b) impose sanctions on parties, counsel, experts, or other persons subject to such proceedings, related to violation of orders concerning the protection of a trade secret or alleged trade secret produced or exchanged in that proceeding, as well as any other information asserted by an interested party to be confidential.

Each Party shall further provide in its law that, in cases in which an interested party asserts information to be a trade secret, its judicial authorities shall not disclose that information without first providing that person with an opportunity to make a submission under seal that describes the interest of that person in keeping the information confidential.

Article 20.I.6: Civil Remedies

In connection with the civil judicial proceedings described in Article 20.I.1 (Civil Protection and Enforcement), each Party shall provide that its judicial authorities have the authority at least to:

(a) order injunctive relief that conforms to Article 44 of the TRIPS Agreement against a person that misappropriated a trade secret; and

(b) order a person that misappropriated a trade secret to pay damages adequate to compensate the person lawfully in control of the trade secret for the injury suffered

because of the misappropriation of the trade secret[80] and, where appropriate, because of the proceedings to enforce the trade secret.

Article 20.I.7: Licensing and Transfer of Trade Secrets

No Party may discourage or impede the voluntary licensing of trade secrets by imposing excessive or discriminatory conditions on such licenses or conditions that dilute the value of the trade secrets.

Article 20.I.8: Prohibition of Unauthorized Disclosure or Use of a Trade Secret by Government Officials Outside the Scope of Their Official Duties

1. In civil, criminal and regulatory proceedings in which trade secrets may be submitted to a court or government entity, each Party shall prohibit the unauthorized disclosure of a trade secret by a government official at the central level of government outside the scope of that person's official duties.

2. Each Party shall provide for in its law deterrent level penalties, including monetary fines, suspension or termination of employment, and imprisonment, to guard against the unauthorized disclosure of a trade secret described in paragraph 1.

Section J: Enforcement

Article 20.J.1: General Obligations

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.[81] 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.

2. Each Party confirms that the enforcement procedures set forth in Article 20.J.4 (Civil and Administrative Procedures and Remedies), Article 20.J.5 (Provisional Measures), and Article 20.J.7 (Criminal Procedures and Penalties) shall be available to the same extent with respect to

[80] For greater certainty, a Party may provide that the determination of damages is carried out after the determination of misappropriation.

[81] For greater certainty, and subject to Article 44 of the TRIPS Agreement and the provisions of this Agreement, each Party confirms that it makes such remedies available with respect to enterprises, regardless of whether the enterprises are private or state-owned.

acts of trademark infringement, as well as copyright or related rights infringement, in the digital environment.

3. Each Party shall ensure that its procedures concerning the enforcement of intellectual property rights are fair and equitable. These procedures shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.

4. This Section does not create any obligation:

(a) to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of each Party to enforce its law in general; or

(b) with respect to the distribution of resources as between the enforcement of intellectual property rights and the enforcement of law in general.

5. In implementing the provisions of this Section in its intellectual property system, each Party shall take into account the need for proportionality between the seriousness of the infringement of the intellectual property right and the applicable remedies and penalties, as well as the interests of third parties.

Article 20.J.2: Presumptions

1. In civil, criminal, and, if applicable, administrative proceedings involving copyright or related rights, each Party shall provide for a presumption[82] that, in the absence of proof to the contrary:

(a) the person whose name is indicated in the usual manner[83] as the author, performer or producer of the work, performance or phonogram, or if applicable the publisher, is the designated right holder in that work, performance or phonogram; and

(b) the copyright or related right subsists in such subject matter.

2. In connection with the commencement of a civil, administrative, or criminal enforcement proceeding involving a registered trademark that has been substantively examined by its competent authority, each Party shall provide that the trademark be considered *prima facie* valid.

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[82] For greater certainty, a Party may implement this Article on the basis of sworn statements or documents having evidentiary value, such as statutory declarations. A Party may also provide that these presumptions are rebuttable presumptions that may be rebutted by evidence to the contrary.

[83] For greater certainty, a Party may establish the means by which it shall determine what constitutes the "usual manner" for a particular physical support.

3. In connection with the commencement of a civil or administrative enforcement proceeding involving a patent that has been substantively examined and granted by the competent authority of a Party, that Party shall provide that each claim in the patent be considered *prima facie* to satisfy the applicable criteria of patentability in the territory of the Party.[84,85]

Article 20.J.3: Enforcement Practices with Respect to Intellectual Property Rights

1. Each Party shall provide that final judicial decisions and administrative rulings of general application pertaining to the enforcement of intellectual property rights:

(a) are in writing and preferably state any relevant findings of fact and the reasoning or the legal basis on which the decisions and rulings are based; and

(b) are published[86] or, if publication is not practicable, otherwise made available to the public in a national language in such a manner as to enable interested persons and Parties to become acquainted with them.

2. Each Party recognizes the importance of collecting and analyzing statistical data and other relevant information concerning infringements of intellectual property rights as well as collecting information on best practices to prevent and combat infringements.

3. Each Party shall publish or otherwise make available to the public information on its efforts to provide effective enforcement of intellectual property rights in its civil, administrative and criminal systems, such as statistical information that the Party may collect for such purposes.

Article 20.J.4: Civil and Administrative Procedures and Remedies

1. Each Party shall make available to right holders civil judicial procedures concerning the enforcement of any intellectual property right covered in this Chapter.[87]

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[84] For greater certainty, if a Party provides its administrative authorities with the exclusive authority to determine the validity of a registered trademark or patent, nothing in paragraphs 2 and 3 shall prevent that Party's competent authority from suspending enforcement procedures until the validity of the registered trademark or patent is determined by the administrative authority. In those validity procedures, the party challenging the validity of the registered trademark or patent shall be required to prove that the registered trademark or patent is not valid. Notwithstanding this requirement, a Party may require the trademark holder to provide evidence of first use.

[85] A Party may provide that this paragraph applies only to those patents that have been applied for, examined and granted after the entry into force of this Agreement for that Party.

[86] For greater certainty, a Party may satisfy the requirement for publication by making the decision or ruling available to the public on the Internet.

[87] For the purposes of this Article, the term "right holders" shall include those authorized licensees, federations and associations that have the legal standing and authority to assert such rights. The term "authorized licensee" shall

2. Each Party shall provide that its judicial authorities have the authority to order injunctive relief that conforms to Article 44 of the TRIPS Agreement, including to prevent goods that involve the infringement of an intellectual property right under the law of the Party providing that relief from entering into the channels of commerce.

3. Each Party shall provide[88] that, in civil judicial proceedings, its judicial authorities have the authority at least to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement of that person's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity.

4. In determining the amount of damages under paragraph 3, each Party's judicial authorities shall have the authority to consider, among other things, any legitimate measure of value the right holder submits, which may include lost profits, the value of the infringed goods or services measured by the market price, or the suggested retail price.

5. At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that, in civil judicial proceedings, its judicial authorities have the authority to order the infringer, at least in cases described in paragraph 3, to pay the right holder the infringer's profits that are attributable to the infringement.[89]

6. In civil judicial proceedings with respect to the infringement of copyright or related rights protecting works, phonograms or performances, each Party shall establish or maintain a system that provides for one or more of the following:

(a) pre-established damages, which shall be available on the election of the right holder; or

(b) additional damages.[90]

7. In civil judicial proceedings with respect to trademark counterfeiting, each Party shall also establish or maintain a system that provides for one or more of the following:

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include the exclusive licensee of any one or more of the exclusive intellectual property rights encompassed in a given intellectual property.

[88] A Party may also provide that the right holder may not be entitled to any of the remedies set out in paragraphs 3, 5, and 7 if there is a finding of non-use of a trademark. For greater certainty, there is no obligation for a Party to provide for the possibility of any of the remedies in paragraphs 3, 5, 6, and 7 to be ordered in parallel.

[89] A Party may comply with this paragraph through presuming those profits to be the damages referred to in paragraph 3.

[90] For greater certainty, additional damages may include exemplary or punitive damages.

(a) pre-established damages, which shall be available on the election of the right holder; or

(b) additional damages.[91]

8. Pre-established damages under paragraphs 6 and 7 shall be in an amount sufficient to constitute a deterrent to future infringements and to compensate fully the right holder for the harm caused by the infringement.

9. In awarding additional damages under paragraphs 6 and 7, judicial authorities shall have the authority to award such additional damages as they consider appropriate, having regard to all relevant matters, including the nature of the infringing conduct and the need to deter similar infringements in the future.

10. Each Party shall provide that its judicial authorities, if appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning infringement of at least copyright or related rights, patents, and trademarks, that the prevailing party be awarded payment by the losing party of court costs or fees and appropriate attorney's fees, or any other expenses as provided for under the Party's law.

11. If a Party's judicial or other authorities appoint a technical or other expert in a civil proceeding concerning the enforcement of an intellectual property right and require that the parties to the proceeding pay the costs of that expert, that Party should seek to ensure that those costs are reasonable and related appropriately, among other things, to the quantity and nature of work to be performed and do not unreasonably deter recourse to such proceedings.

12. Each Party shall provide that in civil judicial proceedings:

(a) at least with respect to pirated copyright goods and counterfeit trademark goods, its judicial authorities have the authority, at the right holder's request, to order that the infringing goods be destroyed, except in exceptional circumstances, without compensation of any sort;

(b) its judicial authorities have the authority to order that materials and implements that have been used in the manufacture or creation of the infringing goods be, without compensation of any sort, promptly destroyed or, in exceptional circumstances, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risk of further infringement; and

(c) in regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed is not sufficient, other than in exceptional circumstances, to permit the release of goods into the channels of commerce.

[91] For greater certainty, additional damages may include exemplary or punitive damages.

13. Without prejudice to its law governing privilege, the protection of confidentiality of information sources or the processing of personal data, each Party shall provide that, in civil judicial proceedings concerning the enforcement of an intellectual property right, its judicial authorities have the authority, on a justified request of the right holder, to order the infringer or the alleged infringer, as applicable, to provide to the right holder or to the judicial authorities, at least for the purpose of collecting evidence, relevant information as provided for in its applicable laws and regulations that the infringer or alleged infringer possesses or controls. The information may include information regarding any person involved in any aspect of the infringement or alleged infringement and the means of production or the channels of distribution of the infringing or allegedly infringing goods or services, including the identification of third persons alleged to be involved in the production and distribution of the goods or services and of their channels of distribution.

14. In cases in which a party in a proceeding voluntarily and without good reason refuses access to, or otherwise does not provide relevant evidence under that party's control within a reasonable period, or significantly impedes a proceeding relating to an enforcement action, each Party shall provide that its judicial authorities shall have the authority to make preliminary and final determinations, affirmative or negative, on the basis of the evidence presented, including the complaint or the allegation presented by the party adversely affected by the denial of access to evidence, subject to providing the parties an opportunity to be heard on the allegations or evidence.

15. Each Party shall ensure that its judicial authorities have the authority to order a party at whose request measures were taken and that has abused enforcement procedures to provide to a party wrongfully enjoined or restrained adequate compensation for the injury suffered because of that abuse. The judicial authorities shall also have the authority to order the applicant to pay the defendant expenses, which may include appropriate attorney's fees.

16. Each Party shall provide that in relation to a civil judicial proceeding concerning the enforcement of an intellectual property right, its judicial or other authorities have the authority to impose sanctions on a party, counsel, experts or other persons subject to the court's jurisdiction for violation of judicial orders concerning the protection of confidential information produced or exchanged in that proceeding.

17. To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, each Party shall provide that those procedures conform to principles equivalent in substance to those set out in this Article.

18. In civil judicial proceedings concerning the acts described in Article 20.H.11 (TPMs) and Article 20.H.12 (RMI):

(a) each Party shall provide that its judicial authorities have the authority at least to:[92]

(i) impose provisional measures, including seizure or other taking into custody of devices and products suspected of being involved in the prohibited activity;

(ii) order the type of damages available for copyright infringement, as provided under its law in accordance with this Article;

(iii) order court costs, fees or expenses as provided for under paragraph 9; and

(iv) order the destruction of devices and products found to be involved in the prohibited activity; and

(b) a Party may provide that damages shall not be available against a non-profit library, museum, archive, educational institution, or public non-commercial broadcasting entity, if it sustains the burden of proving that it was not aware or had no reason to believe that its acts constituted a prohibited activity.

Article 20.J.5: Provisional Measures

1. Each Party's authorities shall act on a request for relief in respect of an intellectual property right *inaudita altera parte* expeditiously in accordance with that Party's judicial rules.

2. Each Party shall provide that its judicial authorities have the authority to require the applicant for a provisional measure in respect of an intellectual property right to provide any reasonably available evidence in order to satisfy the judicial authority, with a sufficient degree of certainty, that the applicant's right is being infringed or that the infringement is imminent, and to order the applicant to provide security or equivalent assurance set at a level sufficient to protect the defendant and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to those procedures.

3. In civil judicial proceedings concerning copyright or related rights infringement and trademark counterfeiting, each Party shall provide that its judicial authorities have the authority to order the seizure or other taking into custody of suspected infringing goods, materials, and implements relevant to the infringement, and, at least for trademark counterfeiting, documentary evidence relevant to the infringement.

[92] For greater certainty, a Party may, but is not required to, put in place separate remedies in respect of Article 20.H.11 (TPMs) and 20.H.12 (RMI), if those remedies are available under its copyright law.

Article 20.J.6: Special Requirements related to Border Measures

1. Each Party shall provide for applications to suspend the release of, or to detain, any suspected counterfeit or confusingly similar trademark or pirated copyright goods that are imported into the territory of the Party.[93]

2. Each Party shall provide that any right holder initiating procedures for its competent authorities[94] to act under paragraph 1 to suspend release into free circulation of suspected counterfeit or confusingly similar trademark or pirated copyright goods is required:

(a) to provide adequate evidence to satisfy the competent authorities that, under the law of the Party providing the procedures, there is *prima facie* an infringement of the right holder's intellectual property right; and

(b) to supply sufficient information that may reasonably be expected to be within the right holder's knowledge to make the suspect goods reasonably recognizable by its competent authorities.

The requirement to provide that information shall not unreasonably deter recourse to these procedures.

3. Each Party shall provide that its competent authorities have the authority to require a right holder initiating procedures to suspend the release of suspected counterfeit or confusingly similar trademark or pirated copyright goods, to provide a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities, and to prevent abuse. Each Party shall provide that such security or equivalent assurance does not unreasonably deter recourse to these procedures. A Party may provide that the security may be in the form of a bond conditioned to hold the defendant harmless from any loss or damage resulting from any suspension of the release of goods in the event the competent authorities determine that the article is not an infringing good.

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[93] For the purposes of this Article:

(a) counterfeit trademark goods means any goods, including packaging, bearing without authorization a trademark that is identical to the trademark validly registered in respect of such goods, or that cannot be distinguished in its essential aspects from such a trademark, and that thereby infringes the rights of the owner of the trademark in question under the law of the Party providing the procedures under this Section; and

(b) pirated copyright goods means any goods that are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and that are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the Party providing the procedures under this Section.

[94] For the purposes of this Article, unless otherwise specified, competent authorities may include the appropriate judicial, administrative or law enforcement authorities under a Party's law.

4. Without prejudice to a Party's law pertaining to privacy or the confidentiality of information:

(a) if a Party's competent authorities have detained or suspended the release of goods that are suspected of being counterfeit trademark or pirated copyright goods, that Party may provide that its competent authorities have the authority to inform the right holder without undue delay of the names and addresses of the consignor, exporter, consignee or importer; a description of the goods; the quantity of the goods; and, if known, the country of origin of the goods;[95] or

(b) if a Party does not provide its competent authority with the authority referred to in subparagraph (a) when suspect goods are detained or suspended from release, it shall provide, at least in cases of imported goods, its competent authorities with the authority to provide the information specified in subparagraph (a) to the right holder normally within 30 working days of the seizure or determination that the goods are counterfeit trademark goods or pirated copyright goods.

5. Each Party shall provide that its competent authorities may initiate border measures *ex officio* against suspected counterfeit trademark goods or pirated copyright goods under customs control[96] that are:

(a) imported;

(b) destined for export;

(c) in transit;[97] and

(d) admitted into or exiting from a free trade zone or a bonded warehouse.

6. Nothing in this Article precludes a Party from exchanging, if appropriate and with a view to eliminating international trade in counterfeit trademarked goods or pirated copyrighted goods, available information to another Party in respect of goods that it has examined without a local consignee and that are transshipped through its territory and are destined for the territory of the other Party, to inform that other Party's efforts to identify suspect goods upon arrival in its territory.

7. Each Party shall adopt or maintain a procedure by which its competent authorities may determine within a reasonable period of time after the initiation of the procedures described in

[95] For greater certainty, a Party may establish reasonable procedures to receive or access that information.

[96] For the purposes of this Article, "goods under customs control" means goods that are subject to a Party's customs procedures.

[97] For the purposes of this Article, an "in-transit" good means a good that is under "Customs transit" or "transshipped," as defined in the International Convention on the Simplification and Harmonization of Customs Procedures as amended (Revised Kyoto Convention).

paragraph 1, paragraph 5(a), paragraph 5(b), paragraph 5(c), and paragraph 5(d), whether the suspect goods infringe an intellectual property right. If a Party provides administrative procedures for the determination of an infringement, it may also provide its authorities with the authority to impose administrative penalties or sanctions, which may include fines or the seizure of the infringing goods following a determination that the goods are infringing.

8. Each Party shall provide that its competent authorities have the authority to order the destruction of goods following a determination that the goods are infringing. In cases in which the goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, the goods are disposed of outside the channels of commerce in such a manner as to avoid any harm to the right holder. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit the release of the goods into the channels of commerce.

9. If a Party establishes or assesses, in connection with the procedures described in this Article, an application fee, storage fee, or destruction fee, that fee shall not be set at an amount that unreasonably deters recourse to these procedures.

10. This Article applies to goods of a commercial nature sent in small consignments. A Party may exclude from the application of this Article small quantities of goods of a non-commercial nature contained in travelers' personal luggage.[98]

Article 20.J.7: Criminal Procedures and Penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright or related rights piracy on a commercial scale. In respect of willful copyright or related rights piracy, "on a commercial scale" includes:

(a) acts carried out for commercial advantage or financial gain; and

(b) significant acts, not carried out for commercial advantage or financial gain, that have a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace.[99, 100]

[98] For greater certainty, a Party may also exclude from the application of this Article small quantities of goods of a non-commercial nature sent in small consignments.

[99] The Parties understand that a Party may comply with subparagraph (b) by addressing such significant acts under its criminal procedures and penalties for non-authorized uses of protected works, performances and phonograms in its law.

[100] A Party may provide that the volume and value of any infringing items may be taken into account in determining whether the act has a substantial prejudicial impact on the interests of the copyright or related rights holder in relation to the marketplace.

2. Each Party shall treat willful importation or exportation of counterfeit trademark goods or pirated copyright goods on a commercial scale as unlawful activities subject to criminal penalties.[101]

3. Each Party shall provide for criminal procedures and penalties to be applied in cases of willful importation[102] and domestic use, in the course of trade and on a commercial scale, of a label or packaging:

(a) to which a trademark has been applied without authorization that is identical to, or cannot be distinguished from a trademark registered in its territory; and

(b) that is intended to be used in the course of trade on goods or in relation to services that are identical to goods or services for which that trademark is registered.

4. Each Party shall provide for criminal procedures to be applied against any person who, willfully and without the authorization of the holder[103] of copyright or related rights in a cinematographic work, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of the cinematographic work or any part thereof, from a performance of the motion picture or other audiovisual work in a movie theater or other venue that is being used primarily for the exhibition of a copyrighted motion picture. In addition to the criminal procedures, a Party may provide for administrative enforcement procedures.

5. With respect to the offenses for which this Article requires a Party to provide for criminal procedures and penalties, each Party shall ensure that criminal liability for aiding and abetting is available under its law.

6. With respect to the offenses described in paragraphs 1 through 5, each Party shall provide that:

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[101] The Parties understand that a Party may comply with its obligation under this paragraph by providing that distribution or sale of counterfeit trademark goods or pirated copyright goods on a commercial scale is an unlawful activity subject to criminal penalties. The Parties understand that criminal procedures and penalties as specified in paragraphs 1, 2, and 3 are applicable in any free trade zones in a Party.

[102] A Party may comply with its obligation relating to importation of labels or packaging through its measures concerning distribution.

[103] For greater certainty, the theater or venue owner or operator shall be entitled to contact the criminal law enforcement authorities with respect to the suspected commission of the acts referred to in this provision. For greater certainty, nothing in this paragraph expands or diminishes the existing rights and obligations of a theater or venue owner or operator with respect to the cinematographic work.

(a) Penalties that include sentences of imprisonment as well as monetary fines sufficiently high to provide a deterrent to future acts of infringement, consistent with the level of penalties applied for crimes of a corresponding gravity;[104]

(b) Its judicial authorities have the authority, in determining penalties, to account for the seriousness of the circumstances, which may include circumstances that involve threats to, or effects on, health or safety;[105]

(c) Its judicial or other competent authorities have the authority to order the seizure of suspected counterfeit trademark goods or pirated copyright goods, any related materials and implements used in the commission of the alleged offense, documentary evidence relevant to the alleged offense and assets derived from, or obtained through the alleged infringing activity. If a Party requires identification of items subject to seizure as a prerequisite for issuing a judicial order referred to in this subparagraph, that Party shall not require the items to be described in greater detail than necessary to identify them for the purpose of seizure;

(d) Its judicial authorities have the authority to order the forfeiture, at least for serious offenses, of any assets derived from or obtained through the infringing activity;

(e) Its judicial authorities have the authority to order the forfeiture or destruction of:

(i) all counterfeit trademark goods or pirated copyright goods,

(ii) materials and implements that have been predominantly used in the creation of pirated copyright goods or counterfeit trademark goods, and

(iii) any other labels or packaging to which a counterfeit trademark has been applied and that have been used in the commission of the offense.

In cases in which counterfeit trademark goods and pirated copyright goods are not destroyed, the judicial or other competent authorities shall ensure that, except in exceptional circumstances, those goods are disposed of outside the channels of commerce in such a manner as to avoid causing any harm to the right holder. Each Party shall further provide that forfeiture or destruction under this subparagraph and subparagraph (c) shall occur without compensation of any kind to the defendant;

[104] The Parties understand that there is no obligation for a Party to provide for the possibility of imprisonment and monetary fines to be imposed in parallel.

[105] A Party may also account for such circumstances through a separate criminal offense.

(f) Its judicial or other competent authorities have the authority to release or, in the alternative, provide access to, goods, material, implements, and other evidence held by the relevant authority to a right holder for civil[106] infringement proceedings; and

(g) Its competent authorities may act upon their own initiative to initiate legal action without the need for a formal complaint by a third person or right holder.

7. With respect to the offenses described in paragraphs 1 through 5, a Party may provide that its judicial authorities have the authority to order the seizure or forfeiture of assets, or alternatively, a fine, the value of which corresponds to the assets derived from, or obtained directly or indirectly through, the infringing activity.

Article 20.J.8: Protection of Encrypted Program-Carrying Satellite and Cable Signals

1. Each Party shall make it a criminal offense to:

(a) manufacture, assemble[107], modify, import, export,[108] sell, or otherwise distribute a tangible or intangible device or system knowing or having reason to know[109] that the device or system meets at least one of the following conditions:

(i) it is intended to be used to assist, or

(ii) it is primarily of assistance,

in decoding an encrypted program-carrying satellite signal without the authorization of the lawful distributor[110] of such signal[111]; and

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[106] A Party may also provide this authority in connection with administrative infringement proceedings.

[107] For greater certainty, a Party may treat "assemble" as incorporated in "manufacture."

[108] The obligation regarding export may be met by making it a criminal offense to possess and distribute a device or system described in this paragraph.

[109] For the purposes of this paragraph, a Party may provide that "having a reason to know" may be demonstrated through reasonable evidence, taking into account the fact and circumstances surrounding the alleged illegal act, as part of the Party's "knowledge" requirements. A Party may treat "having reason to know" as meaning "willful negligence".

[110] With regard to the criminal offenses and penalties in paragraph 1 and paragraph 3, a Party may require a demonstration of intent to avoid payment to the lawful distributor, or a demonstration of intent to otherwise secure a pecuniary benefit to which the recipient is not entitled.

[111] For the purposes of this Article, a Party may provide that a "lawful distributor" means a person that has the lawful right in that Party's territory to distribute the encrypted program carrying signal and authorize its decoding.

(b) with respect to an encrypted program-carrying satellite signal, willfully:

(i) receive[112] such a signal, or

(ii) further distribute[113] such signal,

knowing that it has been decoded without the authorization of the lawful distributor of the signal.

2. Each Party shall provide for civil remedies for a person that holds an interest in an encrypted program-carrying satellite signal or its content and that is injured by an activity described in paragraph 1.

3. Each Party shall provide for criminal penalties and civil[114] remedies for willfully:

(a) manufacturing or distributing equipment knowing that the equipment is intended to be used in the unauthorized reception of any encrypted program-carrying cable signal; and

(b) receiving, or assisting another to receive[115], an encrypted program-carrying cable signal without authorization of the lawful distributor of the signal.

Article 20.J.9: Government Use of Software

1. Each Party recognizes the importance of promoting the adoption of measures to enhance government awareness of respect for intellectual property rights and of the detrimental effects of the infringement of intellectual property rights.

2. Each Party shall adopt or maintain appropriate laws, regulations, policies, orders, government-issued guidelines, or administrative or executive decrees that provide that its central government agencies use only non-infringing computer software protected by copyright and related rights, and, if applicable, only use that computer software in a manner authorized by the

[112] For greater certainty and for the purposes of paragraph 1(b) and paragraph 3(b), a Party may provide that willful receipt of an encrypted program carrying satellite or cable signal means receipt and use of the signal, or means receipt and decoding of the signal.

[113] For greater certainty, a Party may interpret "further distribute" as "retransmit to the public".

[114] If a Party provides for civil remedies, it may require a demonstration of injury.

[115] A Party may comply with its obligation in respect of "assisting another to receive" by providing for criminal penalties to be available against a person willfully publishing any information in order to enable or assist another person to receive a signal without authorization of the lawful distributor of the signal.

relevant license. These measures apply to the acquisition and management of the software for government use.

Article 20.J.10: Internet Service Providers

1. For the purpose of Article 20.J.11 (Legal Remedies and Safe Harbors), an Internet Service Provider is:

(a) a provider of services for the transmission, routing, or providing of connections for digital online communications without modification of their content, between or among points specified by a user, of material of the user's choosing, undertaking the function in Article 20.J.11.2 (a) (Legal Remedies and Safe Harbors); or

(b) a provider of online services undertaking the functions in Article 20.J.11.2 (b), Article 20.J.11.2 (c), or Article 20.J.11.2 (d) (Legal Remedies and Safe Harbors).

2. For the purposes of Article 20.J.11 (Legal Remedies and Safe Harbors), the term copyright includes related rights.

Article 20.J.11: Legal Remedies and Safe Harbors[116]

1. The Parties recognize the importance of facilitating the continued development of legitimate online services operating as intermediaries and, in a manner consistent with Article 41 of the TRIPS Agreement, providing enforcement procedures that permit effective and expeditious action by right holders against copyright infringement covered under this Chapter that occurs in the online environment. Accordingly, each Party shall ensure that legal remedies are available for right holders to address such copyright infringement and shall establish or maintain appropriate safe harbors in respect of online services that are Internet Service Providers. This framework of legal remedies and safe harbors shall include:

(a) legal incentives for Internet Service Providers to cooperate with copyright owners to deter the unauthorized storage and transmission of copyrighted materials or, in the alternative, to take other action to deter the unauthorized storage and transmission of copyrighted materials; and

(b) limitations in its law that have the effect of precluding monetary relief against Internet Service Providers for copyright infringements that they do not control, initiate or direct, and that take place through systems or networks controlled or operated by them or on their behalf.

[116] Annex 20-A applies to Article 20.J.11.3 and Article 20.J.11.4.

2. The limitations described in paragraph 1(b)) shall include limitations in respect of the following functions:

(a) transmitting, routing or providing connections for material without modification of its content or the intermediate and transient storage of that material done automatically in the course of such a technical process;[117]

(b) caching carried out through an automated process;

(c) storage, at the direction of a user, of material residing on a system or network controlled or operated by or for the Internet Service Provider; and

(d) referring or linking users to an online location by using information location tools, including hyperlinks and directories.

3. To facilitate effective action to address infringement, each Party shall prescribe in its law conditions for Internet Service Providers to qualify for the limitations described in paragraph 1(b), or, alternatively, shall provide for circumstances under which Internet Service Providers do not qualify for the limitations described in paragraph 1(b):[118]

(a) With respect to the functions referred to in paragraph 2(c) and paragraph 2(d), these conditions shall include a requirement for Internet Service Providers to expeditiously remove or disable access to material residing on their networks or systems upon obtaining actual knowledge of the copyright infringement or becoming aware of facts or circumstances from which the infringement is apparent, such as through receiving a notice[119] of alleged infringement from the right holder or a person authorized to act on its behalf,

(b) An Internet Service Provider that removes or disables access to material in good faith under subparagraph (a) shall be exempt from any liability for having done so,

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[117] The Parties understand that these limitations shall apply only where the Internet Service Provider does not initiate the chain of transmission of the materials, and does not select the material or its recipients.

[118] The Parties understand that a Party that has yet to implement the obligations in paragraphs 3 and 4 will do so in a manner that is both effective and consistent with that Party's existing constitutional provisions. To that end, a Party may establish an appropriate role for the government that does not impair the timeliness of the process provided in paragraphs 3 and 4, and does not entail advance government review of each individual notice.

[119] For greater certainty, a notice of alleged infringement, as may be set out under a Party's law, must contain information that:

(a) is reasonably sufficient to enable the Internet Service Provider to identify the work, performance or phonogram claimed to be infringed, the alleged infringing material, and the online location of the alleged infringement; and

(b) has a sufficient indicia of reliability with respect to the authority of the person sending the notice.

provided that it takes reasonable steps in advance or promptly after to notify the person whose material is removed or disabled.[120]

4. For purposes of the functions referred to in subparagraphs 2(c) and 2(d), each Party shall establish appropriate procedures in its law or in regulations for effective notices of claimed infringement, and effective counter-notices by those whose material is removed or disabled through mistake or misidentification. If material has been removed or access has been disabled in accordance with paragraph 3, that Party shall require that the Internet Service Provider restores the material that is the subject of a counter-notice, unless the person giving the original notice seeks relief through civil judicial proceedings within a reasonable period of time as set forth in that Party's law or regulations.

5. Each Party shall ensure that monetary remedies are available in its legal system against any person that makes a knowing material misrepresentation in a notice or counter-notice that causes injury to any interested party[121] as a result of an Internet Service Provider relying on the misrepresentation.

6. Eligibility for the limitations in paragraph 1 shall be conditioned on the service provider:

(a) adopting and reasonably implementing a policy that provides for termination in appropriate circumstances of the accounts of repeat infringers;

(b) accommodating and not interfering with standard technical measures accepted in the Party's territory that protect and identify copyrighted material, that are developed through an open, voluntary process by a broad consensus of copyright owners and service providers, that are available on reasonable and nondiscriminatory terms, and that do not impose substantial costs on service providers or substantial burdens on their systems or networks; and

(c) with respect to the functions identified in 2(c) and 2(d), not receiving a financial benefit directly attributable to the infringing activity, in circumstances where it has the right and ability to control such activity.

7. Eligibility for the limitations in paragraph 1 shall not be conditioned on the Internet Service Provider monitoring its service or affirmatively seeking facts indicating infringing activity, except to the extent consistent with the technical measures identified in paragraph 6(b).

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[120] With respect to the function in subparagraph 2(b), a Party may limit the requirements of paragraph 3 related to an Internet Service Provider removing or disabling access to material to circumstances in which the Internet Service Provider becomes aware or receives notification that the cached material has been removed or access to it has been disabled at the originating site.

[121] For greater certainty, the Parties understand that, "any interested party" may be limited to those with a legal interest recognized under that Party's law.

8. Each Party shall provide procedures, whether judicial or administrative, in accordance with that Party's legal system, and consistent with principles of due process and privacy, that enable a copyright owner that has made a legally sufficient claim of copyright infringement to obtain expeditiously from an Internet Service Provider information in the provider's possession identifying the alleged infringer, in cases in which that information is sought for the purpose of protecting or enforcing that copyright.

9. The Parties understand that the failure of an Internet Service Provider to qualify for the limitations in paragraph 1(b) does not itself result in liability. Further, this Article is without prejudice to the availability of other limitations and exceptions to copyright, or any other defenses under a Party's legal system.

10. The Parties recognize the importance, in implementing their obligations under this Article, of taking into account the impact on the right holders and Internet Service Providers.

Section K: Final Provisions

Article 20.K.1: Final Provisions

1. Except as otherwise provided in Article 20.A.10 (Application of Chapter to Existing Subject Matter and Prior Acts) and paragraphs 2 and 3, each Party shall give effect to the provisions of this Chapter on the date of entry into force of this Agreement for that Party.

2. During the relevant periods set out below, a Party shall not amend an existing measure or adopt a new measure that is less consistent with its obligations under the Articles referred to below for that Party than relevant measures that are in effect on the date of signature of this Agreement.

3. With regard to obligations subject to a transition period, Mexico shall fully implement its obligations under the provisions of this Chapter no later than the expiration of the relevant time period specified below, which begins on the date of entry into force of this Agreement.

(a) Article 20.A.7 (International Agreements), UPOV 1991, four years;

(b) Article 20.F.10 (Protection of Undisclosed Test or Other Data for Agricultural Chemical Products), five years;

(c) Article 20.F.11 (Patent Term Adjustment for Unreasonable Curtailment), 4.5 years;

(d) Article 20.F.13 (Protection of Undisclosed Test or Other Data), five years;

(e) Article 20.F.14 (Biologics), five years;

(f) Article 20.I.1 (Civil Protection and Enforcement), Article 20.I.4 (Provisional Measures) and Article 20.I.6 (Civil Remedies), five years; and

(g) Articles 20.J.10 (Internet Service Providers) and 20.J.11 (Legal Remedies and Safe Harbors), three years.

4. With regard to obligations subject to a transition period, Canada shall fully implement its obligations under the provisions of this Chapter no later than the expiration of the relevant time period specified below, which begins on the date of entry into force of this Agreement.

(a) Article 20.A.7.2(f) (International Agreements), four years;

(b) Article 20.F.9 (Patent Term Adjustment for Unreasonable Granting Authority Delays), 4.5 years;

(c) Article 20.F.14 (Biologics), five years; and

(d) Article 20.H.7(a) (Term of Protection for Copyright and Related Rights), 2.5 years.

Annex to Section J

1. In order to facilitate the enforcement of copyright on the Internet and to avoid unwarranted market disruption in the online environment, Article 20.J.11.3, Article 20.J.11.4, and Article 20.J.11.6 (Legal Remedies and Safe Harbours) shall not apply to a Party provided that, as from the date of agreement in principle of this Agreement, it continues to:

(a) prescribe in its law circumstances under which Internet Service Providers do not qualify for the limitations described in Article 20.J.11.1(b) (Legal Remedies and Safe Harbours);

(b) provide statutory secondary liability for copyright infringement in cases in which a person, by means of the Internet or another digital network, provides a service primarily for the purpose of enabling acts of copyright infringement, in relation to factors set out in its law, such as:

(i) whether the person marketed or promoted the service as one that could be used to enable acts of copyright infringement;

(ii) whether the person had knowledge that the service was used to enable a significant number of acts of copyright infringement;

(iii) whether the service has significant uses other than to enable acts of copyright infringement;

(iv) the person's ability, as part of providing the service, to limit acts of copyright infringement, and any action taken by the person to do so;

(v) any benefits the person received as a result of enabling the acts of copyright infringement; and

(vi) the economic viability of the service if it were not used to enable acts of copyright infringement;

(c) require Internet Service Providers carrying out the functions referred to in Article 20.J.11.2(a) and (c) (Legal Remedies and Safe Harbours) to participate in a system for forwarding notices of alleged infringement, including if material is made available online, and if the Internet Service Provider fails to do so, subjecting that provider to pre-established monetary damages for that failure;

(d) induce Internet Service Providers offering information location tools to remove within a specified period of time any reproductions of material that they make, and communicate to the public, as part of offering the information location tool upon receiving a notice of alleged infringement and after the original material has been removed from the electronic location set out in the notice; and

(e) induce Internet Service Providers carrying out the function referred to in Article 20.J.11.2(c) (Legal Remedies and Safe Harbours) to remove or disable access to material upon becoming aware of a decision of a court of that Party to the effect that the person storing the material infringes copyright in the material.

2. For a Party to which Article 20.J.11.3, Article 20.J.11.4, and Article 20.J.11.6 (Legal Remedies and Safe Harbours) do not apply pursuant to paragraph 1 of this Annex, and in light of, among other things, paragraph 1(b) of this Annex, for the purposes of Article 20.J.11.1(a), legal incentives shall not mean the conditions for Internet Service Providers to qualify for the limitations provided for in Article 20.J.11.1(b), as set out in Article 20.J.11.3.

3. Pursuant to paragraph 1, for a Party to which Article 20.J.11.3, Article 20.J.11.4, and Article 20.J.11.6 (Legal Remedies and Safe Harbours) do not apply:

(a) the term "modification" in paragraphs 20.J.10.1(a) and 20.J.11.2(a) does not include modifications made for solely technical reasons such as division into packets;

(b) with regard to paragraph 20.J.11.7, "except to the extent consistent with the technical measures identified in paragraph 6(b)" does not apply.

CHAPTER 21

COMPETITION POLICY

Article 21.1: Competition Law and Authorities

1. Each Party shall maintain national competition laws that proscribe anticompetitive business conduct to promote competition in order to increase economic efficiency and consumer welfare, and shall take appropriate action with respect to that conduct.

2. Each Party shall endeavor to apply its national competition laws to all commercial activities in its territory. This does not prevent a Party from applying its national competition laws to commercial activities outside its borders that have an appropriate nexus to its jurisdiction.

3. Each Party may provide for certain exemptions from the application of its national competition laws provided that those exemptions are transparent, established in its law, and based on public interest or public policy grounds.

4. Each Party shall maintain a national authority or authorities responsible for the enforcement of its national competition laws.

5. Each Party shall ensure that the enforcement policies of its national competition authorities include:

(a) treating persons of another Party no less favorably than persons of the Party in like circumstances;

(b) considering, if applicable, the effect of enforcement activities on related enforcement activities by a national competition authority of another Party; and

(c) limiting remedies relating to conduct or assets outside the Party's territory to situations in which there is an appropriate nexus to harm or threatened harm affecting the Party's territory or commerce.

Article 21.2: Procedural Fairness in Competition Law Enforcement

1. For the purposes of this Article, "enforcement proceeding" means a judicial or administrative proceeding following an investigation into the alleged violation of the national competition laws and does not include matters occurring before a grand jury.

2. Each Party shall ensure that its national competition authorities:

(a) provide transparency, including in writing, regarding the applicable competition laws, regulations, and procedural rules pursuant to which national competition law investigations and enforcement proceedings are conducted;

(b) conduct their investigations subject to definitive deadlines or within a reasonable time frame, where such investigations are not subject to definitive deadlines;

(c) afford to a person a reasonable opportunity to be represented by legal counsel, including by:

(i) allowing, at the person's request, counsel's participation in all meetings or proceedings between the national competition authority and the person. This provision does not apply to matters occurring before a grand jury, ex parte proceedings, or to searches conducted pursuant to judicial warrants;

(ii) recognizing a privilege, as acknowledged by its law, if not waived, for lawful confidential communications between the counsel and the person if the communications concern the soliciting or rendering of legal advice; and

(d) with respect to reviews of merger transactions, permit early consultations between the national competition authority and the merging persons to provide their views concerning the transaction, including on potentially dispositive issues.

3. Each Party shall ensure that all information that its national competition authorities obtain during investigations and reviews, and that its laws protect as confidential or privileged is not disclosed, subject to applicable legal exceptions.

4. Each Party shall ensure that its national competition authorities do not state or imply in any public notice confirming or revealing the existence of a pending or ongoing investigation against a particular person that such person has in fact violated the Party's national competition laws.

5. Each Party shall ensure that its national competition authorities[1] have the ultimate burden of establishing the legal and factual basis for an alleged violation in an enforcement proceeding; however, a Party may require that a person against whom that allegation is made be responsible for establishing certain defenses to the allegation.

6. Each Party shall ensure that all final decisions in contested civil or administrative matters finding a violation of its national competition laws are in writing and set out the findings of fact and conclusions of law on which they are based. Each Party shall make public those final decisions, with the exception of any confidential material contained therein.

[1] For Canada, this includes the public prosecutor for criminal prosecutions.

7. Each Party shall ensure that before it imposes a sanction or remedy against a person for a violation of its national competition laws, it affords the person a reasonable opportunity to:

(a) obtain information regarding the national competition authority's concerns, including identification of the specific competition laws alleged to have been violated;

(b) engage with the relevant national competition authority at key points on significant legal, factual, and procedural issues;

(c) have access to information that is necessary to prepare an adequate defense if the person contests the allegations in an enforcement proceeding; however, a national competition authority is not obliged to produce information that is not already in its possession. If a Party's national competition authority[2] introduces or will introduce confidential information in an enforcement proceeding, the Party shall, as permissible under its law, allow the person under investigation or its legal counsel timely access to that information;

(d) be heard and present evidence in its defense, including rebuttal evidence, and, where relevant, the analysis of a properly qualified expert;

(e) cross-examine any witness testifying in an enforcement proceeding; and

(f) contest an allegation that the person has violated national competition laws before an impartial judicial or administrative authority, provided that in the case of an administrative authority, the decision-making body must be independent of the unit offering evidence in support of the allegation;

except that a Party may provide for these opportunities within a reasonable time after it imposes an interim measure.

8. Each Party shall provide a person that is subject to the imposition of a fine, sanction, or remedy for violation of its national competition laws with the opportunity to seek judicial review by a court or independent tribunal, including review of alleged substantive or procedural errors, unless the person voluntarily agreed to the imposition of the fine, sanction, or remedy.

9. Each Party shall ensure that criteria used for calculating a fine for a violation of a national competition law are transparent. If a Party imposes a fine as a penalty for a non-criminal violation of its national competition laws that is based on the person's revenue or profit, it shall ensure that the calculation considers revenue or profit relating to the Party's territory.

[2] For Canada, this includes the public prosecutor for criminal prosecutions.

10. Each Party's national competition authority shall maintain measures to preserve all relevant evidence, including exculpatory evidence, that it collected as part of an enforcement proceeding until the review is exhausted.

Article 21.3: Cooperation

1. The Parties recognize the importance of cooperation and coordination between their respective national competition authorities to foster effective competition law enforcement in the free trade area. Accordingly, the Parties' national competition authorities shall endeavor to cooperate in relation to their enforcement laws and policies, including through investigative assistance, notification, consultation, and exchange of information.

2. The Parties shall seek to further strengthen cooperation and coordination among their respective national competition authorities, particularly regarding those commercial practices that hinder market efficiency and reduce consumer welfare within the free trade area.

3. Each Party shall adopt or maintain measures sufficient to permit negotiations of cooperation instruments that may address, among other matters, enhanced information sharing and mutual legal assistance.

4. The Parties' national competition authorities shall seek to cooperate with respect to their competition policies and in the enforcement of their respective national competition law, which may include coordination of investigations that raise common law enforcement concerns. Such cooperation shall be compatible with each Party's law and important interests, in accordance with their law governing legal privilege and disclosure of business secrets and other confidential information, and within reasonably available resources. The national competition authorities may cooperate on the basis of mechanisms that exist or may be developed.

5. Recognizing that the Parties can benefit by sharing their diverse experience in developing, implementing, and enforcing their competition law and policies, the Parties' national competition authorities shall consider undertaking mutually agreed technical cooperation activities, including training programs.

6. The Parties acknowledge the importance of cooperation and coordination internationally and the work of multilateral organizations in this area, including the Competition Committee of the Organisation for Economic Co-operation and Development, and the International Competition Network.

Article 21.4: Consumer Protection

1. The Parties recognize the importance of consumer protection policy and enforcement to creating efficient and competitive markets, and enhancing consumer welfare in the free trade area.

2. Each Party shall adopt or maintain national consumer protection laws or other laws or regulations that proscribe fraudulent and deceptive commercial activities, recognizing that the enforcement of those laws and regulations is in the public interest. The laws and regulations a Party adopts or maintains to proscribe these activities may be civil or criminal in nature.

3. The Parties recognize that fraudulent and deceptive commercial activities increasingly transcend national borders and that cooperation and coordination between the Parties to address these activities effectively is important and in the public interest.

4. The Parties shall promote, as appropriate, cooperation and coordination on matters of mutual interest related to fraudulent and deceptive commercial activities, including in the enforcement of their consumer protection laws through activities including the exchange of consumer complaints and other enforcement information. Such cooperation and coordination may be based on existing cooperation mechanisms. The Parties shall protect confidential information in accordance with their law, including business information.

5. The Parties shall endeavor to cooperate and coordinate on the matters set out in this Article through the relevant national public bodies or officials responsible for consumer protection policy, law, or enforcement, as determined by each Party and compatible with their respective law and important interests, and within their reasonably available resources.

Article 21.5: Transparency

1. The Parties recognize the value of making competition enforcement and advocacy policies as transparent as possible.

2. On request of another Party, a Party shall make available to the requesting Party public information concerning:

(a) its national competition law enforcement policies and practices; and

(b) exemptions and immunities to its national competition laws, provided that the request specifies the particular good or service and market of concern and includes information explaining how the exemption or immunity may hinder trade or investment between the Parties.

Article 21.6: Consultations

1. In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, on request of another Party, a Party shall enter into consultations with the requesting Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.

2. The Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party.

3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavor to provide relevant non-confidential, non-privileged information to the other Party.

Article 21.7: Non-Application of Dispute Settlement

1. No Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

CHAPTER 22

STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

Article 22.1: Definitions

For the purposes of this Chapter:

Arrangement means the *Arrangement on Officially Supported Export Credits,* developed within the framework of the Organization for Economic Co-operation and Development (OECD), or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of January 1, 1979;

commercial activities means activities which an enterprise undertakes with an orientation toward profit-making[1] and which result in the production of a good or supply of a service that will be sold to a consumer in the relevant market in quantities and at prices determined by the enterprise;[2]

commercial considerations means price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise in the relevant business or industry;

designate means to establish, name, or authorize a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

designated monopoly means a privately owned monopoly that is designated after the date of entry into force of this Agreement and any government monopoly that a Party designates or has designated;

government monopoly means a monopoly that is owned, or controlled through ownership interests, by a Party or by another government monopoly;

independent pension fund means an enterprise that is owned, or controlled through ownership interests, by a Party that:

(a) is engaged exclusively in the following activities:

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[1] For greater certainty, activities undertaken by an enterprise which operates on a not-for-profit basis or on a cost-recovery basis are not activities undertaken with an orientation toward profit-making.

[2] For greater certainty, measures of general application to the relevant market shall not be construed as the determination by a Party of pricing, production, or supply decisions of an enterprise.

(i) administering or providing a plan for pension, retirement, social security, disability, death or employee benefits, or any combination thereof solely for the benefit of natural persons who are contributors to such a plan and their beneficiaries; or

(ii) investing the assets of these plans;

(b) has a fiduciary duty to the natural persons referred to in subparagraph (a)(i); and

(c) is not subject to investment direction by the government of the Party;[3]

market means the geographical and commercial market for a good or service;

monopoly means an entity, including a consortium or government agency that, in any relevant market in the territory of a Party, is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of the grant;

non-commercial assistance[4] means assistance that is limited to certain enterprises, where:

(a) "assistance" means any of the following forms of assistance:

(i) direct transfers of funds or potential direct transfers of funds or liabilities, such as:

(A) grants or debt forgiveness;

(B) loans, loan guarantees, or other types of financing on terms more favorable than those commercially available to that enterprise; or

(C) equity capital inconsistent with the usual investment practice (including for the provision of risk capital) of private investors;

(ii) the provision of goods or services other than general infrastructure, on terms more favorable than those commercially available to the enterprise; or

[3] Investment direction from the government of a Party: (a) does not include general guidance with respect to risk management and asset allocation that is not inconsistent with usual investment practice; and (b) is not demonstrated, alone, by the presence of government officials on the enterprise's board of directors or investment panel.

[4] For greater certainty, non-commercial assistance does not include a Party's transfer of funds, collected from contributors to a plan for pension, retirement, social security, disability, death or employee benefits, or any combination thereof, to an independent pension fund for investment on behalf of the contributors' and their beneficiaries.

(iii) the purchase of goods on terms more favorable than those commercially available to the enterprise;

(b) "certain enterprises" means an enterprise or industry or group of enterprises or industries;

(c) "limited to certain enterprises" means that the Party or any of the Party's state enterprises or state-owned enterprises, or a combination thereof:

(A) explicitly limits access to the assistance to certain enterprises;

(B) provides assistance to a limited number of certain enterprises;

(C) provides assistance which is predominantly used by certain enterprises;

(D) provides a disproportionately large amount of the assistance to certain enterprises; or

(E) otherwise favors certain enterprises through the use of its discretion in the provision of assistance;[5] and

(d) assistance that falls under Article 22.6.1, Article 22.6.2, or Article 22.6.3 (Non-commercial Assistance) shall be deemed to be "limited to certain enterprises";

public service mandate means a government mandate pursuant to which a state-owned enterprise makes available a service, directly or indirectly, to the general public in its territory;[6]

state-owned enterprise means an enterprise that is principally engaged in commercial activities, and in which a Party:

(a) directly or indirectly[7] owns more than 50 percent of the share capital;

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[5] For greater certainty, assistance that is limited, in law or fact, to state enterprises or state-owned enterprises of a Party, or a combination thereof, is "limited to certain enterprises."

[6] For greater certainty, a service to the general public includes:

(a) the distribution of goods; and

(b) the supply of general infrastructure services.

[7] For the purposes of this definition, the term "indirectly" refers to situations in which a Party holds an ownership interest in an enterprise through one or more state enterprises of that Party. At each level of the ownership chain, the state enterprise – either alone or in combination with other state enterprises – must own, or control through ownership interests, another enterprise.

(b) controls, through direct or indirect ownership interests, the exercise of more than 50 percent of the voting rights;

(c) holds the power to control the enterprise through any other ownership interest, including indirect or minority ownership;[8] or

(d) holds the power to appoint a majority of members of the board of directors or any other equivalent management body.

Article 22.2: Scope[9]

1. This Chapter applies with respect to the activities of state-owned enterprises, state enterprises, and designated monopolies of a Party that affect or could affect trade or investment between Parties within the free trade area.[10]

2. This Chapter does not apply with respect to:

(a) the regulatory or supervisory activities, or monetary and related credit policy and exchange rate policy, of a central bank or monetary authority of a Party;

(b) the regulatory or supervisory activities of a financial regulatory body of a Party, including a non-governmental body, such as a securities or futures exchange or market, clearing agency, or other organization or association, that exercises regulatory or supervisory authority over financial services suppliers; or

(c) activities undertaken by a Party or one of its state enterprises or state-owned enterprises for the purpose of the resolution of a failing or failed financial institution or any other failing or failed enterprise principally engaged in the supply of financial services.

3. This Chapter does not apply with respect to:

(a) an independent pension fund of a Party; or

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[8] For the purposes of this subparagraph, a Party holds the power to control the enterprise where, through an ownership interest, it can determine or direct important matters affecting the enterprise, excluding minority shareholder protections. In determining whether a Party has this power, all relevant legal and factual elements shall be taken into account on a case-by-case basis. Such elements may include, among others, the power to determine or direct commercial operations, including major expenditures or investments; issuances of equity or significant debt offerings; or the restructuring, merger, or dissolution of the enterprise.

[9] For the purposes of this Chapter, the terms "financial service supplier," "financial institution," and "financial services" have the same meaning as in Article 1.4 (General Definitions).

[10] This Chapter also applies with respect to the activities of state-owned enterprises of a Party that cause adverse effects in the market of a non-Party as provided in Article 22.7 (Adverse Effects).

(b) an enterprise owned or controlled by an independent pension fund of a Party, except:

(i) Article 22.6.1, Article 22.6.2, Article 22.6.4, and Article 22.6.6 (Non-commercial Assistance) apply only with respect to a Party's direct or indirect provision of non-commercial assistance to an enterprise owned or controlled by an independent pension fund; and

(ii) Article 22.6.1, Article 22.6.2, Article 22.6.4, and Article 22.6.6 (Non-commercial Assistance) apply only with respect to a Party's indirect provision of non-commercial assistance through an enterprise owned or controlled by an independent pension fund.

4. This Chapter does not apply to government procurement.

5. Nothing in this Chapter shall be construed to prevent a Party from:

(a) establishing or maintaining a state enterprise or a state-owned enterprise; or

(b) designating a monopoly.

6. Article 22.4 (Non-discriminatory Treatment and Commercial Considerations), Article 22.6 (Non-commercial Assistance), and Article 22.10 (Transparency) do not apply to any service supplied in the exercise of governmental authority.[11]

7. Article 22.4.l(b), Article 22.4.l(c), Article 22.4.2(b), and Article 22.4.2(c) (Non-discriminatory Treatment and Commercial Considerations) do not apply to the extent that a Party's state-owned enterprise or designated monopoly makes purchases and sales of goods or services pursuant to:

(a) any existing non-conforming measure that the Party maintains, continues, renews or amends in accordance with Article 14.12.1 (Investment - Non-Conforming Measures), Article 15.7.1 (Cross Border Trade in Services - Non-Conforming Measures) or Article 17.10.1 (Financial Services - Non-Conforming Measures), as set out in its Schedule to Annex I or in Section A of its Schedule to Annex III; or

(b) any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors, or activities in accordance with Article 14.12.2 (Investment - Non-Conforming Measures), Article 15.7.2 (Cross Border Trade in Services - Non-Conforming Measures) or Article 17.10.2 (Financial Services - Non-Conforming Measures), as set out in its Schedule to Annex II or in Section B of its Schedule to Annex III.

[11] For the purposes of this paragraph, "a service supplied in the exercise of governmental authority" has the same meaning as in the GATS, including the meaning in the Financial Services Annex where applicable.

Article 22.3: Delegated Authority

Consistent with Article 1.3 (Persons Exercising Governmental Authority), each Party shall ensure that when its state-owned enterprises, state enterprises, and designated monopolies exercise any regulatory, administrative, or other governmental authority that the Party has directed or delegated to such entities to carry out, those entities act in a manner that is not inconsistent with that Party's obligations under this Agreement.[12]

Article 22.4: Non-discriminatory Treatment and Commercial Considerations

1. Each Party shall ensure that each of its state-owned enterprises, when engaging in commercial activities:

(a) acts in accordance with commercial considerations in its purchase or sale of a good or service, except to fulfil any terms of its public service mandate that are not inconsistent with subparagraphs (b) or (c)(ii);

(b) in its purchase of a good or service:

(i) accords to a good or service supplied by an enterprise of another Party treatment no less favorable than it accords to a like good or a like service supplied by enterprises of the Party, of any other Party or of any non-Party; and

(ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favorable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party, of any other Party or of any non-Party; and

(c) in its sale of a good or service:

(i) accords to an enterprise of another Party treatment no less favorable than it accords to enterprises of the Party, of any other Party or of any non-Party; and

(ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favorable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party, of any other Party or of any non-Party.[13]

[12] Examples of regulatory, administrative, or other governmental authority include the power to expropriate, grant licenses, approve commercial transactions, or impose quotas, fees, or other charges.

[13] Article 22.4.1 (Non-discriminatory Treatment and Commercial Considerations) does not apply with respect to the

2. Each Party shall ensure that each of its designated monopolies:

(a) acts in accordance with commercial considerations in its purchase or sale of the monopoly good or service in the relevant market, except to fulfil any terms of its designation that are not inconsistent with subparagraphs (b), (c), or (d);

(b) in its purchase of the monopoly good or service:

(i) accords to a good or service supplied by an enterprise of another Party treatment no less favorable than it accords to a like good or a like service supplied by enterprises of the Party, of any other Party or of any non-Party; and

(ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party's territory treatment no less favorable than it accords to a like good or a like service supplied by enterprises in the relevant market in the Party's territory that are investments of investors of the Party, of any other Party or of any non-Party; and

(c) in its sale of the monopoly good or service:

(i) accords to an enterprise of another Party treatment no less favorable than it accords to enterprises of the Party, of any other Party or of any non-Party; and

(ii) accords to an enterprise that is a covered investment in the Party's territory treatment no less favorable than it accords to enterprises in the relevant market in the Party's territory that are investments of investors of the Party, of any other Party or of any non-Party; and

(d) does not use its monopoly position to engage in, either directly or indirectly, including through its dealings with its parent, subsidiaries, or other entities the Party or the designated monopoly owns, anticompetitive practices in a non-monopolized market in its territory that negatively affect trade or investment between the Parties.

3. Paragraphs 1(b) and 1(c) and paragraphs 2(b) and 2(c) do not preclude a state-owned enterprise or designated monopoly from:

(a) purchasing or selling goods or services on different terms or conditions including those relating to price; or

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purchase or sale of shares, stock, or other forms of equity by a state-owned enterprise as a means of its equity participation in another enterprise.

(b) refusing to purchase or sell goods or services,

provided that such differential treatment or refusal is undertaken in accordance with commercial considerations.

Article 22.5: Courts and Administrative Bodies

1. Each Party shall provide its courts with jurisdiction over civil claims against an enterprise owned or controlled through ownership interests by a foreign government based on a commercial activity carried on in its territory.[14] This shall not be construed to require a Party to provide jurisdiction over such claims if it does not provide jurisdiction over similar claims against enterprises that are not owned or controlled through ownership interests by a foreign government.

2. Each Party shall ensure that any administrative body that the Party establishes or maintains that regulates a state-owned enterprise exercises its regulatory discretion in an impartial manner with respect to enterprises that it regulates, including enterprises that are not state-owned enterprises.

Article 22.6: Non-commercial Assistance

1. The following forms of non-commercial assistance, when provided to a state-owned enterprise primarily engaged in the production or sale of goods other than electricity, shall be prohibited: [15]

(a) loans or loan guarantees provided by a state enterprise or state-owned enterprise of a Party to an uncreditworthy state-owned enterprise of that Party;[16]

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[14] This paragraph shall not be construed to preclude a Party from providing its courts with jurisdiction over claims against enterprises owned or controlled through ownership interests by a foreign government other than those claims referred to in this paragraph.

[15] Article 22.6.1, Article 22.6.2, and Article 22.6.3 do not apply to state-owned enterprises of a Party that are primarily engaged in the construction of general infrastructure such as bridges, highways, ports, or railways (including intercity or urban railways), where (i) the infrastructure is located, in whole or in part, within the territory of the Party; and (ii) neither access to nor use of the infrastructure is limited to certain enterprises, unless those enterprises access or use the infrastructure primarily to provide a service to the general public within the territory of the Party.

[16] A state-owned enterprise is "uncreditworthy" if, at the time the terms of the financing were agreed upon, the state-owned enterprise's financial position would preclude it from obtaining long-term financing from conventional commercial sources (*i.e.*, bank loans and non-speculative grade bond issues). To determine whether a state-owned enterprise is creditworthy, all relevant legal and factual elements shall be taken into consideration on a case-by-case basis. These elements include, among others, whether a creditor would have reasonable assurance of repayment of contractual debt obligations in a timely manner, for instance, from the cash flow and assets of the business.

(b) non-commercial assistance provided by a Party or a state enterprise or state-owned enterprise of a Party to a state-owned enterprise of that Party, in circumstances where the recipient is insolvent[17] or on the brink of insolvency,[18] without a credible restructuring plan designed to return the state-owned enterprise within a reasonable period of time to long-term viability; or

(c) conversion by a Party or a state enterprise or state-owned enterprise of a Party of the outstanding debt of a state-owned enterprise of that Party to equity, in circumstances where this would be inconsistent with the usual investment practice of a private investor.[19]

2. No Party shall provide, either directly or indirectly,[20] non-commercial assistance referred to in paragraphs 1(b) and 1(c).

3. Each Party shall ensure that its state enterprises and state-owned enterprises do not provide, either directly or indirectly, non-commercial assistance referred to in paragraphs 1(a), 1(b), and 1(c).

4. No Party shall cause[21] adverse effects to the interests of another Party through the use of non-commercial assistance that it provides, either directly or indirectly, to any of its state-owned enterprises with respect to:

(a) the production and sale of a good by the state-owned enterprise;

(b) the supply of a service by the state-owned enterprise from the territory of the Party into the territory of another Party; or

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[17] A state-owned enterprise is "insolvent" if it is unable to meet its debt obligations as they become due. Insolvency exists, for example, where (1) the state-owned enterprise has failed to make required payments due to an inability to service the debt obligations; or (2) the state-owned enterprise has filed for bankruptcy, has been determined by a court to be bankrupt or insolvent, or is subject to court supervision, for purposes of either reorganization or liquidation of the enterprise.

[18] A state-owned enterprise is "on the brink of insolvency" if it will likely be unable to meet its debt obligations at any point over the next twelve months. To determine whether a state-owned enterprise is on the brink of insolvency, primary consideration shall be given to opinions of independent credit rating agencies and independent accounting firms issued in the ordinary course of business, if available. To the extent relevant, additional factual evidence concerning the ability of the state-owned enterprise to meet its debt obligations may also be taken into account.

[19] With respect to Mexico, the obligations set out in Article 22.6.1, Article 22.6.2, and Article 22.6.3 are subject to the additional provisions of Annex 22-F (Non-commercial Assistance to Certain State Productive Enterprises).

[20] For greater certainty, indirect provision includes the situation in which a Party entrusts or directs an enterprise that is not a state-owned enterprise to provide non-commercial assistance.

[21] For the purposes of paragraphs 4 and 5, it must be demonstrated that the adverse effects claimed have been caused by the non-commercial assistance. Thus, the non-commercial assistance must be examined within the context of other possible causal factors to ensure an appropriate attribution of causality.

(c) the supply of a service in the territory of another Party through an enterprise that is a covered investment in the territory of that other Party or any other Party.

5. Each Party shall ensure that its state enterprises and state-owned enterprises do not cause adverse effects to the interests of another Party through the use of non-commercial assistance that the state enterprise or state-owned enterprise provides to any state-owned enterprise of the Party with respect to:

(a) the production and sale of a good by the state-owned enterprise;

(b) the supply of a service by the state-owned enterprise from the territory of the Party into the territory of another Party; or

(c) the supply of a service in the territory of another Party through an enterprise that is a covered investment in the territory of that other Party or any other Party.

6. No Party shall cause injury to a domestic industry[22] of another Party through the use of non-commercial assistance that it provides, either directly or indirectly, to any of its state-owned enterprises that is a covered investment in the territory of that other Party in circumstances where:

(a) the non-commercial assistance is provided with respect to the production and sale of a good by the state-owned enterprise in the territory of the other Party; and

(b) a like good is produced and sold in the territory of the other Party by the domestic industry of that other Party.[23]

7. A service supplied by a state-owned enterprise of a Party within that Party's territory shall be deemed not to cause adverse effects.[24]

Article 22.7: Adverse Effects

1. For the purposes of Article 22.6.4 and Article 22.6.5 (Non-commercial Assistance), adverse effects arise if the effect of the non-commercial assistance is:

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[22] The term "domestic industry" refers to the domestic producers as a whole of the like good, or to those domestic producers whose collective output of the like good constitutes a major proportion of the total domestic production of the like good, excluding the state-owned enterprise that is a covered investment that has received the non-commercial assistance referred to in this paragraph.

[23] In situations of material retardation of the establishment of a domestic industry, it is understood that a domestic industry may not yet produce and sell the like good. However, in these situations, there must be evidence that a prospective domestic producer has made a substantial commitment to commence production and sales of the like good.

[24] For greater certainty, this paragraph shall not be construed to apply to a service that itself is a form of non-commercial assistance.

(a) that the production and sale of a good by a Party's state-owned enterprise that has received the non-commercial assistance displaces or impedes from the Party's market imports of a like good of another Party or sales of a like good produced by an enterprise that is a covered investment in the territory of the Party;

(b) that the production and sale of a good by a Party's state-owned enterprise that has received the non-commercial assistance displaces or impedes from:

(i) the market of another Party sales of a like good produced by an enterprise that is a covered investment in the territory of that other Party, or imports of a like good of any other Party; or

(ii) the market of a non-Party imports of a like good of another Party;

(c) a significant price undercutting by a good produced by a Party's state-owned enterprise that has received the non-commercial assistance and sold by the enterprise in:

(i) the market of a Party as compared with the price in the same market of imports of a like good of another Party or a like good that is produced by an enterprise that is a covered investment in the territory of the Party, or significant price suppression, price depression or lost sales in the same market; or

(ii) the market of a non-Party as compared with the price in the same market of imports of a like good of another Party, or significant price suppression, price depression or lost sales in the same market.

(d) that services supplied by a Party's state-owned enterprise that has received the non-commercial assistance displace or impede from the market of another Party a like service supplied by a service supplier of that other Party or any other Party; or

(e) a significant price undercutting by a service supplied in the market of another Party by a Party's state-owned enterprise that has received the non-commercial assistance as compared with the price in the same market of a like service supplied by a service supplier of that other Party or any other Party, or significant price suppression, price depression or lost sales in the same market.[25]

[25] The purchase or sale of shares, stock or other forms of equity by a state-owned enterprise that has received non-commercial assistance as a means of its equity participation in another enterprise shall not, in and of itself, be construed to give rise to adverse effects as provided for in Article 22.7.1. Consistent with Article 22.6.5, if the state-owned enterprise provides equity capital to another state-owned enterprise, and the equity capital is a form of non-commercial assistance, then, depending on the facts, the production and sale of a good or the supply of a service by the recipient enterprise could give rise to adverse effects.

2. For the purposes of paragraphs l(a), l(b), and l(d), the displacing or impeding of a good or service includes any case in which it has been demonstrated that there has been a significant change in relative shares of the market to the disadvantage of the like good or like service. "Significant change in relative shares of the market" shall include any of the following situations:

(a) there is a significant increase in the market share of the good or service of the Party's state-owned enterprise;

(b) the market share of the good or service of the Party's state-owned enterprise remains constant in circumstances in which, in the absence of the non-commercial assistance, it would have declined significantly; or

(c) the market share of the good or service of the Party's state-owned enterprise declines, but at a significantly slower rate than would have been the case in the absence of the non-commercial assistance.

The change must manifest itself over an appropriately representative period sufficient to demonstrate clear trends in the development of the market for the good or service concerned, which, in normal circumstances, shall be at least one year.

3. For the purposes of paragraphs l(c) and l(e), price undercutting shall include any case in which such price undercutting has been demonstrated through a comparison of the prices of the good or service of the state-owned enterprise with the prices of the like good or service.

4. Comparisons of the prices in paragraph 3 shall be made at the same level of trade and at comparable times, and due account shall be taken for factors affecting price comparability. If a direct comparison of transactions is not possible, the existence of price undercutting may be demonstrated on some other reasonable basis, such as, in the case of goods, a comparison of unit values.

5. Non-commercial assistance that a Party provides before the signing of this Agreement shall be deemed not to cause adverse effects.

Article 22.8: Injury

1. For the purposes of Article 22.6.6 (Non-commercial Assistance), the term "injury" shall be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry, or material retardation of the establishment of such an industry. A determination of material injury shall be based on positive evidence and involve an objective examination of the relevant factors, including the volume of production by the covered investment that has received non-commercial assistance, the effect of such production on prices for like goods produced and sold by the domestic industry, and the effect of such production on the domestic industry producing like goods.[26]

[26] The periods for examination of the non-commercial assistance and injury shall be reasonably established and shall

2. With regard to the volume of production by the covered investment that has received non-commercial assistance, consideration shall be given as to whether there has been a significant increase in the volume of production, either in absolute terms or relative to production or consumption in the territory of the Party in which injury is alleged to have occurred. With regard to the effect of the production by the covered investment on prices, consideration shall be given as to whether there has been a significant price undercutting by the goods produced and sold by the covered investment as compared with the price of like goods produced and sold by the domestic industry, or whether the effect of production by the covered investment is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.

3. The examination of the impact on the domestic industry of the goods produced and sold by the covered investment that received the non-commercial assistance shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, such as actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on government support programs. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

4. It must be demonstrated that the goods produced and sold by the covered investment are, through the effects[27] of the non-commercial assistance, causing injury within the meaning of this Article. The demonstration of a causal relationship between the goods produced and sold by the covered investment and the injury to the domestic industry shall be based on an examination of all relevant evidence. Any known factors other than the goods produced by the covered investment which at the same time are injuring the domestic industry shall be examined, and the injuries caused by these other factors must not be attributed to the goods produced and sold by the covered investment that has received non-commercial assistance. Factors which may be relevant in this respect include, among other things, the volumes and prices of other like goods in the market in question, contraction in demand or changes in the patterns of consumption, and developments in technology and the export performance and productivity of the domestic industry.

5. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility and shall be considered with special care. The change in circumstances which would create a situation in which non- commercial assistance to the covered investment would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, there should be

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end as closely as practical to the date of initiation of the proceeding before the panel.

[27] As set out in paragraphs 2 and 3.

consideration of relevant factors[28] and of whether the totality of the factors considered lead to the conclusion that further availability of goods produced by the covered investment is imminent and that, unless protective action is taken, material injury would occur.

Article 22.9: Party-Specific Annexes

1. Article 22.4 (Non-discriminatory Treatment and Commercial Considerations) and Article 22.6 (Non-commercial Assistance) do not apply with respect to the non-conforming activities of state-owned enterprises or designated monopolies that a Party lists in its Schedule to Annex IV in accordance with the terms of the Party's Schedule.

2. Article 22.4 (Non-discriminatory Treatment and Commercial Considerations), Article 22.5 (Courts and Administrative Bodies), Article 22.6 (Non-commercial Assistance), and Article 22.10 (Transparency) do not apply with respect to a Party's state-owned enterprises or designated monopolies as set out in Annex 22-D (Application to Sub-Central State-Owned Enterprises and Designated Monopolies).

Article 22.10: Transparency

1. Each Party shall provide to the other Parties or make publicly available on an official website a list of its state-owned enterprises no later than six months after the date of entry into force of this Agreement, and thereafter shall update the list annually.

2. Each Party shall promptly notify the other Parties or make publicly available on an official website the designation of a monopoly or expansion of the scope of an existing monopoly and the terms of its designation.

3. On the written request of another Party, a Party shall promptly provide the following information in writing concerning a state-owned enterprise or a government monopoly, provided that the request includes a reasoned explanation of how the activites of the entity affect or could affect trade or investment between the Parties:

(a) the percentage of shares that the Party, its state enterprises, state-owned enterprises, or designated monopolies cumulatively own, and the percentage of votes that they cumulatively hold, in the entity;

[28] In making a determination regarding the existence of a threat of material injury, a panel pursuant to Chapter 31 (Dispute Settlement) should consider, among other things, such factors as: (a) the nature of the non-commercial assistance in question and the trade effects likely to arise therefrom; (b) a significant rate of increase in sales in the domestic market by the covered investment, indicating a likelihood of substantially increased sales; (c) sufficient freely disposable, or an imminent, substantial increase in, capacity of the covered investment indicating the likelihood of substantially increased production of the good by that covered investment, taking into account the availability of export markets to absorb additional production; (d) whether prices of goods sold by the covered investment will have a significant depressing or suppressing effect on the price of like goods; and (e) inventories of like goods.

(b) a description of any special shares or special voting or other rights that the Party, its state enterprises, state-owned enterprises, or designated monopolies hold, to the extent these rights are different from the rights attached to the general common shares of the entity;

(c) the government titles of any government official serving as an officer or member of the entity's board of directors;

(d) the entity's annual revenue and total assets over the most recent three year period for which information is available;

(e) any exemptions and immunities from which the entity benefits under the Party's law; and

(f) any additional information regarding the entity that is publicly available, including annual financial reports and third-party audits, and that is sought in the written request.

4. On the written request of another Party, a Party shall promptly provide, in writing, information regarding any policy or program that the Party has adopted or maintains that provides for the provision of either non-commercial assistance or any equity capital (regardless of whether the equity infusion also constitutes non-commercial assistance) to its state-owned enterprises.

5. When a Party provides a response pursuant to paragraph 4, the information it provides shall be sufficiently specific to enable the requesting Party to understand the operation of the policy or program and evaluate its effects or potential effects on trade or investment between the Parties. The Party responding to a request shall ensure that the response that it provides contains the following information:

(a) the form of the non-commercial assistance provided under the policy or program, for example, grant or loan;

(b) the names of the government agencies, state enterprises, or state-owned enterprises providing the non-commercial assistance or equity capital and the names of the state-owned enterprises that have received or are eligible to receive the non-commercial assistance;

(c) the legal basis and policy objective of the policy or program providing for the non-commercial assistance or equity infusion;

(d) with respect to goods, the amount per unit of the non-commercial assistance or, in cases where it is not possible to provide a per unit amount, the total amount of or the annual amount budgeted for the non-commercial assistance, indicating, if possible, the average amount per unit in the previous year;

(e) with respect to services, the total amount of or the annual amount budgeted for the non-commercial assistance, indicating, if possible, the total amount in the previous year;

(f) with respect to policies or programs providing for non-commercial assistance in the form of loans or loan guarantees, the amount of the loan or amount of the loan guaranteed, interest rates, and fees charged;

(g) with respect to policies or programs providing for non-commercial assistance in the form of the provision of goods or services, the prices charged, if any for such goods and services;

(h) with respect to policies or programs for the provision of equity capital, the amount invested, the number and a description of the shares received, and any assessment of the enterprise's financial health and prospects that is conducted with respect to the underlying investment decision;

(i) duration of the policy or program or any other time-limits attached to it; and

(j) statistical data permitting an assessment of the effects of the non-commercial assistance on trade or investment between the Parties.

6. In response to a request made pursuant to paragraph 4, where a Party considers that it has not adopted or does not maintain any policies or programs referred to in paragraph 4, it shall promptly provide a reasoned explanation of this in writing to the requesting Party.

7. If any relevant points in paragraph 5 have not been addressed in the written response, a reasoned explanation shall be provided in the written response itself.

8. The Parties recognize that the provision of information under paragraphs 5 and 7 does not prejudge the legal status of the assistance that was the subject of the request under paragraph 4 or the effects of that assistance under this Agreement.

9. When a Party responds to a request for information under this Article, and informs the requesting Party that it considers certain information to be confidential, the Party shall provide a reasoned explanation for its determination. The requesting Party shall not disclose this information without the prior consent of the Party that provided it. To the maximum extent possible under domestic law, the Party should not consider the amount of the financial contribution associated with the non-commercial assistance or equity capital to be confidential.

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Article 22.11: Technical Cooperation

The Parties shall, where appropriate and subject to available resources, engage in mutually agreed technical cooperation activities, including:

(a) exchanging information regarding Parties' experiences in improving the corporate governance and operation of their state-owned enterprises;

(b) sharing best practices on policy approaches to ensure a level playing field between state-owned and privately owned enterprises, including policies related to competitive neutrality; and

(c) organizing international seminars, workshops or any other appropriate forum for sharing technical information and expertise related to the governance and operations of state-owned enterprises.

Article 22.12: Committee on State-Owned Enterprises and Designated Monopolies

1. The Parties hereby establish a Committee on State-owned Enterprises and Designated Monopolies (Committee), composed of government representatives of each Party.

2. The Committee's functions shall include:

(a) reviewing and considering the operation and implementation of this Chapter;

(b) at a Party's request, consulting on any matter arising under this Chapter;

(c) developing cooperative efforts, as appropriate, to promote the principles underlying the disciplines contained in this Chapter in the free trade area and to contribute to the development of similar disciplines in other regional and multilateral institutions in which two or more Parties participate; and

(d) undertaking other activities as the Committee may decide.

3. The Committee shall meet within one year after the date of entry into force of this Agreement, and at least annually thereafter, unless the Parties agree otherwise.

Article 22.13: Exceptions

1. Nothing in Article 22.4 (Non-discriminatory Treatment and Commercial Considerations) or Article 22.6 (Non-commercial Assistance) shall be construed to:

(a) prevent the adoption or enforcement by any Party of measures to respond temporarily to a national or global economic emergency; or

(b) apply to a state-owned enterprise with respect to which a Party has adopted or enforced measures on a temporary basis in response to a national or global economic emergency, for the duration of that emergency.

2. Article 22.4.1 (Non-discriminatory Treatment and Commercial Considerations) shall not apply with respect to the supply of financial services by a state-owned enterprise pursuant to a government mandate if that supply of financial services:

(a) supports exports or imports, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favorable than those that could be obtained for comparable financial services in the commercial market;[29]

(b) supports private investment outside the territory of the Party, provided that these services are:

(i) not intended to displace commercial financing, or

(ii) offered on terms no more favorable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.

3. The supply of financial services by a state-owned enterprise pursuant to a government mandate shall be deemed not to give rise to adverse effects under Article 22.6.4(b) (Non-commercial Assistance) or Article 22.6.5(b), or under Article 22.6.4(c) or Article 22.6.5(c) where the Party in which the financial service is supplied requires a local presence in order to supply those services, if that supply of financial services:[30]

(a) supports exports and imports, provided that these services are:

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[29] In circumstances where no comparable financial services are offered in the commercial market: (a) for the purposes of paragraphs 2(a)(ii), 2(b)(ii), 3(a)(ii), and 3(b)(ii), the state-owned enterprise may rely as necessary on available evidence to establish a benchmark of the terms on which such services would be offered in the commercial market; and (b) for the purposes of paragraphs 2(a)(i), 2(b)(i), 3(a)(i), and 3(b)(i), the supply of the financial services shall be deemed not to be intended to displace commercial financing.

[30] For the purposes of this paragraph, in cases where the country in which the financial service is supplied requires a local presence in order to supply those services, the supply of the financial services identified in this paragraph through an enterprise that is a covered investment shall be deemed to not give rise to adverse effects.

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favorable than those that could be obtained for comparable financial services in the commercial market;

(b) supports private investment outside the territory of the Party, provided that these services are:

(i) not intended to displace commercial financing; or

(ii) offered on terms no more favorable than those that could be obtained for comparable financial services in the commercial market; or

(c) is offered on terms consistent with the Arrangement, provided that it falls within the scope of the Arrangement.

4. Article 22.6 (Non-commercial Assistance) does not apply with respect to an enterprise located outside the territory of a Party over which a state-owned enterprise of that Party has assumed temporary ownership as a consequence of foreclosure or a similar action in connection with defaulted debt, or payment of an insurance claim by the state-owned enterprise, associated with the supply of the financial services referred to in paragraphs 2 and 3, provided that any support the Party, a state enterprise, or state-owned enterprise of the Party provides to the enterprise during the period of temporary ownership is provided in order to recoup the state-owned enterprise's investment in accordance with a restructuring or liquidation plan that will result in the ultimate divestiture from the enterprise.

5. Article 22.4 (Non-discriminatory Treatment and Commercial Considerations), Article 22.6 (Non-commercial Assistance), Article 22.10 (Transparency), and Article 22.12 (Committee on State-Owned Enterprises and Designated Monopolies) do not apply with respect to a state-owned enterprise or designated monopoly if in any one of the three previous consecutive fiscal years, the annual revenue derived from the commercial activities of the state-owned enterprise or designated monopoly was less than a threshold amount which shall be calculated in accordance with Annex 22-A.[31]

[31] When a Party invokes this exception during consultations under Article 31.4 (Dispute Settlement - Consultations), the consulting Parties should exchange and discuss available evidence concerning the annual revenue of the state-owned enterprise or the designated monopoly derived from the commercial activities during the three previous consecutive fiscal years in an effort to resolve during the consultations period any disagreement regarding the application of this exception.

Article 22.14: Further Negotiations

Within six months of the date of entry into force of this Agreement, the Parties shall begin further negotiations so as to extend the application of the disciplines in this Chapter in accordance with Annex 22-C (Further Negotiations).

Article 22.15: Process for Developing Information

Annex 22-B (Process for Developing Information Concerning State-Owned Enterprises and Designated Monopolies) shall apply in any dispute under Chapter 3 1 (Dispute Settlement) regarding a Party's conformity with Article 22.4 (Non-discriminatory Treatment and Commercial Considerations) or Article 22.6 (Non-Commercial Assistance).

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Annex 22-A

THRESHOLD CALCULATION

1. On the date of entry into force of this Agreement, the threshold referred to in Article 22.13.5 (Exceptions) shall be 175 million Special Drawing Rights (SDRs).

2. The amount of the threshold shall be adjusted at three-year intervals with each adjustment taking effect on 1 January. The first adjustment shall take place on the first 1 January following the entry into force of this Agreement, in accordance with the formula set out in this Annex.

3. The threshold shall be adjusted for changes in general price levels using a composite SDR inflation rate, calculated as a weighted sum of cumulative per cent changes in the Gross Domestic Product (GDP) deflators of SDR component currencies over the three-year period ending 30 June of the year prior to the adjustment taking effect, and using the following formula:

$$T_1 = (1 + (\Sigma\, w_i^{SDR} \,.\, \Pi_i^{SDR}))T_0$$

where:

T_0 = threshold value at base period;
T_1 = new (adjusted) threshold value;
w_i^{SDR} = respective (fixed) weights of each currency, i, in the SDR (as at 30 June of the year prior to adjustment taking effect); and
Π_i^{SDR} = cumulative per cent change in the GDP deflator of each currency, i, in the SDR over the three-year period ending 30 June of the year prior to adjustment taking effect.

4. Each Party shall convert the threshold into national currency terms where the conversion rates shall be the average of monthly values of that Party's national currency in SDR terms over the three-year period to 30 June of the year before the threshold is to take effect. Each Party shall notify the other Parties of their applicable threshold in their respective national currencies.

5. For the purposes of this Chapter, all data shall be drawn from the International Monetary Fund's *International Financial Statistics* database.

6. The Parties shall consult if a major change in a national currency *vis-a-vis* the SDR were to create a significant problem with regard to the application of this Chapter.

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ANNEX 22-B

PROCESS FOR DEVELOPING INFORMATION CONCERNING STATE- OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

1. If a panel has been established pursuant to Chapter 31 (Dispute Settlement) to examine a complaint arising under Article 22.4 (Non-discriminatory Treatment and Commercial Considerations) or Article 22.6 (Non-commercial Assistance), the disputing Parties may exchange written questions and responses, as set forth in paragraphs 2, 3, and 4, to obtain information relevant to the complaint that is not otherwise readily available.

2. A disputing Party (questioning Party) may provide written questions to another disputing Party (answering Party) within 15 days of the date the panel is established. The answering Party shall provide its responses to the questions to the questioning Party within 30 days of the date it receives the questions.

3. The questioning Party may provide any follow-up written questions to the answering Party within 15 days of the date it receives the responses to the initial questions. The answering Party shall provide its responses to the follow-up questions to the questioning Party within 30 days of the date it receives the follow-up questions.

4. If the questioning Party considers that the answering Party has failed to cooperate in the information-gathering process under this Annex, the questioning Party shall inform the panel and the answering Party in writing within 30 days of the date the responses to the questioning Party's final questions are due, and provide the basis for its view. The panel shall afford the answering Party an opportunity to reply in writing.

5. A disputing Party that provides written questions or responses to another disputing Party pursuant to these procedures shall, on the same day, provide the questions or answers to the panel. In the event that a panel has not yet been composed, each disputing Party shall, upon the composition of the panel, promptly provide the panel with any questions or responses it has provided to the other disputing Party.

6. The answering Party may designate information in its responses as confidential information in accordance with the procedures set out in the Rules of Procedure established under Article 30.2.1(e) (Functions of the Commission) or other rules of procedure agreed to by the disputing Parties.

7. The time periods in paragraphs 2, 3, and 4 may be modified upon agreement of the disputing Parties or approval by the panel.

8. In determining whether a disputing Party has failed to cooperate in the information-gathering process, the panel shall take into account the reasonableness of the questions and the

efforts the answering Party has made to respond to the questions in a cooperative and timely manner.

9. In making findings of fact and its initial report, the panel should draw adverse inferences from instances of non-cooperation by a disputing Party in the information-gathering process.

10. The panel may deviate from the time period set out in Chapter 31 (Dispute Settlement) for the issuance of the initial report if necessary to accommodate the information-gathering process.

11. The panel may seek additional information from a disputing Party that was not provided to the panel through the information-gathering process where the panel considers the information necessary to resolve the dispute. However, the panel shall not request additional information to complete the record where the information would support a Party's position and the absence of that information in the record is the result of that Party's non-cooperation in the information-gathering process.

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ANNEX 22-C

FURTHER NEGOTIATIONS

Within six months of the date of entry into force of this Agreement, the Parties shall begin further negotiations so as to extend the application of:

(a) the obligations in this Chapter to the activities of state-owned enterprises that are owned or controlled by a sub-central level of government, and designated monopolies designated by a sub-central level of government, where these obligations are listed in Annex 22-D; and

(b) the disciplines of 22.6 (Non-Commercial Assistance) and 22.7 (Adverse Effects) to address effects caused in a market of a non-Party through the supply of services by a state-owned enterprise.

The Parties shall meet on a quarterly basis, and will endeavor to conclude these further negotiations within three years after entry into force of this Agreement.

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ANNEX 22-D

APPLICATION TO SUB-CENTRAL STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

Pursuant to Article 22.9.2 (Party-Specific Annexes), the following obligations shall not apply with respect to a state-owned enterprise owned or controlled by a sub-central level of government and a designated monopoly designated by a sub-central level of government:[32]

(a) For Canada:

(i) Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations);

(ii) Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), with respect to purchases of a good or service;

(iii) Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations);

(iv) Article 22.4.2 (Non-discriminatory Treatment and Commercial Considerations), with respect to designated monopolies designated by a sub-central level of government;

(v) Article 22.5.2 (Courts and Administrative Bodies), with respect to administrative regulatory bodies established or maintained by a sub-central level of government;

(vi) Article 22.6.1, Article 22.6.2, and Article 22.6.3 (Non-commercial Assistance);

(vii) Article 22.6.4(a) (Non-commercial Assistance) and Article 22.6.5(a) (Non-commercial Assistance), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment;

(viii) Article 22.6.4(b) and (c) (Non-commercial Assistance) and Article 22.6.5(b) and (c) (Non-commercial Assistance);

(ix) Article 22.10.1 (Transparency); and

(x) Article 22.10.4 (Transparency) with respect to a policy or program adopted or maintained by a sub-central level of government.

[32] For the purposes of this Annex, "sub-central level of government" means the regional level of government and the local level of government of a Party.

(b) For Mexico:

(i) Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations);

(ii) Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), with respect to purchases of a good or service;

(iii) Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations);

(iv) Article 22.4.2 (Non-discriminatory Treatment and Commercial Considerations), with respect to designated monopolies designated by a sub-central level of government;

(v) Article 22.5.2 (Courts and Administrative Bodies), with respect to administrative regulatory bodies established or maintained by a sub-central level of government;

(vi) Article 22.6.1, Article 22.6.2, and Article 22.6.3 (Non-commercial Assistance);

(vii) Article 22.6.4(a) (Non-commercial Assistance) and Article 22.6.5(a) (Non-commercial Assistance), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of Mexico;

(viii) Article 22.6.4(b) and (c) (Non-commercial Assistance) and Article 22.6.5(b) and (c) (Non-commercial Assistance); and

(ix) Article 22.10.1 (Transparency).

(c) For the United States:

(i) Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations);

(ii) Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), with respect to purchases of a good or service;

(iii) Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations);

(iv) Article 22.4.2 (Non-discriminatory Treatment and Commercial Considerations), with respect to designated monopolies designated by a sub-central level of government;

(v) Article 22.5.2 (Courts and Administrative Bodies), with respect to administrative regulatory bodies established or maintained by a sub-central level of government;

(vi) Article 22.6.1, Article 22.6.2, and Article 22.6.3 (Non-commercial Assistance);

(vii) Article 22.6.4(a) (Non-commercial Assistance) and Article 22.6.5(a) (Non-commercial Assistance), with respect to the production and sale of a good in competition with a like good produced and sold by a covered investment in the territory of the United States;

(viii) Article 22.6.4(b) and (c) (Non-commercial Assistance) and Article 22.6.5(b) and (c) (Non-commercial Assistance); and

(ix) Article 22.10.1 (Transparency).

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ANNEX 22-E

MEXICO

Special Purpose Vehicles of State Productive Enterprises

1. The obligations in this Chapter shall apply to the State Productive Enterprises ("SPEs") referred to in the Decree amending the Political Constitution of the United Mexico on December 20, 2013 as published in the Official Gazette ("the Decree"), and to the subsidiaries and affiliates of the SPEs.

2. This Chapter does not apply to Special Purpose Vehicles, with the exception of paragraphs 3 and 4 of this Annex. For purposes of this Annex, the term "Special Purpose Vehicle" means a private legal entity established by the SPEs, their subsidiaries and affiliates, as a result of a venture with private investors, created to perform, develop, own, or operate a specific project.[33]

3. Special Purpose Vehicles shall:

   (i) Be established as a result of competitive processes under the laws and regulations of Mexico applicable to the SPE;

   (ii) Pursue the performance of commercial activities on equal circumstances and conditions available to competitors on a level playing field, with no intention of displacing or impeding competitors from the relevant market;

   (iii) Be aimed at generating economic value and profitability under commercial conditions;

   (iv) Follow generally accepted accounting principles and generally accepted international corporate governance rules such as the G20/OECD Principles of Corporate Governance;

   (v) Act in accordance with Article 22.4 (Non-discriminatory Treatment and Commercial Considerations), Article 22.5 (Courts and Administrative Bodies), and Article 22.6 (Non-commercial Assistance) of this Chapter.

4. Mexico shall provide information concerning the SPV and any assistance provided to it, to the extent reasonably available, when it is requested in accordance with the relevant provisions of Article 22.10 (Transparency).

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[33] For greater certainty, any contractual agreement, including a joint venture or partnership, between an SPE and another enterprise, which does not constitute an entity constituted or organized under applicable law, is not an "enterprise" as defined in Article 1.3 (Initial Provisions and General Definitions) or a "monopoly" as defined in Article 22.1 (Definitions), and thus falls outside the scope of this Chapter.

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ANNEX 22-F

MEXICO

Non-commercial Assistance to Certain State Productive Enterprises

1. With respect to Article 22.6.1, Article 22.6.2, and Article 22.6.3 (Non-commercial Assisstance), Mexico or its state enterprises or state-owned enterprises may provide non-commercial assistance to an SPE referred to in Annex 22-E (including the SPE's affiliates and subsidiaries) that is primarily engaged in oil and gas activities, in circumstances that jeopardize the continued viability of the recipient enterprise, and for the sole purpose of enabling the enterprise to return to viability and fulfil its mandate under the Decree and Article 25 of the Political Constitution of the United Mexican States.

2. At the request of a Party, the Parties may consult regarding whether this annex should be amended or eliminated. The annex should only be maintained if Mexico considers that circumstances continue to require the possibility of providing non-commercial assistance to an SPE to ensure its continued viability.

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CHAPTER 23

LABOR

Article 23.1: Definitions

For the purposes of this Chapter:

ILO Declaration on Rights at Work means the International Labor Organization (ILO) *Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998)*;

labor laws means statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognized labor rights:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labor;

(c) the effective abolition of child labor, a prohibition on the worst forms of child labor, and other labor protections for children and minors;

(d) the elimination of discrimination in respect of employment and occupation; and

(e) acceptable conditions of work with respect to minimum wages,[1] hours of work, and occupational safety and health;

statutes and regulations and **statutes or regulations** means:[2]

(a) for Mexico, Acts of Congress or regulations and provisions promulgated pursuant to Acts of Congress and, for the purposes of this Chapter, includes the Constitution of the United Mexican States; and

(b) for the United States, Acts of Congress or regulations promulgated pursuant to Acts of Congress and, for the purposes of this Chapter, includes the Constitution of the United States.

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[1] For greater certainty, a Party's labor laws regarding "acceptable conditions of work with respect to minimum wages" include any requirements under each Party's respective laws to provide wage-related benefit payments to, or on behalf of, workers, such as those for profit sharing, bonuses, retirement, and healthcare.

[2] For greater certainty, for each Party setting out a definition, which has a federal form of government, its definition provides coverage for substantially all workers.

Article 23.2: Statement of Shared Commitments

1. The Parties affirm their obligations as members of the ILO, including those stated in the ILO Declaration on Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization (2008).

2. The Parties recognize the important role of workers' and employers' organizations in protecting internationally recognized labor rights.

3. The Parties recognize the goal of trading only in goods that meet the obligations of this Chapter.

Article 23.3: Labor Rights

1. Each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following rights, as stated in the ILO Declaration on Rights at Work:[3, 4]

(a) freedom of association[5] and the effective recognition of the right to collective bargaining;[6]

(b) the elimination of all forms of forced or compulsory labor;

(c) the effective abolition of child labor and, for the purposes of this Agreement, a prohibition on the worst forms of child labor; and

(d) the elimination of discrimination in respect of employment and occupation.

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[3] The obligations set out in this Article, as they relate to the ILO, refer only to the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998).

[4] To establish a violation of an obligation under paragraphs 1 or 2, a Party must demonstrate that the other Party has failed to adopt or maintain a statute, regulation, or practice in a manner affecting trade or investment between the Parties. For greater certainty, a failure is "in a manner affecting trade or investment between the Parties" where it involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

[5] For greater certainty, the right to strike is linked to the right to freedom of association, which cannot be realized without protecting the right to strike.

[6] Annex 23-A sets out obligations with regard to worker representation in collective bargaining.

2. Each Party shall adopt and maintain statutes and regulations, and practices thereunder, governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Article 23.4: Non-Derogation

The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labor laws. Accordingly, no Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its statutes or regulations:

(a) implementing Article 23.3.1, if the waiver or derogation would be inconsistent with a right set out in that paragraph; or

(b) implementing Article 23.3.1 or Article 23.3.2, if the waiver or derogation would weaken or reduce adherence to a right set out in Article 23.3.1, or to a condition of work referred to in Article 23.3.2, in a special trade or customs area, such as an export processing zone or foreign trade zone, in the Party's territory,

in a manner affecting trade or investment between the Parties.[7]

Article 23.5: Enforcement of Labor Laws

1. No Party shall fail to effectively enforce its labor laws through a sustained or recurring course of action or inaction[8] in a manner affecting trade or investment between the Parties[9] after the date of entry into force of this Agreement.

2. Each Party shall promote compliance with its labor laws through appropriate government action, such as by:

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[7] For greater certainty, a waiver or derogation is "in a manner affecting trade or investment between the Parties" where it involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

[8] For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" where the course of action or inaction is consistent or ongoing, and is "recurring" where the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

[9] For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" where the course involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

(a) appointing and training inspectors;

(b) monitoring compliance and investigating suspected violations, including through unannounced on-site inspections, and giving due consideration to requests to investigate an alleged violation of that Party's labor laws;

(c) seeking assurances of voluntary compliance;

(d) requiring record keeping and reporting;

(e) encouraging the establishment of worker-management committees to address labor regulation of the workplace;

(f) providing or encouraging mediation, conciliation and arbitration services;

(g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labor laws; and

(h) implementing remedies and sanctions imposed, including timely collection of fines and reinstatement of workers.

3. If a Party fails to comply with an obligation under this Chapter, a decision made by that Party on the provision of enforcement resources shall not excuse that failure. Each Party retains the right to exercise reasonable enforcement discretion and to make *bona fide* decisions with regard to the allocation of enforcement resources between labor enforcement activities among the fundamental labor rights and acceptable conditions of work enumerated in Article 23.3.1 and Article 23.3.2, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

4. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake labor law enforcement activities in the territory of another Party.

Article 23.6: Forced or Compulsory Labor

1. The Parties recognize the goal of eliminating all forms of forced or compulsory labor, including forced or compulsory child labor. Accordingly, each Party shall prohibit, through measures it considers appropriate, the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.[10]

[10] For greater certainty, nothing in this Article authorizes a Party to take measures that would be inconsistent with its obligations under other provisions of this Agreement, the WTO Agreement, or other international trade agreements.

2. To assist in the implementation of paragraph 1, the Parties shall establish cooperation for the identification and movement of goods produced by forced labor as provided for under Article 23.12.5(c) (Cooperation).

Article 23.7 Violence Against Workers

The Parties recognize that workers and labor organizations must be able to exercise the rights set out in Article 23.3 (Labor Rights) in a climate that is free from violence, threats, and intimidation and the imperative of governments to effectively address incidents of violence, threats, and intimidation against workers. Accordingly, no Party shall fail to address cases of violence or threats of violence against workers, directly related to exercising or attempting to exercise the rights set out in Article 23.3 (Labor Rights), through a sustained or recurring course of action or inaction[11] in a manner affecting trade or investment between the Parties.[12]

Article 23.8 Migrant Workers

The Parties recognize the vulnerability of migrant workers with respect to labor protections. Accordingly, in implementing Article 23.3 (Labor Rights), each Party shall ensure that migrant workers are protected under its labor laws, whether they are nationals or non-nationals of the Party.

Article 23.9 Sex-Based Discrimination in the Workplace

The Parties recognize the goal of eliminating sex-based discrimination in employment and occupation, and support the goal of promoting equality of women in the workplace. Accordingly, each Party shall implement policies that protect workers against employment discrimination on the basis of sex, including with regard to pregnancy, sexual harassment, sexual orientation, gender identity, and caregiving responsibilities, provide job-protected leave for birth or adoption of a child and care of family members, and protect against wage discrimination.

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[11] For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" where the course of action or inaction is consistent or ongoing, and is "recurring" where the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

[12] For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" where the course involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

Article 23.10: Public Awareness and Procedural Guarantees

1. Each Party shall promote public awareness of its labor laws, including by ensuring that information related to its labor laws and enforcement and compliance procedures is publicly available.

2. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to tribunals for the enforcement of the Party's labor laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, judicial tribunals or labor tribunals, as provided for in each Party's law.

3. Each Party shall ensure that proceedings before these tribunals for the enforcement of its labor laws:

(a) are fair, equitable and transparent;

(b) comply with due process of law;

(c) do not entail unreasonable fees or time limits or unwarranted delay; and

(d) that any hearings in these proceedings are open to the public, except where the administration of justice otherwise requires, and in accordance with its applicable laws.

4. Each Party shall ensure that:

(a) the parties to these proceedings are entitled to support or defend their respective positions, including by presenting information or evidence; and

(b) final decisions on the merits of the case:

(i) are based on information or evidence in respect of which the parties were offered the opportunity to be heard;

(ii) state the reasons on which they are based; and

(iii) are available in writing without undue delay to the parties to the proceedings and, consistent with its law, to the public.

5. Each Party shall provide, as appropriate, that parties to these proceedings have the right to seek review and, if warranted, correction of decisions issued in these proceedings.

6. Each Party shall ensure that tribunals that conduct or review these proceedings are impartial and independent.

7. Each Party shall ensure that the parties to these proceedings have access to remedies under its law for the effective enforcement of their rights under the Party's labor laws and that these remedies are executed in a timely manner.

8. Each Party shall provide procedures to effectively enforce the final decisions of its tribunals in these proceedings.

9. For greater certainty, and without prejudice to whether a tribunal's decision is inconsistent with a Party's obligations under this Chapter, nothing in this Chapter shall be construed to require a tribunal of a Party to reopen a decision that it has made in a particular matter.

10. Each Party shall ensure that other types of proceedings within its labor bodies for the implementation of its labor laws:

(a) are fair and equitable;

(b) are conducted by officials who meet appropriate guarantees of impartiality;

(c) do not entail unreasonable fees or time limits or unwarranted delay; and

(d) document and communicate decisions to persons directly affected by these proceedings.

Article 23.11: Public Submissions

1. Each Party, through its contact point designated under Article 23.15 (Contact Points), shall provide for the receipt and consideration of written submissions from persons of a Party on matters related to this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures, including timelines, for the receipt and consideration of written submissions.

2. Each Party shall:

(a) consider matters raised by the submission and provide a timely response to the submitter, including in writing as appropriate; and

(b) make the submission and the results of its consideration available to the other Parties and the public, as appropriate, in a timely manner.

3. A Party may request from the person or organization that made the submission additional information that is necessary to consider the substance of the submission.

Article 23.12: Cooperation

1. The Parties recognize the importance of cooperation as a mechanism for effective implementation of this Chapter, to enhance opportunities to improve labor standards, and to further advance common commitments regarding labor matters, including the principles and rights stated in the ILO Declaration.

2. The Parties may, commensurate with the availability of resources, cooperate through:

(a) exchanging of information and sharing of best practices on issues of common interest, including through seminars, workshops and online fora;

(b) study trips, visits and research studies to document and study policies and practices;

(c) collaborative research and development related to best practices in subjects of mutual interest;

(d) specific exchanges of technical expertise and assistance, as appropriate; and

(e) other forms as the Parties may decide.

3. In undertaking cooperative activities, the Parties shall consider each Party's priorities and complementarity with existing initiatives, with the aim to achieve mutual benefits and measurable labor outcomes.

4. Each Party shall invite the views and, as appropriate, participation of its stakeholders, including worker and employer representatives, in identifying potential areas for cooperation and undertaking cooperative activities.

5. The Parties may develop cooperative activities in the following areas:

(a) labor laws and practices, including the promotion and effective implementation of the principles and rights as stated in the ILO Declaration;

(b) labor laws and practices related to compliance with ILO Convention No. 182 *Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*;

(c) identification and movement of goods produced by forced labor;

(d) combatting forced labor and human trafficking, including on fishing vessels;

(e) addressing violence against workers, including for trade union activity;

(f) occupational safety and health, including the prevention of occupational injuries and illnesses;

(g) institutional capacity of labor administrative and judicial bodies;

(h) labor inspectorates and inspection systems, including methods and training to improve the level and efficiency of labor law enforcement, strengthen labor inspection systems, and help ensure compliance with labor laws;

(i) remuneration systems and mechanisms for compliance with labor laws pertaining to hours of work, minimum wages and overtime, and employment conditions;

(j) addressing gender-related issues in the field of labor and employment, including:

(i) elimination of discrimination on the basis of sex in respect of employment, occupation and wages;

(ii) developing analytical and enforcement tools related to equal pay for equal work or work of equal value;

(iii) promotion of labor practices that integrate and retain women in the job market, and building the capacity and skills of women workers, including on workplace challenges and in collective bargaining;

(iv) consideration of gender issues related to occupational safety and health and other workplace practices, including advancement of child care, nursing mothers, and related policies and programs, and in the prevention of occupational injuries and illnesses; and

(v) prevention of gender-based workplace violence and harassment;

(k) promotion of productivity, innovation, competitiveness, training and human capital development in workplaces, particularly in respect to SMEs.

(l) addressing the opportunities of a diverse workforce, including:

(i) promotion of equality and elimination of employment discrimination in the areas of age, disability, race, ethnicity, religion, sexual orientation, gender identity, and other characteristics not related to merit or the requirements of employment; and,

(ii) promotion of equality, elimination of employment discrimination, and protection of migrant workers and other vulnerable workers, including low-waged, casual, or temporary workers;

(m) collection and use of labor statistics, indicators, methods, and procedures, including on the basis of sex;

(n) social protection issues, including workers' compensation in case of occupational injury or illness, pension systems and employment assistance schemes;

(o) labor relations, including forms of cooperation and dispute resolution to improve labor relations among workers, employers and governments;

(p) apprenticeship programs;

(q) social dialogue, including tripartite consultation and partnership;

(r) with respect to labor relations in multi-national enterprises, promoting information sharing and dialogue related to conditions of employment by enterprises operating in two or more Parties with representative worker organizations in each Party; and

(s) other areas as the Parties may decide.

6. The Parties may establish cooperative arrangements with the ILO and other international and regional organizations to draw on their expertise and resources to further the purposes of this Chapter.

Article 23.13: Cooperative Labor Dialogue

1. A Party may request dialogue with another Party on any matter arising under this Chapter at any time by delivering a written request to the contact point that the other Party has designated under Article 23.15 (Contact Points).

2. The requesting Party shall include information that is specific and sufficient to enable the receiving Party to respond, including identification of the matter at issue, an indication of the basis of the request under this Chapter and, when relevant, how trade or investment between the Parties is affected.

3. Unless the requesting and receiving Parties (the dialoguing Parties) decide otherwise, dialogue shall commence within 30 days of a Party's receipt of a request for dialogue. The dialoguing Parties shall engage in dialogue in good faith. As part of the dialogue, the dialoguing Parties shall provide a means for receiving and considering the views of interested persons on the matter.

4. Dialogue may be held in person or by any technological means available to the dialoguing Parties.

5. The dialoguing Parties shall address all the issues raised in the request. If the dialoguing Parties resolve the matter, they shall document any outcome, including, if appropriate, specific steps and timelines that they have agreed. The dialoguing Parties shall make the outcome available to the public, unless they decide otherwise.

6. In developing an outcome pursuant to paragraph 5, the dialoguing Parties should consider all available options and may jointly decide on any course of action they consider appropriate, including:

(a) the development and implementation of an action plan in any form that they find satisfactory, which may include specific and verifiable steps, such as on labor inspection, investigation or compliance action, and appropriate timeframes;

(b) the independent verification of compliance or implementation by individuals or entities, such as the ILO, chosen by the dialoguing Parties; and

(c) appropriate incentives, such as cooperative programs and capacity building, to encourage or assist the dialoguing Parties to identify and address labor matters.

Article 23.14: Labor Council

1. The Parties hereby establish a Labor Council (Council) composed of senior governmental representatives at the ministerial or other level from trade and labor ministries, as designated by each Party.

2. The Council shall meet within one year of the date of entry into force of this Agreement and thereafter every two years, unless the Parties decide otherwise.

3. The Council may consider any matter within the scope of this Chapter and perform any other functions as the Parties may decide.

4. In conducting its activities, including meetings, the Council shall provide a means for receiving and considering the views of interested persons on matters related to this Chapter. If

practicable, meetings will include a public session or other means for Council members to meet with the public to discuss matters relating to the implementation of this Chapter.

5. During the fifth year after the date of entry into force of this Agreement, or as otherwise decided by the Parties, the Council shall review the operation and effectiveness of this Chapter and thereafter may undertake subsequent reviews as decided by the Parties.

6. All Council decisions and reports shall be made by consensus and be made publicly available, unless the Council decides otherwise.

7. The Council shall issue a joint summary report or statement on its work at the end of each Council meeting.

Article 23.15: Contact Points

1. Each Party shall designate an office or official within its labor ministry or equivalent entity as a contact point to address matters related to this Chapter within 90 days of the date of entry into force of this Agreement. Each Party shall notify the other Parties promptly in the event of any change to its contact point.

2. The contact points shall:

(a) facilitate regular communication and coordination between the Parties, including responding to requests for information and providing sufficient information to enable a full examination of matters related to this Chapter;

(b) assist the Council;

(c) report to the Council, as appropriate;

(d) act as a channel for communication with the public in their respective territories; and

(e) work together, including with other appropriate agencies of their governments, to develop and implement cooperative activities, guided by the priorities of the Council, areas of cooperation identified in Article 23.12.5 (Cooperation), and the needs of the Parties.

3. Contact points may communicate and coordinate activities in person or through electronic or other means of communication.

4. Each Party's contact point, in carrying out its responsibilities under this Chapter, shall regularly consult and coordinate with its trade ministry.

Article 23.16: Public Engagement

Each Party shall establish or maintain, and consult, a national labor consultative or advisory body or similar mechanism, for members of its public, including representatives of its labor and business organizations, to provide views on matters regarding this Chapter.

Article 23.17: Labor Consultations

1. The Parties shall make every effort through cooperation and dialogue to arrive at a mutually satisfactory resolution of any matter arising under this Chapter.

2. A Party (the requesting Party) may request labor consultations with another Party (the responding Party) regarding any matter arising under this Chapter by delivering a written request to the responding Party's contact point. The requesting Party shall include information that is specific and sufficient to enable the responding Party to respond, including identification of the matter at issue and an indication of the legal basis of the request under this Chapter.

3. Unless the consulting Parties agree otherwise, they shall enter into labor consultations no later than 30 days after the date of delivery of the request.

4. The consulting Parties shall make every effort to arrive at a mutually satisfactory resolution to the matter through labor consultations, which may include appropriate cooperative activities. The consulting Parties may request advice from independent experts chosen by the consulting Parties to assist them.

5. *Ministerial Labor Consultations*: If the consulting Parties have failed to resolve the matter, any consulting Party may request that the relevant Ministers of the consulting Parties convene to consider the matter at issue by delivering a written request to each of the other consulting Parties through its contact point. The Ministers of the consulting Parties shall convene promptly after the date of receipt of the request, and shall seek to resolve the matter, including, if appropriate, by consulting independent experts chosen by the consulting Parties to assist them, and having recourse to such procedures as good offices, conciliation or mediation.

6. If the consulting Parties are able to resolve the matter, they shall document any outcome, including, if appropriate, specific steps and timelines agreed upon. The consulting Parties shall make the outcome available to the other Party and to the public, unless they agree otherwise.

7. If the consulting Parties have failed to resolve the matter within 60 days of the date of receipt of a request under paragraph 2, or any other period as the consulting Parties may agree, the requesting Party may request the establishment of a panel under Article 31.6 (Establishment of a Panel).

8. Labor consultations shall be confidential and without prejudice to the rights of a Party in another proceeding.

9. Labor consultations pursuant to this Article may be held in person or by a technological means available to the consulting Parties. If the labor consultations are held in person, they shall be held in the capital of the Party to which the request for labor consultations was made, unless the consulting Parties agree otherwise.

10. In labor consultations under this Article, a consulting Party may request another consulting Party make available personnel of its government agencies or other regulatory bodies who have expertise in the matter at issue.

11. No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with this Article.

12. A Party may have recourse to labor consultations under this Article without prejudice to the commencement or continuation of Cooperative Labor Dialogue under Article 23.13.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

ANNEX 23-A:
WORKER REPRESENTATION IN COLLECTIVE BARGAINING IN MEXICO

Mexico shall adopt and maintain the following provisions covered in this Annex, necessary for the effective recognition of the right to collective bargaining, given that the incoming Mexican government has confirmed that each of these provisions is within the scope of the mandate provided to the incoming government by the people of Mexico in the recent elections:

1. Provide in its labor laws the right of workers to engage in concerted activities for collective bargaining or protection and to organize, form, and join the union of their choice, and prohibit employer domination or interference in union activities, discrimination or coercion against workers for union activity or support, and refusal to bargain collectively with the duly recognized union.

2. Establish and maintain independent and impartial bodies to register union elections and resolve disputes relating to collective bargaining agreements and the recognition of unions, through legislation establishing (i) an independent entity for conciliation and union collective bargaining agreement registration and (ii) independent Labor Courts for the adjudication of labor disputes. The legislation shall provide for the independent entity for conciliation and registration to have the authority to issue appropriate sanctions against those who violate its orders. The legislation also shall provide that all decisions of the independent entity are subject to appeal to independent Courts, and that officials of the independent entity who delay, obstruct, or influence the outcome of any registration process in favor or against a party involved will be subject to sanctions under Article 48 of the Federal Labor Law and Articles 49, 52, 57, 58, 61, 62 and other applicable provisions of the General Law of Administrative Responsibilities.

3. Provide in its labor laws, through legislation in accordance with Mexico's Constitution for an effective system to verify that elections of union leaders are carried out through a personal, free, and secret vote of union members.

4. Provide in its labor laws that union representation challenges are carried out by the Labor Courts through a secret ballot vote, and are not subject to delays due to procedural challenges or objections, including by establishing clear time limits and procedures, consistent with Mexico's obligations under Article 23.10.3(c) and Article 23.10.10(c) of this Chapter.

5. Adopt legislation in accordance with Mexico's Constitution, requiring:

   (a) verification by the independent entity that collective bargaining agreements meet legal requirements related to worker support in order for them to be registered and take legal effect; and

   (b) for the registration of an initial collective bargaining agreement, majority support, through exercise of a personal, free, and secret vote, of workers covered

by the agreement and effective verification by the independent entity, through (as justified under the circumstances) documentary evidence (physical or electronic), direct consultations with workers, or on-site inspections, that (i) the worksite is operational, (ii) a copy of the collective bargaining agreement was made readily accessible to individual workers prior to the vote, and (iii) a majority of workers covered by the agreement demonstrated support for the agreement through a personal, free, and secret vote.

6. Adopt legislation in accordance with Mexico's Constitution, which provides that, in future revisions to address salary and work conditions, all existing collective bargaining agreements shall include a requirement for majority support, through the exercise of personal, free, and secret vote of the workers covered by those collective bargaining agreements.

That legislation shall also provide that all existing collective bargaining agreements shall be revised at least once during the four years after the legislation goes into effect. The legislation shall not imply the termination of any existing collective bargaining agreement as a consequence of the expiration of the term indicated in this paragraph, as long as a majority of the workers covered by the collective bargaining agreement demonstrate support for such agreement through a personal, free, and secret vote.

The legislation shall also provide that such revisions must be deposited with the independent entity. In order to deposit the future revisions, the independent entity shall effectively verify, through (as justified under the circumstances) documentary evidence (physical or electronic), direct consultation with workers, or on-site inspections, that (i) a copy of the revised collective bargaining agreement was made readily accessible to the workers covered by the collective bargaining agreement prior to the vote and (ii) a majority of workers covered by the revised agreement demonstrated support for such agreement through a personal, free, and secret vote.

7. Provide in its labor laws that a collective bargaining agreement negotiated by the union and the union governing documents are made available in a readily accessible form to all workers covered by the collective bargaining agreement, through enforcement of Mexico's General Law on Transparency and Access to Public Information, as well as legislation that establishes a centralized website that provides public access to all collective bargaining agreements in force, and is operated by an independent entity that is charged with the registration of collective bargaining agreements.

8. It is the expectation of the Parties that Mexico shall adopt legislation described above before January 1, 2019. It is further understood that entry into force of the agreement may be delayed until such legislation becomes effective.

CHAPTER 24

ENVIRONMENT

Article 24.1: Definitions

For the purposes of this Chapter:

environmental law means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

(a) the prevention, abatement or control of: the release, discharge or emission of pollutants or environmental contaminants;

(b) the control of environmentally hazardous or toxic chemicals, substances, materials or wastes, and the dissemination of information related thereto; or

(c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas,[1] [2]

but does not include a statute or regulation, or provision thereof, directly related to worker safety or health, nor any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources.

statute or regulation means:

(a) for Canada, an Act of the Parliament of Canada or regulation made under an Act of the Parliament of Canada that is enforceable by action of the central level of government;

(b) for Mexico, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the federal level of government; and

[1] For the purposes of this Chapter, the term "specially protected natural areas" means those areas as defined by the Party in its legislation.

[2] The Parties recognize that such protection or conservation may include the protection or conservation of biological diversity.

(c) for the United States, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the central level of government.

Article 24.2: Scope and Objectives

1. The Parties recognize that a healthy environment is an integral element of sustainable development and recognize the contribution that trade makes to sustainable development.

2. The objectives of this Chapter are to promote mutually supportive trade and environmental policies and practices; promote high levels of environmental protection and effective enforcement of environmental laws; and enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.

3. Taking account of their respective national priorities and circumstances, the Parties recognize that enhanced cooperation to protect and conserve the environment and the sustainable use and management of their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, support implementation of international environmental agreements to which they are a party, and complement the objectives of this Agreement.

4. The Parties recognize that the environment plays an important role in the economic, social and cultural well-being of Indigenous peoples and local communities, and acknowledge the importance of engaging with such groups in the long-term conservation of our environment.

5. The Parties further recognize that it is inappropriate to establish or use their environmental laws or other measures in a manner which would constitute a disguised restriction on trade or investment between the Parties.

Article 24.3: Levels of Protection

1. The Parties recognize the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities, and to establish, adopt or modify its environmental laws and policies accordingly.

2. Each Party shall strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection and shall strive to continue to improve its respective levels of environmental protection.

Article 24.4: Enforcement of Environmental Laws

1. No Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction[3] in a manner affecting trade or investment between the Parties,[4] after the date of entry into force of this Agreement.

2. The Parties recognize that each Party retains the right to exercise discretion and to make decisions regarding: (a) investigatory, prosecutorial, regulatory and compliance matters; and (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities. Accordingly, the Parties understand that with respect to the enforcement of environmental laws a Party is in compliance with paragraph 1 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a bona fide decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws.

3. Without prejudice to Article 24.3.1, the Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws. Accordingly, a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.

4. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of another Party.

Article 24.5: Public Information and Participation

1. Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.

2. Each Party shall provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of this Chapter. Each

[3] For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" where the course of action or inaction is consistent or ongoing, and is "recurring" where the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

[4] For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" where the course involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

Party shall respond in a timely manner to such questions or comments in writing and in accordance with domestic procedures, and make the questions or comments and the responses available to the public, for example by posting on an appropriate public website.

3. Each Party shall make use of existing, or establish new, consultative mechanisms, for example national advisory committees, to seek views on matters related to the implementation of this Chapter. These mechanisms may include persons with relevant experience, as appropriate, including experience in business, natural resource conservation and management, or other environmental matters.

Article 24.6: Procedural Matters

1. Each Party shall ensure that an interested person may request that the Party's competent authorities investigate alleged violations of its environmental laws, and that the competent authorities give those requests due consideration, in accordance with the Party's law.

2. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental law, and the right to seek appropriate remedies or sanctions for violations of those laws.

3. Each Party shall ensure that its administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws are available under its law and that those proceedings are fair, equitable, transparent, and comply with due process of law, including the opportunity for parties to the proceedings to support or defend their respective positions. The Parties recognize that these proceedings should not be unnecessarily complicated nor entail unreasonable fees or time limits.

4. Each Party shall provide that any hearings in these proceedings are conducted by impartial and independent persons who do not have an interest in the outcome of the matter. Hearings in these proceedings shall be open to the public, except when the administration of justice otherwise requires and in accordance with its applicable law.

5. Each Party shall provide that final decisions on the merits of the case in these proceedings are:

(a) in writing and where appropriate state the reasons on which the decisions are based;

(b) made available without undue delay to the parties to the proceedings and, in accordance with its domestic law, to the public; and

(c) based on information or evidence presented by the parties or other sources, in accordance with its domestic law.

6. Each Party shall also provide, as appropriate, that parties to such proceedings have the right, in accordance with its domestic law, to seek review and, where warranted, correction or redetermination, of final decisions in such proceedings.

7. Each Party shall provide appropriate sanctions or remedies for violations of its environmental laws and shall ensure that it takes account of relevant factors when establishing sanctions or remedies, which may include the nature and gravity of the violation, damage to the environment and any economic benefit derived by the violator.

Article 24.7: Environmental Impact Assessment

1. Each Party shall maintain appropriate procedures for assessing the environmental impacts of proposed projects that are subject to an action by that Party's central level of government that may cause significant effects on the environment with a view to avoiding, minimizing, or mitigating adverse effects.

2. Each Party shall ensure that such procedures provide for the disclosure of information to the public and, in accordance with its law, shall allow for public participation.

Article 24.8: Multilateral Environmental Agreements

1. The Parties recognize the important role that multilateral environmental agreements can play in protecting the environment and as a response of the international community to global or regional environmental problems.

2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.

3. The Parties commit to consult and cooperate as appropriate with respect to environmental issues of mutual interest, in particular trade-related issues, pertaining to relevant multilateral environmental agreements. This includes, inter alia, exchanging information on the implementation of multilateral environmental agreements to which a Party is party; ongoing negotiations of new multilateral environmental agreements; and, each Party's respective views on becoming a party to additional multilateral environmental agreements.

Article 24.9: Protection of the Ozone Layer

1. The Parties recognize that emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment. Accordingly, each Party shall take measures to control the production and consumption of, and trade in, such substances. [5][6][7]

2. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the protection of the ozone layer. Each Party shall make publicly available appropriate information about its programmes and activities, including cooperative programmes, that are related to ozone layer protection.

3. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest related to ozone-depleting substances. Cooperation may include, but is not limited to exchanging information and experiences in areas related to:

(a) environmentally friendly alternatives to ozone-depleting substances;

(b) refrigerant management practices, policies and programmes;

(c) methodologies for stratospheric ozone measurements; and

(d) combating illegal trade in ozone-depleting substances.

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[5] For greater certainty, for each Party, this provision pertains to ozone- depleting substances controlled by the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, September 16, 1987 (Montreal Protocol), and any existing and future amendments to the Montreal Protocol to which the Parties are parties.

[6] A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex 24-A implementing its obligations under the Montreal Protocol or any subsequent measure or measures that provide an equivalent or higher level of environmental protection as the measure or measures listed.

[7] If compliance with this provision is not established pursuant to footnote 6, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to control the production and consumption of, and trade in, certain substances that can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment, in a manner affecting trade or investment between the Parties. For greater certainty, a failure is "in a manner affecting trade or investment between the Parties" where it involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

Article 24.10: Protection of the Marine Environment from Ship Pollution

1. The Parties recognize the importance of protecting and preserving the marine environment. To that end, each Party shall take measures to prevent the pollution of the marine environment from ships.[8, 9,10]

2. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures to prevent the pollution of the marine environment from ships. Each Party shall make publicly available appropriate information about its programmes and activities, including cooperative programmes, that are related to the prevention of pollution of the marine environment from ships.

3. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to pollution of the marine environment from ships. Areas of cooperation may include:

(a) accidental pollution from ships;

(b) pollution from routine operations of ships;

(c) deliberate pollution from ships;

(d) development of technologies to minimise ship-generated waste;

(e) emissions from ships;

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[8] For greater certainty, for each Party, this provision pertains to pollution regulated by the *International Convention for the Prevention of Pollution from Ships*, done at London, November 2, 1973, as modified by the *Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships*, done at London, February 17, 1978, and the *Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973 as Modified by the Protocol of 1978 relating thereto*, done at London, September 26, 1997 (MARPOL Convention), and any existing and future amendments to the MARPOL Convention, to which the Parties are parties.

[9] A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex 24-B implementing its obligations under MARPOL, or any subsequent measure or measures that provide an equivalent or higher level of environmental protection as the measure or measures listed.

[10] If compliance with this provision is not established pursuant to footnote 9, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to prevent the pollution of the marine environment from ships in a manner affecting trade or investment between the Parties. For greater certainty, a failure is "in a manner affecting trade or investment between the Parties" where it involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

(f) adequacy of port waste reception facilities;

(g) increased protection in special geographic areas;

(h) enforcement measures including notifications to flag States and, as appropriate, by port States.

Article 24.11: Air Quality

1. The Parties recognize that air pollution is a serious threat to public health, ecosystem integrity, and sustainable development and contributes to other environmental problems, and note that reducing certain air pollutants can provide multiple benefits.

2. Noting that air pollution can travel long distances and impact each Party's ability to achieve its air quality objectives, the Parties recognize the importance of reducing both domestic and transboundary air pollution, and that cooperation can be beneficial in meeting these objectives.

3. The Parties further recognize the importance of public participation and transparency in the development and implementation of measures to prevent air pollution and in ensuring access to air quality data. Accordingly, each Party shall make air quality data and information about its associated programs and activities publicly available in accordance with Article 32.5 (Exceptions and General Provisions – Disclosure of Information), and shall seek to ensure such data and information are easily accessible and understandable to the public.

4. The Parties recognize the value of harmonizing air quality monitoring methodologies.

5. The Parties recognize the importance of international agreements and other efforts to improve air quality and control air pollutants, including those that have the potential for long-range transport.

6. Recognizing that the Parties have made significant progress to address air pollution in other fora, and consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to air quality. Cooperation may include exchanging information and experiences in areas related to:

(a) ambient air quality planning;

(b) modeling and monitoring, including spatial distribution of main sources and their emissions;

(c) measurement and inventory methodologies for air quality and emissions' measurements; and

(d) reduction, control, and prevention technologies and practices.

Article 24.12: Marine Litter

1. The Parties recognize the importance of taking action to prevent and reduce marine litter, including plastic litter and microplastics, in order to preserve human health and marine and coastal ecosystems, prevent the loss of biodiversity, and mitigate marine litter's costs and impacts.

2. Recognizing the global nature of the challenge of marine litter, each Party shall take measures to prevent and reduce marine litter.

3. Recognizing that the Parties are taking action to address marine litter in other fora, consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to combating marine litter, such as addressing land and sea-based pollution, promoting waste management infrastructure, and advancing efforts related to abandoned, lost or otherwise discarded fishing gear.

Article 24.13: Responsible Business Conduct and Corporate Social Responsibility

1. The Parties recognize the importance of promoting corporate social responsibility and responsible business conduct.

2. Each Party shall encourage enterprises organized or constituted under its laws, or operating in its territory, to adopt and implement voluntary best practices of corporate social responsibility that are related to the environment, such as those in internationally recognized standards and guidelines that have been endorsed or are supported by that Party, to strengthen coherence between economic and environmental objectives.

Article 24.14: Voluntary Mechanisms to Enhance Environmental Performance

1. The Parties recognize that flexible, voluntary mechanisms, for example, voluntary auditing and reporting, market-based mechanisms, voluntary sharing of information and expertise, and public-private partnerships, can contribute to the achievement and maintenance of high levels of environmental protection and complement domestic regulatory measures. The Parties also recognize that those mechanisms should be designed in a manner that maximises their environmental benefits and avoids the creation of unnecessary barriers to trade.

2. Therefore, in accordance with its laws, regulations or policies and to the extent it considers appropriate, each Party shall encourage:

(a) the use of flexible and voluntary mechanisms to protect the environment and natural resources, such as through the conservation and sustainable use of those resources, in its territory; and

(b) its relevant authorities, private sector, non-governmental organisations and other interested persons involved in the development of criteria used to evaluate environmental performance, with respect to these voluntary mechanisms, to continue to develop and improve such criteria.

3. Further, if private sector entities or non-governmental organisations develop voluntary mechanisms for the promotion of products based on their environmental qualities, each Party should encourage those entities and organisations to develop voluntary mechanisms that, among other things:

(a) are truthful, are not misleading, and take into account relevant scientific and technical information;

(b) are based on relevant international standards, recommendations, guidelines, or best practices, as appropriate;

(c) promote competition and innovation; and

(d) do not treat a product less favourably on the basis of origin.

Article 24.15: Trade and Biodiversity

1. The Parties recognize the importance of conservation and sustainable use of biological diversity, as well as the ecosystem services it provides, and their key role in achieving sustainable development.

2. Accordingly, each Party shall promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy.

3. The Parties recognize the importance of respecting, preserving and maintaining knowledge and practices of indigenous peoples and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.

4. The Parties recognize the importance of facilitating access to genetic resources within their respective national jurisdictions, consistent with each Party's international obligations. The Parties further recognize that some Parties may require, through national

measures, prior informed consent to access such genetic resources in accordance with national measures and, where such access is granted, the establishment of mutually agreed terms, including with respect to sharing of benefits from the use of such genetic resources, between users and providers.

5. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the conservation and sustainable use of biological diversity. Each Party shall make publicly available information about its programmes and activities, including cooperative programmes, related to the conservation and sustainable use of biological diversity.

6. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest. Cooperation may include, but is not limited to, exchanging information and experiences in areas related to:

(a) the conservation and sustainable use of biological diversity,

(b) mainstreaming conservation and sustainable use of biological diversity across relevant sectors;

(c) the protection and maintenance of ecosystems and ecosystem services; and

(d) access to genetic resources and the sharing of benefits arising from their utilization.

Article 24.16: Invasive Alien Species

1. The Parties recognize that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health. The Parties also recognize that the prevention, detection, control and, when possible, eradication, of invasive alien species are critical strategies for managing those adverse impacts.

2. Accordingly, the Committee shall coordinate with the Committee on Sanitary and Phytosanitary Measures established under Article 9.17 (Sanitary and Phytosanitary Measures – Committee on Sanitary and Phytosanitary Measures) to identify cooperative opportunities to share information and management experiences on the movement, prevention, detection, control and eradication of invasive alien species, with a view to enhancing efforts to assess and address the risks and adverse impacts of invasive alien species.

Article 24.17: Marine Wild Capture Fisheries[11]

1. The Parties acknowledge their role as major consumers, producers and traders of fisheries products and the importance of the marine fisheries sectors to their development and to the livelihoods of fishing communities, including those engaged in artisanal, small scale, and indigenous fisheries. The Parties also recognize the need for individual and collective action within international fora to address the urgent resource problems resulting from overfishing and unsustainable utilization of fisheries resources.

2. Accordingly, the Parties recognize the importance of taking measures aimed at the conservation and the sustainable management of fisheries and the contribution of those measures to providing environmental, economic and social opportunities for present and future generations. The Parties also recognize the importance of promoting and facilitating trade in sustainably managed and legally harvested fish and fish products, while ensuring that trade in these products is not subject to unnecessary or unjustifiable barriers to trade, given the negative effect that such barriers can have on the well-being of their communities who depend upon the fishing industry for their livelihood.

3. Where an importing Party is considering adopting trade restrictive measures for fish or fish products in order to protect or conserve fish or other marine species, the Parties recognize the importance of measures that are[12]:

(a) based on the best scientific evidence available, as applicable, that establish a connection between the products affected by the measure and the species being protected or conserved;

(b) tailored to the conservation objective; and

(c) implemented after the importing Party has:

(i) consulted with the exporting Party, in an effort to resolve the issue cooperatively; and

(ii) provided a reasonable opportunity for the exporting party to take appropriate measures to address the issue.

4. The Parties shall cooperate with, and where appropriate in, regional fisheries management organizations and arrangements in which the Parties are either members, observers, or cooperating non-contracting parties, with the aim of achieving good

[11] For greater certainty, Articles 24.17-24.21 do not apply with respect to aquaculture unless otherwise noted.

[12] For greater certainty, this paragraph is without prejudice to any rights or obligations of the Parties relating to the adoption or application of trade restrictive measures for fish and fish products.

governance, including by advocating for science-based decisions and compliance with those decisions in these organizations.

Article 24.18: Sustainable Fisheries Management

1. In furtherance of the objectives of conservation and sustainable management, each Party shall seek to operate a fisheries management system that regulates marine wild capture fishing and that is designed to:

(a) prevent overfishing and overcapacity through appropriate measures, such as limited entry, time, area, and other restrictions, and the setting and enforcement of catch or effort limits

(b) reduce bycatch of non-target species and juveniles, including through the regulation of, and implementation of measures associated with, fishing gear and methods that result in bycatch and the regulation of fishing in areas where bycatch is likely to occur;

(c) promote the recovery of overfished stocks for all marine fisheries in which that Party's persons conduct fishing activities; and

(d) protect marine habitat by cooperating, as appropriate, to prevent or mitigate significant adverse impacts from fishing.

2. Further, each Party shall adopt or maintain measures:

(a) to prevent the use of poisons and explosives for the purpose of commercial fish harvesting; and

(b) designed to prohibit the practice of shark finning.

3. Each Party shall base its fisheries management system on the best scientific evidence available and on internationally recognized best practices for fisheries management and conservation as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species.[13]

[13] These instruments include, among others, and as they may apply, *United Nations Convention on Law of the Sea* (UNCLOS), the *United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*, done at New York, December 4, 1995 (UN Fish Stocks Agreement), the *FAO Code of Conduct for Responsible Fisheries*, the *1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* (Compliance Agreement), done at Rome, November 24, 1993, the *2001 FAO International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated* (IUU Fishing), and the *2009 Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing*.

Article 24.19: Conservation of Marine Species

1. Each Party shall promote the long-term conservation of sharks, sea turtles, seabirds, and marine mammals through the implementation and effective enforcement of conservation and management measures. Such measures shall include:

(a) studies and assessments of the impact of fisheries operations on non-target species and their marine habitats, including through collection of species-specific data for non-target species and estimates of their bycatch, as appropriate;

(b) gear-specific studies and data collection on impacts on non-target species and on the efficacy of management measures to reduce those adverse impacts, as appropriate;

(c) measures to avoid, mitigate, or reduce bycatch of non-target species in fisheries, including appropriate measures pertaining to the use of bycatch mitigation devices, modified gear, or other techniques to reduce the impact of fishing operations on these species; and

(d) cooperation on national and regional bycatch reduction measures, such as measures in commercial fisheries pertaining to transboundary stocks of non-target species.

2. Each Party shall prohibit the killing of great whales[14] for commercial purposes unless authorized in a multilateral treaty to which the Party is a party.[15]

Article 24.20: Fisheries Subsidies

1. The Parties recognize that the implementation of a fisheries management system that is designed to prevent overfishing and overcapacity and to promote the recovery of

[14] Great whales are the following 16 species: *Balaena mysticetus, Eubalaena glacialis, Eubalaena japonica, Eubalaena australis, Eschrichtius robustus, Balaenoptera musculus, Balaenoptera physalus, Balaenoptera borealis, Balaenoptera edeni, Balaenoptera acutorostrata, Balaenoptera bonaerensis, Balaenoptera omurai, Megaptera novaeangliae, Caperea marginata, Physeter macrocephalus, and Hyperoodon ampullatus.*

[15] For greater certainty, the Parties understand that paragraph 2 does not apply to whaling by indigenous peoples in accordance with a Party's law, including for Canada the legal obligations recognized and affirmed by section 35 of the *Constitution Act, 1982* or those set out in self-government agreements between a central or regional level of government and indigenous peoples.

overfished stocks must include the control, reduction, and eventual elimination of all subsidies that contribute to overfishing and overcapacity. To that end, no Party shall grant or maintain any of the following subsidies[16] within the meaning of Article 1.1 of the SCM Agreement that are specific within the meaning of Article 2 of the SCM Agreement:

(a) subsidies provided to a fishing vessel[17] or operator[18] while listed by the flag State, the subsidizing Party, or a relevant Regional Fisheries Management Organization or Arrangement for IUU fishing[19] in accordance with the rules and procedures of that organization or arrangement and in conformity with international law; and

(b) subsidies for fishing[20] that negatively affect[21] fish stocks that are in an overfished[22] condition.

2. Subsidy programs that are established by a Party before the date of entry into force of this Agreement and which are inconsistent with paragraph 1(b) shall be brought into conformity with that paragraph as soon as possible and no later than three years after the date of entry into force of this Agreement.

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[16] For the purposes of this Article, a subsidy shall be attributable to the Party conferring it, regardless of the flag of the vessel involved or the application of rules of origin to the fish involved.

[17] The term "fishing vessel" refers to any vessel, ship, or other type of boat used for, equipped to be used for, or intended to be used for fishing or fishing related activities.

[18] The term "operator" means the owner of the vessel, or any person onboard, who is in charge of or directs or controls the vessel at the time of the IUU infraction. For greater certainty, the prohibition on the provision of subsidies to operators engaged in IUU fishing applies only to subsidies for fishing or fishing related activities.

[19] "Illegal, unreported and unregulated fishing" is to be understood to have the same meaning as paragraph 3 of the *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (2001 IUU Fishing Plan of Action) of the UN Food and Agricultural Organization (FAO), adopted in Rome, 2001.

[20] For the purposes of this Article, "fishing" means searching for, attracting, locating, catching, taking, or harvesting fish, or any activity which can reasonably be expected to result in the attracting, locating, catching, taking, or harvesting of fish.

[21] The negative effect of such subsidies shall be determined based on the best scientific evidence available.

[22] For the purposes of this Article, a fish stock is overfished if the stock is at such a low level that mortality from fishing needs to be restricted to allow the stock to rebuild to a level that produces maximum sustainable yield or alternative reference points based on the best scientific evidence available. Fish stocks that are recognized as overfished by the national jurisdiction where the fishing is taking place or by a relevant regional fisheries management organization shall also be considered overfished for the purposes of this Article.

3. In relation to subsidies that are not prohibited by paragraph 1, and taking into consideration a Party's social and developmental priorities, each Party shall make best efforts to refrain from introducing new, or extending or enhancing existing, subsidies within the meaning of Article 1.1 of the SCM Agreement, to the extent they are specific within the meaning of Article 2 of the SCM Agreement, that contribute to overfishing or overcapacity.

4. With a view to achieving the objective of eliminating subsidies that contribute to overfishing and overcapacity, the Parties shall review the disciplines in paragraph 1 at regular meetings of the Environment Committee.

5. Each Party shall notify the other Parties, within one year of the date of entry into force of this Agreement and every two years thereafter, of any subsidy within the meaning of Article 1.1 of the SCM Agreement that is specific within the meaning of Article 2 of the SCM Agreement, that the Party grants or maintains to persons engaged in fishing or fishing related activities.

6. These notifications shall cover subsidies provided within the previous two-year period and shall include the information required under Article 25.3 of the SCM Agreement and, to the extent possible, the following information:[23]

(a) program name;

(b) legal authority for the program;

(c) catch data by species in the fishery for which the subsidy is provided;

(d) status of the fish stocks in the fishery for which the subsidy is provided (overfished, fully fished, or underfished);

(e) fleet capacity in the fishery for which the subsidy is provided;

(f) conservation and management measures in place for the relevant fish stock; and

(g) total imports and exports per species.

7. Each Party shall also provide, to the extent possible, information in relation to other subsidies that the Party grants or maintains to persons engaged in fishing or fishing related activities that are not covered by paragraph 1, in particular fuel subsidies.

[23] Sharing information and data on existing fisheries subsidy programs does not prejudge their legal status, effects, or nature under the GATT 1994 or the SCM Agreement and is intended to complement WTO data reporting requirements.

8. A Party may request additional information from the notifying Party regarding the notifications under paragraphs 5 and 6. The notifying Party shall respond to that request as quickly as possible and in a comprehensive manner.

9. Each Party shall notify the other Parties on an annual basis of any list of vessels and operators identified as having engaged in IUU fishing.

10. The Parties shall work in the World Trade Organization towards strengthening international rules on the provision of subsidies to the fisheries sector and enhancing transparency of fisheries subsidies.

Article 24.21: Illegal, Unreported, and Unregulated (IUU) Fishing

1. The Parties recognize the importance of concerted international action to address IUU fishing as reflected in regional and international instruments[24] and shall endeavor to improve cooperation internationally in this regard, including with and through competent international organizations.

2. In support of international efforts to combat IUU fishing and to help deter trade in products from IUU fishing, each Party shall:

(a) implement port state measures, including through actions consistent with the 2009 Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing;[25]

(b) support monitoring, control, surveillance, compliance, and enforcement schemes, including by adopting, maintaining, reviewing, or revising, as appropriate, measures to:

(i) deter vessels flying its flag and, to the extent provided for in each Party's law, its nationals, from engaging in IUU fishing; and

[24] Regional and international instruments include, among others, and as they may apply, the *2001 FAO International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing*, the *2005 Rome Declaration on IUU Fishing*, adopted in Rome on March 12, 2005, the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*, done at Rome, November 22, 2009, as well as instruments established and adopted by Regional Fisheries Management Organizations, which are defined as intergovernmental fisheries organizations or arrangements, as appropriate, that have the competence to establish conservation and management measures.

[25] For greater certainty, this paragraph is without prejudice to a Party's status under the 2009 Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing.

(ii) address the trans-shipment at sea of fish caught through IUU fishing or fish products derived from IUU fishing.

(c) maintain a vessel documentation scheme and promote the use of International Maritime Organization numbers, or comparable unique vessel identifiers, as appropriate, for vessels operating outside of its national jurisdiction, in order to enhance transparency of fleets and traceability of fishing vessels;

(d) strive to act consistently with relevant conservation and management measures adopted by Regional Fisheries Management Organizations or Regional Fisheries Management Arrangements of which it is not a party so as not to undermine those measures;

(e) endeavor not to undermine catch or trade documentation schemes operated by Regional Fisheries Management Organizations or Regional Fisheries Management Arrangements.

(f) develop and maintain publicly available and easily accessible registry data of fishing vessels flying its flag; promote efforts by non-Parties to develop and maintain publicly available and easily accessible registry data of such vessels flying its flag; and support efforts to complete a Global Record of Fishing Vessels, Refrigerated Transport Vessels, and Supply Vessels; and

(g) cooperate with other Parties through the exchange of information and best practices to combat trade in products derived from IUU fishing.

2. Consistent with Article 28.9 (Good Regulatory Practices – Transparent Development of Regulations), a Party shall, to the extent possible, provide other Parties the opportunity to comment on proposed measures that are designed to prevent trade in fisheries products derived from IUU fishing.

Article 24.22: Conservation and Trade

1. The Parties affirm the importance of combating the illegal take[26] of, and illegal trade in, wild fauna and flora, and acknowledge that this trade undermines efforts to conserve and sustainably manage those natural resources, has social consequences, distorts legal trade in wild fauna and flora, and reduces the economic and environmental value of these natural resources.

[26] The term "take" means captured, killed or collected and with respect to a plant, also means harvested, cut, logged or removed.

2. Accordingly, each Party shall adopt, maintain and implement laws, regulations and any other measures to fulfil its obligations under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES).[27] [28] [29]

3. The Parties commit to promote conservation and to combat the illegal take of, and illegal trade in, wild fauna and flora. To that end, the Parties shall:

(a) exchange information and experiences on issues of mutual interest related to combating the illegal take of, and illegal trade in, wild fauna and flora, including combating illegal logging and associated illegal trade, and promoting the legal trade in associated products;

(b) undertake, as appropriate, joint activities on conservation issues of mutual interest, including through relevant regional and international fora; and

(c) endeavor to implement, as appropriate, CITES resolutions that aim to protect and conserve species whose survival is threatened by international trade.

4. Each Party further commits to:

(a) take appropriate measures to protect and conserve wild fauna and flora that it has identified to be at risk within its territory, including measures to conserve the ecological integrity of specially protected natural areas, for example grasslands and wetlands;

(b) maintain or strengthen government capacity and institutional frameworks to promote wild fauna and flora conservation, and endeavor to enhance

[27]For the purposes of this Article, a Party's CITES obligations include existing and future amendments to which the Parties are parties and any existing and future reservations or exemptions applicable to the Party. This paragraph only applies if all the Parties are parties to the CITES.

[28] To establish a violation of this paragraph, a Party must demonstrate that the other Party has failed to adopt, maintain or implement laws, regulations or other measures to fulfil its obligations under CITES in a manner affecting trade or investment between the Parties. For greater certainty, a failure is "in a manner affecting trade or investment between the Parties" where it involves: (1) a person or industry that produces goods or provides services traded between the Parties or has investment in the territory of the Party that has failed to comply with this obligation; or (2) a person or industry that produces goods or provides services that compete in the territory of a Party with goods or services of another Party.

[29] If a Party considers that another Party is failing to comply with its obligations under this paragraph, it shall endeavor, in the first instance, to address the matter through a consultative or other procedure under CITES.

public participation and transparency in these institutional frameworks; and

(c) endeavor to develop and strengthen cooperation and consultation with interested non-governmental entities and other stakeholders in order to enhance implementation of measures to combat the illegal take of, and illegal trade in, wild fauna and flora.

5. In a further effort to address the illegal take of, and illegal trade in, wild fauna and flora, including parts and products thereof, each Party shall take measures to combat, and cooperate to prevent, the trade of wild fauna and flora that, based on credible evidence,[30] were taken or traded in violation of that Party's law or another applicable law,[31] the primary purpose of which is to conserve, protect, or manage wild fauna or flora. Such measures shall include sanctions, penalties, or other effective measures, including administrative measures, that can act as a deterrent to such trade. In addition, each Party shall endeavor to take measures to combat the trade of wild fauna and flora transhipped through its territory that, based on credible evidence, were illegally taken or traded.

6. The Parties recognize that each Party retains the right to exercise administrative, investigatory and enforcement discretion in its implementation of paragraph 5, including by taking into account in relation to each situation the strength of the available evidence and the seriousness of the suspected violation. In addition, the Parties recognize that in implementing paragraph 5, each Party retains the right to make decisions regarding the allocation of administrative, investigatory and enforcement resources.

7. In order to promote the widest measure of law enforcement cooperation and information sharing between the Parties to combat the illegal take of, and illegal trade in, wild fauna and flora, the Parties shall endeavor to identify opportunities, consistent with their respective law and in accordance with applicable international agreements, to enhance law enforcement cooperation and information sharing, for example by enhancing participation in law enforcement networks, and, where appropriate, establishing new networks with the objective of developing a strong and effective worldwide network.

8. Further, each Party shall:

(a) take measures to enhance effectiveness of inspections of shipments containing wild fauna and flora, including parts and products thereof, at ports of entry, such as improving targeting; and

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[30] For greater certainty, for the purposes of this paragraph, each Party retains the right to determine what constitutes "credible evidence".

[31] For greater certainty, "another applicable law" means a law of the jurisdiction where the take or trade occurred and is only relevant to the question of whether the wild fauna and flora has been taken or traded in violation of that law.

(b) treat intentional transnational trafficking of wildlife protected under its laws,[32] as a serious crime as defined in the United Nations Convention on Transnational Organized Crime.[33]

Article 24.23: Sustainable Forest Management and Trade

1. The Parties acknowledge their role as major consumers, producers, and traders of forest products and the importance of a healthy forest sector to provide livelihoods and job opportunities, including for Indigenous peoples.

2. The Parties acknowledge the importance of:

(a) the conservation and sustainable management of forests for providing environmental economic, and social benefits for present and future generations;

(b) the critical role of forests in providing numerous ecosystem services, including carbon storage, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora; and

(c) combatting illegal logging and associated trade.

3. The Parties recognize that forest products, when sourced from sustainably managed forests contribute to global environmental solutions, including sustainable development, conservation and sustainable use of resources, and green growth.

4. Accordingly, each Party commits to:

(a) maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management; and

(b) promote trade in legally harvested forest products.

[32] For greater certainty, the term "wildlife" is understood to include all species of wild fauna and flora, including animals, timber, and marine species, and their related parts and products. Further, for purposes of this Article, the term "protected" means a CITES-listed species or a species that is listed under a Party's law as endangered, threatened or as being at risk within its territory.

[33] The term "serious crime" is to be understood to have the same meaning as paragraph 2(b) of the *United Nations Convention on Transnational Organized Crime*, done at New York, on November 15, 2000.

5. The Parties shall exchange information and cooperate, as appropriate, on initiatives to promote sustainable forest management, including initiatives designed to combat illegal logging and associated trade.

Article 24.24: Environmental Goods and Services

1. The Parties recognize the importance of trade and investment in environmental goods and services, including clean technologies, as a means of improving environmental and economic performance, contributing to green growth and jobs, and encouraging sustainable development, while addressing global environmental challenges.

2. Accordingly, the Parties shall strive to facilitate and promote trade and investment in environmental goods and services.

3. The Environment Committee shall consider issues identified by a Party related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade. The Parties shall endeavor to address any potential barriers to trade in environmental goods and services that may be identified by a Party, including by working through the Environment Committee and in conjunction with other relevant committees established under this Agreement, as appropriate.

4. The Parties shall cooperate in international fora on ways to further facilitate and liberalize global trade in environmental goods and services, and may develop cooperative projects on environmental goods and services to address current and future global environmental challenges.

Article 24.25: Environmental Cooperation

1. The Parties recognize 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 protect the environment, and to promote sustainable development as they strengthen their trade and investment relations.

2. The Parties are committed to expanding their cooperative relationship on environmental matters, recognizing it will help them achieve their shared environmental goals and objectives, including the development and improvement of environmental protection, practices, and technologies.

3. The Parties are committed to undertaking cooperative environmental activities pursuant to the Environmental Cooperation Agreement signed by the Parties, including activities related to implementation of this Chapter. Activities that the Parties undertake pursuant to the Environmental Cooperation Agreement will be coordinated and reviewed

by the Commission for Environmental Cooperation as provided for in the Environmental Cooperation Agreement.[34]

Article 24.26: Environment Committee and Contact Points

1. Each Party shall designate and notify a contact point from its relevant authorities within 90 days of the date of entry into force of this Agreement, in order to facilitate communication between the Parties in the implementation of this Chapter. Each Party shall promptly notify the other Parties in the event of any change to its contact point.

2. The Parties establish an Environment Committee composed of senior government representatives, or their designees, of the relevant trade and environment national authorities of each Party responsible for the implementation of this Chapter.

3. The purpose of the Environment Committee is to oversee the implementation of this Chapter and its functions shall be to:

(a) provide a forum to discuss and review the implementation of this Chapter;

(b) periodically inform the Commission and the Council for the Commission for Environmental Cooperation (Council) established under the Environmental Cooperation Agreement regarding the implementation of this Chapter;

(c) consider and endeavor to resolve matters referred to it under Article 24.30 (Senior Representative Consultations);

(d) provide input, as appropriate, for consideration by the Council, relating to submissions on enforcement matters under this Chapter.

(d) coordinate with other committees established under this Agreement as appropriate; and

(e) perform any other functions as the Parties may decide.

4. The Environment Committee shall meet within one year of the date of entry into force of this Agreement. Thereafter, the Environment Committee shall meet every two years unless the Environment Committee agrees otherwise. The Chair of the Environment

[34] The Parties established the Commission for Environmental Cooperation (CEC) under Part Three of the North American Agreement on Environmental Cooperation (NAAEC).

Committee and the venue of its meetings shall rotate among each of the Parties in English alphabetical order, unless the Environment Committee agrees otherwise.

5. All decisions and reports of the Environment Committee shall be made by consensus, unless the Committee agrees otherwise or unless otherwise provided in this Chapter.

6. All decisions and reports of the Environment Committee shall be made available to the public, unless the Environment Committee agrees otherwise.

7. During the fifth year after the date of entry into force of this Agreement, the Environment Committee shall:

(a) review the implementation and operation of this Chapter;

(b) report its findings, which may include recommendations, to the Council and the Commission; and

(c) undertake subsequent reviews at intervals to be decided by the Committee.

8. The Environment Committee shall provide for public input on matters relevant to the Committee's work, as appropriate, and shall hold a public session at each meeting.

9. The Parties recognize the importance of resource efficiency in the implementation of this Chapter and the desirability of using new technologies to facilitate communication and interaction between the Parties and with the public.

Article 24.27: Submissions on Enforcement Matters

1. Any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws. Such submissions shall be filed with the Secretariat of the Commission for Environmental Cooperation (CEC).

2. The Secretariat may consider a submission under this Article if the Secretariat finds that the submission:

(a) is in writing in English, French, or Spanish;

(b) clearly identifies the person making the submission;

(c) provides sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be

based and identification of the environmental law of which the failure to enforce is asserted;

(d) appears to be aimed at promoting enforcement rather than at harassing industry; and

(e) indicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any.

3. If the Secretariat determines that a submission meets the criteria set out in paragraph 2, the Secretariat shall determine within 30 days of receipt of the submission whether the submission merits requesting a response from the Party. In deciding whether to request a response, the Secretariat shall be guided by whether:

(a) the submission alleges harm to the person making the submission;

(b) the submission, alone or in combination with other submissions, raises matters about which further study in this process would advance the goals of this Chapter;

(c) private remedies available under the Party's law have been pursued; and

(d) the submission is not drawn exclusively from mass media reports.

If the secretariat makes such a request, it shall forward to the Party a copy of the submission and any supporting information provided with the submission.

4. The Party shall inform the secretariat within 60 days of delivery of the request:

(a) whether the matter at issue is the subject of a pending judicial or administrative proceeding, in which case the secretariat shall proceed no further; and

(b) of any other information the Party wishes to submit, such as:

(i) information regarding the enforcement of the environmental law at issue, including any actions taken in connection with the matter in question;

(ii) whether the matter was previously the subject of a judicial or administrative proceeding; and

(iii) whether private remedies in connection with the matter are available to the person making the submission and whether they have been pursued.

Article 24.28: Factual Records and Related Cooperation

1. If the Secretariat considers that the submission, in light of any response provided by the Party, warrants developing a factual record, the Secretariat shall so inform the Council and the Environment Committee within 60 days of receiving the Party's response and provide its reasons.

2. The Secretariat shall prepare a factual record if at least two members of the Council instructs it to do so.

3. The preparation of a factual record by the Secretariat pursuant to this Article shall be without prejudice to any further steps that may be taken with respect to any submission.

4. In preparing a factual record, the Secretariat shall consider any information furnished by a Party and may consider any relevant technical, scientific, or other information:

(a) that is publicly available;

(b) submitted by interested persons;

(c) submitted by national advisory or consultative committees referred to in Article 24.5 (Public Information and Participation);

(d) submitted by the Joint Public Advisory Committee (JPAC) referred to in the Environmental Cooperation Agreement;

(e) developed by independent experts; or

(f) developed under the Environment Cooperation Agreement.

5. The Secretariat shall submit a draft factual record to the Council within 120 days of the Council's instruction to proceed under Paragraph 2. Any Party may provide comments on the accuracy of the draft within 30 days thereafter. The Secretariat shall incorporate any such comments in the final factual record and promptly submit it to the Council.

6. The Secretariat shall make the final factual record publicly available, normally within 30 days following its submission, unless two members or more of the Council instruct it not to.

7. The Environment Committee shall consider the final factual record in light of the objectives of this Chapter and the ECA and may provide recommendations to the Council on whether the matter could benefit from cooperative activities.

8. The Parties shall provide updates to the Council and the Environment Committee on final factual records, as appropriate.

Article 24.29: Environment Consultations

1. The Parties shall at all times endeavor to agree on the interpretation and application of this Chapter, and shall make every effort through dialogue, consultation, exchange of information and, if appropriate, cooperation to address any matter that might affect the operation of this Chapter.

2. A Party (the requesting Party) may request consultations with any other Party (the responding Party) regarding any matter arising under this Chapter by delivering a written request to the responding Party's contact point. The requesting Party shall include information that is specific and sufficient to enable the responding Party to respond, including identification of the matter at issue and an indication of the legal basis for the request. The requesting Party shall circulate its request for consultations to the third Party through their respective contact points.

3. A third Party that considers it has a substantial interest in the matter, may participate in the consultations by delivering a written notice to the contact points of the requesting and responding Parties no later than seven days after the date of circulation of the request for consultations. The third Party shall include in its notice an explanation of its substantial interest in the matter.

4. Unless the requesting and the responding Parties (the consulting Parties) agree otherwise, the consulting Parties shall enter into consultations promptly, and no later than 30 days after the date of receipt by the responding Party of the request.

5. The consulting Parties shall make every effort to arrive at a mutually satisfactory resolution to the matter which may include appropriate cooperative activities. The consulting Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter.

Article 24.30: Senior Representative Consultations

1. If the consulting Parties have failed to resolve the matter under Article 24.29 (Environment Consultations), a consulting Party may request that the Committee representatives from the consulting Parties convene to consider the matter by delivering a written request to the contact point of the other consulting Party or Parties. At the same

time, the consulting Party making the request shall circulate the request to the contact points of a third Party.

2. The Committee representatives from the consulting Parties shall promptly convene following the delivery of the request, and shall seek to resolve the matter including, if appropriate, by gathering relevant scientific and technical information from governmental or non-governmental experts. Committee representatives from the third Party that considers it has a substantial interest in the matter may participate in the consultations.

Article 24.31: Ministerial Consultations

1. If the consulting Parties have failed to resolve the matter under Article 24.30 (Senior Representative Consultations), a consulting Party may refer the matter to the relevant Ministers of the consulting Parties who shall seek to resolve the matter.

2. Consultations pursuant to Article 24.29 (Environment Consultations), Article 24.30 (Senior Representative Consultations) and this Article may be held in person or by any technological means available as agreed by the consulting Parties. If in person, consultations shall be held in the capital of the responding Party, unless the consulting Parties agree otherwise.

3. Consultations shall be confidential and without prejudice to the rights of any Party in any future proceedings.

Article 24.32: Dispute Resolution

1. If the consulting Parties have failed to resolve the matter under Article 24.29 (Environment Consultations), Article 24.30 (Senior Representative Consultations) and Article 24.31 (Ministerial Consultations) within 60 days after the date of receipt of a request under Article 24.29.2 (Environment Consultations), or any other period as the consulting Parties may agree, the requesting Party may request consultations under Article 31.5 (Dispute Settlement – Consultations) or request the establishment of a panel under Article 31.7 (Dispute Settlement – Establishment of a Panel).

2. Notwithstanding Article 31.15 (Dispute Settlement –Role of Experts), in a dispute arising under Article 24.22 (Conservation and Trade) a panel convened under Chapter 31 (Dispute Settlement) shall:

(a) seek technical advice or assistance, if appropriate, from an entity authorised under CITES to address the particular matter, and provide the consulting Parties with an opportunity to comment on any such technical advice or assistance received; and

(b) provide due consideration to any interpretive guidance received pursuant to subparagraph (a) on the matter to the extent appropriate in light of its nature and status in making its findings and determinations under Article 31.17 (Dispute Settlement – Initial Report).

Annex 24-A

For Canada, the *Ozone-depleting Substances Regulations, 1998 of the Canadian Environmental Protection Act, 1999* (CEPA).

For Mexico, the *General Law on Ecological Equilibrium and Environmental Protection* (*Ley General del Equilibrio Ecológico y la Protección al Ambiente – LGEEPA*), under Title IV Environmental Protection, Chapter I and II regarding federal enforcement of atmospheric provisions.

For the United States, 42 U.S.C §§ 7671-7671q (*Stratospheric Ozone Protection*).

Annex 24-B

For Canada, the *Canada Shipping Act, 2001* and its related regulations.

For Mexico, Article 132 of the *General Law on Ecological Equilibrium and Environmental Protection* (*Ley General del Equilibrio Ecológico y la Protección al Ambiente – LGEEPA*).

For the United States, the *Act to Prevent Pollution from Ships*, 33 U.S.C §§ 1901-1915.

CHAPTER 25

SMALL AND MEDIUM-SIZED ENTERPRISES

Article 25.1 General Principles

1. The Parties, recognizing the fundamental role of SMEs in maintaining dynamism and enhancing competitiveness of the economies of the respective Parties, shall foster close cooperation between SMEs of the Parties and cooperate in promoting SMEs jobs and growth.

2. The Parties recognize the integral role of the private sector in the SME cooperation to be implemented under this Chapter.

Article 25.2: 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, and among other efforts, in the context of Memoranda of Understanding that exist between Parties on SME cooperation, each Party shall seek to increase trade and investment opportunities, and in particular shall:

(a) promote cooperation between the Parties' small business support infrastructure, including dedicated SME centers, incubators and accelerators, export assistance centers, and other centers as appropriate, to create an international network for sharing best practices, exchanging market research, and promoting SME participation in international trade, as well as business growth in local markets;

(b) strengthen their collaboration on activities to promote SMEs owned by under-represented groups including women, indigenous peoples, youth and minorities, as well as start-ups, agricultural and rural SMEs, and promote partnership among these SMEs and their participation in international trade;

(c) enhance their cooperation to exchange information and best practices in areas including, but not limited to improving SME access to capital and credit, SME participation in covered government procurement opportunities, and helping SMEs adapt to changing market conditions; and

(d) encourage participation in platforms, such as web-based, for business entrepreneurs and counselors to share information and best practices to help SMEs link with international suppliers, buyers, and other potential business partners.

Article 25.3: Information Sharing

1. Each Party shall establish or maintain its own publicly accessible website containing information regarding this Agreement, including:

(a) the text of this Agreement, including annexes, tariff schedules, and product specific rules of origin;

(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 provided for in paragraph 1 links or information through automated electronic transfer to:

(a) the equivalent websites of the other Parties; 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. The information described in paragraph 2(b) may include:

(a) customs regulations, procedures, and enquiry points;

(b) regulations and procedures concerning intellectual property rights;

(c) technical regulations, standards, conformity assessment procedures, and sanitary and phytosanitary measures relating to importation and exportation;

(d) foreign investment regulations;

(e) business registration procedures;

(f) trade promotion programs;

(g) competitiveness programs;

(h) SME financing programs;

(i) employment regulations;

(j) taxation information;

(k) information related to the Temporary Entry of business persons, as set out in Article 16.5; and

(l) covered government procurement opportunities.

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. Whenever possible, each Party shall make the information in this Article available in English. When this information is available in another authentic language of the Agreement, Parties shall endeavor to make this information available, as appropriate.

Article 25.4: Committee on SME Issues

1. The Parties hereby establish a Committee on SME Issues, comprising government representatives of each Party.

2. The Committee shall:

(a) identify ways to assist SMEs in the Parties' territories to take advantage of the commercial opportunities resulting from this Agreement and to strengthen SME competitiveness;

(b) identify and recommend ways for further cooperation between the Parties to develop and enhance partnerships between SMEs of the Parties;

(c) exchange and discuss each Party's experiences and best practices in supporting and assisting SME exporters with respect to, among other things, training programs, trade education, trade finance, trade missions, trade facilitation, digital trade, identifying commercial partners in other Parties, and establishing good business credentials;

(d) develop and promote seminars, workshops, webinars, or other activities to inform SMEs of the benefits available to them under this Agreement;

(e) explore opportunities to facilitate each Party's work in developing and enhancing SME export counseling, assistance, and training programs;

(f) recommend additional information that a Party may include on the website referred to in Article 25.3 (Information Sharing);

(g) review and coordinate the Committee's work program with the work of other committees, working groups, and any subsidiary body established under this Agreement, as well as of other relevant international bodies, to avoid duplication of work programs and to identify appropriate opportunities for cooperation to improve the ability of SMEs to engage in trade and investment opportunities resulting from this Agreement;

(h) collaborate with and encourage councils, committees, working groups and subsidiary bodies established under this Agreement to consider SME-related commitments, and activities into their work;

(i) review the implementation and operation of this Chapter and SME-related provisions within the Agreement and report findings and make recommendations to the Commission that can be included in future work and SME assistance programs as appropriate;

(j) facilitate the development of programs to assist SMEs to participate and integrate effectively into the regional and global supply chains;

(k) promote the participation of SMEs in digital trade in order to take advantage of the opportunities resulting from this Agreement and rapidly access new markets;

(l) facilitate the exchange of information on entrepreneurship education programs for youth and under-represented groups to promote the entrepreneurial environment in the territories of the Parties

(m) submit on an annual basis, unless the Parties decide otherwise, a report of its activities and make appropriate recommendations to the Commission; and

(n) consider any other matter pertaining to SMEs as the Committee may decide, including issues raised by SMEs, regarding their ability to benefit from this Agreement.

3. The Committee shall convene within one year after the Agreement enters into force and thereafter meet annually, unless the Parties decide otherwise.

4. The Committee may seek to collaborate with appropriate experts and international donor organizations in carrying out its programs and activities.

Article 25.5: SME Dialogue

1. The Committee on SME Issues shall convene a SME Dialogue. The SME Dialogue may include private sector, employees, non-government organizations, academic experts, SMEs owned by diverse and under-represented groups, and other stakeholders from each Party.

2. The SME Dialogue shall be convened annually, unless the Committee decides otherwise.

3. SME Dialogue participants may provide views to the Committee on matters within the scope of this Agreement and on the implementation and further modernization of this Agreement.

4. SME Dialogue participants may provide relevant technical, scientific, or other information to the Committee.

Article 25.6: Obligations in the Agreement that Benefit SMEs

The Parties recognize that in addition to the provisions in this Chapter, there are provisions in other Chapters of this Agreement that seek to enhance cooperation among the Parties on SME issues or that otherwise may be of particular benefit to SMEs. These include:

(a) Article 3.7 (Agriculture – Committee on Agricultural Trade);

(b) Article 13.17 (Ensuring Integrity in Procurement Practices); Article 13.20 (Facilitation of Participation by SMEs), and Article 13.21 (Committee on Government Procurement;

(c) Article 19.7 (Digital Trade – Interactive Computer Services); Article 19.18 (Digital Trade – Open Government Data);

(d) Article 20.B.3 (Intellectual Property – Committee);

(e) Article 23.11 (Labor – Cooperation);

(f) Article 24.17 (Environment – Fisheries);

(g) Article 26.1 (Competitiveness – North American Competitiveness Committee);

(h) Article 27.5 (Anti-Corruption – Participation of Private Sector and Society); and

(i) Article 28.4 (Good Regulatory Practices – Internal Consultation, Coordination, and Review), Article 28.11 (Good Regulatory Practices – Regulatory Impact Assessment), and Article 28.13 (Good Regulatory Practices – Retrospective Review);

Article 25.7: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for any matter arising under this Chapter.

CHAPTER 26

COMPETITIVENESS

Article 26.1: North American Competitiveness Committee

1. Recognizing their unique economic and commercial ties, close proximity, and extensive trade flows through their borders, the Parties affirm their shared interest in strengthening regional economic growth, prosperity, and competitiveness.

2. With a view to promoting further economic integration among the Parties and enhancing the competitiveness of North American exports, the Parties hereby establish a Committee on Competitiveness (Committee), composed of government representatives of each Party.

3. Each Party shall designate a contact point for the Committee; notify the other Parties of the contact point; and promptly notify the other Parties of any subsequent changes. Recognizing the need for a comprehensive and coordinated approach to enhance North American competitiveness, the contact point shall coordinate with relevant government departments and agencies.

4. The Committee will discuss and develop cooperative activities in support of a strong economic environment that incentivizes production in North America, facilitates regional trade and investment, enhances a predictable and transparent regulatory environment, encourages the swift movement of goods and provision of services throughout the region, and responds to market developments and emerging technologies.

5. The Committee shall:

   (a) discuss effective approaches and develop information-sharing activities to support a competitive environment in North America that facilitates trade and investment between the Parties, and promotes economic integration and development within the free trade area;

   (b) explore ways to further assist traders of a Party to identify and take advantage of trade opportunities under the Agreement;

   (c) provide advice and recommendations, as appropriate, to the Commission on ways to further enhance the competitiveness of the North American economy, including recommendations aimed at enhancing the participation of SMEs, and enterprises owned by under-represented groups including women, indigenous peoples, youth and minorities;

(d) identify priority projects and policies to develop a modern physical and digital trade- and investment-related infrastructure, and improve the movement of goods and provision of services within the free trade area;

(e) discuss collective action to combat market-distorting practices by non-Parties that are affecting the region;

(f) promote cooperative activities for trade and investment between the Parties with respect to innovation and technology, including best practices in their application; and

(g) engage in other activities as the Parties may decide.

6. The Committee shall meet within one year of the date of entry into force of this Agreement, and annually thereafter, unless the Parties decide otherwise.

7. The Committee shall develop a work plan to carry out its functions under paragraph 3. The Committee shall submit a report to the Commission with the results that have been achieved under the work plan together with any advice and recommendations, if appropriate, on ways to further enhance the competitiveness of the North American economy. The Committee shall publish the work plan and report. The Parties shall undertake the above activities on an annual basis, unless the Parties decide otherwise.

8. In carrying out its functions, the Committee may work with other committees, working groups, and any other subsidiary body established under this Agreement. The Committee may also seek advice from, and consider the work of, appropriate experts. The Committee shall ensure that it does not duplicate the activities of these other bodies.

Article 26.2: Engagement with Interested Persons

Each Party shall establish or maintain an appropriate mechanism to provide regular and timely opportunities for interested persons to provide input on matters relevant to enhancing competitiveness.

Article 26.3: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

CHAPTER 27

ANTICORRUPTION

Article 27.1: Definitions

For the purposes of this Chapter:

act or refrain from acting in relation to the performance of official duties includes any use of the public official's position, whether or not within the official's authorized competence;

foreign public official means any person holding a legislative, executive, administrative or judicial office of a foreign country, at any level of government, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; and any person exercising a public function for a foreign country, at any level of government, including for a public agency or public enterprise;

IACAC means the existing *Inter-American Convention Against Corruption*, done at Caracas, Venezuela, on March 29, 1996;

OECD Convention means the existing *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, done at Paris, France, on December 17, 1997;

official of a public international organization means an international civil servant or any person who is authorized by a public international organization to act on its behalf;

public enterprise means any enterprise, regardless of its legal form, over which a government, or governments, may, directly or indirectly, exercise a dominant influence;[1] and

public official means:

(a) any person holding a legislative, executive, administrative or judicial office of a Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority;

(b) any other person who performs a public function for a Party, including for a public agency or public enterprise, or provides a public service, as defined under the Party's law and as applied in the pertinent area of that Party's law; or

(c) any other person defined as a public official under a Party's law.

[1] Dominant influence for purposes of this definition shall be deemed to exist, *inter alia*, if the government or governments hold the majority of the enterprise's subscribed capital, control the majority of votes attaching to shares issued by the enterprise, or can appoint a majority of the members of the enterprise's administrative or managerial body or supervisory board.

UNCAC means the existing *United Nations Convention against Corruption*, done at New York, United States, on October 31, 2003.

Article 27.2: Scope

1. The Parties affirm their resolve to prevent and combat bribery and corruption in international trade and investment. Recognizing the need to build integrity within both the public and private sectors and that each sector has complementary responsibilities in this regard, the Parties affirm their adherence to the United Nations Convention against Corruption, done at New York on October 31, 2003; the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, with its Annex, done at Paris on 17 December 1997; and the Inter-American Convention against Corruption, done at Caracas on March 29, 1996.

2. The Parties reiterate their support for the principles contained in documents developed by APEC and G-20 anti-corruption fora aimed at preventing and combatting corruption and endorsed by leaders or relevant ministers, including the G20 High Level Principles on Organizing against Corruption, G20 High Level Principles on Corruption and Growth, G20 Guiding Principles on Enforcement of the Foreign Bribery Offence (2013), G20 Guiding Principles to Combat Solicitation; G20 High Level Principles on the Liability of Legal Persons for Corruption, APEC Conduct Principles for Public Officials, APEC Principles on the Prevention of Bribery and Enforcement of Anti-Bribery Laws, and encourage awareness among their private sectors of available anticorruption compliance guidance including the APEC Code of Conduct for Business: Business Integrity and Transparency Principles for the Private Sector, APEC General Elements of Effective Voluntary Corporate Compliance Programs, and G20 High Level Principles on Private Sector Transparency and Integrity.

3. The scope of this Chapter is limited to measures to prevent and combat bribery and corruption with respect to any matter covered by this Agreement.[2]

4. The Parties recognize that the description of offences adopted or maintained in accordance with this Chapter, and of the applicable legal defenses or legal principles controlling the lawfulness of conduct, is reserved to each Party's law, and that those offences shall be prosecuted and punished in accordance with each Party's law.

Article 27.3: Measures to Combat Corruption

1. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as criminal offenses under its law, in matters that affect international trade or investment, when committed intentionally, by any person subject to its jurisdiction:

[2] For the United States, this Chapter shall not apply to conduct outside the jurisdiction of federal criminal law and, to the extent that an obligation involves preventive measures, shall apply only to those measures covered by federal law governing federal, state and local officials.

(a) the promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of his or her official duties;

(b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of his or her official duties;

(c) the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and

(d) the aiding or abetting, or conspiracy in the commission of any of the offences described in subparagraphs (a) through (c).

2. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as a criminal offense under its law, in matters that affect international trade or investment, when committed intentionally, by any person subject to its jurisdiction, the embezzlement, misappropriation or another diversion[3] by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

3. Each Party shall make the commission of an offense described in paragraph 1, 2, or 6 liable to sanctions that take into account the gravity of that offense.

4. Each Party shall adopt or maintain measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for offenses described in paragraph 1 or 6.

5. Each Party shall disallow the tax deductibility of bribes and, where appropriate, other expenses considered illegal by the Party incurred in furtherance of such conduct.

6. In order to prevent corruption, each Party shall adopt or maintain measures as may be necessary in accordance with its laws and regulations, regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences described in paragraph 1:

[3] For Canada, "diversion" means embezzlement and misappropriation that constitute the criminal offences of theft and fraud under Canadian law.

(a) the establishment of off-the-books accounts;

(b) the making of off-the-books or inadequately identified transactions;

(c) the recording of non-existent expenditure;

(d) the entry of liabilities with incorrect identification of their objects;

(e) the use of false documents; and

(f) the intentional destruction of bookkeeping documents earlier than foreseen by the law.[4]

7. Each Party shall adopt or maintain measures considered appropriate by the Party to protect, against any unjustified treatment, any person who, in good faith and on reasonable grounds, reports to the competent authorities any facts concerning offenses described in paragraph 1, 2, or 6.[5]

8. The Parties recognize the harmful effects of facilitation payments. Each Party shall, in accordance with its domestic laws and regulations:

(a) encourage enterprises to prohibit or discourage the use of facilitation payments; and

(b) take steps to raise awareness among its public officials of its domestic bribery laws, with a view to stopping the solicitation and the acceptance of facilitation payments.[6]

Article 27.4: Promoting Integrity among Public Officials[7]

1. To fight corruption in matters that affect trade and investment, each Party should promote, among other things, integrity, honesty and responsibility among its public officials. To this end, each Party shall, in accordance with the fundamental principles of its legal system, adopt or maintain:

[4] For the United States, this commitment applies only to issuers that have a class of securities registered pursuant to 15 U.S.C. 78l or that are otherwise required to file reports pursuant to 15 U.S.C. 78o (d).

[5] For Mexico and the United States, this paragraph applies only at the central level of government. For Canada, this paragraph applies to measures within the scope of the Public Servants Disclosure Protection Act.

[6] For Canada, this subparagraph applies to measures within the scope of the Public Servants Disclosure Protection Act.

[7] For Mexico and the United States, this article applies only at the central level of government. For Canada, this article applies to measures within the scope of the Public Servants Disclosure Protection Act.

(a) measures to provide adequate procedures for the selection and training of individuals for public positions considered by the Party to be especially vulnerable to corruption;

(b) measures to promote transparency in the behavior of public officials in the exercise of public functions;

(c) appropriate policies and procedures to identify and manage actual or potential conflicts of interest of public officials;

(d) measures that require senior public officials, and other public officials as considered appropriate by the Party, to make declarations to appropriate authorities regarding, among other things, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials; and

(e) measures to facilitate reporting by public officials of any facts concerning offenses described in paragraph 1, 2, or 6 to appropriate authorities, if those acts come to their notice in the performance of their functions.

2. Each Party shall adopt or maintain codes or standards of conduct for the correct, honorable and proper performance of public functions, and measures providing for disciplinary or other measures, if warranted, against public officials who violate the codes or standards established in accordance with this paragraph.

3. Each Party, to the extent consistent with the fundamental principles of its legal system, shall establish procedures through which a public official accused of an offense described in Article 27.3.1 (Measures to Combat Corruption) may, where considered appropriate by that Party, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

4. Each Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, adopt or maintain measures to strengthen integrity, and to prevent opportunities for corruption, among members of the judiciary in matters that affect international trade or investment. These measures may include rules with respect to the conduct of members of the judiciary.

Article 27.5: Participation of Private Sector and Society

1. Each Party shall take appropriate measures, within its means and in accordance with fundamental principles of its legal system, to promote the active participation of individuals and groups outside the public sector, such as enterprises, civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption in matters affecting international trade or investment, and to raise public awareness regarding the existence, causes and gravity of, and the threat posed by, corruption. To this end, a Party may, for example:

(a) undertake public information activities and public education programs that contribute to non-tolerance of corruption;

(b) adopt or maintain measures to encourage professional associations and other non-governmental organizations, if appropriate, in their efforts to encourage and assist enterprises, in particular SMEs, in developing internal controls, ethics and compliance programs or measures for preventing and detecting bribery and corruption in international trade and investment;

(c) adopt or maintain measures to encourage company management to make statements in their annual reports or otherwise publicly disclose their internal controls, ethics and compliance programs or measures, including those that contribute to preventing and detecting bribery and corruption in international trade and investment; or

(d) adopt or maintain measures that respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption.

2. Each Party shall endeavor to encourage private enterprises, taking into account their structure and size, to:

(a) adopt or maintain sufficient internal auditing controls to assist in preventing and detecting offences described in Article 27.3 paragraphs 1 or 6; and

(b) ensure that their accounts and required financial statements are subject to appropriate auditing and certification procedures.

3. Each Party shall take appropriate measures to ensure that its relevant anti-corruption bodies are known to the public and shall provide access to those bodies, if appropriate, for the reporting, including anonymously, of any incident that may be considered to constitute an offense described in Article 27.3.1 (Measures to Combat Corruption).

4. The Parties recognize the benefits of internal compliance programs in enterprises to combat corruption. In this regard, each Party shall encourage enterprises, taking into account their size, legal structure, and the sectors in which they operate, to establish compliance programs for the purpose of preventing and detecting offenses described in paragraphs 1 or 6.

Article 27.6: Application and Enforcement of Anticorruption Laws

1. In accordance with the fundamental principles of its legal system, no Party shall fail to effectively enforce its laws or other measures adopted or maintained to comply with Article 27.3 (Measures to Combat Corruption) through a sustained or recurring course of action or inaction,

after the date of entry into force of this Agreement for that Party, as an encouragement for trade and investment.[8]

2. In accordance with the fundamental principles of its legal system, each Party retains the right for its law enforcement, prosecutorial, and judicial authorities to exercise their discretion with respect to the enforcement of its anticorruption laws. Each Party retains the right to take bona fide decisions with regard to the allocation of its resources.

3. The Parties affirm their commitments under applicable international agreements or arrangements to cooperate with each other, consistent with their respective legal and administrative systems, to enhance the effectiveness of law enforcement actions to combat the offences described in Article 27.3 (Measures to Combat Corruption).

4. No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for any matter arising under this Article.

Article 27.7: Relation to Other Agreements

Subject to Article 27.2.4 (Scope), nothing in this Agreement shall affect the rights and obligations of the Parties under UNCAC, the *United Nations Convention against Transnational Organized Crime*, done at New York on November 15, 2000, the OECD Convention, or the *Inter-American Convention Against Corruption*, done at Caracas on March 29, 1996.

Article 27.8: Dispute Settlement

1. Chapter 31 (Dispute Settlement), as modified by this Article, applies to disputes relating to a matter arising under this Chapter.

2. A Party may only have recourse to the procedures set out in this Article and Chapter 31 (Dispute Settlement) if it considers that a measure of another Party is inconsistent with an obligation under this Chapter, or that another Party has otherwise failed to carry out an obligation under this Chapter, in a manner affecting trade or investment between Parties.

3. No Party shall have recourse to dispute settlement under this Article or Chapter 31 (Dispute Settlement) for a matter arising under Article 27.6 (Application and Enforcement of Anti-Corruption Laws) or Article 27.9 (Cooperation)**.**

4. Further to Article 31.4 (Consultations), each Consulting Party shall ensure that consultations include personnel of the consulting Party's government authorities with responsibility for the anti-corruption issue under dispute.

[8] For greater certainty, the Parties recognize that individual cases or specific discretionary decisions related to the enforcement of anti-corruption laws are subject to each Party's own domestic laws and legal procedures.

5. Further to Article 31.5, any discussion held by the Free Trade Commission shall, to the extent practicable, include participation by a Minister responsible for the anti-corruption issue under dispute, or their designee.

6. Further to Article 31.8 (Qualification of Panelists), the panel shall have expertise in the area of anti-corruption under dispute.

Article 27.9: Cooperation

1. The Parties recognize the importance of cooperation, coordination and exchange of information between their respective anti-corruption law enforcement agencies in order to foster effective measures to prevent, detect and deter bribery and corruption.

2. The Parties shall endeavor to strengthen cooperation and coordination among their respective anti-corruption law enforcement agencies.

3. Recognizing that the Parties can benefit by sharing their diverse experience and best practices in developing, implementing, and enforcing their anti-corruption laws and policies, the Parties´ anti-corruption law enforcement agencies shall consider undertaking technical cooperation activities, including training programs, as agreed by the Parties.

4. The Parties acknowledge the importance of cooperation and coordination internationally, including the OECD Working Group on Bribery in International Business Transactions, the UNCAC Conference of the State Parties and the Mechanism for Follow-Up on the Implementation of the IACAC, as well as their support to the APEC Anti-Corruption and Transparency Working Group and the G20 Anti-Corruption Working Group.

CHAPTER 28

GOOD REGULATORY PRACTICES

Article 28.1: Definitions

For the purposes of this Chapter:

regulation means a measure of general application adopted, issued, or maintained by a regulatory authority with which compliance is mandatory, except as set forth in Annex 28-A;

regulatory authority means an administrative authority or agency at the Party's central level of government that develops, proposes or adopts a regulation, and does not include legislatures or courts; and

regulatory cooperation means an effort between Parties to prevent, reduce, or eliminate unnecessary regulatory differences between jurisdictions to facilitate trade and promote economic growth, while maintaining or enhancing standards of public health and safety and environmental protection.

Article 28.2: Subject Matter and General Provisions

1. The Parties recognize that implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its public policy objectives (including health, safety, and environmental goals) at the level of protection it considers appropriate. The application of good regulatory practices can support the development of compatible regulatory approaches among the Parties, and reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements. Good regulatory practices are also fundamental to effective regulatory cooperation.

2. Accordingly, this Chapter sets forth specific obligations with respect to good regulatory practices, including practices relating to the planning, design, issuance, implementation, and review of the Parties' respective regulations.

3. Nothing in this Chapter prevents a Party from:

   (a) pursuing its public policy objectives (including health, safety, and environmental goals) at the level it considers to be appropriate;

   (b) determining the appropriate method of implementing its obligations in this Chapter within the framework of its own legal system and institutions; or

(c) adopting good regulatory practices that supplement those that are set out in this Chapter.

Article 28.3: Central Regulatory Coordinating Body

Recognizing that institutional arrangements are particular to each system of governance, the Parties note the important role of their respective central regulatory coordinating bodies in promoting good regulatory practices among their regulatory authorities; performing key advisory, coordination and review functions to improve the quality of regulations; and developing improvements to their regulatory system. The Parties intend to maintain their respective central regulatory coordinating bodies, within their respective mandates and consistent with their law.

Article 28.4: Internal Consultation, Coordination, and Review

1. The Parties recognize that internal processes or mechanisms providing for consultation, coordination, and review among domestic authorities in the development of regulations can increase regulatory compatibility among the Parties and facilitate trade. Accordingly, each Party shall adopt or maintain those processes or mechanisms to pursue, among others, the following objectives:

(a) promoting government-wide adherence to good regulatory practices, including those set forth in this Chapter;

(b) identifying and developing improvements to government-wide regulatory processes;

(c) identifying potential overlap and duplication between proposed and existing regulations, and preventing the creation of inconsistent requirements across authorities;

(d) supporting compliance with international trade and investment obligations, including, as appropriate, the consideration of international standards, guides, and recommendations;

(e) promoting consideration of regulatory impacts, including burdens on small enterprises[1] of information collection and implementation and

(f) encouraging regulatory approaches that avoid unnecessary restrictions on competition in the marketplace.

2. Each Party shall make publicly available a description of the processes or mechanisms referred to in paragraph 1.

[1] For greater certainty and for purposes of this Chapter, for Mexico "small enterprises" also include medium enterprises.

Article 28.5: Information Quality

1. Each Party recognizes the need for regulations to be based upon information that is reliable and of high quality. To that end, each Party should adopt or maintain publicly available guidance or mechanisms that encourage its regulatory authorities when developing a regulation to:

(a) seek the best, reasonably obtainable information, including scientific, technical, economic, or other information relevant to the regulation it is developing;

(b) rely on information that is appropriate for the context in which it is used; and

(c) identify sources of information in a transparent manner, as well as any significant assumptions and limitations.

2. If a regulatory authority systematically collects information from members of the public through identical questions in a survey for use in developing a regulation, each Party shall provide that the authority should:

(a) use sound statistical methodologies before drawing generalized conclusions concerning the impact of the regulation in the population affected by the regulation; and

(b) avoid unnecessary duplication and otherwise minimize unnecessary burdens on those being surveyed.

Article 28.6: Early Planning

Each Party shall publish annually a list of regulations that it reasonably expects within the following 12 months to adopt or propose to adopt. Each regulation identified in the list should be accompanied by:

(a) a concise description of the planned regulation;

(b) a point of contact for a knowledgeable person in the regulatory authority responsible for the regulation; and

(c) an indication, if known, of sectors to be affected and whether there is any expected significant effect on international trade or investment.

Entries in the list should also include, to the extent available, time tables for subsequent actions, including those providing opportunities for public comment under Article 28.9.

Article 28.7: Dedicated Website

1. Each Party shall maintain a single, freely accessible internet website that, to the extent practicable, contains all information that it is required to publish pursuant to Article 28.9.

2. A Party may comply with paragraph 1 by making publicly available information on, and providing for the submission of comments through, more than one website, provided the information can be accessed, and submissions can be made, from a single web portal that links to other websites.

Article 28.8: Use of Plain Language

Each Party should provide that proposed and final regulations are written using plain language to ensure that those regulations are clear, concise, and easy for the public to understand, recognizing that some regulations address technical issues and that relevant expertise may be required to understand and apply them.

Article 28.9: Transparent Development of Regulations

1. During the period described in paragraph 2, when a regulatory authority is developing a regulation, the Party shall, under normal circumstances,[2] publish:

(a) the text of that regulation along with its regulatory impact assessment, if any;

(b) an explanation of the regulation, including its objectives, how the regulation achieves those objectives, the rationale for the material features of the regulation, and any major alternatives being considered;

(c) an explanation of what data, other information, and analyses it relied upon to support the regulation; and

(d) the name and contact information of an individual official who may be contacted to address questions regarding the regulation.

At the same time, the Party shall also make publicly available data, other information, and scientific and technical analyses it relied upon in support of the regulation, including any risk assessment.

[2] For paragraphs 1 and 4, "normal circumstances" do not include, for example, situations where publication in accordance with those paragraphs would render the regulation ineffective in addressing the particular harm to the public interest which the regulation aims to address; where urgent problems (e.g., of safety, health, or environmental protection) arise or threaten to arise for a Party; or where the regulation has no substantive impact upon members of the public, including persons of another Party.

2. With respect to the items required to be published under paragraph 1, each Party shall publish them before the regulatory authority finalizes its work on the regulation[3] and at a time that will enable the regulatory authority to take into account the comments received and, as appropriate, make revisions to the text. The Parties are encouraged to publish government-generated items identified in this Article in a format that can be read and digitally processed through word searches and data mining by a computer or other technology.

3. After the items identified in paragraph 1 have been published, the Party shall ensure that any person, regardless of domicile, has an opportunity, on terms no less favorable than those afforded to a person of the Party, to submit written comments on the items identified in paragraph 1 for consideration by the relevant regulatory authority of the Party. Each Party shall allow interested persons to submit any comments and other inputs electronically and may also allow written submissions by mail to a published address or through another technology.

4. If a Party expects a draft regulation to have a significant impact on trade, the Party should normally provide a time period to submit written comments and other input on the items published in accordance with paragraph 1 that is:

(a) not less than 60 calendar days from the date the items identified in paragraph 1 are published; or

(b) a longer time period as is appropriate due to the nature and complexity of the regulation, in order to provide interested persons adequate opportunity to understand how the regulation may affect their interests and to develop informative responses.

With respect to other draft regulations, a Party shall endeavor, under normal circumstances, to provide a time period to submit written comments and other input on the information published in accordance with paragraph 1 that is not less than four weeks from the date the items identified in paragraph 1 are published.

5. With respect to regulations referred to in paragraph 4, each Party shall consider reasonable requests to extend the comment period.

6. Each Party shall endeavor to promptly make publicly available any written comments it receives, except to the extent necessary to protect confidential information or withhold personal identifying information or inappropriate content. If it is impracticable to post all such comments on the website provided for in Article 28.7 the regulatory authority of a Party shall endeavor to make those comments available via its own website.

7. Before finalizing its work on a regulation, a regulatory authority of a Party shall evaluate any information provided in written comments received during the comment period.

[3] For Canada a regulatory authority "finalizes its work" on a regulation when a final regulation is published in Canada Gazette, Part II. For Mexico a regulatory authority "finalizes its work" on a regulation when the final Act of General Application is issued and published in the Official Gazette. For the United States, a regulatory authority "finalizes its work" on a regulation when a final rule is signed and published in the Federal Register.

8. When a regulatory authority of a Party finalizes its work on a regulation, the Party shall promptly publish the text of the regulation, any final impact assessment, and other items as set out in Article 28.12.

Article 28.10: Expert Advisory Groups

1. The Parties recognize that their respective regulatory authorities may seek expert advice and recommendations with respect to the preparation or implementation of regulations from groups or bodies that include non-governmental persons. The Parties further recognize that obtaining such advice and recommendations should be a complement to, rather than a substitute for, the procedures seeking public comment pursuant to Article 28.9.4.

2. For purposes of this Article, an expert group or body means a group or body:

(a) established by a Party;

(b) whose membership includes persons who are not employees or contractors of the Party; and

(c) whose function includes providing advice or recommendations, including of a scientific or technical nature, to a regulatory authority of the Party with respect to the preparation or implementation of regulations.

This Article does not apply to a group or body that is established to enhance intergovernmental coordination, or to provide advice related to international affairs, including national security.[4]

3. Each Party shall encourage its regulatory authorities to ensure that the membership of any expert group or body includes a range and diversity of views and interests, as appropriate to the particular context.

4. Recognizing the importance of keeping the public informed with respect to the purpose, membership, and activities of expert groups and bodies, and that such groups or bodies can provide an important additional perspective or expertise affecting government operations, each Party shall encourage its regulatory authorities to provide public notice of:

(a) the name of any expert group or body it creates or uses, and the names of the members of the group or body and their affiliations;

(b) the mandate and functions of the expert group or body;

(c) information about upcoming meetings; and

(d) a summary of the outcome of these meetings.

[4] For greater clarity, this Article does not apply to Mexico's National Standardization Advisory Committees (Comité Consultivo Nacional de Normalización), established under article 62 of the Federal Law on Metrology and Standardization.

Each Party shall endeavor, as appropriate, to make publicly available any supporting documentation, and recognizes the importance of providing a means for interested persons to provide inputs to the expert groups.

Article 28.11: Regulatory Impact Assessment

1. The Parties recognize that regulatory impact assessment is a tool to assist regulatory authorities in assessing the need for and potential impacts of regulations they are preparing. Each Party should encourage the use of regulatory impact assessments in appropriate circumstances when developing proposed regulations that have anticipated costs or impacts exceeding certain thresholds established by the Party.

2. Each Party shall maintain procedures that promote the consideration of the following when conducting a regulatory impact assessment:

(a) the need for a proposed regulation, including a description of the nature and significance of the problem it is intended to address;

(b) feasible and appropriate regulatory and non-regulatory alternatives that would address the need identified in subparagraph (a), including the alternative of not regulating;

(c) benefits and costs of the selected and other feasible alternatives, including the relevant impacts (such as economic, social, environmental, public health, and safety effects) as well as risks and distributional effects over time, recognizing that some costs and benefits are difficult to quantify and monetize; and

(d) the grounds for concluding that the selected alternative is preferable.

3. Each Party should consider whether a proposed regulation may have significant adverse economic effects on a substantial number of small enterprises. If so, the Party should consider potential steps to minimize such adverse economic impact, while continuing to allow the Party to fulfill its objectives.

Article 28.12: Final Publication

1. When a regulatory authority of a Party finalizes its work on a regulation, the Party shall promptly publish, in a final regulatory impact assessment or other document:

(a) the date by which compliance is required;

(b) an explanation of how the regulation achieves the Party's objectives, the rationale for the essential features of the regulation (to the extent different than the explanation provided in Article 28.9), and the nature of and reasons for any

significant revisions made since making the regulation available for public comment;

(c) the regulatory authority's views on any substantive issues raised in timely submitted comments;

(d) major alternatives, if any, that the regulatory authority considered in developing the regulation and reasons supporting the alternative that it selected; and

(e) the relationship between the regulation and the key evidence, data, and other information the regulatory authority considered in finalizing its work on the regulation.

2. Each Party shall ensure that all regulations in effect are online and publicly available.

Article 28.13: Retrospective Review

1. Each Party shall adopt or maintain procedures or mechanisms to conduct retrospective reviews of its regulations in order to determine whether modification or repeal is appropriate. Retrospective reviews may be initiated, for example, pursuant to a Party's law, on a regulatory authority's own initiative, or in response to a suggestion submitted pursuant to Article 28.14.

2. When conducting retrospective reviews, each Party should consider, as appropriate:

(a) the effectiveness of the regulation in meeting its initial stated objectives, such as the actual social or economic impacts;

(b) any circumstances that have changed since the development of the regulation, including availability of new information;

(c) new opportunities to eliminate unnecessary regulatory burdens;

(d) ways to address unnecessary regulatory differences that may adversely affect trade among the Parties, including through the activities listed in Article 28.17.3; and

(e) any relevant views expressed by members of the public.

3. Each Party shall include among the procedures or mechanisms adopted pursuant to paragraph 1 provisions addressing impacts on small enterprises.

4. Each Party is encouraged to publish, to the extent available, any official plans and results of retrospective reviews.

Article 28.14: Suggestions for Improvement

Each Party shall provide the opportunity for any interested person to submit to any regulatory authority of the Party written suggestions for the issuance, modification, or repeal of a regulation. The basis for such suggestions may include, for example, that, in the view of the interested person, the regulation has become ineffective at protecting health, welfare, or safety, has become more burdensome than necessary to achieve its objective (including with respect to its impact on trade), fails to take into account changed circumstances (such as fundamental changes in technology, or relevant scientific and technical developments), or relies on incorrect or outdated information.

Article 28.15: Information About Regulatory Processes

1. Each Party shall publish online a description of the processes and mechanisms employed by its regulatory authorities to prepare, evaluate, or review regulations. The description shall identify the applicable guidelines, rules, or procedures, including those regarding opportunities for the public to provide input.

2. Each Party shall also publish online:

   (a) a description of the functions and organization of each of its regulatory authorities, including the appropriate offices through which persons can obtain information, make submissions or requests, or obtain decisions;

   (b) any procedural requirements or forms promulgated or utilized by any of its regulatory authorities;

   (c) the legal authority for regulatory authorities' verification, inspection, and compliance activities;

   (d) information concerning the judicial or administrative procedures available to challenge regulations; and

   (e) any fees charged by a regulatory authority to a person of a Party for services rendered in connection with the implementation of a regulation, including for licensing, inspections, audits, and other administrative actions required under the Party's law to import, export, sell, market, or use a good.

Article 28.16: Annual Report

Each Party shall prepare and make publicly available, on an annual basis, a report setting forth:

(a) to the extent feasible, an estimate regarding the annual costs and benefits of economically significant regulations, as established by the Party, issued in that period by its regulatory authorities, on an aggregate or individual basis; and

(b) any changes, or any proposals to make changes, to its regulatory system.

Article 28.17: Encouragement of Regulatory Compatibility and Cooperation

1. The Parties recognize the important contribution of dialogues between their respective regulatory authorities in promoting regulatory compatibility and regulatory cooperation where appropriate, and in order to facilitate trade and investment and to achieve regulatory objectives. Accordingly, each Party should encourage its regulatory authorities to engage in mutually beneficial regulatory cooperation activities with relevant counterparts of one or more of the other Parties in appropriate circumstances to achieve these objectives.

2. The Parties recognize the valuable work of cooperation fora, and intend to continue to work together to further regulatory compatibility on a mutually beneficial basis in such fora or under this Agreement. The Parties also recognize that effective regulatory cooperation requires the participation of regulatory authorities that possess the authority and technical expertise to develop, adopt, and implement regulations. Each Party should encourage input from members of the public to identify promising avenues for cooperation activities.

3. The Parties recognize that a broad range of mechanisms including those set forth in the WTO Agreement, exists to help minimize unnecessary regulatory differences and facilitate trade or investment, while contributing to each Party's ability to meet its public policy objectives. These activities may include, as appropriate to the particular circumstances:

(a) early stage formal or informal exchange of technical or scientific information or data, including coordinating research agendas, to reduce duplicative research;

(b) exploring possible common approaches to the evaluation and mitigation of risks or hazards, including those potentially posed by the use of emerging technologies;

(c) wherever appropriate, regulating by specifying performance requirements rather than design characteristics, to promote innovation and facilitate trade;

(d) seeking to collaborate in relevant international fora;

(e) exchanging information, such as of technical or practical nature, on regulations that each Party is developing to maximize the opportunity for common approaches;

(f) co-funding of research in support of regulations and implementation tools of joint interest;

(g) facilitating the greater use of relevant international standards, guides, and recommendations as the basis for regulations, testing, and approval procedures;

(h) when developing or implementing regulations, considering relevant scientific or technical guidance documents developed through international collaborative initiatives;

(i) considering common approaches to the display of product or consumer information;

(j) considering the development of compatible platforms or formats for industry submission of product information for regulatory review;

(k) coordinating in the implementation of regulations and sharing compliance information, including, as appropriate by entering into confidentiality agreements; and

(l) periodically exchanging information, as appropriate, concerning any planned or ongoing post-implementation review or evaluation of regulations in effect affecting trade or investment.

Article 28.18: Committee on Good Regulatory Practices

1. The Parties hereby establish a Committee on Good Regulatory Practices (the Committee) composed of government representatives from each Party, including representatives from their central regulatory coordinating bodies as well as from relevant regulatory agencies.

2. Through the Committee, the Parties shall enhance their communication and collaboration in matters relating to this Chapter, including encouragement of regulatory compatibility and regulatory cooperation, with a view to facilitating trade between the Parties. The Committee's functions include:

(a) monitoring the implementation and operation of this Chapter, including through updates on each Party's regulatory practices and processes;

(b) exchanging information on effective methods for implementing this Chapter, including with respect to approaches to regulatory cooperation, and relevant work in international fora;

(c) consulting on matters and positions for upcoming meetings in international fora that are related to the work of this Chapter, including opportunities for workshops, seminars and other relevant activities to support strengthening of good regulatory practices and to support improvements in approaches to regulatory cooperation.

(d) considering suggestions from stakeholders regarding opportunities to strengthen the application of good regulatory practices;

(e) considering developments in good regulatory practices and approaches to regulatory cooperation with a view to identifying future work for the Committee or making recommendations as appropriate to the Commission for improving the operation and implementation of this Chapter; and

(f) taking any other steps that the Parties consider will assist them in implementing this Chapter.

Each Party shall provide opportunities for persons of that Party to provide views on the implementation of this Chapter.

3. In carrying out its work, the Committee shall take into account the activities of other committees, working groups and other subsidiary bodies established under this Agreement in order to avoid duplication of activities.

4. Unless the Parties decide otherwise, the Committee shall meet at least once a year. The Parties shall endeavor to schedule Committee meetings to permit participation of government representatives engaged in the work of other relevant chapters in this Agreement. The Committee may also invite interested persons to contribute to its work.

5. The Committee shall provide an annual report on its activities.

Article 28.19: Contact Points

Each Party shall designate and notify a contact point for matters arising under this Chapter, in accordance with Article 30.5 (Agreement Coordinator and Contact Points). A Party shall promptly notify the other Parties of any material changes to its contact point.

Article 28.20: Application of Dispute Settlement

1. Recognizing that a mutually acceptable solution can often be found outside recourse to dispute settlement, a Party shall exercise its judgement as to whether recourse to dispute settlement under Chapter 31 (Dispute Settlement) would be fruitful.

2. Chapter 31 (Dispute Settlement) shall apply with respect to a responding Party as of one year after the date of entry into force of this Agreement for that Party.

3. No Party shall have recourse for dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter except to address a sustained and recurring course of action or inaction that is inconsistent with a provision of this Chapter.

ANNEX 28-A

ADDITIONAL PROVISIONS CONCERNING THE SCOPE OF "REGULATIONS" AND "REGULATORY AUTHORITIES"

1. The following measures are not regulations for the purposes of this Chapter:

   (a) **for all Parties:** General statements of policy or guidance that do not prescribe legally enforceable requirements;

   (b) **for Canada:** a measure concerning (i) a military, foreign affairs, or national security function of the Government of Canada, (ii) public sector management, personnel, pensions, public property, loans, grants, benefits, or contracts, (iii) departmental organization, procedure, or practice, (iv) taxation, financial services or anti-money laundering measures, or (v) federal/provincial/territorial relations and agreements and relations with Aboriginal Peoples, (vi) a measure that does not constitute a regulation under the *Statutory Instruments Act*;

   (c) **for Mexico:** a measure concerning (i) taxation, specifically those related with contributions and their accessories, (ii) public servants responsibilities, (iii) agrarian and labor justice, (iv) financial services or anti-money laundering measures, (v) public prosecutor's office executing its constitutional functions, and (vi) navy and defense; and

   (d) **for the United States:** a measure concerning (i) a military or foreign affairs function of the United States, (ii) agency management, personnel, public property, loans, grants, benefits, or contracts, (iii) agency organization, procedure, or practice, or (iv) financial services or anti-money laundering measures.

2. The following entities are not a regulatory authorities for the purposes of this Chapter:

   (a) **for Canada:** the Governor in Council; and

   (b) **for the United States:** the President.

CHAPTER 29

PUBLICATION AND ADMINISTRATION

Section A

Publication and Administration

Article 29.1: Definitions

For the purposes of this Chapter:

administrative ruling of general application means an administrative ruling or interpretation[1] that applies to all persons and fact situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include:

(a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of another Party in a specific case; or

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

Article 29.2: 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 or otherwise made available in a manner that enables interested persons and the other Parties to become acquainted with them. To the extent possible, each Party shall make these measures available online.

2. Each Party shall, to the extent possible:

(a) publish in advance any measures referred to in paragraph 1 that it proposes to adopt; and

(b) provide interested persons and the other Parties a reasonable opportunity to comment on proposed measures referred to in subparagraph (a).

[1] For greater certainty, an interpretation or ruling that is not binding is not an administrative ruling of general application.

3. Each Party shall ensure that its laws and regulations of general application at the central level of government are published on a freely accessible website that is capable of performing searches for these laws and regulations, respectively, by citation or through a word search, and shall ensure that this website is kept updated. Annex 29-A specifies each Party's websites.

Article 29.3: Administrative Proceedings

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 ensure in its administrative proceedings[2] applying measures referred to in Article 29.2.1 (Publication) to a particular person, good or service of another Party in specific cases that:

(a) whenever possible, a person of another 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) a person of another 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 29.4: Review and Appeal

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

2. Each Party shall ensure that, 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.

[2] For greater certainty, administrative proceedings subject to this Article do not include advisory opinions or decisions that are not legally binding.

3. Each Party shall ensure, subject to appeal or further review as provided for in its 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.

Section B

Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices[3]

Article 29.10: Definitions

For the purposes of this Section:

national health care authority means, with respect to a Party listed in Annex 29-B, the relevant entity or entities specified therein, and with respect to any other Party, an entity that is part of or has been established by a Party's central level of government to operate a national health care program; and

national health care program means a health care program in which a national health care authority makes the determinations or recommendations regarding the listing of pharmaceutical products or medical devices for reimbursement, or regarding the setting of the amount of such reimbursement.

Article 29.11: Principles

The Parties are committed to facilitating high-quality health care and continued improvements in public health for their nationals, including patients and the public. In pursuing these objectives, the Parties acknowledge the importance of the following principles:

(a) the importance of protecting and promoting public health and the important role played by pharmaceutical products and medical devices[4] in delivering high-quality health care;

(b) the importance of research and development, including innovation associated with research and development, related to pharmaceutical products and medical devices;

[3] For greater certainty, the Parties confirm that the purpose of this Section is to ensure transparency and procedural fairness of relevant aspects of the Parties' applicable systems relating to pharmaceutical products and medical devices, without prejudice to the obligations in this Chapter), and not to modify a Party's system of health care in any other respects or a Party's rights to determine health expenditure priorities.

[4] For the purposes of this Section, each Party shall define the scope of the products subject to its laws and regulations for pharmaceutical products and medical devices in its territory, and make that information publicly available.

(c) the need to promote timely and affordable access to pharmaceutical products and medical devices, through transparent, impartial, expeditious and accountable procedures, without prejudice to a Party's right to apply appropriate standards of quality, safety and efficacy; and

(d) the need to recognize the value of pharmaceutical products and medical devices through the operation of competitive markets or by adopting or maintaining procedures that appropriately value the objectively demonstrated therapeutic significance of a pharmaceutical product or medical device.

Article 29.12: Procedural Fairness

To the extent that a Party's national health care authorities operate or maintain procedures for listing new pharmaceutical products or medical devices for reimbursement purposes, or setting the amount of such reimbursement, under national health care programs operated by the national health care authorities,[5] [6] the Party shall:

(a) ensure that consideration of all formal and duly formulated proposals for such listing of pharmaceutical products or medical devices for reimbursement is completed within a specified period of time;[7]

(b) disclose procedural rules, methodologies, principles and guidelines used to assess such proposals;

(c) afford applicants[8] and, if appropriate, the public, timely opportunities to provide comments at relevant points in the decision-making process;

(d) provide applicants with written information sufficient to comprehend the basis for recommendations or determinations regarding the listing of new pharmaceutical products or medical devices for reimbursement by national health care authorities;

(e) make available:

[5] This Section shall not apply to government procurement of pharmaceutical products and medical devices. If a public entity providing health care services engages in government procurement for pharmaceutical products or medical devices, formulary development and management with respect to that activity by the national health care authority shall be considered an aspect of such government procurement.

[6] This Section shall not apply to procedures undertaken for the purpose of post-market subsidization of pharmaceutical products or medical devices procured by public health care entities if the pharmaceutical products or medical devices eligible for consideration are based on the products or devices that are procured by public health care entities.

[7] In those cases in which a Party's national health care authority is unable to complete consideration of a proposal within a specified period of time, the Party shall disclose the reason for the delay to the applicant and shall provide for another specified period of time for completing consideration of the proposal.

[8] For greater certainty, each Party may define the persons or entities that qualify as an "applicant" under its laws, regulations, and procedures.

(i) an independent review process; or

(ii) an internal review process, such as by the same expert or group of experts that made the recommendation or determination, provided that the review process includes, at a minimum, a substantive reconsideration of the application,[9] and

that may be invoked at the request of an applicant directly affected by a recommendation or determination by a Party's national health care authorities not to list a pharmaceutical product or a medical device for reimbursement;[10] and

(f) provide written information to the public regarding recommendations or determinations, while protecting information considered to be confidential under the Party's law.

Article 29.13: Dissemination of Information to Health Professionals and Consumers

As is permitted to be disseminated under the Party's laws, regulations, and procedures, each Party shall permit a pharmaceutical product manufacturer to disseminate to health professionals and consumers through the manufacturer's website registered in the territory of the Party, and on other websites registered in the territory of the Party linked to that site, truthful and not misleading information regarding its pharmaceutical products that are approved for marketing in the Party's territory. A Party may require that the information includes a balance of risks and benefits and encompasses all indications for which the Party's competent regulatory authorities have approved the marketing of the pharmaceutical product.

Article 29.14: Consultation

1. To facilitate dialogue and mutual understanding of issues relating to this Section, each Party shall give sympathetic consideration to and shall afford adequate opportunity for consultation regarding a written request by another Party to consult on any matter related to this Section. The consultations shall take place within three months of the delivery of the request, except in exceptional circumstances or unless the consulting Parties agree otherwise.[11]

[9] For greater certainty, the review process described in subparagraph (e)(i) may include a review process as described in subparagraph (e)(ii) other than one by the same expert or group of experts.

[10] For greater certainty, subparagraph (e) does not require a Party to provide more than a single review for a request regarding a specific proposal or to review, in conjunction with the request, other proposals or the assessment related to those other proposals. Further, a Party may elect to provide the review specified in subparagraph (e) either with respect to a draft final recommendation or determination, or with respect to a final recommendation or determination.

[11] Nothing in this paragraph shall be construed as requiring a Party to review or change decisions regarding specific applications.

2. Consultations shall involve officials responsible for the oversight of the national health care authority or officials from each Party responsible for national health care programs and other appropriate government officials.

Article 29.15: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for any matter arising under this Section.

ANNEX 29-A

PUBLICATION OF LAWS AND REGULATIONS OF GENERAL APPLICATION

For the purpose of Article 29.2.3, laws and regulations of general application of each Party are published in the following websites:

(a) For Canada:

http://laws.justice.gc.ca/eng/

See also:

http://www.gazette.gc.ca/accueil-home-eng.html

(b) For Mexico:

www.diputados.gob.mx/LeyesBiblio/index.htm

See also:

www.dof.gob.mx

(c) For the United States:

https://www.govinfo.gov/help/whats-available

See also:

http://uscode.house.gov/ (laws)

https://www.ecfr.gov/cgi-bin/text-idx?tpl=%2Findex.tpl (regulations)

ANNEX 29-B

PARTY-SPECIFIC DEFINITIONS

Further to the definition of national healthcare authorities in Article 29.10, **national health care authorities** means:

(a) For Canada, the Federal Drug Benefits Committee. For greater certainty, Canada does not currently operate a national health care program within the scope of this Annex.

(b) For the United States, the Centers for Medicare & Medicaid Services (CMS), with respect to CMS's role in making Medicare national coverage determinations.

CHAPTER 30

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Article 30.1: Establishment of the Free Trade Commission

The Parties hereby establish a Free Trade Commission, composed of government representatives of each Party at the level of Ministers or their designees.

Article 30.2: Functions of the Commission

1. The Commission shall:

   (a) consider matters relating to the implementation or operation of this Agreement;

   (b) consider proposals to amend or modify this Agreement;

   (c) supervise the work of committees, working groups, and other subsidiary bodies established under this Agreement;

   (d) consider ways to further enhance trade and investment between the Parties;

   (e) adopt and update the Rules of Procedure and Code of conduct ; and

   (f) review the roster established under Article 31.8 (Roster and Qualifications of Panelists) every three years and, when appropriate, constitute a new roster.

2. The Commission may:

   (a) establish, refer matters to, or consider matters raised by, an ad hoc or standing committee, working group, or other subsidiary body;

   (b) merge or dissolve a committee, working group, or other subsidiary body established under this Agreement in order to improve the functioning of this Agreement;

   (c) consider and adopt subject to completion of any necessary legal procedures by each Party, a modification to this Agreement of:

      (i) the Schedules to Annex 2-B (Tariff Commitments), by accelerating tariff elimination or improving market access conditions;

(ii) the adjustments to the Tariff Preferential Levels established in Chapter 6 (Textile and Apparel Goods);

(iii) the rules of origin established in Annex 4-B (Product-Specific Rules of Origin);

(iv) the minimum data requirements for the certification of origin;

(v) any provision as may be required to conform with any change to the Harmonized System; or

(vi) the lists of entities, covered goods and services, and thresholds contained in Annex 13-A and 13-B (Government Procurement);

(d) develop arrangements for implementing this Agreement;

(e) seek to resolve differences or disputes that may arise regarding the interpretation or application of this Agreement;

(f) issue interpretations of the provisions of this Agreement;[1]

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

(h) adopt and modify any Uniform Regulations agreed jointly by the Parties under Article 5.17 (Uniform Regulations); and

(i) take any other action as the Parties may agree.

Article 30.3: Decision-Making

The Commission and subsidiary bodies established under this Agreement shall take decisions by consensus, except as otherwise provided in this Agreement, or as otherwise decided by the Parties. Unless otherwise provided in this Agreement, the Commission or a subsidiary body shall be deemed to have taken a decision by consensus if all Parties are present at a meeting when a decision is taken and no Party present at the meeting when a decision is taken objects to the proposed decision.

Article 30.4: Rules of Procedure of the Commission and Subsidiary Bodies

[1] For greater certainty, interpretations issued by the Commission shall be binding for tribunals and panels established under Chapter 14 (Investment) and Chapter 31 (Dispute Settlement).

1. The Commission shall meet within one year of the date of entry into force of this Agreement and thereafter as the Parties may decide, including as necessary to fulfil its functions under Article 30.2 (Functions of the Commission). Meetings of the Commission shall be chaired successively by each Party.

2. The Party chairing a meeting of the Commission shall provide any necessary administrative support for the meeting.

3. Unless otherwise provided in this Agreement, the Commission and a subsidiary body established under this Agreement shall carry out its work through whatever means are appropriate, which may include electronic mail or videoconferencing.

4. The Commission and a subsidiary body established under this Agreement may establish rules of procedures for the conduct of its work.

Article 30.5: Agreement Coordinator and Contact Points

1. Each Party shall designate an Agreement Coordinator to facilitate communications between the Parties on any matter covered by this Agreement, as well as other contact points as required by this Agreement.

2. Unless otherwise provided in this Agreement, each Party shall notify the other Parties in writing of its Agreement Coordinator and any other contact point provided for in this Agreement no later than 60 days after the date of entry into force of this Agreement.

3. Each Party shall promptly notify the other Parties, in writing, of any changes to its Agreement Coordinator or any other contact point.

4. On the request of another Party, the Agreement Coordinator shall identify the office or official responsible for a matter and assist, as necessary, in facilitating communication with the requesting Party.

Article 30.6: The Secretariat

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

2. Each Party shall:

   (a) establish and maintain a permanent office of its Section and be responsible for its operation and costs;

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

(c) notify the other Parties Commission of the contact information for its Section's office.

3. The Secretariat shall:

(a) provide assistance to the Commission;

(b) provide administrative assistance to panels established under Chapter 31 (Dispute Settlement);

(c) be responsible for the payment of remuneration to and expenses of panelists, assistants, and experts involved in dispute settlement proceedings under Chapter 31; and

(d) as the Commission may direct:

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

(ii) otherwise facilitate the operation of this Agreement.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

CHAPTER 31

DISPUTE SETTLEMENT

SECTION A: DISPUTE SETTLEMENT

Article 31.1: Cooperation

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

Article 31.2: Scope

1. Unless otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply:

(a) with respect to the avoidance or settlement of disputes between the Parties regarding the interpretation or application of this Agreement;

(b) when a Party considers that an actual or proposed measure of another Party is or would be inconsistent with an obligation of this Agreement or that another Party has otherwise failed to carry out an obligation under this Agreement; or

(c) when a Party considers that a benefit it could reasonably have expected to accrue to it under Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Agriculture), Chapter 4 (Rules of Origin), Chapter 5 (Origin Procedures), Chapter 6 (Textile and Apparel Goods), Chapter 7 (Customs Administration and Trade Facilitation), Chapter 9 (Sanitary and Phytosanitary Measures), Chapter 11 (Technical Barriers to Trade), Chapter 13 (Government Procurement), Chapter 15 (Cross-Border Trade in Services), or Chapter 20 (Intellectual Property), is being nullified or impaired as a result of the application of a measure of another Party that is not inconsistent with this Agreement.

Article 31.3: Choice of Forum

1. If a dispute regarding a matter arises under this Agreement and under another international trade agreement to which the disputing Parties are party, including the WTO

Agreement, the complaining Party may select the forum in which to settle the dispute.

2. Once a complaining Party has requested the establishment of, or referred a matter to, a panel under this Chapter or a panel or tribunal under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of other fora.

Article 31.4: Consultations

1. A Party may request consultations with another Party with respect to a matter described in Article 31.2 (Scope).

2. The Party making the request for consultations shall do so in writing, and shall set out the reasons for the request, including identification of the specific measure or other matter at issue and an indication of the legal basis for the complaint.

3. The requesting Party shall deliver the request concurrently to the other Parties through their respective Section of the Secretariat, including a copy to its Section.

4. A third Party that considers it has a substantial interest in the matter may participate in the consultations by notifying the other Parties in writing through their respective Section of the Secretariat, including a copy to its Section, no later than 7 days after the date of delivery of the request for consultations. The Party shall include in its notice an explanation of its substantial interest in the matter.

5. Unless the consulting Parties agree otherwise, they shall enter into consultations no later than:

(a) 15 days after the date of delivery of the for matters concerning perishable goods[1]; or

(b) 30 days after the date of delivery of the request for all other matters.

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

(a) each consulting Party shall provide sufficient information to enable a full examination of how the actual or proposed measure or other matter at issue might affect the operation or application of this Agreement;

[1] For the purposes of this Chapter, perishable goods means perishable agricultural and fish goods classified in HS Chapters 1 through 24.

(b) a Party that participates in the consultations shall treat any information exchanged in the course of consultations that is designated as confidential on the same basis as the Party providing the information; and

(c) the consulting Parties shall seek to avoid a resolution that adversely affects the interests of another Party under this Agreement.

7. Consultations may be held in person or by a technological means available to the consulting Parties. If the consultations are held in person, they shall be held in the capital of the Party to which the request for consultations was made, unless the consulting Parties agree otherwise.

8. In consultations under this Article, a consulting Party may request that another consulting Party make available personnel of its government agencies or other regulatory bodies who have expertise in the matter at issue.

9. Consultations shall be confidential and without prejudice to the rights of a Party in another proceeding.

Article 31.5: Commission, Good Offices, Conciliation, and Mediation

1. If the consulting Parties fail to resolve a matter pursuant to Article 31.4 (Consultations) within:

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

(b) 45 days of delivery ofthe request if any other Party has subsequently requested or has participated in consultations regarding the same matter;

(c) 15 days of delivery of the request for consultations in matters regarding perishable goods; or

(d) such other period as they may agree,

any consulting Party may request in writing a meeting of the Commission.

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

3. Unless it decides otherwise, the Commission shall convene within 10 days of delivery of the request and shall endeavor to resolve the dispute.

4. The Commission may:

(a) call on such technical advisers or create such working groups or expert groups as it deems necessary;

(b) have recourse to good offices, conciliation, mediation, or such other dispute resolution procedures; or

(c) make recommendations,

as may assist the consulting Parties to reach a mutually satisfactory resolution of the dispute.

5. Unless it decides otherwise, the Commission shall consolidate two or more proceedings before it pursuant to this Article regarding the same measure. The Commission may consolidate two or more proceedings regarding other matters before it pursuant to this Article that it determines are appropriate to be considered jointly.

6. Parties may agree at any time to voluntarily undertake an alternative method of dispute resolution, such as good offices, conciliation, or mediation.

7. Proceedings that involve good offices, conciliation, or mediation shall be confidential and without prejudice to the rights of the Parties in another proceeding.

8. Parties participating in proceedings under this Article may suspend or terminate those proceedings.

9. If the disputing Parties agree, good offices, conciliation or mediation may continue while a dispute proceeds for resolution before a panel established under Article 31.6 (Establishment of a Panel).

Article 31.6: Establishment of a Panel

1. If the Commission has convened pursuant to Article 31.5 (Commission, Good Offices, Conciliation, and Mediation), and the matter has not been resolved within:

(a) 30 days thereafter;

(b) 30 days after the Commission has convened in respect of the matter most recently referred to it, where proceedings have been consolidated pursuant to Article 31.5.5; or

(c) such other period as the consulting Parties may agree,

any consulting Party may request the establishment of a panel by means of a written notice delivered to the responding Party through its Section of the Secretariat.

2. The complaining Party shall circulate the written notice concurrently to the other Parties through their Sections of the Secretariat.

3. The complaining Party shall include in the request to establish a panel an identification of the measure or other matter at issue and a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

4. On delivery of the request, the Commission shall establish a panel.

5. A third Party that considers it has a substantial interest in the matter is entitled to join as a complaining Party on delivery of written notice of its intention to participate to the disputing Parties through their respective Sections of the Secretariat, including a copy to its Section. The third Party shall deliver the notice no later than seven days after the date of delivery of a request by a Party for the establishment of a panel.

6. Unless otherwise agreed by the disputing Parties, the panel shall be established and perform its functions in a manner consistent with this Chapter and the Rules of Procedure.

7. If a panel has been established regarding a matter and another Party requests the establishment of a panel regarding the same matter, a single panel should be established to examine those complaints whenever feasible.

Article 31.7: Terms of Reference

1. Unless the disputing Parties agree otherwise no later than 20 days after the date of delivery of the request for the establishment of a panel, the terms of reference shall be to:

(a) examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of a panel under Article 31.6 (Establishment of a Panel); and

(b) make findings and determinations, and any jointly requested recommendations, together with its reasons therefor, as provided for in Article 31.17 (Panel Report.

2. If, in its request for the establishment of a panel, a complaining Party claims that a measure nullifies or impairs benefits within the meaning of Article 31.2 (Scope), the terms of reference shall so indicate.

3. If a disputing Party wishes the panel to make findings as to the degree of adverse trade

effects on any Party of any measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Article 31.2(c) (Scope), the terms of reference shall so indicate.

Article 31.8: Roster and Qualifications of Panelists

1. The Parties shall establish by the date of entry into force of this Agreement and maintain a roster of up to 30 individuals who are willing to serve as panelists. The roster shall be appointed by consensus and remain in effect for a minimum of three years or until the Parties constitute a new roster. Members of the roster may be reappointed.

2. Each roster member and panelist shall:

(a) have expertise or experience in international law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

(b) be selected on the basis of objectivity, reliability, and sound judgment;

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

(d) comply with the Code of Conduct established by the Commission.

3. For a dispute arising under Chapter 23 (Labor), Chapter 24 (Environment), or Chapter 27 (Anti-corruption), each disputing Party shall select panelists in accordance with the following requirements, in addition to those set out in paragraph 1:

(a) in any dispute arising under Chapter 23 (Labor), panelists other than the chair shall have expertise or experience in labor law or practice;

(b) in any dispute arising under Chapter 24 (Environment), panelists other than the chair shall have expertise or experience in environmental law or practice; and

(c) in any dispute arising under Chapter 27 (Anti-corruption), panelists other than the chair shall have expertise or experience in anti-corruption law or practice.

2. An individual shall not serve as a panelist in the same dispute in which they have participated pursuant to Articles 31.4 (Consultations), or Article 31.5 (Commission, Good Offices, Conciliation, and Mediation).

Article 31.9: Panel Composition

1. Where there are two disputing Parties, the following procedures shall apply:

   (a) The panel shall comprise five members.

   (b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the disputing Parties are unable to agree on the chair within this period, the disputing Party chosen by lot shall select within five days as chair an individual who is not a citizen of that Party.

   (c) Within 15 days of selection of the chair, each disputing Party shall select panelists who are citizens of the other disputing Party.

   (d) If a disputing Party fails to select its panelists within such period, such panelists shall be selected by lot from among the roster members who are citizens of the other disputing Party.

2. Where there are more than two disputing Parties, the following procedures shall apply:

   (a) The panel shall comprise five members.

   (b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the disputing Parties are unable to agree on the chair within this period, the Party or Parties on the side of the dispute chosen by lot shall select within 10 days a chair who is not a citizen of such Party or Parties.

   (c) Within 15 days of selection of the chair, the Party complained against shall select two panelists, one of whom is a citizen of a complaining Party, and the other of whom is a citizen of another complaining Party. The complaining Parties shall select two panelists who are citizens of the Party complained against.

   (d) If any disputing Party fails to select a panelist within such period, such panelist shall be selected by lot in accordance with the citizenship criteria of subparagraph (c).

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

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

Article 31.10: Replacement of Panelists

1. If a panelist resigns, is removed, or becomes unable to serve, the time frames applicable to that panel's proceedings shall be suspended until a replacement is appointed and shall be extended by the amount of time that the work was suspended.

2. If a panelist resigns, is removed, or becomes unable to serve on the panel, a replacement panelist shall be appointed within 15 days in accordance with the same method used to select the panelist in accordance with Article 31.9 (Panel composition).

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

Article 31.11: Rules of Procedure for Panels

The Rules of Procedure, established under this Agreement in accordance with Article 30.2 (Functions of the Commission), shall ensure that:

(a) disputing Parties have the right to at least one hearing before the panel at which each may present views orally;

(b) subject to subparagraph (f), any hearing before the panel shall be open to the public, unless the disputing Parties agree otherwise;

(c) each disputing Party has an opportunity to provide an initial and a rebuttal written submission;

(d) subject to subparagraph (f), each disputing Party's written submissions, written version of an oral statement, and written response to a request or question from the panel, if any, are public as soon as possible after the documents are filed;

(e) the panel shall consider requests from non-governmental entities located in the territory of a disputing Party to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the disputing Parties;

(f) confidential information is protected;

(g) written submissions and oral arguments shall be made in one of the languages of the Parties, unless the disputing Parties agree otherwise; and

(h) unless the disputing Parties agree otherwise, hearings shall be held in the capital of the responding Party.

Article 31.12: Electronic Document Filing

The disputing Parties shall file all documents relating to a dispute, including written submissions, written versions of oral statements, and written responses to panel questions, by electronic means through their respective sections of the Secretariat.

Article 31. 13: Function of Panels

1. A panel's function is to make an objective assessment of the matter before it and to present a report that contains:

(a) findings of fact;

(b) determinations as to whether:

(i) the measure at issue is inconsistent with obligations in this Agreement;

(ii) a Party has otherwise failed to carry out its obligations in this Agreement;

(iii) the measure at issue is causing nullification or impairment within the meaning of Article 31.2 (Scope); or

(iv) any other determination requested in the terms of reference;

(c) recommendations, if the disputing Parties have jointly requested them, for the resolution of the dispute; and

(d) the reasons for the findings and determinations.

2. The findings, determinations and recommendations of the panel shall not add to or diminish the rights and obligations of the Parties under this Agreement.

3. Unless the disputing Parties agree otherwise, the panel shall perform its functions and conduct its proceedings in a manner consistent with this Chapter and the Rules of Procedure.

4. The panel shall interpret this Agreement in accordance with customary rules of interpretation of public international law, as reflected in Articles 31 and 32 of the *Vienna Convention on the Law of Treaties (1969).*

5. A panel shall take its decisions by consensus, except that, if a panel is unable to reach consensus, it may take its decisions by majority vote.

6. The panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the disputing Parties, and on any information or advice put before it under Article 31.15 (Role of Experts).

7. The panel shall draft its reports without the presence of any Party.

8. Panelists may present separate views on matters not unanimously agreed and shall not disclose the identity of which panelists are associated with majority or minority views.

Article 31. 14: Third Party Participation

A Party that is not a disputing Party shall, on delivery of a written notice to the disputing Parties through their respective Section of the Secretariat, including a copy to its Section, be entitled to attend all hearings, to make written and oral submissions to the panel, and to receive written submissions of the disputing Parties. The Party shall provide written notice no later than 10 days after the date of delivery of the request for the establishment of the panel under Article 31.6 (Establishment of a Panel).

Article 31.15: Role of Experts

At the request of a disputing Party, or on its own initiative, a panel may seek information and technical advice from any person or body that it deems appropriate, provided that the disputing Parties agree and subject to any terms and conditions agreed by the disputing Parties. The disputing Parties shall have an opportunity to comment on any information or advice obtained under this Article.

Article 31.16: Suspension or Termination of Proceedings

1. The panel may suspend its work at any time at the request of the complaining Party, for a period not to exceed 12 consecutive months. The panel shall suspend its work at any

time if the disputing Parties request it to do so. In the event of a suspension, the time frames set out in this Chapter and in the Rules of Procedure shall be extended by the amount of time that the work was suspended. If the work of the panel is suspended for more than 12 consecutive months, the panel proceedings shall lapse unless the disputing Parties agree otherwise.

2. The panel shall terminate its proceedings if the disputing Parties request it to do so.

Article 31.17: Panel Report

1. The panel shall present an initial report to the disputing Parties no later than 150 days after the date of the appointment of the last panelist. In cases of urgency related to perishable goods, the panel shall endeavour to present an initial report to the disputing Parties no later than 120 days after the date of the appointment of the last panelist.

2. In exceptional cases, if the panel considers that it cannot release its initial report within the time period specified in paragraph 1, it shall inform the disputing Parties in writing of the reasons for the delay together with an estimate of when it will issue its report. A delay shall not exceed an additional period of 30 days unless the disputing Parties agree otherwise.

3. A disputing Party may submit written comments to the panel on its initial report no later than 15 days after the presentation of the initial report or within another period as the disputing Parties may agree.

4. After considering those comments, the panel, on its own initiative or on the request of either disputing Party, may:

(a) request the views of a Party;

(b) reconsider its report; or

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

5. The panel shall present a final report including any separate opinions on matters not unanimously agreed to the disputing Parties no later than 30 days after presentation of the initial report, unless the disputing Parties agree otherwise.

6. After taking any steps to protect confidential information, and no later than 15 days after the presentation of the final report, the disputing Parties shall make the final report available to the public.

Article 31.18: Implementation of Final Report

1. Within 45 days from receipt of a final report that contains findings that:

   (a) the measure at issue is inconsistent with a Party's obligations in this Agreement;

   (b) a Party has otherwise failed to carry out its obligations in this Agreement; or

   (c) the measure at issue is causing nullification or impairment within the meaning of Article 31.2 (Scope),

the disputing Parties shall endeavor to agree on the resolution of the dispute.

2. Resolution of the dispute can comprise elimination of the non-conformity or the nullification or impairment, if possible, the provision of mutually acceptable compensation, or any other remedy the disputing Parties may agree.

Article 31.19 : Non-Implementation – Suspension of Benefits

1. If the disputing Parties are unable to agree on a resolution to the dispute under Article 31.18 (Implementation of Final Report) within 30 days from receipt of the final report, the complaining Party may suspend the application to the responding Party of benefits of equivalent effect to the non-conformity or the nullification or impairment until such time as the disputing Parties agree on a resolution to the dispute.

2. In considering what benefits to suspend pursuant to paragraph 1:

   (a) a complaining Party should first seek to suspend benefits in the same sector as that affected by the measure or other matter that was the subject of the dispute; and

   (b) a complaining Party that considers it is not practicable or effective to suspend benefits in the same sector, may suspend benefits in other sectors unless otherwise provided for in this Agreement.

3. If the responding Party considers that:

(a) the level of benefits proposed to be suspended is manifestly excessive; or

(b) it has eliminated the non-conformity or the nullification or impairment that the panel has determined to exist,

it may request that the panel be reconvened to consider the matter. The responding Party shall deliver its request in writing to the complaining Party. The panel shall reconvene as soon as possible after the date of delivery of the request and shall present its determination to the disputing Parties no later than 90 days after it reconvenes to review a request under subparagraph (a) or (b), or 120 days after it reconvenes for a request under both subparagraphs (a) and (b). If the panel considers that the level of benefits the complaining Party proposes to suspend is manifestly excessive, it shall provide its views as to the level of benefits it considers to be of equivalent effect.

4. If the panel's views are that the responding Party has not eliminated the non-conformity or the nullification or impairment, the complaining Party may suspend benefits up to the level the panel has determined under paragraph 3.

Section B - Domestic Proceedings and Private Commercial Dispute Settlement

Article 31.20: Referrals of Matters from Judicial or Administrative Proceedings

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

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

3. If the Commission is unable to agree, a Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Article 31.21: Private Rights

No Party shall provide for a right of action under its law against another Party on the ground that a measure of that other Party is inconsistent with this Agreement.

Article 31.22: Alternative Dispute Resolution

1. Each Party shall, to the extent possible, encourage, facilitate, and promote through education, the use of arbitration, mediation, online dispute resolution and other procedures for the prevention and resolution of international commercial disputes between private parties in

the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards and settlement agreements in those disputes, and to facilitate and encourage mediation procedures.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards* or the 1975 *Inter-American Convention on International Commercial Arbitration*.

4. The Commission shall establish and maintain an Advisory Committee on Private Commercial Disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. The Committee shall, to the extent possible, encourage, facilitate, and promote through education, the use of arbitration, mediation, online dispute resolution and other procedures for the prevention and resolution of international commercial disputes between private parties in the free trade area. The Committee shall report and provide recommendations to the Commission on general issues respecting the availability, use, and effectiveness of arbitration, mediation, online dispute settlement resolution, and other dispute resolution procedures for the prevention and resolution of those disputes in the free trade area.

CHAPTER 32

EXCEPTIONS AND GENERAL PROVISIONS

Section A – Exceptions

Article 32.1: General Exceptions

1. For the purposes of Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Agriculture), Chapter 4 (Rules of Origin), Chapter 5 (Origin Procedures), Chapter 6 (Textile and Apparel Goods), Chapter 7 (Customs Administration and Trade Facilitation), Chapter 9 (Sanitary and Phytosanitary Measures), Chapter 11 (Technical Barriers to Trade), Chapter 22 (State-Owned Enterprises and Designated Monopolies), and, Section B of Chapter 29 (Energy Regulatory Measures and Regulatory Transparency), Article XX of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*. [1]

2. For the purposes of Chapter 15 (Cross-Border Trade in Services), Chapter 16 (Temporary Entry), Chapter 18 (Telecommunications), Chapter 19 (Digital Trade)[2], and Chapter 22 (State-Owned Enterprises and Designated Monopolies), paragraphs (a), (b) and (c) of Article XIV of GATS are incorporated into and made part of this Agreement, *mutatis mutandis*.[3]

3. The Parties understand that the measures referred to in Article XX(b) of the GATT 1994 and GATS Article XIV (b) include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

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[1] For the purposes of Chapter 22 (State-Owned Enterprises and Designated Monopolies), Article XX of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis,* only with respect to measures of a Party (including the implementation of measures through the activities of a state-owned enterprise or a designated monopoly) affecting the purchase, production or sale of goods, or affecting activities the end result of which is the production of goods.

[2] This paragraph is without prejudice to whether a digital product should be classified as a good or service.

[3] For the purposes of Chapter 22 (State-Owned Enterprises and Designated Monopolies), Article XIV of the GATS 1994 (including its footnotes) is incorporated into and made part of this Agreement, *mutatis mutandis,* only with respect to measures of a Party (including the implementation of measures through the activities of a state-owned enterprise or a designated monopoly) affecting the purchase or supply of services, or affecting activities the end result of which is the supply of services.

4. Nothing in this Agreement shall be construed to prevent a Party from taking action, including maintaining or increasing a customs duty, that is authorized by the Dispute Settlement Body of the WTO or is taken as a result of a decision by a dispute settlement panel under a free trade agreement to which the Party taking action and the Party against which the action is taken are party.

Article 32.2: Essential Security

1. Nothing in this Agreement shall be construed to:

(a) require a Party to furnish or allow access to information the disclosure of which it determines to be contrary to its essential security interests; or

(b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

Article 32.3: Taxation Measures

1. For the purposes of this Article:

designated authorities means:

(a) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance;

(b) for Mexico, the Deputy Minister of Revenue of the Ministry of Finance and Public Credit (*Subsecretario de Ingresos*); and

(c) for the United States, the Assistant Secretary of the Treasury (Tax Policy),

or any successor of these designated authorities as notified in writing to the other Parties;

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); or

(b) the measures listed in subparagraphs (b), (c); and (d) 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 any 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 two or more 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 in question. The designated authorities of those Parties shall have six months from the date of referral of the issue to make a determination as to the existence and extent of any inconsistency. If those designated authorities agree, the period may be extended up to 12 months from the date of referral of the issue. No procedures concerning the measure giving rise to the issue may be initiated under Chapter 31 (Dispute Settlement) or Article 3 of Annex 14-D (Investment – Submission of a Claim to Arbitration) until the expiry of the six month period, or any other period as may have been agreed by the designated authorities. A panel or tribunal established to consider a dispute related to a taxation measure shall accept as binding a determination of the designated authorities of the Parties made under this paragraph.

5. Notwithstanding paragraph 3:

   (a) Article 2.3 (Market Access – National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the GATT 1994; and

   (b) Article 2.13 (Market Access – Export Duties, Taxes, or other Charges) shall apply to taxation measures.

6. Subject to paragraph 3:

   (a) Article 15.3 (CBTS – National Treatment) and Article 17.3 (Financial Services – National Treatment) shall apply to taxation measures on income, on capital gains, or on the taxable capital of corporations that relate to the purchase or consumption of particular services, except that nothing in this subparagraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage that relates to the purchase or consumption of particular services on requirements to provide the service in its territory;

   (b) Article 14.4 (Investment – National Treatment), Article 14.5 (Investment – Most-Favored-Nation Treatment), Article 15.3 (CBTS – National Treatment), Article 15.4 (CBTS – Most-Favoured-Nation Treatment), Article 17.3 (Financial Services – National Treatment), Article 17.4 (Financial Services – Most-Favoured-Nation Treatment), and Article 19.4 (Digital Trade - Non-

Discriminatory Treatment of Digital Products) shall apply to all taxation measures, other than those on income, on capital gains, on the taxable capital of corporations or taxes on estates, inheritances, gifts and generation-skipping transfers; and

(c) Article 19.4 (Digital Trade – Non-Discriminatory Treatment of Digital Products) shall apply to taxation measures on income, on capital gains, or on the taxable income of corporations that relate to the purchase or consumption of particular digital products, except that nothing in this subparagraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular digital products on requirements to provide the digital product in its territory,

but nothing in the Articles referred to in subparagraphs (a), (b) and (c) shall apply to:

(d) any most-favored-nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;

(e) a non-conforming provision of a taxation measure in existence as of the date of entry into force of NAFTA 1994;

(f) the continuation or prompt renewal of a non-conforming provision of a taxation measure in existence as of the date of entry into force of NAFTA 1994;

(g) an amendment to a non-conforming provision of a taxation measure in existence as of the date of entry into force of NAFTA 1994 to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles;

(h) the adoption or enforcement of any new taxation measure aimed at ensuring the equitable or effective imposition 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 Parties;[4] or

(i) a provision that conditions the receipt or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, pension plan, or other arrangement to provide pension, or similar benefits, on a requirement that the Party maintain continuous jurisdiction, regulation, or supervision over that trust, plan, fund, or other arrangement.

[4] The Parties understand that this subparagraph must be interpreted by reference to the footnote to Article XIV(d) of GATS as if the Article was not restricted to services or direct taxes.

(j) any excise duty on insurance premiums to the extent that such tax would, if levied by the other Parties, be covered by subparagraphs (e), (f) or (g).

7. Subject to paragraph 3, and without prejudice to the rights and obligations of the Parties under paragraph 5, Article 14.10.2 (Investment – Performance Requirements), Article 14.10.3 and Article 14.10.4 shall apply to taxation measures.

8. Article 14.8 (Investment – Expropriation and Compensation) shall apply to taxation measures. However, no investor may invoke Article 14.8 (Investment – Expropriation and Compensation) as the basis for a claim if it has been determined pursuant to this paragraph that the measure is not an expropriation. An investor that seeks to invoke Article 14.8 (Investment – Expropriation and Compensation) with respect to a taxation measure must first refer to the designated authorities of the Party of the investor and the respondent Party, at the time that it gives its notice of intent under Article 3 of Annex 14-D (Investment – Submission of a Claim to Arbitration), the issue of whether that taxation measure is not an expropriation. If the designated authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of six months of the referral, the investor may submit its claim to arbitration under Article 3 of Annex 14-D (Investment – Submission of a Claim to Arbitration).

Article 32.4. Temporary Safeguards Measures

1. For the purposes of this Article:

foreign direct investment means a type of investment by an investor of a Party in the territory of another Party, through which the investor exercises ownership or control over, or a significant degree of influence on the management of, an enterprise or other direct investment, and tends to be undertaken in order to establish a lasting relationship; for example, ownership of at least 10 per cent of the voting power of an enterprise over a period of at least 12 months generally would be considered a foreign direct investment.

2. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining restrictive measures with regard to payments or transfers for current account transactions in the event of serious balance of payments and external financial difficulties or threats thereof.

3. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining restrictive measures with regard to payments or transfers relating to the movements of capital:

(a) in the event of serious balance of payments and external financial difficulties or threats thereof; or

(b) if, in exceptional circumstances, payments or transfers relating to capital

movements cause or threaten to cause serious difficulties for macroeconomic management.

4. Any measure adopted or maintained under paragraph 1 or 2 shall:

(a) not be inconsistent with Article 14.4 (Investment – National Treatment), Article 14.5 (Investment – Most-Favoured-Nation Treatment), Article 15.3 (CBTS – National Treatment), Article 15.4 (CBTS – Most-Favoured-Nation Treatment), Article 17.3 (Financial Services – National Treatment) and Article 17.4 (Financial Services – Most-Favoured-Nation Treatment);[5]

(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 another Party;

(d) not exceed those necessary to deal with the circumstances described in paragraph 1 or 2;

(e) be temporary and be phased out progressively as the situations specified in paragraph 1 or 2 improve, and shall not exceed 12 months in duration; however, in exceptional circumstances, a Party may extend such measure for one additional period of one year, by notifying the other Parties in writing within 30 days of the extension;

(f) not be inconsistent with Article 14.8 (Investment – Expropriation and Compensation);[6]

(g) in the case of restrictions on capital outflows, not interfere with investors' ability to earn a market rate of return in the territory of the restricting Party on assets invested in the territory of the restricting Party by an investor of a Party that are restricted from being transferred out of the territory of the restricting Party; and

(h) not be used to avoid necessary macroeconomic adjustment.

5. As soon as practicable after a Party imposes a measure under paragraph 1, the Party shall:

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[5] Without prejudice to the general interpretation of the Articles listed in this sub-paragraph], the fact that a measure it adopts or maintains pursuant to paragraph 1 or 2 differentiates between investors on the basis of residency does not necessarily mean that the measure is inconsistent with those Articles.

[6] For greater certainty, measures referred to in paragraph 1 or 2 may be non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives as referred to in Annex 14-B(3)(b) (Expropriation).

(a) submit any current account exchange restrictions to the International Monetary Fund (IMF) for review and approval under Article VIII of the Articles of Agreement of the IMF;

(b) consistent with its obligations under the Articles of Agreement, enter into good faith consultations with the IMF on economic adjustment measures necessary to remove the restrictions in 3(a); and

(c) adopt or maintain economic policies consistent with such consultations.

6. Measures referred to in paragraphs 1 and 2 shall not apply to payments or transfers relating to foreign direct investment.

7. A Party shall endeavor to provide that a measure it adopts or maintains under paragraph 1 or 2 be price-based, and if that measure is not price-based, the Parties shall explain the rationale for using quantitative restrictions when it notifies the other Parties of the measure.

8. In the case of trade in goods, Article XII of GATT 1994 and the *Understanding on the Balance of Payments Provisions of the GATT 1994* are incorporated into and made part of this Agreement, *mutatis mutandis*. Any measures it adopts adopted or maintains under this paragraph shall not impair the relative benefits accorded to the other Parties under this Agreement as compared to the treatment of a non-Party.

9. A Party adopting or maintaining measures under paragraph 1, 2 or 6 shall:

(a) notify, in writing, the other Parties of the measures, including any changes therein, along with the rationale for their imposition, within 30 days of their adoption;

(b) present, as soon as possible, either a time schedule or the conditions necessary for their removal;

(c) promptly publish the measures; and

(d) promptly commence consultations with the other Parties in order to review the measures.

(i) In the case of capital movements, promptly respond to any other Party that requests consultations in relation to the measures, provided that such consultations are not otherwise taking place outside of this Agreement.

(ii) In the case of current account restrictions, if consultations in relation to the measures are not taking place under the framework of the WTO Agreement, a Party, if requested, shall promptly commence consultations with any interested Party.

Article 32.5: Indigenous Peoples Rights

Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as a disguised restriction on trade in goods, services, and investment, nothing in this Agreement shall preclude a Party from adopting or maintaining a measure it deems necessary to fulfill its legal obligations to indigenous peoples.[7]

Article 32.6: Cultural Industries

1. For the purposes of this Article, "cultural industry" means a person engaged in the following activities:

(a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;

(b) the production, distribution, sale or exhibition of film or video recordings;

(c) the production, distribution, sale or exhibition of audio or video music recordings;

(d) the publication, distribution or sale of music in print or machine readable form; or

(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services

2. This Agreement does not apply to a measure adopted or maintained by Canada with respect to a cultural industry, except as specifically provided in Article 2.3 (National

[7] For greater certainty, for Canada the legal obligations include those recognized and affirmed by section 35 of the *Constitution Act 1982* or those set out in self-government agreements between a central or regional level of government and indigenous peoples.

Treatment and Market Access for Goods – Tariff Elimination) or Annex 15-D (Simultaneous Substitution).

3. With respect to Canadian goods, services, and content, the United States and Mexico may adopt or maintain a measure that, were it adopted or maintained by Canada, would have been inconsistent with the Agreement but for paragraph 2.

4. Notwithstanding any other provision of this Agreement, a Party may take a measure of equivalent commercial effect in response to an action by another Party that would have been inconsistent with this Agreement but for paragraph 2 or 3.

5. Notwithstanding Article 31.3 (Dispute Settlement -Choice of Forum), a dispute regarding a measure taken under paragraph 4 shall be settled exclusively under this Agreement unless a Party seeking to establish a panel under Article 31.6 (Dispute Settlement – Establishment of a Panel) has been unable to do so within 90 days of the date of delivery of the request for consultations under Article 31.4 (Dispute Settlement-Consultations). A panel established under Article 31.6 (Establishment of a Panel) with respect to such a challenge shall have jurisdiction and may make findings only with respect to: (i) whether an action to which another Party responds is a measure adopted or maintained with respect to a cultural industry for purposes of this Article, and (ii) whether the responsive action of a Party is of "equivalent commercial effect" to the relevant action of the other Party.

Section B – General Provisions

Article 32.7: Disclosure of Information

This Agreement does not 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.

Article 32.8: Personal Information Protection[8]

1. Each Party shall adopt or maintain a legal framework that provides for the protection of personal information.[9] In the development of its legal framework for the protection of

[8] This Article does not apply to information held or processed by or on behalf of a Party, or measures related to that information, including measures related to its collection.

[9] 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 law, sector-specific laws covering privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.

personal information, each Party should take into account principles and guidelines of relevant international bodies, such as the APEC Privacy Framework and the OECD Recommendation of the Council concerning Guidelines governing the Protection of Privacy and Transborder Flows of Personal Data (2013).

2. The Parties recognize that these key principles include: limitation on collection; choice; data quality; purpose specification; use limitation; security safeguards; transparency; individual participation; and accountability.

3. Each Party shall endeavor to adopt non-discriminatory practices in protecting natural persons from personal information protection violations occurring within its jurisdiction.

4. Each Party shall publish information on the personal information protections it provides, including how:

(a) individuals can pursue remedies; and

(b) business can comply with any legal requirements.

5. Recognizing that the Parties may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. The Parties shall endeavor to Exchange information on the mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them. The Parties recognize that the APEC Cross-Border Privacy Rules system is a valid mechanism to facilitate cross-border information transfers while protecting personal information.

6. The Parties shall endeavor to foster cooperation between appropriate government agencies regarding investigations on matters involving personal information protection and encourage the development of mechanisms to assist users to submit cross-border complaints regarding protection of personal information.

7. For purposes of this article, "personal information" means any information, including data, about an identified or identifiable natural person.

Article 32.9: Access to Information

Each Party shall maintain a legal framework that allows a natural person in its territory to obtain access to records held by the central level of government subject to reasonable terms and limitations specified in the Party's law, provided that the terms and limitations applying to natural persons of another Party in the Party's territory are no less favorable than those applying to natural persons of the Party, or of another country, in the

Party's territory.[10]

Article 32.10: Non-Market Country FTA

1. At least 3 months prior to commencing negotiations, a Party shall inform the other Parties of its intention to commence free trade agreement negotiations with a non-market country. For purposes of this Article, a non-market country is a country that on the date of signature of this agreement at least one Party has determined to be a non-market economy for purposes of its trade remedy laws and is a country with which no Party has a free trade agreement.

2. Upon request, the Party shall provide as much information as possible regarding the objectives for those negotiations.

3. As early as possible, and no later than 30 days before the date of signature, that Party shall provide the other Parties with an opportunity to review the full text of the agreement, including any annexes and side instruments, in order for the Parties to be able to review the agreement and assess its potential impact on this Agreement. If the Party involved requests that the text be treated as confidential, the other Parties shall maintain the confidentiality of the text.

4. Entry by any Party into a free trade agreement with a non-market country, shall allow the other Parties to terminate this Agreement on six-month notice and replace this Agreement with an agreement as between them (bilateral agreement).

5. The bilateral agreement shall be comprised of all the provisions of this Agreement, except those provisions the relevant Parties decide are not applicable as between them.

6. The relevant Parties shall utilize the six-month notice period to review the Agreement and determine whether any amendments should be made in order to ensure the proper operation of the bilateral agreement.

7. The bilateral agreement enter into force 60 days after the date on which the parties to the bilateral agreement have notified each other that they have completed their respective applicable legal procedures.

Article 32.11: Specific Provision on Cross-Border Trade in Services, Investment, and State-Owned Enterprises and Designated Monopolies for Mexico

With respect to the obligations in the Cross-Border Trade in Services, Investment, and State-Owned Enterprises and Designated Monopolies Chapters of this Agreement,

[10] For the United States, this provision applies to "agencies," as defined at 5 U.S.C. 551(1).

Mexico reserves the right to adopt or maintain measures with respect to any sector and sub-sector for which Mexico has not taken a specific reservation in its Schedules to Annexes I, II, and IV of this Agreement, only to the extent consistent with the least restrictive measures that Mexico may adopt or maintain under the terms of applicable reservations and exceptions to parallel obligations in other trade and investment agreements that Mexico has ratified prior to entry into force of this Agreement, including the WTO Agreement, without regard to whether those other agreements have entered into force.

CHAPTER 33

MACROECONOMIC POLICIES AND EXCHANGE RATE MATTERS

Article 33.1: Definitions

For the purposes of this Chapter:

Article IV Staff Report means the report prepared by a staff team of the International Monetary Fund (IMF) for consideration by the Executive Board of the IMF in the context of a country's adherence to Article IV, Section 3(b), of the IMF Articles of Agreement;

competitive devaluation means actions undertaken by an exchange rate authority of a Party for the purpose of preventing effective balance of payments adjustment or gaining an unfair competitive advantage in trade over another Party;

Currency Composition of Official Foreign Exchange Reserves (COFER) database means the IMF database based on voluntary and confidential participation by IMF member countries, which distinguishes monetary authorities' claims on nonresidents denominated in U.S. dollars, euros, pounds sterling, Japanese yen, Swiss francs, and other currencies on a quarterly basis starting in 2005;

exchange rate means the price of one currency in terms of another currency;

exchange rate assessment means IMF staff's evaluation of a country's exchange rate as presented to the IMF Executive Board as part of a Party's Article IV consultation or as published in the annual External Sector Report, consistent with recommendation 4 in the IMF 2011 Triennial Surveillance Review – Overview Paper, August 29, 2011;

Executive Board discussion means discussion by the IMF Executive Board of the Party's Article IV Staff report leading to the conclusion of the Article IV consultation, as defined in Paragraph 27 in Part III Section A of *Modernizing the Legal Framework for Surveillance—An Integrated Surveillance Decision* Revised Proposed Decisions, July 17, 2012;

exports means all goods that subtract from the stock of material resources of a country by leaving its economic territory (United Nations: International Merchandise Trade Statistics: Concepts and Definitions (2010), chapter 1, section A 1.2);

foreign exchange means the official currency of another Party or any non-Party;

foreign exchange market means a market, wherever located, in which participants can purchase or sell foreign exchange;

foreign exchange reserves means claims of an exchange rate authority or monetary authority on nonresidents in the form of foreign banknotes, bank deposits, treasury bills, short- and long-term

government securities, and other claims usable in the event of balance of payments need, as defined in the IMF Balance of Payments Manual 6, paragraphs 6.86-6.92;

forward foreign exchange contract means a commitment to transact, at a designated future date and agreed-upon exchange rate, in a specified amount of specified foreign exchange. (Paragraph *FD* 28, Financial Derivatives: A supplement to the 5th Edition (1993) of the IMF Balance of Payments Manual);

forward positions means predetermined short-term net drains on foreign currency assets in the form of forwards, futures, and swaps, as defined in Item II.2 of the Reserves Data Template in the IMF International Reserves and Foreign Currency Liquidity: Guidelines for a Data Template;

imports means all goods that add to the stock of material resources of a country by entering its economic territory (United Nations: International Merchandise Trade Statistics: Concepts and Definitions (2010), chapter 1, section A 1.2);

intervention means the purchase or sale or the purchase or sale of a forward position, under the direction of an exchange rate authority, of foreign exchange reserves involving the currency of the intervening Party and at least one other currency;

portfolio capital flows means cross-border transactions and positions involving debt or equity securities, other than those included in direct investment or reserve assets, as defined in the IMF Balance of Payments Manual 6, paragraphs 6.54-6.57;

principal representative of a Party means a senior official of the exchange rate or fiscal or monetary authority of the Party;[1] and

spot foreign exchange market means the foreign exchange market in which participants transact for immediate delivery.

Article 33.2: General Provisions

1. The Parties affirm that market-determined exchange rates are fundamental for smooth macroeconomic adjustment and promote strong, sustainable, and balanced growth.

2. The Parties recognize the importance of macroeconomic stability in the region to the success of this Agreement and that strong economic fundamentals and sound policies are essential to macroeconomic stability, and contribute to strong and sustainable growth and investment.

3. The Parties share the objective of pursuing policies that strengthen underlying economic fundamentals, foster growth and transparency, and avoid unsustainable external imbalances.

[1] For greater certainty, the principal representatives of Mexico include a senior officer of the Ministry of Finance and Public Credit and a senior officer of the Central Bank.

Article 33.3: Scope

This Chapter does not apply with respect to the regulatory or supervisory activities or monetary and related credit policy and related conduct of an exchange rate or fiscal or monetary authority of a Party.[2]

Article 33.4: Exchange Rate Practices

1. Each Party confirms that it is bound under the Articles of Agreement of the IMF to avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage.

2. Each Party should:

   (a) achieve and maintain a market-determined exchange rate regime;

   (b) refrain from competitive devaluation, including through intervention in the foreign exchange market; and

   (c) strengthen underlying economic fundamentals, which reinforces the conditions for macroeconomic and exchange rate stability.

3. Each Party should inform promptly another Party and discuss if needed when an intervention has been carried out by the Party with respect to the currency of that other Party.

Article 33.5: Transparency and Reporting

1. Each Party shall disclose publicly:

   (a) monthly foreign-exchange reserves data and forward positions according to the IMF's Data Template on International Reserves and Foreign Currency Liquidity, no later than 30 days after the end of each month;

   (b) monthly interventions in spot and forward foreign exchange markets, no later than seven days after the end of each month;

   (c) quarterly balance of payments portfolio capital flows, no later than 90 days after the end of each quarter; and

   (d) quarterly exports and imports, no later than 90 days after the end of each quarter.

2. Each Party shall consent to the public disclosure by the IMF of:

[2] For greater certainty, the term "exchange rate or fiscal or monetary authority of a Party" includes a central bank of a Party.

(a) each IMF Article IV Staff Report on the country of the Party, including the exchange rate assessment, within four weeks of the IMF Executive Board discussion; and

(b) confirmation of the Party's participation in the IMF COFER database.

3. If the IMF does not disclose publicly any items listed in paragraph (2) with respect to a Party, that Party shall request that the IMF disclose publicly those items.

Article 33.6: Macroeconomic Committee

1. The Parties hereby establish a Macroeconomic Committee (the Committee) composed of principal representatives of each Party. Article 30.2.2(b) (Administrative and Institutional Provisions, Functions of the Commission) does not apply to the Committee.

2. The Committee shall monitor the implementation of this Chapter and its further elaboration.

3. The Committee shall meet within one year after the date of entry into force of this Agreement, and at least annually thereafter, unless the Parties otherwise agree.

4. The Committee shall, at each annual meeting, consider:

(a) the macroeconomic and exchange rate policies of each Party, and their consequences on diverse macroeconomic variables, including domestic demand, external demand, and the current account balance;

(b) issues, challenges, or efforts to strengthen capacity with respect to transparency or reporting; and

(c) undertaking other activities as the Committee may decide.

5. At each annual meeting, or as necessary, the Committee may consider whether any provisions of this Chapter, except Article 33.3 (Scope), should be amended to reflect changes in monetary policy and the financial markets or should be interpreted. Any decision by consensus of the Committee that a provision of this Chapter should be amended shall be deemed to be a decision by consensus of the Commission to amend the provision. Amendments shall enter into force as provided for in Article 34.3 (Final Provisions – Amendments). Any interpretation issued pursuant to a decision by consensus of the Committee shall be deemed to be an interpretation issued pursuant to a decision by consensus of the Commission.

6. The Commission shall not take any decision to amend or interpret a provision of this Chapter except as provided in paragraph 5.

Article 33.7: Senior Representative Consultations

1. A principal representative of a Party may request expedited bilateral consultations with a principal representative of any other Party with respect to policies or measures of the other Party that the principal representative of the requesting Party considers associated with competitive devaluation, the targeting of exchange rates for competitive purposes, fulfillment of the transparency and reporting commitments in Article 33.5 (Transparency and Reporting), or any other issue that such principal representative of the Party may wish to raise with respect to Articles 33.4 (Exchange Rate Practices) or 33.5 (Transparency and Reporting). A Party engaged in bilateral consultations may invite the Party not engaged in those consultations to participate and provide input.

2. If a principal representative of a Party requests bilateral consultations, the principal representatives (or their designees) of the consulting Parties shall meet within 30 days of the request to arrive at a mutually satisfactory resolution of the matter within 60 days of their initial meeting.

3. If a principal representative of a Party requests bilateral consultations with respect to another Party's fulfillment of the transparency and reporting commitments in Article 33.5 (Transparency and Reporting), whether circumstances disrupted the practical ability of the other Party to disclose publicly the items listed in that Article shall be taken into account in the consultations, with the objective of arriving at a mutually satisfactory resolution of the matter.

4. If there is failure to arrive at a mutually satisfactory resolution in any consultations under this Article, the consulting Parties may request that the IMF, consistent with its mandate:

(a) undertake rigorous surveillance of the macroeconomic and exchange rate policies and data transparency and reporting policies of the requested Party; or

(b) initiate formal consultations and provide input, as appropriate.

Article 33.8: Dispute Settlement

1. A Party may have recourse to dispute settlement under Chapter 31 (Dispute Settlement), as modified by this Article, only with respect to a claim that a Party has failed to carry out an obligation under Article 33.5 (Transparency and Reporting) in a recurring or persistent manner and has not remediated that failure during consultations under Article 33.7.[3]

2. When selecting panelists to compose a panel under Article 31.10 (Dispute Settlement – Panel Composition), each disputing Party shall select panelists so that each panelist:

(a) has served as a senior official of an exchange rate or fiscal or monetary authority of a Party or the International Monetary Fund; and

[3] For greater certainty, this Article does not provide a basis for any matter arising under any other provision of this Agreement, including Article 31.3(c) (Dispute Settlement – Scope – Nullification and Impairment).

(b) meets the qualifications set out in paragraph (1)(b) through (1)(d) of Article 31.10 (Dispute Settlement – Panel Composition).

3. A panel established under Article 31.7 (Establishment of a Panel) to make a determination as to whether a Party has failed to carry out an obligation under Article 33.5 (Transparency and Reporting) in a recurring or persistent manner and has not remediated that failure during consultations under Article 33.7 and a panel reconvened to make a determination on the proposed suspension of benefits, in accordance with Article 31.20 (Dispute Settlement – Non-Implementation – Suspension of Benefits), may seek the views of the IMF in accordance with Article 31.15 (Dispute Settlement – Role of Experts).

4. When a panel's determination is that a Party has failed to carry out an obligation under Article 33.5 (Transparency and Reporting) in a recurring or persistent manner, and has not remediated that failure during consultations under Article 33.7, the complaining Party may not suspend benefits that are in excess of benefits equivalent to the effect of that failure. In suspending benefits under Article 31.20 (Dispute Settlement – Non-Implementation – Suspension of Benefits), the complaining Party may take into account only the failure to carry out an obligation under Article 33.5 (Transparency and Reporting) and not any other action or alleged failure by the responding Party.

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CHAPTER 34

FINAL PROVISIONS

Article 34.1: Transitional Provision from NAFTA 1994

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Article 34.2: Annexes, Appendices, and Footnotes

The annexes, appendices, and footnotes to this Agreement constitute an integral part of this Agreement.

Article 34.3: Amendments

1. The Parties may agree, in writing, to amend this Agreement.

2. An amendment shall enter into force 60 days after the date on which the last Party has provided written notice to the other Parties of the approval of the amendment in accordance with its applicable legal procedures, or such other date as the Parties may agree.

Article 34.4: Amendment of the WTO Agreement

In the event of an amendment of the WTO Agreement that amends a provision that the Parties have incorporated into this Agreement, the Parties shall, unless otherwise provided in this Agreement, consult on whether to amend this Agreement.

Article 34.5: Entry into Force

Each Party shall notify the other Parties, in writing, once it has completed the internal procedures required for the entry into force of this Agreement. This Agreement enters into force on the first day of the third month following the last notification.

Article 34.6: Withdrawal

1. A Party may withdraw from this Agreement by providing written notice of withdrawal to the other Parties. A withdrawal shall take effect six months after a Party provides written notice to the other Parties. If a Party withdraws, the Agreement shall remain in force for the remaining Parties.

Article 34.7: Review and Term Extension

1. This Agreement shall terminate 16 years after the date of its entry into force, unless each Party confirms it wishes to continue the Agreement for a new 16-year term, in accordance with the procedures set forth in paragraphs 2 through 6.

2. No later than the sixth anniversary of the entry into force of this Agreement, the Commission shall meet to conduct a "joint review" of the operation of the Agreement, review any recommendations for action submitted by a Party, and decide on any appropriate actions. Each Party may provide recommendations for the Commission to take action at least one month before the Commission's joint review meeting takes place.

3. As part of the Commission's joint review, each Party shall confirm, in writing, through its head of government, if it wishes to extend the term of the Agreement for another 16-year period. If each Party confirms its desire to extend the Agreement, the term of the Agreement shall be automatically extended for another 16 years and the Commission shall conduct a joint review and consider extension of the Agreement term no later than at the end of the next six-year period.

4. If, as part of a six-year review, a Party does not confirm its wish to extend the term of the Agreement for another 16-year period, the Commission shall meet to conduct a joint review every year for the remainder of the term of the Agreement. If one or more Parties did not confirm their desire to extend the Agreement for another 16-year term at the conclusion of a given joint review, at any time between the conclusion of that review and expiry of the Agreement, the Parties may automatically extend the term of the Agreement for another 16 years by confirming in writing, through their respective head of government, their wish to extend the Agreement for another 16-year period.

5. At any point when the Parties decide to extend the term of the Agreement for another 16-year period, the Commission shall conduct joint reviews every six years thereafter, and the Parties shall have the ability to extend the Agreement after each joint review pursuant to the procedures set forth in paragraphs 3 and 4.

6. At any point in which the Parties do not all confirm their wish to extend the term of the Agreement, paragraph 4 shall apply.

Article 34.8: Authentic Texts

The English, French, and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

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EXPLANATORY NOTE

ANNEX I

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 14.12 (Investment – Non-Conforming Measures) and 15.7 (Cross Border Trade in Services – Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

(a) Article 14.4 (Investment – National Treatment) or 15.3 (Cross Border Trade in Services – National Treatment);

(b) Article 14.5 (Investment – Most-Favored-Nation Treatment) or 15.4 (Cross Border Trade in Services – Most-Favored-Nation Treatment);

(c) Article 14.10 (Investment – Performance Requirements);

(d) Article 14.11 (Investment – Senior Management and Boards of Directors);

(e) Article 15.6 (Cross Border Trade in Services – Local Presence); or

(f) Article 15.5 (Cross Border Trade in Services – Market Access).

2. Each Schedule entry sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 14.12.1(a) (Investment – Non-Conforming Measures) and 15.7.1(a) (Cross Border Trade in Services – Non-Conforming Measures), do not apply to the non-conforming aspects of the law, regulation, or other measure, as set out in paragraph 3;

(d) **Level of Government** indicates the level of government maintaining the scheduled measure(s);

(e) **Measures** identifies the laws, regulations, or other measures for which the entry is

made. A measure cited in the **Measures** element:

(i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement, and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(f) **Description**, as indicated in the introductory note for each Party's Schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

3. Article 15.6 (Cross Border Trade in Services – Local Presence) and Article 15.3 (Cross Border Trade in Services – National Treatment) are separate disciplines and a measure that is only inconsistent with Article 15.6 (Cross Border Trade in Services – Local Presence) need not be reserved against Article 15.3 (Cross Border Trade in Services – National Treatment).

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ANNEX I

INTRODUCTORY NOTES

1. **Description** provides a general non-binding description of the measure for which the entry is made.

2. In accordance with Article 14.12 (Non-Conforming Measures, Investment) and Article 15.7 (Non-Conforming Measures, Cross- Border Trade in Services), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation or other measure identified in the **Measures** element of that entry.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in the light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:

(a) the **Measures** element is qualified by a liberalization commitment from the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and

(b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

4. For the purposes of this Annex:

The term "*CMAP*" means Mexican Classification of Activities and Products (*Clasificación Mexicana de Actividades y Productos*) numbers as set out in the National Institute for Statistics and Geography (*Instituto Nacional de Estadística y Geografía*), Mexican Classification of Activities and Products (*Clasificación Mexicana de Actividades y Productos*), 1994.

The term "concession" means an authorisation provided by the Mexican State to a person to exploit a natural resource or provide a service, for which Mexican nationals and Mexican enterprises are granted priority over foreigners.

The term "foreigners' exclusion clause" means the express provision in an enterprise's by-laws, stating that the enterprise shall not allow foreigners, directly or indirectly, to become partners or shareholders of the enterprise.

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 27 Foreign Investment Law (*Ley de Inversión Extranjera*), Title II, Chapters I and II Regulations to the Foreign Investment Law and the National Registry of Foreign Investment (*Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras*), Title II, Chapters I and II

Description:

Investment

Foreign nationals or foreign enterprises may not acquire property rights (*dominio directo*) over land and water in a 100-kilometre strip along the contry's borders or in a 50-kilometre strip inland from its coasts (Restricted Zone).

Mexican enterprises without a foreigners' exclusion clause may acquire property rights (dominio directo) over real estate located in the Restricted Zone, used for non-residential purposes. Notice of the acquisition must be given to the Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores, SRE*) within 60 business days following the date of acquisition.

Mexican enterprises without a foreigners' exclusion clause may not acquire property rights (*dominio directo*) over real estate located in the Restricted Zone, used for residential purposes.

Pursuant to the procedure described below, Mexican enterprises without a foreigners' exclusion clause may acquire rights for the use and enjoyment over real estate in the Restricted Zone, used for residential purposes. Such a procedure shall also apply when foreign nationals or foreign enterprises seek to acquire rights for the use and enjoyment over real estate in the Restricted Zone regardless of the purpose for which the real estate is used.

A permit from the SRE is required for credit institutions to acquire, as trustees, rights to real estate located in the Restricted Zone, when the purpose of the trust is to allow the use and enjoyment of such real estate, without granting real property rights thereof, and

the trust beneficiaries are the Mexican enterprises without a foreigners' exclusion clause, or the foreign nationals or foreign enterprises referred to above.

The terms "use" and "enjoyment" of the real estate located in the Restricted Zone mean the rights to use or enjoy such real estate, including, as applicable, obtaining benefits, products and, in general, any yield resulting from lucrative operation and exploitation through third parties or through the credit institutions acting as trustees.

The duration of the trust referred to in this entry shall be for a maximum period of 50 years, which may be renewed on request by the interested party.

The SRE can verify at any time the compliance with the conditions under which the permits referred to in this entry are granted, as well as the submission and veracity of the notices mentioned above.

The SRE shall decide on the permits, considering the economic and social benefits that these operations could have on the Nation.

Foreign nationals or foreign enterprises seeking to acquire real estate outside the Restricted Zone, shall previously submit to the SRE a statement agreeing to consider themselves Mexican nationals for the above mentioned purposes, and waiving the right to invoke the protection of their governments with respect to such real estate.

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4) Market Access (Article 15.5)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title VI, Chapter III

Description:

Investment and Cross-Border Trade in Services

The National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*), in order to evaluate applications submitted for its consideration (acquisitions or establishment of investments in restricted activities as set out in this Schedule), shall take into account the following criteria:

(a) the effects on employment and training of workers;

(b) the technological contribution;

(c) the compliance with the environmental provisions contained in the environmental legislation; and

(d) in general, the contribution to increase the competitiveness of the Mexican productive system.

When deciding on an application, the CNIE may only impose requirements that do not distort international trade and that are not prohibited by Article 14.10 (Performance Requirements).

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III As qualified by the **Description** element
Description:	Investment Favorable resolution from the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras*, CNIE) is required for investors of another Party or their investments to participate, directly or indirectly, in more than 49 per cent of the ownership interest of a Mexican enterprise in an unrestricted sector, only when the total value of the assets of the Mexican enterprise exceeds the applicable threshold at the time the application for acquisition is submitted. The applicable threshold for the review of an acquisition of a Mexican enterprise shall be the amount determined by the CNIE. The threshold at the date of entry into force of this Agreement for Mexico will be the equivalent in Mexican pesos to 955,835,000 US dollars, using the official exchange rate on August 31, 2018. Each year, the threshold will be adjusted according to the nominal growth rate of the Mexican Gross Domestic Product, as published by the National Institute for Statistics and Geography (*Instituto Nacional de Estadística y Geografía*).

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4) Senior Management and Boards of Directors (Article 14.11)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 25 General Law of Cooperative Companies (*Ley General de Sociedades Cooperativas*), Title I and Title II, Chapter II Federal Labor Law (*Ley Federal del Trabajo*), Title I Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III
Description:	Investment No more than 10 per cent of the persons participating in a Mexican cooperative production enterprise may be foreign nationals. Investors of another Party or their investments may only own, directly or indirectly, up to 10 per cent of the ownership interest in a Mexican cooperative production enterprise. No foreign nationals may engage in general administrative functions or perform managerial activities in that enterprise. A cooperative production enterprise is an enterprise whose members join their personal work, whether physical or intellectual, with the purpose of producing goods or services.

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Federal Law to Foster the Microindustry and Handicraft Activity (*Ley Federal para el Fomento de la Microindustria y la Actividad Artesanal*), Chapters I, II, III and IV
Description:	Investment Only Mexican nationals may apply for a licence (*cédula*) to qualify as a microindustry enterprise. Mexican microindustry enterprises may not have foreign persons as partners. The Federal Law to Foster the Microindustry and Handicraft Activity (*Ley Federal para el Fomento de la Microindustria y Actividad Artesanal*) defines "microindustry enterprise" as the enterprise integrated by up to 15 workers, that is engaged in the transformation of goods, and whose annual sales do not exceed the amount determined periodically by the Ministry of Economy (*Secretaría de Economía, SE*).

Sector:	Agriculture, Livestock, Forestry, and Lumber Activities
Sub-Sector:	Agriculture, livestock or forestry
Industry Classification:	CMAP 1111 Agriculture CMAP 1112 Livestock and hunting (limited to livestock) CMAP 1200 Forestry and felling Trees
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 27 Agrarian Law (*Ley Agraria*), Title VI Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III
Description:	Investment Only Mexican nationals or Mexican enterprises may own land for agriculture, livestock or forestry purposes. Such enterprises must issue a special type of share ("T" share) representing the value of that land at the time of its acquisition. Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of "T" shares.

Sector:	Retail Trade
Sub-Sector:	Sale of non-food products in specialised establishments
Industry Classification:	CMAP 623087 Retail Trade of Firearms, Cartridges and Munitions CMAP 612024 Wholesale Trade Not Elsewhere Classified (limited to firearms, cartridges and munitions)
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico that is engaged in the sale of explosives, firearms, cartridges, ammunition and fireworks, excluding the acquisition and use of explosives for industrial and extractive activities, and the preparation of explosive mixtures for such activities.

Sector:	Communications
Sub-Sector:	Broadcasting (radio and free to air television)
Industry Classification:	CMAP 941104 Private Production and Transmission of Radio Programs (limited to production and transmission of sound broadcasting (radio) programs) CMAP 941105 Private Services of production, Transmission and Retransmission of Television Programming (limited to transmission and retransmission of free-to-air television programming)
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Articles 28 and 32 Federal Telecommunications and Broadcasting Law (*Ley Federal de Telecomunicaciones y Radiodifusión*), Title IV, Chapters I, III and IV, title XI, Chapter II General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapter III Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapters II and III Regulations to the Foreign Investment Law and the National Registry for Foreign Investments (*Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras*), Title VI General Guidelines for the granting of the concessions referred to in Title Four of the Federal Telecommunications and Broadcasting Law (*Lineamientos Generales para el otorgamiento de las concesiones a que se refiere el Título Cuarto de la Ley Federal de Telecomunicaciones y Radiodifusión*)
Description:	<u>Investment and Cross-Border Trade in Services</u> According to their purposes, sole concessions and frequency band concessions will be granted only to Mexican nationals or enterprises constituted under Mexican Laws and regulations. Investors of a Party or their investments may participate up to 49 per cent in concessionaire enterprises providing broadcasting services. This maximum foreign investment, will be applied according to the reciprocity existent with the country in which the investor or trader who ultimately controls it, directly or indirectly, is constituted.

For the purposes of the above paragraph, a favourable opinion of the Mexican Foreign Investment Commission is required before granting the sole concession for providing broadcasting services in which foreign investment participate.

Under no circumstances may a concession, the rights conferred therein, facilities, auxiliary services, offices or accessories and properties affected thereto, be assigned, encumbered, pledged or given in trust, mortgaged, or transferred totally or partially to any foreign government or state.

Among concessions, concessions for indigenous social use shall be granted to indigenous people and indigenous communities of Mexico, with the objective to promote, develop and preserve languages, culture, knowledge, traditions, identity and their internal rules that, under principles of gender equality, enable the integration of indigenous women in the accomplishment of the purposes for which the concession is granted.

The State shall guarantee that broadcasting promotes the values of national identity. The broadcasting concessionaires shall use and stimulate local and national artistic values and expressions of Mexican culture, according to the characteristics of its programming. The daily programming with personal performances shall include more time covered by Mexicans.

Sector:	Communications
Sub-Sector:	Telecommunications (including resellers and restricted television and audio service)
Industry Classification:	CMAP 720006 Other Telecommunication Services CMAP 720006 Other Telecommunications services (Not including enhanced or Value Added Services) CMAP 502003 Telecommunications installation CMAP 720006 Other Telecommunications Services (limited to resellers) CMAP 502004 Other special installations
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 28 and 32 Federal Telecommunications and Broadcasting Law (Ley Federal de Telecomunicaciones y Radiodifusión), Title IV, Chapters I, III and IV, Title V, Chapter VIII, and Title VI, Unique Chapter General Means of Communication Law (Ley de Vías Generales de Comunicación) Foreign Investment Law (Ley de Inversión Extranjera) Title I, Chapter II Regulations to the Foreign Investment Law and the National Registry for Foreign Investments (Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras), Title VI General Guidelines for the granting of the concessions referred to in Title Four of the Federal Telecommunications and Broadcasting Law (Lineamientos Generales para el otorgamiento de las concesiones a que se refiere el Título Cuarto de la Ley Federal de Telecomunicaciones y Radiodifusion) Rules of general character that establish the terms and requisites for the granting of telecommunications authorizations established in the Federal Telecommunications and Broadcasting Law (Reglas de carácter general que establecen los plazos y requisites para el otorgamiento de autorizaciones en material de telecomunicaciones establecidas en la Ley Federal de Telecomunicaciones y Radiodifusión) Rules of general character that establish the terms and requisites for the granting of telecommunications authorizations established in the Federal Telecommunications and Broadcasting Law (Reglas de carácter general que establecen los plazos y requisitos para el otorgamiento de autorizaciones en materia de telecomunicaciones establecidas en la Ley Federal de Telecomunicaciones y

Radiodifusión)
General Guidelines on the Authorization to Lease Radio Spectrum (Lineamientos Generales sobre la Autorización de Arrendamiento del Espectro Radioeléctrico)
Guidelines for the granting of the Authorization Registration, for the use and development of radio spectrum frequency bands for secondary use (Lineamientos para el otorgamiento de la Constancia de Authorización, para el uso y aprovechamiento de bandas de frecuencias del espectro radioeléctrico para uso secundario)

Description: Investment and Cross-Border Trade in Services

According to their purposes, sole concessions and frequency band concessions will be granted only to Mexican nationals or enterprises constituted under Mexican Laws and regulations.

Among concessions, concessions for indigenous social use shall be granted to indigenous people and indigenous communities of Mexico, with the objective to promote, develop and preserve languages, culture, knowledge, traditions, identity and their internal rules that, under principles of gender equality, enable the integration of indigenous women in the accomplishment of the purposes for which the concession is granted.

Concessions for indigenous social use shall only be granted to indigenous people and indigenous communities in Mexico without any kind of foreign investment.

Under no circumstances may a concession, the rights conferred therein, facilities, auxiliary services, offices or accessories and properties affected thereto, be assigned encumbered, pledged or given in trust, mortgaged, or transferred totally or partially to any foreign government or state.

Only Mexican nationals and enterprises established under Mexican laws may obtain authorization to provide telecommunication services as a reseller without being a concessionaire.

Under the General Guidelines on the Authorization to Lease Radio Spectrum, any company interested in becoming a lessee of frecuency bands must obtain a Sole Concession for Commercial Use or a Sole Concession for Private Use.

Applicants for an Authorization for secondary use of radio spectrum frequency bands must appoint a legal address in Mexico City.

Sector:	Communications
Sub-Sector:	Transportation
Industry Classification:	CMAP 7100 Transport
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Ports Law (*Ley de Puertos*), Chapter IV Regulatory Law of the Railway Service (*Ley Reglamentaria del Servicio Ferroviario*), Chapter II, Section III Civil Aviation Law (*Ley de Aviación Civil*), Chapter III, Section III Airports Law (*Ley de Aeropuertos*), Chapter IV Roads, Bridges and Federal Road Transport Law (*Ley de Caminos, Puentes y Autotransporte Federal*), Title I, Chapter III General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapters III and V
Description:	Investment Foreign governments and foreign States may not invest, directly or indirectly, in Mexican enterprises engaged in transportation and other general means of communications.

Sector:	Transportation
Sub-Sector:	Land transportation and water transportation
Industry Classification:	CMAP 501421 Construction of Maritime and River Works CMAP 501422 Construction of Roadworks and Works for Land Transport
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 Roads, Bridges and Federal Road Transport Law (*Ley de Caminos, Puentes y Autotransporte Federal*), Title I, Chapter III Ports Law (*Ley de Puertos*), Chapter IV Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title I, Chapter II
Description:	Investment and Cross-Border Trade in Services A concession granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to construct and operate, or only operate, marine or river works. A concession is also required to build, operate, exploit, conserve or maintain federal roads and bridges. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Sector:	Printing, Editing and Associated Industries
Sub-Sector:	Newspaper publishing
Industry Classification:	CMAP 342001 Publishing of Newspapers, Magazines and Periodicals (limited to newspapers)
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III As qualified by the **Description** element
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the printing or publication of daily newspapers written primarily for a Mexican audience and distributed in the territory of Mexico. For the purposes of this entry, daily newspapers are those whose distribution is not free and that are published at least seven days a week.

Sector:	Manufacture of Goods
Sub-Sector:	Explosives, fireworks, firearms and cartridges
Industry Classification:	CMAP 352236 Manufacture of Explosives and Fireworks CMAP 382208 Manufacture of Firearms and Cartridges
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico that manufactures explosives, fireworks, firearms, cartridges and ammunition, excluding the preparation of explosive mixtures for industrial and extractive activities.

Sector:	Fishing
Sub-Sector:	Fishing-related services
Industry Classification:	CMAP 1300 Fishing
Obligations Concerned:	National Treatment (Article 15.3) Most-Favoured-Nation Treatment (Article 15.4)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 General Law on Sustainable Fishing and Aquaculture (*Ley General de Pesca y Acuacultura Sustentables*), Title Six, Chapter IV; Title Seven, Chapter II Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title I, Chapter I; Title II, Chapter IV, Title Three, Chapter II Ports Law (*Ley de Puertos*), Chapters I, IV and VI Regulations to the Fishing Law (*Reglamento de la Ley de Pesca*), Title Two, Chapter I; Chapter II, Sixth Section
Description:	Cross-Border Trade in Services A permit issued by the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food (*Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca, y Alimentación, SAGARPA*) through the National Commission of Aquaculture and Fishing (*Comisión Nacional de Acuacultura y Pesca, CONAPESCA*); or by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*), in the scope of their competence, is required to engage in fishing activities. A permit issued by SAGARPA is required to carry out activities, such as fishing jobs needed to justify applications for a concession, and the installation of fixed fishing gear in federal waters. Such permit shall be given preferentially to residents of local communities. In equal circumstances, applications of indigenous communities will be preferred. An authorization issued by SCT is required for foreign-flagged vessels to provide dredging services. A permit issued by SCT is required to provide port services related to fishing, like loading operations and supply vessels, maintenance of communication equipment, electricity works, garbage or waste collection and sewage disposal. Only Mexican nationals and Mexican enterprises may obtain such permit.

Sector:	Fishing
Sub-Sector:	Fishing
Industry Classification:	CMAP 130011 Fishing on the High Seas CMAP 130012 Coastal Fishing CMAP 130013 Fresh Water Fishing
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	General Law on Sustainable Fishing and Aquaculture (*Ley General de Pesca y Acuacultura Sustentables*), Title VI, Chapter IV; Title VII, Chapter I; Title XIII, Unique Chapter; Title XIV, Chapters I, II and III Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title II, Chapter I Sea Federal Law (*Ley Federal del Mar*), Title I, Chapters I and III National Waters Law (*Ley de Aguas Nacionales*), Title I, and Title IV, Chapter I Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Regulations to the Fishing Law (*Reglamento de la Ley de Pesca*), Title I, Chapter I; Title II, Chapters I, III, IV, V, and VI: Title III, Chapters III and IV
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico performing coastal fishing, fresh water fishing and fishing in the Exclusive Economic Zone, excluding aquaculture. Favourable resolution from the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico performing fishing on the high seas.

Sector:	Educational Services
Sub-Sector:	Private schools
Industry Classification:	CMAP 921101 Private Pre-school Educational Services CMAP 921102 Private Primary Educational Services CMAP 921103 Private Secondary Educational Services CMAP 921104 Private High School Educational Services CMAP 921105 Private Higher Education Services CMAP 921106 Private Education Services that Combine Pre-school, Primary, Secondary, High School and Higher Education Levels
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Law for the Coordination of Higher Education (*Ley para la Coordinación de la Educación Superior*), Chapter II General Law of Education (*Ley General de Educación*), Chapter III
Description:	Investment Favourable resolution from the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico that provides pre-school, primary, secondary, high school, higher and combined private educational services.

Sector:	Professional, Technical and Specialised Services
Sub-Sector:	Medical services
Industry Classification:	CMAP 9231 Medical, Dental and Veterinary Services provided by the Private Sector (limited to medical services)
Obligations Concerned:	National Treatment (Article 15.3)
Level of Government:	Central
Measures:	Federal Labor Law (*Ley Federal del Trabajo*), Chapter I
Description:	Cross-Border Trade in Services Only Mexican nationals licensed as doctors in the territory of Mexico may supply in-house medical services in Mexican enterprises.

Sector:	Professional, Technical and Specialised Services
Sub-Sector:	Specialised personnel
Industry Classification:	CMAP 951012 Services of Customs and Representative Agencies
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3)
Level of Government:	Central
Measures:	Customs Law (*Ley Aduanera*), Title II, Chapters I and III, and Title VII, Chapter I Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter II
Description:	Investment and Cross-Border Trade in Services Only a Mexican national by birth may be a customs broker. Only customs brokers acting as consignees or legal representatives (mandatarios) of an importer or exporter, as well as customs broker's assignees, may carry out the formalities related to the customs clearance of the goods of such importer or exporter. Investors of another Party or their investments may not participate, directly or indirectly, in a customs broker's agency.

Sector:	Professional, Technical and Specialised Services
Sub-Sector:	Specialised services (Commercial Notary Public)
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Commercial Notary Public Federal Law (*Ley Federal de Correduría Pública*), Articles 7, 8, 12 and 15 Regulations to the Commercial Notary Public Federal Law (*Reglamento de la Ley Federal de Correduría Pública*), Chapter I, and Chapter II, Sections I and II Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter II
Description:	Investment and Cross-Border Trade in Services Only a Mexican national by birth may be licensed to be a commercial notary public (corredor público). A commercial notary public may not have a business affiliation with any person for the supply of commercial notary public services. A commercial notary public shall establish an office in the place where he has been authorised to practise. Only Mexican nationals and Mexican enterprises with foreigners' exclusion clause may obtain such a licence. Foreign investment may not participate in commercial notary public activities and companies, directly or through trusts, agreements, social pacts or statutory, pyramiding schemes, or other mechanism that gives them some control or participation.

Sector:	Professional, Technical and Specialised Services
Sub-Sector:	Professional services
Industry Classification:	CMAP 951002 Legal Services (including foreign legal consultancy)
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Most-Favoured-Nation Treatment (Article 14.5 and Article 15.4)
Level of Government:	Central
Measures:	Regulatory Law of the Constitutional Article 5th relating to the Practice of Professions in the Federal District (*Ley Reglamentaria del Artículo 5º Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal*), Chapter III, Section III, and Chapter V Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III
Description:	Investment and Cross-Border Trade in Services Favourable resolution from the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico that provides legal services. In the absence of an international treaty on the matter, the professional practice by foreigners will be subject to reciprocity in the place of residence of the applicant and to compliance with the rest of the requirements established in the Mexican laws and regulations. Except as provided for in this entry, only lawyers licensed in Mexico may have an ownership interest in a law firm established in the territory of Mexico. Lawyers licensed to practise in another Party will be permitted to form a partnership with lawyers licensed in Mexico. The number of lawyers licensed to practise in another Party serving as partners in a firm in Mexico may not exceed the number of lawyers licensed in Mexico serving as partners of that firm. Lawyers licensed to practise in another Party may practise and provide legal consultations on Mexican law, whenever they comply with the requirements to practise as a lawyer in Mexico.

A law firm established by a partnership of lawyers licensed to practise in another Party and lawyers licensed to practise in Mexico may hire lawyers licensed in Mexico as employees.

For greater certainty, this entry does not apply to the supply, on a temporary fly-in, fly-out basis or through the use of web based or telecommunications technology, of legal advisory services in foreign law and international law and, in relation to foreign and international law only, legal arbitration and conciliation/mediation services by foreign lawyers.

Sector:	Professional, Technical and Specialised Services
Sub-Sector:	Professional services
Industry Classification:	CMAP 9510 Provision of Professional, Technical and Specialised Services (limited to professional services)
Obligations Concerned:	National Treatment (Article 15.3) Most-Favoured-Nation Treatment (Article 15.4)
Level of Government:	Central
Measures:	Regulatory Law of the Constitutional Article 5th relating to the Practice of Professions in the Federal District (*Ley reglamentaria del Artículo 5º Constitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal*), Chapter III, Section III, and Chapter V Regulations to the Regulatory Law of the Constitutional Article 5th relating to the Practice of Professions in the Federal District (*Reglamento de la Ley Reglamentaria del Artículo 5ºConstitucional, relativo al Ejercicio de las Profesiones en el Distrito Federal*), Chapter III Population General Law (*Ley General de Población*), Chapter III
Description:	Cross-Border Trade in Services Pursuant to the relevant international treaties of which Mexico is a party; foreigners may practice in the Federal District the professions set forth in the Regulatory Law of the Constitutional Article 5 relating to the Practice of Professions in the Federal District. In the absence of an international treaty on the matter, the professional practice by foreigners will be subject to reciprocity in the place of residence of the applicant and to compliance with the rest of the requirements established in the Mexican laws and regulations.

Subject to Legal Review for Accuracy, Consistency, and Clarity
Subject to Language Authentication

Sector:	Religious Services
Sub-Sector:	
Industry Classification:	CMAP 929001 Services of Religious Organisations
Obligations Concerned:	Senior Management and Boards of Directors (Article 14.11) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Religious Associations and Public Worship Law (*Ley de Asociaciones Religiosas y Culto Público*), Title II, Chapters I and II
Description:	Investment and Cross-Border Trade in Services Representatives of religious associations in Mexico must be Mexican nationals. Religious associations must be associations constituted in accordance with the Religious Associations and Public Worship Law (*Ley de Asociaciones Religiosas y Culto Público*). Religious associations must register before the Ministry of Internal Affairs (*Secretaría de Gobernación, SEGOB*). To be registered, the religious associations must be established in Mexico.

Sector:	Agriculture Services
Sub-Sector:	
Industry Classification:	CMAP 971010 Provision of Agricultural Services
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 Plant Health Federal Law (*Ley Federal de Sanidad Vegetal*), Title II, Chapter IV Regulations to the Phytosanitary Law of the United Mexican States (*Reglamento de la Ley de Sanidad Fitopecuaria de los Estados Unidos Mexicanos*), Chapter VII
Description:	Cross-Border Trade in Services A concession granted by the Ministry of Agriculture, Livestock, Rural Development, Fishing and Food (Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación, SAGARPA) is required to spray pesticides. Only Mexican nationals or Mexican enterprises may obtain such a concession.

Sector:	Transportation
Sub-Sector:	Air transportation
Industry Classification:	CMAP 384205 Manufacture, Assembly and Repair of Aircraft (limited to repair of aircrafts)
Obligations Concerned:	Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Civil Aviation Law (*Ley de Aviación Civil*), Chapter III, Section II Civil Aviation Regulations (*Reglamento de la Ley de Aviación Civil*), Chapter VII
Description:	Cross-Border Trade in Services A permit issued by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to establish and operate, or operate and exploit, an aircraft repair facility and centres for teaching and training of personnel. To obtain such permission the interested party must prove that the aircraft repair facilities and centres for teaching and training of personnel have their domicile in Mexico.

Sector:	Transportation
Sub-Sector:	Air transportation
Industry Classification:	CMAP 973302 Airport and Heliport Management Services
Obligations Concerned:	National Treatment (Article 14.4) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapters I, II and III Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Civil Aviation Law (*Ley de Aviación Civil*), Chapters I and IV Airports Law (*Ley de Aeropuertos*), Chapter III Regulations to the Airports Law (*Reglamento de la Ley de Aeropuertos*), Title II, Chapters I, II and III
Description:	Investment and Cross-Border Trade in Services A concession granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to construct and operate, or operate, airports and heliports. Only Mexican enterprises may obtain such a concession. Favourable resolution from the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico that is a concessionaire or permissionaire of airfields for public service. When deciding, the CNIE will consider that the national and technological development be favored, and that the sovereign integrity of the Nation be protected.

Sector:	Transportation
Sub-Sector:	Air transportation
Industry Classification:	CMAP 713001 Scheduled Air Transport Services on Domestically Registered Aircraft CMAP 713002 Non-Scheduled Air Transport (Air Taxis)
Obligations Concerned:	National Treatment (Article 14.4) Senior Management and Boards of Directors (Article 14.11)
Level of Government:	Central
Measures:	Civil Aviation Law (*Ley de Aviación Civil*), Chapters IX and X Regulations to the Civil Aviation Law (*Reglamento de la Ley de Aviación Civil*), Title II, Chapter I Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III As qualified by the **Description** element
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the voting interests in an enterprise established or to be established in the territory of Mexico that provides commercial air services on Mexican-registered aircraft. The chairman and at least two-thirds of the boards of directors and two-thirds of the managing officers of such an enterprise must be Mexican nationals. Only Mexican nationals and Mexican enterprises in which 75 per cent of the voting interest is owned or controlled by Mexican nationals and of which the chairman and at least two- thirds of the managing officers are Mexican nationals, may register an aircraft in Mexico.

Sector:	Transportation
Sub-Sector:	Specialty air services
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4) Senior Management and Boards of Directors (Article 14.11) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	General Means of Communications Law (*Ley de Vías Generales de Comunicación*), Book I, Chapter III Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Civil Aviation Law (*Ley de Aviación Civil*), Chapters I, II, IV and IX As qualified by the **Description** element
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the voting interests in an enterprise established or to be established in the territory of Mexico that provides specialty air services using Mexican-registered aircraft. The chairman and at least two-thirds of the board of directors and two-thirds of the managing officers of such an enterprise must be Mexican nationals. Only Mexican nationals and Mexican enterprises in which 75 per cent of the voting interests is owned or controlled by Mexican nationals and of which the chairman and at least two-thirds of the managing officers are Mexican nationals may register an aircraft in Mexico. Cross Border Trade In Services. A permit issued by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to provide all specialty air services in the territory of Mexico. Such a permit may only be granted when the person interested in the supply of these services has domicile in the territory of Mexico.

Sector:	Transportation
Sub-Sector:	Water transportation
Industry Classification:	CMAP 973203 Maritime Port Administration, Lake and Rivers
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Ports Law (*Ley de Puertos*), Chapters IV and V Regulations to the Ports Law (*Reglamento de la Ley de Puertos*) Title I, Chapters I and VI Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III
Description:	Investment Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest of a Mexican enterprise authorised to act as an integral port administrator.

Sector:	Transportation
Sub-Sector:	Water transportation
Industry Classification:	CMAP 384201 Manufacture and Repair of Vessels
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapters I, II and III Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title I, Chapter II Ports Law (*Ley de Puertos*), Chapter IV
Description:	Cross-Border Trade in Services A concession granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to establish and operate, or operate, a shipyard. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Sector:	Transportation
Sub-Sector:	Water transportation
Industry Classification:	CMAP 973201 Water Transport Loading and Unloading Services (includes operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling; operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; waterfront terminal operations)
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title I, Chapter II, and Title II, Chapters IV and V Ports Law (*Ley de Puertos*), Chapters II, IV and VI General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapters I, II and III Regulations to the Use and Enjoyment of the Territorial Sea, Water Ways, Beaches, Relevant Federal Coastal Zone and Lands Gained to the Sea (*Reglamento para el Uso y Aprovechamiento del Mar Territorial, Vías Navegables, Playas, Zona Federal Marítimo Terrestre y Terrenos Ganados al Mar*), Chapter II, Section II As qualified by the **Description** element
Description:	Investment and Cross-Border Trade in Services Favourable resolution from the National Commission on Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 per cent of the ownership interest in an enterprise, established or to be established in the territory of Mexico providing port services to vessels for inland navigation such as towing, mooring and tendering. A concession granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to construct and operate, or operate, maritime and inland port terminals, including docks, cranes and related facilities. Only Mexican nationals and Mexican enterprises may obtain such a concession. A permit issued by the SCT is required to provide stevedoring and

warehousing services. Only Mexican nationals and Mexican enterprises may obtain such a permit.

Sector:	Transportation
Sub-Sector:	Water transportation
Industry Classification:	CMAP 973203 Maritime and Inland (Lake and Rivers Ports Administration)
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title III, Chapter III Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Ports Law (*Ley de Puertos*), Chapters IV and VI
Description:	Investment Investors of another Party or their investments may only participate, directly or indirectly, up to 49 per cent in Mexican enterprises engaged in the supply of piloting port services to vessels operating in inland navigation.

Sector:	Transportation
Sub-Sector:	Water transportation
Industry Classification:	CMAP 712011 International Maritime Transportation Services CMAP 712012 Cabotage Maritime Services CMAP 712013 International and Cabotage Towing Services CMAP 712021 River and Lake Transportation Services CMAP 712022 Internal Port Water Transportation Services
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Most-Favoured-Nation Treatment (Article 14.5 and Article 15.4)
Level of Government:	Central
Measures:	Navigation and Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*), Title III, Chapter I Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Economic Competition Federal Law (*Ley Federal de Competencia Económica*), Chapter IV As qualified by the **Description** element
Description:	Investment and Cross-Border Trade in Services The operation or exploitation of high-seas navigation vessels, including transport and international towing services is open to ship-owners and vessels of all countries, on the basis of reciprocity according to international treaties. With the prior opinion of the Federal Competition Commission (*Comisión Federal de Competencia Económica, COFECE*), the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) may reserve, totally or partially, certain international high-seas freight transportation services, which could only be carried out by Mexican shipping enterprises with Mexican-flagged vessels or vessels reputed as such when the principles of free competition are not respected or the national economy is affected. For greater certainty the previous sentence does not apply to Canada. The operation and exploitation of cabotage and inland navigation is reserved for Mexican ship-owners with Mexican vessels. When Mexican vessels are not appropriate and available with the same technical conditions, or it is required by the public interest, the SCT may provide temporary navigation permits to operate and exploit to Mexican ship-owners with a foreign vessel in accordance with the following priorities:

1. Mexican ship-owner with a foreign vessel under a bareboat charter party; and

2. Mexican ship-owner with a foreign vessel under any type of charter party.

The operation and exploitation in inland navigation and cabotage of tourist cruises as well as dredges and maritime devices for the construction, preservation and operation of ports may be carried out by Mexican or foreign shipping enterprises using Mexican or foreign vessels or maritime devices, on the basis of reciprocity with a Party, endeavouring to give priority to Mexican enterprises and complying with applicable laws.

With the prior opinion of the COFECE, the SCT may resolve that totally or partially, certain cabotage or high-seas navigation could only be carried by Mexican shipping enterprises with Mexican vessels or reputed as such in the absence of conditions of effective competition on the relevant market as per the terms of the Economic Competition Federal Law.

Investors of another Party or their investments may only own, directly or indirectly, up to 49 per cent of the ownership interest in a Mexican shipping enterprise or Mexican vessels, established or to be established in the territory of Mexico, which is engaged in the commercial exploitation of vessels for inland and cabotage navigation, excluding tourism cruises and exploitation of dredges and maritime devices for the construction, preservation and operation of ports.

Favourable resolution from the National Commission of Foreign Investments (Comisión Nacional de Inversiones Extranjeras, CNIE) is required for investors of another Party or their investments to own, directly or indirectly, more than 49 per cent of the ownership interest in an enterprise established or to be established in the territory of Mexico engaged in high- seas navigation services and port towing services.

Sector:	Transportation
Sub-Sector:	Non-energy pipelines
Industry Classification:	
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapters I, II and III National Waters Law (*Ley de Aguas Nacionales*), Title I, Chapter II, and Title IV, Chapter II
Description:	Cross-Border Trade in Services A concession granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to construct and operate, or operate, pipelines carrying goods other than energy or basic petrochemicals. Only Mexican nationals and Mexican enterprises may obtain such a concession.

Sector:	Transportation
Sub-Sector:	Railway transportation services
Industry Classification:	CMAP 711101 Railway Transport Services
Obligations Concerned:	National Treatment (Article 14.4 and Article15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter III Regulatory Law of the Railway Service (*Ley Reglamentaria del Servicio Ferroviario*) Chapters I and II, Section III Regulations to the Railway Service (*Reglamento del Servicio Ferroviario*), Title I, Chapters I, II and III, Title II, Chapters I and IV, and Title III, Chapter I, Sections I and II
Description:	Investment and Cross-Border Trade in Services Favourable resolution from the National Commission of Foreign Investment (*Comisión Nacional de Inversiones Extranjeras, CNIE*) is required for investors of another Party or their investments to participate, directly or indirectly, in more than 49 per cent of the ownership interest of an enterprise established or to be established in the territory of Mexico engaged in the construction, operation and exploitation of railroads deemed general means of communication, or in the supply of railway transportation public service. When deciding, the CNIE will consider that the national and technological development be favored, and that the sovereign integrity of the Nation be protected. A concession granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to construct, operate and exploit railway transportation services and to provide railway transportation public service. Only Mexican enterprises may obtain such a concession. A permit issued by SCT is required to provide auxiliary services; the construction of entry and exit facilities, crossings and marginal facilities in the right of way; the installation of advertisements and publicity signs in the right of way; and the construction and operation of bridges over railway lines. Only Mexican nationals and Mexican enterprises may obtain such a permit.

Sector:	Transportation
Sub-Sector:	Land transportation
Industry Classification:	CMAP 973101 Management Services of Passenger Bus Terminals and Auxiliary Services (limited to main bus and truck terminals and bus and truck stations)
Obligations Concerned:	National Treatment (Article 14.4) Most-Favoured-Nation Treatment (Article 15.4) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Roads, Bridges and Federal Road Transport Law (*Ley de Caminos, Puentes y Autotransporte Federal*), Title I, Chapter III Regulations to the Enjoyment of the Right of Way of the Federal Roads and Surrounding Zones (*Reglamento para el Aprovechamiento del Derecho de Vía de las Carreteras Federales y Zonas Aledañas*), Chapters II and IV Regulations to the Federal Road Transport and Auxiliary Services (*Reglamento de Autotransporte Federal y Servicios Auxiliares*), Chapter I
Description:	Cross-Border Trade in Services A permit issued by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to establish, or operate, a bus or truck station or terminal. Only Mexican nationals and Mexican enterprises may obtain such a permit. To obtain such permit the interested party must prove that they have their domicile in Mexico.

Sector:	Transportation
Sub-Sector:	Land transportation
Industry Classification:	CMAP 973102 Management Services of Roads, Bridges and Auxiliary Services
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32 Roads, Bridges and Federal Road Transport Law (*Ley de Caminos, Puentes y Autotransporte Federal*), Title I, Chapter III Regulations to the Federal Road Transport and Auxiliary Services (*Reglamento de Autotransporte Federal y Servicios Auxiliares*), Chapters I and V
Description:	Cross-Border Trade in Services A permit granted by the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes, SCT*) is required to provide auxiliary services to federal road transportation. Only Mexican nationals and Mexican enterprises may obtain such a permit. For greater certainty, auxiliary services are not part of federal road transportation of passengers, tourism or cargo, but they complement their operation and exploitation.

Sector:	Transportation
Sub-Sector:	Land transportation
Industry Classification:	CMAP 711201 Construction Materials Transport Services CMAP 711202 Moving Services CMAP 711203 Other Specialised Freight Transport Services CMAP 711204 General Freight Transport Services CMAP 711311 Long-Distance Passenger Bus and Coach Transport Services CMAP 711318 School and Tourist Transport Services (limited to tourist transport services) CMAP 720002 Courier services
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter II Roads, Bridges and Federal Road Transport Law (*Ley de Caminos, Puentes y Autotransporte Federal*), Title I, Chapter I and III Regulations to the Federal Road Transport and Auxiliary Services (*Reglamento de Autotransporte Federal y Servicios Auxiliares*), Chapter I As qualified by the **Description** element
Description:	Investment and Cross-Border Trade in Services Investors of another Party or their investments may not own, directly or indirectly, an ownership interest in an enterprise established or to be established in the territory of Mexico, engaged in transportation services of domestic cargo between points in the territory of Mexico, except for parcel and courier services. A permit issued by the Ministry of Communications and Transportation (Secretaría de Comunicaciones y Transportes, SCT) is required to provide inter-city bus services, tourist transportation services or truck services for the transportation of goods or passengers to or from the territory of Mexico. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause, using Mexican registered equipment that is Mexican-built or legally imported, and drivers who are Mexican nationals, may provide bus or truck services for transportation of goods or passengers between points in the territory of Mexico.

A permit issued by the SCT is required to provide parcel and courier services. Only Mexican nationals and Mexican enterprises may provide such services.

Sector:	Transportation
Sub-Sector:	Railway transportation services
Industry Classification:	CMAP 711101 Transport Services Via Railway (limited to railway crew)
Obligations Concerned:	National Treatment (Article 15.3)
Level of Government:	Central
Measures:	Federal Labor Law (*Ley Federal del Trabajo*), Title VI, Chapter V
Description:	Cross-Border Trade in Services Railway crew members must be Mexican nationals.

Sector:	Transportation
Sub-Sector:	Land transportation
Industry Classification:	CMAP 711312 Urban and Suburban Passenger Bus and Coach Transport Services CMAP 711315 Motor Vehicle Taxi Transport Services CMAP 711316 Motor Vehicle Fixed Route Transport Services CMAP 711317 Transport Services in Motor Vehicles from Taxi-Ranks CMAP 711318 School and Tourist Transport Services (limited to school transport services)
Obligations Concerned:	National Treatment (Article 14.4 and Article15.3)
Level of Government:	Central
Measures:	Foreign Investment Law (*Ley de Inversión Extranjera*), Title I, Chapter II General Means of Communication Law (*Ley de Vías Generales de Comunicación*), Book I, Chapters I and II Roads, Bridges and Federal Road Transport Law (*Ley de Caminos, Puentes y Autotransporte Federal*), Title I, Chapter III Regulations to the Federal Road Transport and Auxiliary Services (*Reglamento de Autotransporte Federal y Servicios Auxiliares*), Chapter I
Description:	Investment and Cross-Border Trade in Services Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may supply local urban and suburban passenger bus services, school bus services, and taxi and other collective transportation services.

Sector:	Communications
Sub-Sector:	Entertainment services (Cinema)
Industry Classification:	CMAP 941103 Private Exhibition of Films
Obligations Concerned:	Most-Favoured-Nation Treatment (Article 14.5 and Article 15.4) National Treatment (Article 15.3)
Level of Government:	Central
Measures:	Federal Cinematography Law (*Ley Federal de Cinematografía*), Chapter III Regulations to the Federal Cinematography Law (Reglamento de la Ley Federal de Cinematografía), Chapter V
Description:	Investment and Cross-Border Trade in Services Exhibitors shall reserve 10 per cent of the total screen time to the projection of national films.

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Most-Favoured-Nation Treatment (Article 14.5 and Article 15.4) Performance Requirements (Article 14.10) Senior Management and Boards of Directors (Article 14.11) Local Presence (Article 15.6)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states of the United Mexican States
Description:	Investment and Cross-Border Trade in Services

ANNEX I

INTRODUCTORY NOTE

1. **Description** provides a general, nonbinding description of the measure for which the entry is made.

2. In accordance with Articles 14.12 (Investment – Non-Conforming Measures) and 15.7 (Cross Border Trade in Services – Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation, or other measure identified in the **Measures** element of that entry.

ANNEX I

SCHEDULE OF THE UNITED STATES

Sector:	Atomic Energy
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	*Atomic Energy Act of 1954*, 42 U.S.C. §§ 2011 et seq.
Description:	Investment A license issued by the United States Nuclear Regulatory Commission is required for any person in the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, use, import, or export any nuclear "utilization or production facilities" for commercial or industrial purposes. Such a license may not be issued to any entity known or believed to be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (42 U.S.C. § 2133(d)). A license issued by the United States Nuclear Regulatory Commission is also required for nuclear "utilization and production facilities," for use in medical therapy, or for research and development activities. The issuance of such a license to any entity known or believed to be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government is also prohibited (42 U.S.C. § 2134(d)).

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	*Export Trading Company Act of 1982*, 15 U.S.C. §§ 4011-4021 *Export Trade Certificates of Review*, 15 C.F.R. Part 325

Description:

Cross-Border Trade in Services

Title III of the *Export Trading Company Act of 1982* authorizes the Secretary of Commerce to issue "certificates of review" with respect to export conduct. The Act provides for the issuance of a certificate of review where the Secretary determines, and the Attorney General concurs, that the export conduct specified in an application will not have the anticompetitive effects proscribed by the Act. A certificate of review limits the liability under federal and state antitrust laws in engaging in the export conduct certified.

Only a "person" as defined by the Act can apply for a certificate of review. "Person" means "an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between such persons."

A foreign national or enterprise may receive the protection provided by a certificate of review by becoming a "member" of a qualified applicant. The regulations define "member" to mean "an entity (U.S. or foreign) that is seeking protection under the certificate with the applicant. A member may be a partner in a partnership or a joint venture; a shareholder of a corporation; or a participant in an association, cooperative, or other form of profit or nonprofit organization or relationship, by contract or other arrangement."

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	*Export Administration Act of 1979, as amended*, 50 U.S.C. App. §§ 2401-2420 *International Emergency Economic Powers Act*, 50 U.S.C. §§ 1701-1706 *Export Administration Regulations*, 15 C.F.R. Parts 730-774 *Export Control Reform Act of 2018,* Pub. L. 115-232, Title 17, subtitle B, 132 Stat. 2208 (2018)
Description:	Cross-Border Trade in Services Certain exports and re-exports of commodities, software, and technology subject to the Export Administration Regulations require a license from the Bureau of Industry and Security, U.S. Department of Commerce (BIS). Certain activities of U.S. persons, wherever located, also require a license from BIS. An application for a license must be made by a person in the United States. In addition, release of controlled technology to a foreign national in the United States is deemed to be an export to the home country of the foreign national and requires the same written authorization from BIS as an export from the territory of the United States.

Sector:	Mining
Obligations Concerned:	National Treatment (Article 14.4) Most-Favored-Nation Treatment (Article 14.5)
Level of Government:	Central
Measures:	*Mineral Lands Leasing Act of 1920*, 30 U.S.C. Chapter 3A 10 U.S.C. § 7435

Description:

Investment

Under the Mineral Lands Leasing Act of 1920, aliens and foreign corporations may not acquire rights-of-way for oil or gas pipelines, or pipelines carrying products refined from oil and gas, across on-shore federal lands or acquire leases or interests in certain minerals on on-shore federal lands, such as coal or oil. Non-U.S. citizens may own a 100 percent interest in a domestic corporation that acquires a right-of-way for oil or gas pipelines across on-shore federal lands, or that acquires a lease to develop mineral resources on on-shore federal lands, unless the foreign investor's home country denies similar or like privileges for the mineral or access in question to U.S. citizens or corporations, as compared with the privileges it accords to its own citizens or corporations or to the citizens or corporations of other countries (30 U.S.C. §§ 181, 185(a)).

Nationalization is not considered to be denial of similar or like privileges.

Foreign citizens, or corporations controlled by them, are restricted from obtaining access to federal leases on Naval Petroleum Reserves if the laws, customs, or regulations of their country deny the privilege of leasing public lands to citizens or corporations of the United States (10 U.S.C. § 7435).

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 14.4) Most-Favored-Nation Treatment (Article 14.5)
Level of Government:	Central
Measures:	22 U.S.C. §§ 2194 and 2198(c)

Description:

Investment

Overseas Private Investment Corporation (OPIC) programs are not available to non-U.S. citizens as individuals. The availability of these programs to foreign enterprises and foreign owned or controlled domestic enterprises depends upon the extent of U.S. ownership or other U.S. participation, as well as the form of business organization.

OPIC insurance and loan guaranties are available only to eligible investors, which are: (i) United States citizens; (ii) corporations, partnerships, or other associations, including non-profit associations, created under the laws of the United States, any state or territory thereof, or the District of Columbia, and substantially beneficially owned by United States citizens; and (iii) foreign partnerships or associations 100 percent owned, or foreign corporations at least 95 percent owned, by one or more such United States citizens, corporations, partnerships, or associations.

OPIC may issue insurance to investors not otherwise eligible in connection with arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions, such as the Multilateral Investment Guarantee Agency, for sharing liabilities assumed under such investment insurance, except that the maximum share of liabilities so assumed may not exceed the proportionate participation by eligible investors in the project.

Sector:	Air Transportation
Obligations Concerned:	National Treatment (Article 14.4) Most-Favored-Nation Treatment (Article 14.5) Senior Management and Boards of Directors (Article 14.11)
Level of Government:	Central
Measures:	49 U.S.C. Subtitle VII, *Aviation Programs* 14 C.F.R. Part 297 (foreign freight forwarders); 14 C.F.R. Part 380, Subpart E (registration of foreign (passenger) charter operators)
Description:	Investment Only air carriers that are "citizens of the United States" may operate aircraft in domestic air service (cabotage) and may provide international scheduled and non-scheduled air service as U.S. air carriers. U.S. citizens also have blanket authority to engage in indirect air transportation activities (air freight forwarding and passenger charter activities other than as actual operators of the aircraft). In order to conduct such activities, non-U.S. citizens must obtain authority from the Department of Transportation. Applications for such authority may be rejected for reasons relating to the failure of effective reciprocity, or if the Department of Transportation finds that it is in the public interest to do so. Under 49 U.S.C. § 40102(a)(15), a citizen of the United States means an individual who is a U.S. citizen; a partnership in which each member is a U.S. citizen; or a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, which is under the actual control of U.S. citizens, and in which at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.

Sector:	Air Transportation
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Most-Favored-Nation Treatment (Articles 14.5 and 15.4) Senior Management and Boards of Directors (Article 14.11)
Level of Government:	Central
Measures:	49 U.S.C., Subtitle VII, *Aviation Programs* 49 U.S.C. § 41703 14 C.F.R. Part 375
Description:	Cross-Border Trade in Services Authorization from the Department of Transportation is required for the supply of specialty air services in the territory of the United States. A person of a Party will be able to obtain such an authorization if the Party provides effective reciprocity by virtue of this Agreement. Investment "Foreign civil aircraft" require authority from the Department of Transportation to conduct specialty air services in the territory of the United States. In determining whether to grant a particular application, the Department will consider, among other factors, the extent to which the country of the applicant's nationality accords U.S. civil aircraft operators effective reciprocity. "Foreign civil aircraft" are aircraft of foreign registry or aircraft of U.S. registry that are owned, controlled, or operated by persons who are not citizens or permanent residents of the United States (14 C.F.R. § 375.1). Under 49 U.S.C. § 40102(a)(15), a citizen of the United States means an individual who is a U.S. citizen; a partnership in which each member is a U.S. citizen; or a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, which is under the actual control of U.S. citizens, and in which at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.
Sector:	Land Transportation
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Local Presence (Article 15.6)

Most-Favored-Nation Treatment (Article 14.5 and 15.4)

Level of Government: Central

Measures:
49 U.S.C. 13902(c)
49 U.S.C. 13102
49 U.S.C. 13501
49 CFR Subtitle B, Chapter III
Sec. 350, PL 107-87, as amended
Sec. 6901, PL 110-28, as amended

Description:

Cross-Border Trade in Services and Investment

Only persons of the United States, using U.S.-registered and either U.S.-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of the United States.

Operating authority from the Department of Transportation is required to provide cross-border bus or truck services in the territory of the United States. For greater certainty, the United States may maintain the regulatory requirements in 49 CFR Subtitle B, Chapter III, or similar successor regulatory requirements.

Investment

Grants of authority for the provision of truck services by persons of Mexico between points in the United States for the transportation of goods other than international cargo are subject to reciprocity.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Sector:	Transportation Services - Customs Brokers
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	19 U.S.C. § 1641(b)
Description:	Cross-Border Trade in Services and Investment A customs broker's license is required to conduct customs business on behalf of another person. An individual may obtain such a license only if that individual is a U.S. citizen. A corporation, association, or partnership may receive a customs broker's license only if it is established under the laws of any state and at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 14.4) Most-Favored-Nation Treatment (Article 14.5)
Level of Government:	Central
Measures:	*Securities Act of 1933*, 15 U.S.C. §§ 77c(b), 77f, 77g, 77h, 77j, and 77s(a) 17 C.F.R. §§ 230.251 and 230.405 *Securities Exchange Act of 1934*, 15 U.S.C. §§ 78l, 78m, 78o(d), and 78w(a) 17 C.F.R. § 240.12b-2
Description:	Investment Foreign firms, except for certain Canadian issuers, may not use the small business registration forms under the Securities Act of 1933 to register public offerings of securities or the small business registration forms under the Securities Exchange Act of 1934 to register a class of securities or file annual reports.

Sector:	Communications – Radiocommunications*
Obligations Concerned:	National Treatment (Article 14.4)
Level of Government:	Central
Measures:	47 U.S.C. § 310 (a)-(b) Foreign Participation Order 12 FCC Rcd 23891, paras. 97-118 (1997)

Description:

Investment

The United States restricts ownership of radio licenses in accordance with the above statutory and regulatory provisions, which provide that, *inter alia*:

(a) no station license may be granted to or held by a foreign government or representative thereof;

(b) no broadcast or common carrier or aeronautical en route or aeronautical fixed station license may be granted to or held by:

  (i) an alien or its representative;

  (ii) a corporation organized under the laws of a foreign government; or

  (iii) a corporation of which more than one fifth of the capital stock is owned of record or voted by an alien or its representative, a foreign government or its representative, or a corporation organized under the laws of a foreign country; and

(c) absent a specific finding that that the public interest would be served by permitting foreign ownership of a broadcast licenses, no broadcast station license shall be granted to any corporation directly or indirectly controlled by another corporation of which more than one fourth of the capital stock is owned of record or voted by an alien or its representative, a foreign government or its representative, or a corporation organized under the laws of a foreign country.

*Radiocommunications consists of all communications by radio, including broadcasting.

Sector:	Professional Services - Patent Attorneys, Patent Agents, and Other Practice before the Patent and Trademark Office
Obligations Concerned:	National Treatment (Article 15.3) Most-Favored-Nation Treatment (Article 15.4) Local Presence (Article 15.6)
Level of Government:	Central
Measures:	35 U.S.C. Chapter 3 (practice before the U.S. Patent and Trademark Office) 37 C.F.R. Part 11 (representation of others before the U.S. Patent and Trademark Office)
Description:	Cross-Border Trade in Services As a condition to be registered to practice for others before the U.S. Patent and Trademark Office (USPTO): (a) a patent attorney must be a U.S. citizen or an alien lawfully residing in the United States (37 C.F.R. § 11.6(a)); (b) a patent agent must be a U.S. citizen, an alien lawfully residing in the United States, or a non-resident who is registered to practice in a country that permits patent agents registered to practice before the USPTO to practice in that country; the latter is permitted to practice for the limited purpose of presenting and prosecuting patent applications of applicants located in the country in which he or she resides (37 C.F.R. §11.6(c)); and (c) a practitioner in trademark and non-patent cases must be an attorney licensed in the United States, a "grandfathered" agent, an attorney licensed to practice in a country that accords equivalent treatment to attorneys licensed in the United States, or an agent registered to practice in such a country; the latter two are permitted to practice for the limited purpose of representing parties located in the country in which he or she resides (37 C.F.R. § 11.14(a)-(c)).

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Most-Favored-Nation Treatment (Articles 14.5 and 15.4) Local Presence (Article 15.6) Performance Requirements (Article 14.10) Senior Management and Boards of Directors (Article 14.11)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states of the United States, the District of Columbia, and Puerto Rico
Description:	Cross-Border Trade in Services and Investment

ANNEX I

SCHEDULE OF CANADA

INTRODUCTORY NOTES

1. **Description** provides a general non-binding description of the measure for which the entry is made.

2. **Obligations Concerned** specifies the obligations referred to in Article YY (Non-Conforming Measures) and Article XX (Non-Conforming Measures) that do not apply to the listed measures.

3. In the interpretation of an entry, all elements of an entry shall be considered. An entry shall be interpreted in the light of the relevant provisions of the Chapters against which the entry is taken. To the extent that:

   (a) the **Measures** element is qualified by a liberalisation commitment from the Description element, the **Measures** element as so qualified shall prevail over all other elements; and

   (b) the **Measures** element is not so qualified, the **Measures** element prevails over other elements, unless a discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element prevails, in which case the other elements prevail to the extent of that discrepancy.

Reservation I-C-1

Sector: All Sectors

Sub-Sector:

Type of Reservation: National Treatment (Article YY)

Performance Requirements (Article YY)
Senior Management and Boards of Directors (Article YY)

Level of Government: Central

Measures: *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.)
Investment Canada Regulations, S.O.R./85-611

Description: **Investment**

1. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct "acquisition of control", as defined in the *Investment Canada Act*, of a Canadian business by World Trade Organization investor if the value of the Canadian business is not less than C$1 Billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2019, as set out in the *Investment Canada Act*.

2. Notwithstanding the definition of "investor of a Party" in Article YY (Definitions), only investors who are World Trade Organization Members or entities controlled by World Trade Organization Members provided for in the *Investment Canada Act* may benefit from the CAD $1 billion threshold.

3. Except as set out in paragraphs 5 and 9, the Director of Investments will review a direct "acquisition of control, as defined in the *Investment Canada Act*, of a Canadian business by a trade agreement investor if the value of the Canadian business is not less than CAD $1.5 billion, adjusted in accordance with the applicable methodology in January of each subsequent year, starting in 2019, as set out in the *Investment Canada Act*.

4. Notwithstanding the definition of "investor of a Party" in Article YY (Definitions), only a trade agreement investor or an entity controlled by a trade agreement investor as provided for in the *Investment Canada Act* may benefit from the CAD $1.5 billion review threshold.

5. The higher threshold in paragraph 1 and 3 does not apply to a direct acquisition of control by a state-owned enterprise of a Canadian business. Such acquisitions are subject to review by the Director of Investments if the value of the Canadian business is not less than C$398 million in 2018, adjusted in accordance with the applicable methodology in January of each subsequent year as set out in the *Investment Canada Act*.

6. An investment subject to review under the *Investment Canada Act* may not be implemented unless the Minister responsible for the *Investment Canada Act* advises the applicant that the investment is likely to be of net benefit to Canada. This determination is made in accordance with six factors described in the Act, summarized as follows:

    (a) the effect of the investment on the level and nature of economic activity in Canada, including the effect on employment, on the use of parts, components and services produced in Canada and on exports from Canada;

    (b) the degree and significance of participation by Canadians in the investment;

    (c) the effect of the investment on productivity, industrial efficiency, technological development and product innovation in Canada;

    (d) the effect of the investment on competition within an industry or industries in Canada;

    (e) the compatibility of the investment with national industrial, economic and cultural policies, taking into consideration industrial,

economic and cultural policy objectives enunciated by the government or legislature of a province likely to be significantly affected by the investment; and

(f) the contribution of the investment to Canada's ability to compete in world markets.

7. In making a net benefit determination, the Minister, through the Director of Investments, may review plans under which the applicant demonstrates the net benefit to Canada of the proposed acquisition. An applicant may also submit undertakings to the Minister in connection with a proposed acquisition that is the subject of review. In the event of noncompliance with an undertaking by an applicant, the Minister may seek a court order directing compliance or any other remedy authorised under the *Investment Canada Act*.

8. A non-Canadian who establishes or acquires a Canadian business, other than those that are subject to review must notify the Director of Investments.

9. The review thresholds set out in paragraphs 1, 3 and 5 do not apply to an acquisition of a cultural business.

10. In addition, the specific acquisition or establishment of a new business in designated types of business activities relating to Canada's cultural heritage or national identity, which are normally notifiable, may be subject to review if the Governor in Council authorises a review in the public interest.

11. An indirect "acquisition of control" of a Canadian business by an investor of a Party other than a cultural business is not reviewable.

12. Notwithstanding Article YY (Performance Requirements), Canada may impose requirements or enforce a commitment or undertaking in connection with the establishment, acquisition, expansion, conduct, operation or management of an investment of an investor of a Party or of a non-Party for the transfer of technology, production process or other proprietary knowledge to a national or enterprise, affiliated to the transferor, in Canada in connection with the review of

an acquisition of an investment under the *Investment Canada Act*.

13. Except for requirements, commitments or undertakings relating to technology transfer as set out in paragraph 12 of this reservation, Article (YY Performance Requirements) applies to requirements, commitments or undertakings imposed or enforced under the *Investment Canada Act*.

14. For the purposes of this reservation, a "non-Canadian" means an individual, government or agency thereof or an entity that is not Canadian; and "Canadian" means a Canadian citizen or permanent resident, a government in Canada or agency thereof, or a Canadian-controlled entity as described in the *Investment Canada Act*.

Reservation I-C-2

Sector: All Sectors

Sub-Sector:

Type of Reservation:
National Treatment (Article YY)
Senior Management and Boards of Directors (Article YY)

Level of Government: Central

Measures: As set out in the **Description** element.

Description:

Investment

1. Canada or a province or territory, when selling or disposing of its equity interests in, or the assets of, an existing government enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets and on the ability of owners of such interests or assets to control a resulting enterprise by investors of a Party or of a third country or their investments. With respect to such a sale or other disposition, Canada or a province or territory may adopt or maintain a measure relating to the nationality of senior management or members of the board of directors.

2. For the purposes of this reservation:

   (a) a **measure** maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes a limitation on the ownership of equity interests or assets or imposes a nationality requirement described in this reservation is an existing measure; and

   (b) **government enterprise** means an enterprise owned or controlled through ownership interests by Canada or a province or territory, and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity

interests in, or the assets of, an existing state enterprise or governmental entity.

Reservation I-C-3

Sector: All Sectors

Sub-Sector:

Type of Reservation: National Treatment (Article YY)

Measures: *Canada Business Corporations Act*, R.S.C. 1985, c. C-44
Canada Business Corporations Regulations, *2001,* S.O.R./2001-512
Canada Cooperatives Act, S.C. 1998, c. 1
Canada Cooperatives Regulations, SOR/99-256

Level of Government: Central

Description: **Investment**

1. A corporation may place constraints on the issue, transfer and ownership of shares in a federally incorporated corporation. The object of those constraints is to permit a corporation to meet Canadian ownership or control requirements, under certain laws set out in the *Canada Business Corporations Regulations, 2001*, in sectors where Canadian ownership or control is required as a condition to receive licences, permits, grants, payments or other benefits. In order to maintain certain Canadian ownership levels, a corporation is permitted to sell shareholders' shares without the consent of those shareholders, and to purchase its own shares on the open market.

2. The *Canada Cooperatives Act* provides that constraints may be placed on the issue or transfer of investment shares of a cooperative to persons not resident in Canada, to permit cooperatives to meet Canadian ownership requirements to obtain a licence to carry on a business, to become a publisher of a Canadian newspaper or periodical or to acquire investment shares of a financial intermediary and in sectors where ownership or control is a required condition to receive licences, permits, grants, payments and other benefits. Where the ownership or control of investment shares

would adversely affect the ability of a cooperative to maintain a level of Canadian ownership or control, the *Canada Cooperatives Act* provides for the limitation of the number of investment shares that may be owned or for the prohibition of the ownership of investment shares.

3. For the purposes of this reservation **Canadian** means "Canadian" as defined in the *Canada Business Corporations Regulations, 2001* or in the *Canada Cooperatives Regulations*.

Reservation I-C-4

Sector: All Sectors

Sub-Sector:

Type of Reservation: National Treatment (Article YY)

Level of Government: Central

Measures: *Citizenship Act*, R.S.C. 1985, c. C-29
Foreign Ownership of Land Regulations, S.O.R./79-416

Description: **Investment**

1. The *Foreign Ownership of Land Regulations* are made pursuant to the *Citizenship Act* and the *Agricultural and Recreational Land Ownership Act,* R.S.A. 1980, c. A-9. In Alberta, an ineligible person or foreign owned or controlled corporation may only hold an interest in controlled land consisting of a maximum of two parcels containing, in the aggregate, a maximum of 20 acres.

2. For the purposes of this reservation:

   ineligible person means:

   (a) a natural person who is not a Canadian citizen or permanent resident;

   (b) a foreign government or agency thereof; or

   (c) a corporation incorporated in a country other than Canada; and

   controlled land means land in Alberta but does not include:

   (a) land of the Crown in right of Alberta;

   (b) land within a city, town, new town, village or summer village; and

   (c) mines or minerals.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-5

Sector: All Sectors

Sub-Sector:

Type of Reservation: National Treatment (Article YY)

Level of Government: Central

Measures: *Canadian Arsenals Limited Divestiture Authorization Act*, S.C. 1986, c. 20
Eldorado Nuclear Limited Reorganization and Divestiture Act, S.C. 1988, c. 41
Nordion and Theratronics Divestiture Authorization Act, S.C. 1990, c. 4

Description: **Investment**

1. A "non-resident" or "non-residents" may not own more than a specified percentage of the voting shares of the corporation to which each Act applies. For some companies the restrictions apply to individual shareholders, while for others the restrictions may apply in the aggregate. If there are limits on the percentage that an individual Canadian investor can own, these limits also apply to non-residents. The restrictions are as follows:
    - Cameco Limited (formerly Eldorado Nuclear Limited): 15 per cent per non-resident natural person, 25 per cent in the aggregate;
    - Nordion International Inc.: 25 per cent in the aggregate;
    - Theratronics International Limited: 49 per cent in the aggregate; and
    - Canadian Arsenals Limited: 25 per cent in the aggregate.

2. For the purposes of this reservation, **non-resident** includes:

    (a) a natural person who is not a Canadian citizen and not ordinarily resident in Canada;
    (b) a corporation incorporated, formed or otherwise organised outside Canada;

(c) the government of a foreign State or a political subdivision of a government of a foreign State, or a person empowered to perform a function or duty on behalf of such a government;

(d) a corporation that is controlled directly or indirectly by a person or an entity referred to in subparagraphs (a) through (c);

(e) a trust:

(i) established by a person or an entity referred to in subparagraphs (b) through (d), other than a trust for the administration of a pension fund for the benefit of natural persons the majority of whom are resident in Canada; or

(ii) in which a person or an entity referred to in subparagraphs (a) through (d) has more than 50 per cent of the beneficial interest; and

(f) a corporation that is controlled directly or indirectly by a trust referred to in subparagraph (e).

Reservation I-C-6

Sector:	All Sectors
Sub-Sector:	
Type of Reservation:	Local Presence (Article XX)
Level of Government:	Federal
Measure:	*Export and Import Permits Act*, R.S.C. 1985, c. E-19
Description:	**Cross-Border Trade in Services** Only a natural person ordinarily resident in Canada, an enterprise with its head office in Canada or a branch office in Canada of a foreign enterprise may apply for and be issued an import or export permit or transit authorisation certificate for a good or related service subject to controls under the *Export and Import Permits Act*.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-7

Sector: Communications services

Sub-sector: Telecommunications transport networks and services
Radiocommunications

Type of Reservation:
National Treatment (Article YY)
Senior Management and Boards of Directors (Article YY)

Level of Government: Central

Measures: *Telecommunications Act*, S.C. 1993, c. 38
Canadian Telecommunications Common Carrier Ownership and Control Regulations, S.O.R./94-667
Radiocommunications Act, R.S.C. 1985, c. R-2
Radiocommunication Regulations, S.O.R./96-484

Description: **Investment**

1. Foreign investment in facilities-based telecommunications service suppliers is restricted to a maximum, cumulative total of 46.7 per cent voting interest, based on 20 per cent direct investment and 33.3 per cent indirect investment.

2. Facilities-based telecommunications service suppliers must be controlled in fact by Canadians.

3. At least 80 per cent of the members of the board of directors of facilities-based telecommunications service suppliers must be Canadians.

4. Notwithstanding the restrictions described above:

   (a) foreign investment is allowed up to 100 per cent for suppliers conducting operations under an international submarine cable licence;

   (b) mobile satellite systems of a foreign service supplier may be used by a Canadian service supplier to provide services in Canada;

   (c) fixed satellite systems of a foreign service supplier may be used to provide services between points in Canada and all points outside Canada;

(d) foreign investment is allowed up to 100 per cent for suppliers conducting operations under a satellite authorisation; and

(e) foreign investment is allowed up to 100 per cent for facilities-based telecommunications service suppliers that have revenues, including those of its affiliates, from the supply of telecommunications services in Canada representing less than 10 per cent of the total telecommunications services revenues in Canada. Facilities-based telecommunications service suppliers that previously had annual revenues, including those of their affiliates, from the supply of telecommunications services in Canada representing less than 10 per cent of the total telecommunications services annual revenues in Canada may increase to 10 per cent or beyond as long as the increase in such revenues did not result from the acquisition of control of, or the acquisition of assets used to supply telecommunications services by, another facilities-based telecommunications service supplier that is subject to the legislative authority of the Parliament of Canada.

Reservation I-C-8

Sector:	Business Services Industries
Sub-Sector:	
Type of Reservation:	National Treatment (Articles YY and XX) Local Presence (Article XX) Senior Management and Boards of Directors (Article YY)
Level of Government:	Central
Measures:	*Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.) *Customs Brokers Licensing Regulations*, S.O.R./86-1067
Description:	**Investment and Cross-Border Trade in Services**

To be a licensed customs broker in Canada, in addition to meeting all other licensing requirements:

(a) a natural person must be a Canadian national;

(b) a corporation must be incorporated in Canada with a majority of its directors being Canadian nationals; and

(c) a partnership must be composed of persons who are Canadian nationals who meet all other licensing requirements, or corporations incorporated in Canada with a majority of their directors being Canadian nationals who meet all other licensing requirements.

Reservation I-C-9

Sector:	Business Services Industries
Sub-Sector:	Duty Free Shops
Type of Reservation:	National Treatment (Articles YY and XX) Local Presence (Article XX)
Level of Government:	Central
Measures:	*Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.) *Duty Free Shop Regulations*, S.O.R./86-1072

Description: **Investment and Cross-Border Trade in Services**

1. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a natural person must be a Canadian national;

2. In addition to all other licensing requirements, to be a licensed duty free shop operator at a border crossing in Canada, a corporation must be incorporated in Canada and have all of its shares beneficially owned by Canadian nationals who meet all other licensing requirements.

Reservation I-C-10

Sector: Business Services Industries

Sub-Sector: Examination Services relating to the export and import of Cultural Property

Type of Reservation:

National Treatment (Articles XX)
Local Presence (Article XX)

Level of Government: Central

Measure: *Cultural Property Export and Import Act*, R.S.C. 1985, c. C-51

Description: **Cross-Border Trade in Services**

1. Only a resident of Canada or an institution in Canada may be designated as an expert examiner of cultural property for the purposes of the *Cultural Property Export and Import Act*.

2. For the purposes of this reservation:

   (a) **institution** means an entity that is publicly owned and operated solely for the benefit of the public, that is established for educational or cultural purposes and that conserves objects and exhibits them; and

   (b) **resident of Canada** means a natural person who is ordinarily resident in Canada, or a corporation that has its head office in Canada or maintains an establishment in Canada to which employees employed in connection with the business of the corporation ordinarily report for work.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-11

Sector:	Professional Services
Sub-Sector:	Patent agents Patent agents supplying legal advisory and representation services.
Type of Reservation:	National Treatment (Article XX) Local Presence (Article XX)
Level of Government:	Central
Measures:	*Patent Act*, R.S.C. 1985, c. P-4 *Patent Rules*, S.O.R./96-423
Description:	**Cross-Border Trade in Services** To represent a person in the prosecution of a patent application or in other business before the Patent Office, a patent agent must be resident in Canada and registered by the Patent Office.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-12

Sector:	Professional Services
Sub-Sector:	Trade-mark agents Trade mark agents supplying legal advisory and representation services in statutory procedures
Type of Reservation:	National Treatment (Article XX) Local Presence (Article XX)
Level of Government:	Central
Measures:	*Trade-marks Act*, R.S.C. 1985, c. T-13 *Trade-marks Regulations*, S.O.R./96-195
Description:	**Cross-Border Trade in Services** To represent a person in the prosecution of an application for a trade-mark or in other business before the Trade-marks Office, a trade-mark agent must be resident in Canada and registered by the Trade-marks Office.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-13

Sector:	Energy
Sub-Sector:	Oil and Gas
Type of Reservation:	National Treatment (Article YY)
Level of Government:	Central
Measures:	*Canada Petroleum Resources Act*, R.S.C. 1985, c. 36 (2nd Supp.) *Territorial Lands Act*, R.S.C. 1985, c. T-7 *Federal Real Property and Federal Immovables Act*, S.C. 1991, c. 50 *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c. 3 *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.C. 1988, c. 28
Description:	**Investment** 1. This reservation applies to production licences issued for "frontier lands" and "offshore areas" (areas not under provincial jurisdiction) as defined in the applicable measures. 2. A person who holds an oil and gas production licence or shares therein must be a corporation incorporated in Canada.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-14

Sector:	Energy
Sub-Sector:	Oil and Gas
Type of Reservation:	Performance Requirements (Article YY) Local Presence (Article XX)
Level of Government:	Central
Measures:	*Canada Oil and Gas Operations Act*, R.S.C. 1985, c. O-7 *Canada - Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.C. 1988, c. 28 *Canada - Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c. 3 Measures implementing the Canada-Yukon Oil and Gas Accord, including the *Canada-Yukon Oil and Gas Accord Implementation Act*, 1998, c.5, s. 20 and the *Oil and Gas Act*, RSY 2002, c. 162 Measures implementing the Northwest Territories Oil and Gas Accord, including implementing measures that apply to or are adopted by Nunavut as the successor territories to the former Northwest Territories Measures implementing the Accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence or any other similar federal-provincial accords related to the joint management of petroleum resources.

Description: **Investment and Cross-Border Trade in Services**

1. Under the *Canada Oil and Gas Operations Act*, a "benefits plan" must be approved by the Minister in order to be authorised to proceed with an oil and gas development project.

2. A **benefits plan** means a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in proposed work or activity referred to in the benefits plan.

3. The benefits plan contemplated by the *Canada Oil and Gas Operations Act* permits the Minister to impose on the applicant an additional requirement to ensure that disadvantaged individuals or groups have access to training and employment opportunities or can participate in the supply of goods and services used in proposed work referred to in the benefits plan.

4. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* are included in laws which implement the Canada-Yukon Oil and Gas Accord.

5. Provisions continuing those set out in the *Canada Oil and Gas Operations Act* will be included in laws or regulations to implement accords with various provinces and territories, including implementing legislation by provinces and territories (for example, the Northwest Territories Oil and Gas Accord, the Canada-Quebec Gulf of St. Lawrence Petroleum Resources Accord, and the New Brunswick Oil and Gas Accord). For the purposes of this reservation these accords and implementing legislation shall be deemed, once concluded, to be existing measures

6. The *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Newfoundland Atlantic Accord Implementation Act* have the same requirement for a benefits plan but also require that the benefits plan ensures that:

   (a) the corporation or other body submitting the plan establishes in the applicable province an office where appropriate levels of decision-making are to take place, prior to carrying out work or an activity in the offshore area;

   (b) expenditures be made for research and development to be carried out in the province, and for education and training to be provided in the province; and

   (c) first consideration be given to goods produced or services provided from within the province, where those goods or services are competitive in terms of fair market price, quality and delivery.

7. The Boards administering the benefits plan under these Acts may also require that the plan include provisions to ensure that disadvantaged individuals or groups, or corporations owned or cooperatives operated by them, participate in the supply of goods and services used in proposed work or activity referred to in the plan.

8. In addition, Canada may impose a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a person of Canada in connection with the approval of development projects under the applicable Acts.

Reservation I-C-15

Sector:	Energy
Sub-Sector:	Oil and Gas
Type of Reservation:	Performance Requirements (Article YY)
Level of Government:	Central
Measures:	*Hibernia Development Project Act*, S.C. 1990, c. 41 *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c. 3

Description:

Investment

1. Under the *Hibernia Development Project Act*, Canada and the Hibernia Project Owners may enter into agreements. Those agreements may require the Project Owners to undertake to perform certain work in Canada and Newfoundland and to use their best efforts to achieve specific Canadian and Newfoundland target levels in relation to the provisions of a "benefits plan" required under the *Canada-Newfoundland Atlantic Accord Implementation Act*. "Benefits plans" are further described in I-C-14.

2. In addition, Canada may impose in connection with the Hibernia Project a requirement or enforce a commitment or undertaking for the transfer of technology, a production process or other proprietary knowledge to a national or enterprise in Canada.

Reservation I-C-16

Sector:	Energy
Sub-Sector:	Uranium
Type of Reservation:	National Treatment (Article YY) Most-Favored-Nation Treatment (Article YY)
Level of Government:	Central
Measures:	*Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.) *Investment Canada Regulations*, S.O.R./85-611 *Policy on Non-Resident Ownership in the Uranium Mining Sector*, 1987

Description: **Investment**

1. Ownership by "non-Canadians", as defined in the *Investment Canada Act*, of a uranium mining property is limited to 49 per cent at the stage of first production. Exceptions to this limit may be permitted if it can be established that the property is in fact "Canadian controlled", as defined in the *Investment Canada Act*.

2. Exemptions from the *Non-Resident Ownership Policy in the Uranium Mining Sector* are permitted, subject to approval of the Governor in Council, only in cases where Canadian participants in the ownership of the property are not available. Investments in properties by non-Canadians, made prior to December 23, 1987 and that are beyond the permitted ownership level, may remain in place. No increase in non-Canadian ownership is permitted.

3. In considering a request for an exemption from the Policy from an investor of a NAFTA Party for which the Agreement has entered into force pursuant to Article XX (Entry into Force), Canada will not require that it be demonstrated that a Canadian partner cannot be found.

Reservation I-C-17

Sector:	Transportation
Sub-Sector:	Air transportation
Type of Reservation:	Most-Favored-Nation Treatment (Article YY) National Treatment (Article YY) Senior Management and Board of Directors (Article YY)
Level of Government	Central
Measures:	*Canada Transportation Act*, S.C. 1996, c. 10 *Aeronautics Act*, R.S.C. 1985, c. A-2 *Canadian Aviation Regulations*, S.O.R./96-433: Part II, Subpart 2 -"Aircraft Markings & Registration"; Part IV "Personnel Licensing & Training"; and Part VII "Commercial Air Services"
Description:	**Investment**

1. Only Canadians may provide the following commercial air transportation services:

   (a) domestic services (air services between points, or from and to the same point, in the territory of Canada, or between a point in the territory of Canada and a point not in the territory of another country);

   (b) scheduled international services (scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under existing or future air services agreements;

   (c) non-scheduled international services (non-scheduled air services between a point in the territory of Canada and a point in the territory of another country) where those services have been reserved to Canadian carriers under the *Canada Transportation Act*; and

(d) specialty air services including, but are not limited to: aerial mapping, aerial surveying, aerial photography, forest fire management, fire-fighting, aerial advertising, glider towing, parachute jumping, aerial construction, heli-logging, aerial inspection, aerial surveillance, flight training, aerial sightseeing and aerial crop spraying.

2. For the purposes of 1 (a), (b) and (c), the *Canada Transportation Act*, in section 55, defines "Canadian" in the following manner: "... 'Canadian' means

(a) a Canadian citizen or a permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*,

(b) a government in Canada or an agent or mandatary of such a government, or

(c) a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 51% of the voting interests are owned and controlled by Canadians and where:

(i) no more than 25% of the voting interests are owned directly or indirectly by any single non-Canadian, either individually or in affiliation with another person, and

(ii) no more than 25% of the voting interests are owned directly or indirectly by one or more non-Canadians authorized to provide an air service in any jurisdiction, either individually or in affiliation with another person;

3. Regulations made under the Aeronautics Act include distinct definitions of "Canadian" referenced in paragraphs (2) and (4). These Regulations require that a Canadian operator of commercial air services operate Canadian-registered aircraft. These Regulations require an operator to be Canadian in order to obtain a Canadian Air Operator Certificate and to qualify to register aircraft as "Canadian".

4. For the Purposes of 1 (d), the *Canadian Aviation Regulations* define "Canadian" in the following manner:

(i) a Canadian citizen or a permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*,

(ii) a government in Canada or an agent or mandatary of such a government, or

(iii) a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact by Canadians and of which at least 75% of the voting interests are owned and controlled by Canadians.

5. No foreign individual is qualified to be the registered owner of a Canadian-registered aircraft.

6. Further to the *Canadian Aviation Regulations*, a corporation incorporated in Canada, but that does not meet the Canadian ownership and control requirements, may only register an aircraft for private use where a significant majority of use of the aircraft (at least 60%) is in Canada.

The *Canadian Aviation Regulations* also have the effect of limiting foreign-registered private aircraft registered to non-Canadian corporations to be present in Canada for a maximum of 90 days per twelve-month period. The foreign-registered private aircraft shall be limited to private use, as would be the case for Canadian-registered aircraft requiring a private operating certificate.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-18

Sector:	Air transportation
Sub-Sector:	Specialty air services as defined in Chapter X (Cross-Border Trade in Services)
Level of Government	Central
Type of Reservation:	National Treatment (Article XX) Most-Favored-Nation Treatment (Article XX)
Measures:	Canada Transportation Act, S.C. 1996, c. 10 Air Transportation Regulations, S.O.R./88-58 Canadian Aviation Regulations, S.O.R./96-433
Description:	**Cross-Border Trade in Services** Authorisation from Transport Canada is required to supply specialty air services in the territory of Canada. In determining whether to grant a particular authorisation, Transport Canada will consider among other factors, whether the country in which the applicant, if an individual, is resident or, if an enterprise, is constituted or organized, provides Canadian specialty air service operators reciprocal access to supply specialty air services in that country's territory. Any foreign service supplier authorized to supply specialty air services is required to comply with Canadian safety requirements while supplying such services in Canada.

Reservation I-C-19

Sector:	Transportation
Sub-Sector:	Air Transportation
Level of Government	Central
Type of Reservation:	National Treatment (Article XX) Local Presence (Article XX) Most-Favored-Nation Treatment (Article XX)
Measures:	*Aeronautics Act*, R.S.C. 1985, c. A-2 *Canadian Aviation Regulations*, SOR/96-433: Part IV "Personnel Licensing & Training"; Part V "Airworthiness"; Part VI "General Operating & Flight Rules"; and Part VII "Commercial Air Services"

Description: **Cross-Border Trade in Services**

1. Aircraft and other aeronautical product repair, overhaul or maintenance activities required to maintain the airworthiness of Canadian-registered aircraft and other aeronautical products must be performed by persons meeting Canadian aviation regulatory requirements (that is, approved maintenance organisations and aircraft maintenance engineers). Certifications are not provided for persons located outside Canada, except sub-organisations of approved maintenance organisations that themselves are located in Canada.

2. Pursuant to an airworthiness agreement between Canada and the United States, Canada recognizes the certification and oversight provided by the United States for all repair, overhaul and maintenance facilities and individuals performing the work located in the United States.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-20

Sector:	Transportation
Sub-Sector:	Land Transportation
Level of Government:	Central
Type of Reservation:	National Treatment (Article XX) Local Presence (Article XX)
Measures:	*Motor Vehicle Transport Act*, R.S.C. 1985, c. 29 (3rd Supp.), as amended by S.C. 2001, c. 13. *Canada Transportation Act*, S.C. 1996, c. 10 *Customs Tariff*, 1997, c. 36
Description:	**Cross-Border Trade in Services** Only persons of Canada using Canadian-registered and either Canadian-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-21

Sector:	Transportation
Sub-Sector:	Water transportation
Level of Government:	Central
Type of Reservation:	National Treatment (Articles YY and XX) Local Presence (Articles XX)
Measures:	*Canada Shipping Act*, 2001, S.C. 2001, c. 26
Description:	**Investment and Cross-Border Trade in Services**

1. To register a vessel in Canada, the owner of that vessel or the person who has exclusive possession of that vessel must be:

    (a) a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act,

    (b) a corporation incorporated under the laws of Canada or a province or territory; or

    (c) when the vessel is not already registered in another country, a corporation incorporated under the laws of a country other than Canada if one of the following is acting with respect to all matters relating to the vessel, namely:

        (i) a subsidiary of the corporation that is incorporated under the law of Canada or a province or territory,

        (ii) an employee or director in Canada of any branch office of the corporation that is carrying on business in Canada, or

        (iii) a ship management company incorporated under the law of Canada or a province or territory.

2. A vessel registered in a foreign country which has been bareboat chartered may be listed in Canada for the

duration of the charter while the vessel's registration is suspended in its country of registry, if the charterer is:

(a) a Canadian citizen or permanent resident, as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*; or

(b) a corporation incorporated under the law of Canada or a province or territory.

Reservation I-C-22

Sector:	Transportation
Sub-Sector:	Water transportation
Level of Government:	Central
Type of Reservation:	National Treatment (Article XX) Local Presence (Article XX)
Measures:	*Canada Shipping Act*, *2001*, S.C. 2001, c. 26 *Marine Personnel Regulations*, S.O.R./2007-115
Description:	**Cross-Border Trade in Services** Masters, mates, engineers and certain other seafarers must hold certificates granted by the Minister of Transport as a requirement of service on Canadian registered vessels. These certificates may be granted only to Canadian citizens or permanent residents.

Reservation I-C-23

Sector:	Transportation
Sub-Sector:	Water transportation
Level of Government:	Central
Type of Reservation:	National Treatment (Article XX) Local Presence (Article XX)
Measures:	*Pilotage Act*, R.S.C., 1985, c. P-14 *General Pilotage Regulations*, S.O.R./2000-132 *Atlantic Pilotage Authority Regulations*, C.R.C., c. 1264 *Laurentian Pilotage Authority Regulations*, C.R.C., c. 1268 *Great Lakes Pilotage Regulations*, C.R.C., c. 1266 *Pacific Pilotage Regulations*, C.R.C., c. 1270
Description:	**Cross-Border Trade in Services** Subject to Canada's Reservation II-C-8, a licence or a pilotage certificate issued by the relevant regional Pilotage Authority is required to provide pilotage services in the compulsory pilotage waters of the territory of Canada. Only a Canadian citizen or permanent resident may obtain such a licence or pilotage certificate. A permanent resident of Canada who has been issued a pilot's licence or pilotage certificate must become a Canadian citizen within five years of receipt of that licence or pilotage certificate in order to retain it.

Reservation I-C-24

Sector:	Transportation
Sub-Sector:	Water transportation
Level of Government:	Central
Type of Reservation:	Most-Favored-Nation Treatment (Article XX)
Measures:	*Coasting Trade Act*, S.C. 1992, c. 31
Description:	**Cross-Border Trade in Services** The prohibitions under the *Coasting Trade Act*, set out in Canada's Reservation II-C-7, do not apply to any vessel that is owned by the Government of the United States of America, when used solely for the purpose of transporting goods owned by the Government of the United States of America from the territory of Canada to supply Distant Early Warning sites.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation I-C-25

Sector:	Transportation
Sub-Sector:	Water transportation services by sea-going and non-sea-going vessels
Level of Government:	Central
Type of Reservation:	Local Presence (Article XX)
Measures:	*Shipping Conferences Exemption Act*, 1987, R.S.C. 1985, c.17 (3rd Supp.)
Description:	**Cross-Border Trade in Services** Members of a shipping conference must maintain jointly an office or agency in the region of Canada where they operate. A shipping conference is an association of ocean carriers that has the purpose or effect of regulating rates and conditions for the transportation by those carriers of goods by water.

Reservation I-C-26

Sector:	All
Sub-Sector:	
Obligations Concerned:	National Treatment (Article YY and Article XX) Most-Favored-Nation Treatment (Article YY and XX) Performance Requirements (Article YY) Senior Management and Boards of Directors (Article YY) Local Presence (Article XX)
Level of Government:	Regional
Measures:	An existing non-conforming measure of a province and territory.
Description:	Investment and Cross-Border Trade in Services

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

EXPLANATORY NOTE

ANNEX II

1. The Schedule of a Party to this Annex sets out, pursuant to Articles 14.12 (Investment – Non-Conforming Measures) and 15.7 (Cross Border Trade in Services – Non-Conforming Measures), the specific sectors, subsectors, or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

   (a) Article 14.4 (Investment – National Treatment) or 15.3 (Cross Border Trade in Services – National Treatment);

   (b) Article 14.5 (Investment – Most-Favored-Nation Treatment) or 15.4 (Cross Border Trade in Services – Most-Favored-Nation Treatment);

   (c) Article 14.10 (Investment – Performance Requirements);

   (d) Article 14.11 (Investment – Senior Management and Boards of Directors);

   (e) Article 15.6 (Cross Border Trade in Services – Local Presence); or

   (f) Article 15.5 (Cross Border Trade in Services – Market Access).

2. Each Schedule entry sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

   (c) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Articles 14.12.1(a) (Investment – Non-Conforming Measures) and 15.7.1(a) (Cross Border Trade in Services – Non-Conforming Measures), do not apply to the sectors, subsectors, or activities listed in the entry;

   (d) **Description** sets out the scope or nature of the sectors, subsectors, or activities covered by the entry to which the reservation applies; and

   (e) **Existing Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors, or activities covered by the entry

3. In accordance with Article 14.10.2 (Investment – Non-Conforming Measures) and 15.7.2 (Cross Border Trade in Services – Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, subsectors, and activities identified in the **Description** element of that entry.

ANNEX II

SCHEDULE OF MEXICO

Sector:	All
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 15.3)
Level of Government:	Central
Description:	Cross-Border Trade in Services Mexico reserves the right to adopt or maintain any measure restricting the acquisition, sale or other disposition of bonds, treasury bills or any other kind of debt security issued by the federal, state or local governments.
Existing Measures:	

Sector:	Entertainment Services
Sub-Sector:	Recreational and leisure services
Industry Classification:	CMAP 949104 Other Private Recreational and Leisure Services (limited to gambling and betting services)
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Most-Favoured-Nation Treatment (Article 14.5 and Article 15.4) Senior Management and Boards of Directors (Article XX) Local Presence (Article 15.6)
Level of Government:	Central
Description:	Investment and Cross-Border Trade in Services Mexico reserves the right to adopt or maintain any measure relating to investment in, or the supply of, gambling and betting services.

Existing Measures:

Sector:	Minority Affairs
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 15.3) Local Presence (Article 15.6)
Level of Government:	Central
Description:	Cross-Border Trade in Services Mexico reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged groups.
Existing Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 4

Sector:	Social Services
Sub-Sector:	
Industry Classification:	
Obligations Concerned:	National Treatment (Article 14.4 and Article 15.3) Most-Favoured-Nation Treatment (Article 14.5 and Article 15.4) Performance Requirements (Article 14.10) Senior Management and Boards of Directors (Article 14.11) Local Presence (Article 15.6)
Level of Government:	Central
Description:	Investment and Cross-Border Trade in Services Mexico reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health and child care.
Existing Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Articles 4, 17, 18, 25, 26, 28 and 123

Sector:	Transportation
Sub-Sector:	Specialised personnel
Industry Classification:	CMAP 951023 Other Professional, Technical and Specialised Services (limited to ship captains; aircraft pilots; ship masters; ship machinists; ship mechanics; airport administrators (comandantes de aeródromos); harbour masters; harbour pilots; crew on Mexican flagged vessels or aircrafts)
Obligations Concerned:	National Treatment (Article 15.3) Most-Favoured-Nation Treatment (Article 15.4) Local Presence (Article 15.6)
Level of Government:	Central
Description:	Cross-Border Trade in Services Mexico reserves the right to adopt or maintain any measure with respect to specialised personnel. Only Mexican nationals by birth may serve as: (a) captains, pilots, ship masters, machinists, mechanics and crew members manning vessels or aircraft under the Mexican flag; and (b) harbour pilots, harbour masters and airport administrators.
Existing Measures:	Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), Article 32

Sector: All

Sub-Sector: Telegraph, radiotelegraph and postal services Issuance of bills (currency) and minting of coinage
Control, inspection and surveillance of maritime and inland ports
Control, inspection and surveillance of airports and heliports

Industry Classification:

Obligations Concerned: National Treatment (Article 14.4)
Most-Favoured-Nation Treatment (Article 14.5)
Performance Requirements (Article 14.10)
Senior Management and Boards of Directors (Article 14.11)

Level of Government: Central

Description: Investment

The activities set out in this list are reserved to the Mexican State, and private equity investment is prohibited under Mexican Law. Where Mexico allows private investment to participate in such activities through service contracts, concessions, lending arrangements or any other type of contractual arrangement, such participation shall not be construed to affect the State's reservation of those activities.

If Mexican law is amended to allow private equity investment in an activity set out in this list, Mexico may impose restrictions on foreign investment participation and those restrictions shall be deemed existing Annex I non-conforming measures and shall be subject to paragraph 1 of Article 14.12 (Investment, Non-Conforming Measures). Mexico may also impose restrictions on foreign equity investment participation when selling an asset or ownership interest in an enterprise engaged in activities set out in this list, and those restrictions shall be deemed existing Annex I non-conforming measures and shall be subject to paragraph 1 of Article 14.12 (Investment, Non-Conforming Measures).

(a) Telegraph, radiotelegraph and postal services;

(b) Issuance of bills (currency) and minting of coinage;

(c) Control, inspection and surveillance of maritime and inland ports;

(d) Control, inspection and surveillance of airports and heliports; and

(e) Nuclear power.

Existing Measures:

Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*) Articles 25 and 28.
Law of the Bank of Mexico (*Ley del Banco de México*)
Law of the House of Currency of Mexico (*Ley de la Casa de Moneda de México*)
United Mexican States Monetary Law (*Ley Monetaria de los Estados Unidos Mexicanos*)
Navigation and Maritime Commerce Law (Ley de Navegación y Comercio Marítimos)
Ports Law (*Ley de Puertos*)
Airports Law (*Ley de Aeropuertos*)
Federal Telecommunication and Broadcasting Law (*Ley Federal de Telecomunicaciones y Radiodifusión*)
Decree that establish the decentralized agency of Navigation Services in the Mexican Airspace, SENEAM (by its acronym in Spanish) (*Decreto que crea el Organismo Desconcentrado de Servicios a la Navegación en el Espacio Aéreo Mexicano, SENEAM*)
General Means of Communication Law (*Ley de Vías Generales de Comunicación*)
Mexican Postal Service Law (*Ley del Servicio Postal Mexicano*), Title I, Chapter III
Foreign Investment Law (*Ley de Inversión Extranjera*)

Sector: All

Sub-Sector:

Industry Classification:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 14.5)

Level of Government: Central

Description: Investment

Mexico reserves the right to adopt or maintain any measure granting different treatment to countries accorded under all bilateral or multilateral international agreements in force prior to the date of the entry into force of this Agreement.

Mexico reserves the right to adopt or maintain any measure granting different treatment to countries accorded under all international agreements in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Existing Measures:

Sector: All

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 15.5)

Level of Government: Central and Regional

Description: Cross-Border Trade in Services

Mexico reserves the right to adopt or maintain any measure related to Article 15.5 (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below.

For the purpose of this entry:

(a) "1)" refers to the supply of a service from the territory of one Party into the territory of any other Party;

(b) "2)" refers to the supply of a service in the territory of one Party by a person of that Party to a person of the other Party;

(c) "3)" refers to the supply of a service in the territory of one Party by an investor of the other Party or a covered investment; and

(d) "4)" refers to the supply of a service by a national of one Party, in the territory of any other Party.

This entry:

(a) applies to central level;

(b) applies to regional level in accordance with specific commitments of Mexico under the Article XVI of GATS which exist at the date of entry into force of this Agreement; and

(c) does not apply to municipal or local level.

This entry does not apply to entries listed in Annex I with respect to Article 15.5 (Market Access). Mexico's limitations on market access in this entry are only those limitations which are not discriminatory.

Sector or subsector	**Limitations on market access**
1.BUSINESS SERVICES	
1. A. Professional services[1]	
a) Legal services (CPC 861)	1), 2) and 3) None 4) Unbound except as indicated in the Temporary Entry for Business Persons Chapter.
b) Accounting, auditing and bookkeeping services (CPC 862)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
d) Consultancy and technical studies for architecture (CPC 8671)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
e) Consultancy and technical services for engineering (CPC 8672)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
f) Integrated engineering services (CPC 8673)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
g) Urban planning and landscape architectural services (CPC 8674)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
h) Related scientific and technical consulting services (CPC 8675)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
i) Medical and dental services (CPC 9312)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
k) Other services - Religious services (CPC 95910)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
1. B. Computer and Related Services	
a) Consultancy services related to the installation of computer hardware (CPC 841)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
b) Software implementation services (CPC 842)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
c) Data processing services (CPC 843)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
d) Data base services (CPC 844)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
e) Other (CPC 845+849)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
1. C. Research and Development Services (CPC 85) (other than research and technological development centres)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Research and experimental development services on engineering and technology (CPC 85103)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Research and development services on social sciences and humanities (CPC 852)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
1. D. Real estate services	
a) Real estate services involving own or leased property (CPC 821) Other than: Real estate services involving own property	1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary

Sector or subsector	Limitations on market access
	Entry for Business Persons Chapter.
b) Real estate services on a fee or contract basis (CPC 822)	1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
1. E. Rental/Leasing Services without Operators	
a) Leasing or rental services concerning vessels without operator (CPC 83103)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
b) Leasing or rental services concerning aircraft without operator (CPC 83104)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
c) Leasing or rental services concerning other means of transport without operator (limited to private cars without operator CPC 83101)	1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
-Leasing or rental services concerning means of maritime transport without operator	1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
d) Leasing or rental services concerning other machinery and equipment without operator:	1) Unbound 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Rental services concerning agricultural and fishery machinery and equipment (CPC 83106)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Rental services concerning machinery and equipment for industry (CPC 83109)	1), 2) and 3) None

Sector or subsector	Limitations on market access
	4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
e) Other - Rental services concerning electronic equipment for data processing (CPC 83108)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Leasing or rental services concerning other personal or household goods (CPC 83209)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Rental services concerning office equipment and furniture (CPC 83108)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Rental services concerning televisions, sound equipment, video- cassette recorders and musical instruments (CPC 83201)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Rental services concerning professional photographic equipment and projectors (CPC 83209)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Rental services concerning other machinery, equipment and furniture not mentioned above (CPC 83109)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
1. F. Other Business Services	
a) Advertising and related activities (excluding broadcasting as well as restricted radio and television services) (CPC 871)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
b) Market research services (CPC 8640)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
c) Management consulting services (CPC 8650)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
d) Administrative formalities and collection services (CPC 8660)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
e) Technical testing and analysis services (CPC 8676)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
f) Services incidental to agriculture, hunting and forestry -Services incidental to agriculture (CPC 8811 limited to professional services incidental to agriculture)	1) and 2) None 3) None except as indicated in 1.A Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
-Services incidental to animal husbandry (CPC 8812 limited to professional services incidental to animal husbandry)	1) and 2) None 3) None except as indicated in 1.A 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Services incidental to forestry and logging (CPC 88104)	1) and 2) None 3) None except as indicated in 1.A 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
g) Services incidental to fishing (CPC 882)	1), 2) and 3) None 4) Unbound except as indicated in Temporary Entry for Business Persons Chapter.
k) Placement and supply of services of personnel (CPC 8720)	1), 2) and 3) None

Sector or subsector	Limitations on market access
	4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
l) Protection and guard services (CPC 8730)	1) Unbound 2) None. 3) None, except that the requirements laid down for each specific means of transport must be fulfilled. 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
n) Maintenance and repair of equipment except maritime vessels, aircraft and other transport equipment:	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Repair and maintenance of industrial machinery and equipment (CPC 8862)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Repair and maintenance of professional technical equipment and instruments (CPC 8866)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Repair services incidental to metal products, machinery and equipment. (CPC886)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Repair and maintenance of machinery and equipment for general use, not assignable to any specific activity (CPC 886)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
o) Building-cleaning services (CPC 8740)	1) None 2) Unbound* 3) None

Sector or subsector	**Limitations on market access**
	4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
p) Photographic services - Photography and motion-picture processing services (CPC 87505 and 87506)	1) None 2) Unbound* 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
r) Printing, publishing (CPC 88442) Only includes: - Publishing of books and similars - Printing and binding (except newsprint for circulation exclusively in the Mexican territory) Auxiliary and related industries with editing and printing (excludes manufacturing for printing types which are classified into 3811 branch, "casting and moulding of ferrous and nonferrous metal parts").	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
s) Convention services (CPC 87909***)	1) Unbound* 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
t) Other	
- Credit reporting services (CPC 87901)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
- Speciality design services (CPC 87907)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Industrial design services (CPC 86725)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Photocopying and similar services (CPC 87904)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Translation and interpretation services (CPC 87905)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Laundry collection services (CPC 97011)	1) Unbound* 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
2.COMMUNICATION SERVICES	
B. Courier services -Courier services (CPC 7512)	1) Unbound 2) None 3) None, except that the requirements laid down for each specific means of transport must be fulfilled. 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
C. Telecommunication Services Telecommunications services supplied by	1) The international traffic only may be routed through international ports of a natural person or

Sector or subsector	Limitations on market access
facilities based public telecommunications network (wire-based and radioelectric) through any technological medium, included in subparagraphs (a), (b), (c), (f), (g) and (o)	juridical person with a concession granted by the regulatory agency to install, operate or use a public telecommunication network in the Mexican territory authorized to provide long distance service. 2) None 3) The Federal Telecommunications Institute (*Instituto Federal de telecomunicaciones, IFT*), shall reserve for community indigenous FM radio stations ten per cent of broadcasting band of FM that goes from 88 to 108 MHz. Such percentage shall be granted as concession for the upper part of the referred band. The Institute shall directly assign 90 MHz of the 700 MHz band for the operation and exploitation of a wholesale shared network through a concession for commercial use. Resellers of telecommunications of long distance and international long distance may contract telecommunications services (exclusively) with authorised concessionaires. The economic agent who has been declared preponderant in the telecommunications sector or the concessionaires that are part of the economic group to which the declared preponderant agent belongs to may not participate directly or indirectly in any reseller. 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
a) Telephony Services (CPC 75211, 75212)	1) As indicated in 2.C.1). 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
b) Packet-switched data transmission services (CPC 7523**)	1) As indicated in 2.C.1). 2) None

Sector or subsector	Limitations on market access
	3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
c) Circuit-switched data transmission services (CPC 7523**)	1) As indicated in 2.C.1). 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
f) Facsimile services (CPC 7521**+7529**)	1), 2) and 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
g) Private leased circuit services (CPC 7522**+7523**)	1) As indicated in 2.C.1). In Mexico it is not allowed allow the resale of private leased circuits to private networks. 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
o) Others	
- Paging services (CPC 75291)	1) As indicated in 2.C.1). 2) None 3) As indicated in 2.C.3) 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Cellular telephony (75213**)	1) As indicated in 2.C.1). 2) None 3) None 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.

Sector or subsector	Limitations on market access
- Resellers[1]	1) As indicated in 2.C.1). 2) None 3) None, except that the establishment and operation of resellers is invariably subject to the relevant regulations. The Federal Telecommunications Institue (*Instituto Federal de Telecomunicaciones, IFT*) will not issue permits for the establishment of a reseller until the corresponding regulations are issued. 4) Unbound, except as indicated in Temporary Entry for Business Persons Chapter.
- Other telecommunication services. Value-added services (Services that use public telecommunication network and have effect on the format, content, code, protocol, storage or similar aspects of the information transmitted by a user and which market users with additional information, different and restructured, or involve interaction user with information stored).[2]	1) Registration before the Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones, IFT*) is required to provide Value Added Services. The Value Added Services originated overseas destined to the Mexican territory may only be taken and delivered in Mexico through infrastructure or facilities of a public telecommunications network concessioner. 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
2.D. Audiovisual services	
a) Private production of cinematographic films (CPC 96112)	1), 2) and 3) None, except that film screening requires a permit issued by the Ministry of the Interior (*Secretaría de Gobernación*). 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

[1] Companies which, without owning transmission means, provide third parties with telecommunications services by using capacity leased from a public network concessionaire.

[2] Value Added Services are not those services for which its establishment, operation or exploitation make use of transmission infrastructure owned by the service provider, unless the service provider has the appropriate license or permit to establish, operate or exploit a public telecommunications network. It does not include those value-added services, the provision requiring the obtaining of licenses and permits including, without limitation, the following services: voice telephony, regardless of the technology used (VoIP) in its modalities of local service; long distance telephony; simple resale of leased private circuits, mobile telephony, mobile or fixed radio telephony, cable television, paid television using microwaves and satellite; paging services, trucking services; private or maritime radio-communication: restricted radio; data transmission; videoconferencing and vehicle radiolocation.

Sector or subsector	Limitations on market access
b) Private film-screening services (CPC 96121)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
c) Radio and Television Services (CPC9613) - broadcasting (radio and free to air television)	1) None 2) None 3) The Federal Institute of Telecommunications (Instituto Federal de Telecomunicaciones, IFT) shall grant upon request authorisations to access the multiprogramming. In the case of concessionaires belonging to an agent declared preponderant the IFT will not authorise the transmission of a number of channels greater than 50 per cent of the total amount of broadcasted television channels, including the multiprogramming ones, authorised for other concessionaires that are broadcasting in the region covered. Concessionaires of commercial, public and social use providing broadcasting service shall have daily free transmission in each station and for each programming cannel, of duration up to 30 minutes whether continuous or discontinuous, dedicated to disseminate educational, cultural and social interest topics. In addition to the time set for the State, all concessionaires of commercial, public and social use providing broadcasting services shall be required to broadcast simultaneously in radio stations and television channels in the country when it comes to transmitting information of concern to the nation, according to the Ministry of Interior (*Secretaría de Gobernación*). 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Restricted radio and television services	1)None 2)None 3)Concessionaires providing restricted or audio services shall reserve at no charge channels for the

Sector or subsector	Limitations on market access
	distribution of federal public institutions' television signals as indicated by the executive through the Federal Executive branch as follows: I. A channel with the service consists of 31 to 37 channels; II. Two channels, when the service consists of 38 to 45 channels, and III. Three channels, when the service consists of 46 to 64 channels. Beyond this last number, a channel shall be added for every 32 transmission channels. When the service consists of up to 30 channels, The Ministry may require, that a specific cannel dedicates up to six hours daily for transmission of programming as indicated by the Ministry of the Interior (Secretaría de Gobernación). Concessionaires providing broadcasting or restricted television and audio services, as well as programmers and signals operators shall maintain a balance between advertising and programming transmitted daily, and the following rules shall apply: I. concessionaires of commercial use broadcasting: a) in television stations, the time spent on commercial advertising shall not exceed 18 per cent of the total transmission time per programming channel, and b) in radio stations, the time spent on commercial advertising shall not exceed 40 per cent of the total transmission time per programming channel. The length of commercial advertising does not include transmissions of the station own advertising, nor does it include State time and other Executive Branch provisions or programmes offering products or services;

Sector or subsector	Limitations on market access
	II. concessionaires of restricted television, and audio may transmit, daily and per channel, up to six minutes of advertising for every hour of transmission. For purposes of corresponding calculation, advertising in the broadcast signals that are retransmitted and programming channels own advertising shall not be considered, and the channels exclusively dedicated to programmes of product offerings, shall be exempted from the limit stated in the previous paragraph. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
3.CONSTRUCTION AND RELATED ENGINEERING SERVICES	
A. General construction work for buildings -Residential or housing building (CPC 5121 and 5122)	1) Unbound 2) Unbound* 3) None 4) Unbound
-Non-residential buildings (CPC 5124, 5127 and 5128)	1) Unbound 2) Unbound* 3) None 4) Unbound
B. General construction work for civil engineering -Construction of urban development works (CPC 5131 and 5135)	1) Unbound 2) Unbound* 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
- Construction of industrial buildings (excluding electric power stations and plants for the piping of oil and oil products (CPC 52121)	1) Unbound 2) Unbound* 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Other construction (excluding construction of maritime and river works, highway and transport works and track construction) (CPC 52269)	1) Unbound 2) Unbound* 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
D. Building completion and finishing work	
- Electrical, plumbing and drainage installations in buildings (excluding telecommunication installations and other special installations) (CPC 5161-5164)	1) Unbound 2) Unbound* 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
E. Other - Special work, including earth moving, foundations, underground excavation, under-water work, signalling and protection installations, demolition, construction of drinking water or water treatment plants (excluding sinking of oil, gas and water wells) (CPC 511 and 515)	1) Unbound 2) Unbound* 3) None, except that services relating to visual and electronic aids for runways are subject to authorisation by the Ministry of Communication and Transports (Secretaría de Comunicaciones y Transportes, SCT). 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
4. DISTRIBUTION SERVICES	

Sector or subsector	**Limitations on market access**
4.A Trade intermediary services (CPC 621) (includes sales agents who are not considered within the paid staff of any establishment in particular).	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
4. B. Wholesale trade services -Wholesale trade of non-food products, including animal feed (excluding petroleum-based fuels, coal, firearms, cartridges and ammunition) (CPC 622)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Commission agents´ services (CPC 62113 – 621118)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Wholesale trade of food, beverages and tobacco (CPC 6222)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Wholesale trade services (CPC 622)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
4. C. Retail trade services: -Retail sales of food, beverages and tobacco in specialized establishments (CPC 6310)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Retail sales of food products in supermarkets, self-service stores and shops (CPC 6310)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Retail sales of non-food products in department stores and shops (CPC 632)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
-Retail sales of motor vehicles, including tyres and spare parts (CPC 61112)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Retail sales of non-food products in specialised establishments (excluding retail sales of liquefied fuel gas, charcoal, coal and other non-petroleum-based fuels, paraffin, fuel, and tractor vaporising oil (TVO), gasoline and diesel, firearms, cartridges and ammunition) (CPC 6329)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
4.D. Franchise services	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
5.PRIVATE EDUCATION SERVICES 5. A. Primary education services (CPC 921)	1) and 2) None 3) None except that prior authorisation is required from the Ministry of Public Education (*Secretaría de Educación Pública, SEP*) or the State authority. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
5. B. Secondary education services (CPC 922)	1) and 2) None 3) None except that prior authorisation is required from the Ministry of Public Education (*Secretaría de Educación Pública, SEP*) or the State authority. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
5. C. Higher education services (CPC 923)	1) and 2) None 3) None except that prior authorisation is required from the Ministry of Public Education (*Secretaría de Educación Pública, SEP*) or the State authority.

Sector or subsector	Limitations on market access
	4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
5. E. Other education services: - Language education, special education and commercial training (CPC 9290)	1) and 2) None 3) None, except that prior authorisation is required from the Ministry of Public Education (*Secretaría de Educación Pública, SEP*) or the State authority. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
6. ENVIRONMENTAL SERVICES[3]	
6. A. Sewage services (CPC 9401)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
6. B. Additional environmental services - Refuse disposal services (CPC 9402)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Protection of ambient air and climate (CPC 9404)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Noise abatement services (CPC	1) Unbound

[3] The level of disaggregation of each of this sector's subsectors is interpreted in accordance with Mexico's domestic legislative framework and may not correspond exactly to the stated CPC classification.

Sector or subsector	Limitations on market access
9405)	2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Nature and landscape protection services (CPC 9406)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Limited to environmental impact assessments and Consultancy services for environmental protection services (CPC 9409)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
6. C. Sanitation services (CPC 94030)	1) Unbound 2) None 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
8. HEALTH RELATED AND SOCIAL SERVICES	
8. A. Private hospital services (CPC 9311)	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
8. B. Other human health services. - Private services of clinical laboratories auxiliary to medical diagnosis (CPC 93199)	1) Unbound 2) and 3) None 4) Unbound, except as indicated in the

Sector or subsector	Limitations on market access
	Temporary Entry for Business Persons Chapter.
- Other private services auxiliary to medical treatment (CPC 93191)	1) Unbound 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Dental prosthesis laboratory services (CPC 93123)	1) Unbound 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
9.TOURISM AND TRAVEL RELATED SERVICES	
9. A. Hotel and restaurant services	
- Hotel services (CPC 6411)	1), 2) and 3) None, except for the requirement of holding a permit to engage in the activity from the competent authority (Central, Regional or Local). 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Motel services (CPC 6412)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Board and lodging in guest houses and furnished accommodation (CPC 64192 and 64193)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	Limitations on market access
- Youth hostels and temporary camping facilities (CPC 64194)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Camping facilities for mobile homes (trailer parks) (CPC 64195)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Restaurant services (CPC 642)	1), 2) and 3) None, except for the requirement of holding a permit to engage in the activity from the competent authority (Central, Regional or Local). 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Cabarets and night clubs (CPC 6432)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Canteens, bars and taverns (CPC 6431)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity.

Sector or subsector	Limitations on market access
	4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
B. Travel agencies and tour operators (CPC 7471)	1) None 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
C. Tourist guide services (CPC 7472)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
9. D. Others	
- Spa services (CPC 97029) Only includes: Private services in social centres, recreational and sports. Also, sports clubs services, gyms, spas, swimming pools, sports fields, billiards, bowling, horses and bicycles. Excludes boats rental.	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
Catering services, providing meals to outside (CPC 6423) (other than service on aircraft and in airports)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
Bar services with entertainment (only in hotels and other lodging places)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
Public house services without entertainment (CPC 6431) (except in hotels, other lodging places and other means of transport)	1) Unbound* 2) None 3) None, except a permit from the competent authority (Central, Regional or Local) is required to engage in the activity. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
10.RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)	
10. A. Entertainment services (including theatre, live bands and circus) (CPC 9619)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
10. B. News agency services (CPC 962)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
10. C. Libraries, archives, museums and other cultural services (CPC 963)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
10. D. Sporting and other recreational services (CPC 964)	
- Sports event organisation services (CPC 96412)	1) Unbound* 2) and 3) None

Sector or subsector	Limitations on market access
	4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Sports facility operation services (CPC 96413)	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Other sporting services (only services provided by sport and game schools) (CPC 96419)	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Promotion of sports services (CPC 96411)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
11.TRANSPORT SERVICES	
A. Maritime transport services International Transport (freight and passengers) (CPC 7211 and 7212, other than cabotage transport)	1) Scheduled, bulk, tramp and other international maritime transport, including passenger transport. Specific international high-sea transport may be reserved wholly or partly for shipping companies which are Mexican, or recognised as such, when the principles of free competition are not observed and the national economy is affected. 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Supporting services for water transport (CPC 745) (includes operation and maintenance of docks; loading and unloading of vessels at shore-side; marine cargo handling, operation and maintenance of piers; ship and boat cleaning; stevedoring; transfer of cargo between ships and trucks, trains, pipelines and wharves; waterfront terminal operations)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
-Supporting services for water transport (CPC 745) (limited to Maritime Port Administration, Lake and Rivers)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Maritime cargo handling services	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Storage and warehousing services, except general bonded warehouses (CPC 742)	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Container station and depot services	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Maritime agency services	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Maritime freight forwarding services	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Vessel maintenance and repair	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
11. C. Air transport services	
e) Supporting services for air transport -Airport and heliport administration services	1) Unbound 2) None 3) None, except that a concession from the Ministry of Communications and Transport (*Secretaría de Comunicaciones y Transportes, SCT*) is required to operate an airport. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
11. E. Rail transport services c. Pushing or towing services (CPC 7113)	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
e. Supporting services for railway transport (CPC 743)	1) Unbound* 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
11. F. Road transport services d) Maintenance and repair of road transport equipment. -Motor vehicle maintenance and repair services (CPC 6112 and 8867)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
Other supporting services for road transport (CPC 74490) (limited to main bus and truck terminals and bus and truck stations)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
e) Supporting services for road transport services (CPC 744) limited to Management Services of Roads, Bridges and Auxiliary Services	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
11. G. Pipeline transport. b) Transportation of other goods (CPC 7139) limited to Non-energy Pipelines)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
11. H. Services auxiliary to all modes of transport	
- Weighbridge services for transport purposes (CPC 7490)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Supporting services for air transport	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
11.I. Other transport services - Tramway transport (CPC 71211)	1) Unbound 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Subway transport (CPC 71211)	1) Unbound except as indicated in the horizontal section 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Rental of commercial vehicles with operator (CPC 7124)	1) Unbound except as indicated in the horizontal section 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
12. OTHER SERVICES	
-Repair of footwear and other articles of leather and skins -Footwear and leather goods repair services (CPC 63301)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Repair of electronic appliances mainly for household use (CPC 63302) - Repair services of electrical household appliances (CPC 63302)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

Sector or subsector	**Limitations on market access**
-Repair of clocks, watches and jewellery (CPC 63303) - Watch, clock and jewellery repair services (CPC 63303)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Repair and cleaning of headgear (CPC 63304)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
-Repair of bicycles (CPC 63309) - Bicycle repair (CPC 63309)	1), 2) and 3) None 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.
- Locksmiths' trade (CPC 63309)	1) and 2) None 3) None, except that regional and local authorities are responsible for authorising these services. 4) Unbound, except as indicated in the Temporary Entry for Business Persons Chapter.

* Unbound due to technical unfeasibility.
** The specified service constitutes only a part of the total number of activities covered by the corresponding CPC code.
*** The specified service is an element of a bigger CPC code added in another place in the list.

ANNEX II

SCHEDULE OF THE UNITED STATES

Sector: Communications

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Most-Favored-Nation Treatment (Articles 14.5 and 15.4)

Description: Cross-Border Trade in Services and Investment

With respect to Canada, the United States reserves the right to:

(a) adopt or maintain any measure that accords differential treatment to persons of other countries due to application of reciprocity measures or through international agreements involving sharing of the radio spectrum, guaranteeing market access, or national treatment with respect to the one-way satellite transmission of direct-to-home (DTH) and direct broadcasting satellite (DBS) television services and digital audio services; and

(b) prohibit a person of a Party from offering DTH or DBS television and digital audio services into the territory of the United States unless that person establishes that the Party of which it is a person:

(i) permits U.S. persons to obtain a license for such service in that Party in similar circumstances; and

(ii) treats the supply of audio or video content originating in the Party no more favorably than the supply of audio or video content originating in a non-Party or any other Party.

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Sector: Communications - Cable Television

Obligations Concerned: National Treatment (Article 14.4)
Senior Management and Boards of Directors (Article 14.11)

Description: Investment

The United States reserves the right to adopt or maintain any measure that prohibits a person of a Party from owning or operating a cable television system in the territory of the United States unless that person establishes that the Party:

(a) permits U.S. persons to own or operate such systems in the territory of the Party under similar circumstances; and

(b) treats the supply of video content originating in the Party no more favorably than the supply of content of any other Party or non-Party.

A measure may be deemed to treat content of a Party more favorably if it applies preferential treatment on the basis that the director, producer, publisher, actors or owner of such content is a person of that Party, or the production, editing or distribution of such content took place in the territory of that Party, or on any other basis that affords protection to local production.

Sector:	Social Services
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Most-Favored-Nation Treatment (Articles 14.5 and 15.4) Local Presence (Article 15.6) Performance Requirements (Article 14.10) Senior Management and Boards of Directors (Article 14.11)
Description:	Cross-Border Trade in Services and Investment The United States reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.

Sector:	Minority Affairs
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Local Presence (Article 15.6) Performance Requirements (Article 14.10) Senior Management and Boards of Directors (Article 14.11)
Description:	Cross-Border Trade in Services and Investment The United States reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities, including corporations organized under the laws of the State of Alaska in accordance with the *Alaska Native Claims Settlement Act*.
Existing Measures:	*Alaska Native Claims Settlement Act*, 43 U.S.C. §§ 1601 et seq.

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Sector: Transportation

Obligations Concerned: National Treatment (Articles 14.4 and 15.3)
Most-Favored-Nation Treatment (Articles 14.5 and 15.4)
Local Presence (Article 15.6)
Performance Requirements (Article 14.10)
Senior Management and Boards of Directors (Article 14.11)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure relating to the provision of maritime transportation services and the operation of U.S.-flagged vessels, including the following:

(a) requirements for investment in, ownership and control of, and operation of vessels and other marine structures, including drill rigs, in maritime cabotage services, including maritime cabotage services performed in the domestic offshore trades, the coastwise trades, U.S. territorial waters, waters above the continental shelf, and in the inland waterways;

(b) requirements for investment in, ownership and control of, and operation of U.S.-flagged vessels in foreign trades;

(c) requirements for investment in, ownership or control of, and operation of vessels engaged in fishing and related activities in U.S. territorial waters and the Exclusive Economic Zone;

(d) requirements related to documenting a vessel under the U.S. flag;

(e) promotional programs, including tax benefits, available for shipowners, operators, and vessels meeting certain requirements;

(f) certification, licensing, and citizenship requirements for crew members on U.S.-flagged vessels;

(g) manning requirements for U.S.-flagged vessels;

(h) all matters under the jurisdiction of the Federal Maritime Commission;

(i) negotiation and implementation of bilateral and other international maritime agreements and understandings;

(j) limitations on longshore work performed by crew members;

(k) tonnage duties and light money assessments for entering U.S. waters; and

(l) certification, licensing, and citizenship requirements for pilots performing pilotage services in U.S. territorial waters.

The following activities are not included in this reservation. However, the treatment provided to a Party in (b) is conditional upon obtaining comparable market access in these sectors from that Party:

(a) vessel construction and repair; and

(b) landside aspects of port activities, including operation and maintenance of docks; loading and unloading of vessels directly to or from land; marine cargo handling; operation and maintenance of piers; ship cleaning; stevedoring; transfer of cargo between vessels and trucks, trains, pipelines, and wharves; waterfront terminal operations; boat cleaning; canal operation; dismantling of vessels; operation of marine railways for drydocking; marine surveyors, except cargo; marine wrecking of vessels for scrap; and ship classification societies.

Existing Measures:

Merchant Marine Act of 1920, §§ 19 and 27, 46 U.S.C. 12101, 12118, 12120, 12132, 12139, 12151, 42101-42109, 55102, 55105-55110, 55115-55119, 58108
Waiver of the Navigation and Vessel-Inspection Laws, 46 U.S.C. 501
Shipping Act of 1916, 46 U.S.C. 50501, 56101, 57109, 50111
Merchant Marine Act of 1936, 46 U.S.C. 109, 114, 50111, 50501, 53101 note, 53301-53312, 53501-53517, 53701-53718, 53721-53725, 53731-53735, 55304-55305, 57101-57104, 57301-57308
Merchant Ship Sales Act of 1946, 50 U.S.C. App. 1738
46 U.S.C. 55109, 55111, 55118, 60301-60302, 60304-60306, 60312, 80104
46 U.S.C. 12101 *et seq*., 12112, 12121, and 31301 *et seq*.
46 U.S.C. 8904
Passenger Vessel Services Act, 46 U.S.C. 55103
42 U.S.C. 9601 *et seq*.; 33 U.S.C. 2701 *et seq*.; 33 U.S.C. 1251 *et seq*.

46 U.S.C. 3301 *et seq*., 3701 *et seq*., 8103, and 12107(b)
The Foreign Shipping Practices Act of 1988, 46 U.S.C. 306, 41108, 42101, 42301-42307
Merchant Marine Act, 1920, 46 U.S.C. 50101, 50302, 53101 note, 57108
Shipping Act of 1984, 46 U.S.C. 305-306, 40101 note, 40101-40104, 40301-40307, 40501-40503, 40701-40706, 40901-40904, 41101-41109, 41301-41309, 42101, 42301-42307
Exports of Alaskan North Slope Oil, 104 Pub. L. 58, Title II; 109 Stat. 557, 560-63; codified at 30 U.S.C. 185(s), 185 note
Limitations on performance of longshore work by alien crewmen, 8 U.S.C. 1288
Maritime Transportation Security Act of 2002, Pub. L. 107-295, § 404; 116 Stat. 2064, 2114-15, codified at 46 U.S.C. 55112
Nicholson Act, 46 U.S.C. 55114
Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, Pub. L. 100-239; 101 Stat. 1778, codified in part at 46 U.S.C. 108, 2101, 2101 note, 12113
43 U.S.C. 1841
22 U.S.C. 1980
46 U.S.C. 9302, 46 U.S.C. 8502; Agreement Governing the Operation of Pilotage on the Great Lakes, Exchange of Notes at Ottawa, August 23, 1978, and March 29, 1979, TIAS 9445
Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*.
Equipment and Repair of Vessels, 19 U.S.C. 1466
North Pacific Anadromous Stocks Act of 1992, Pub. L. 102-567;
Oceans Act of 1992, Pub. L. 102-587
Tuna Convention Act, 16 U.S.C. 951 *et seq*.
South Pacific Tuna Act of 1988, 16 U.S.C. 973 *et seq*.
Northern Pacific Halibut Act of 1982, 16 U.S.C. 773 *et seq*.
Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq*.
Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. 2431 *et seq*.
Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631 *et seq*.
American Fisheries Act, 46 U.S.C. 12113 and 46 U.S.C. 31322

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Sector: Land Transportation

Obligations Concerned: National Treatment (Article 15.3)
Most-Favored-Nation Treatment (Article 15.4)
Local Presence (Article 15.6)

Description: Cross Border Trade in Services

Notwithstanding Annex I-US-8, the United States reserves the right to adopt or maintain limitations on grants of authority for persons of Mexico to provide cross-border long-haul truck services in the territory of the United States outside the border commercial zones if the United States determines that limitations are required to address material harm or the threat of material harm to U.S. suppliers, operators, or drivers.[1] The United States may only adopt such limitations on existing grants of authority if it determines that a change in circumstances warrants the limitation[2] and if the limitation is required to address material harm.[3] The Parties shall meet no later than five years after the entry into force of this agreement to exchange views on the operation of this entry.

[1] For purposes of this entry, "material harm" means a significant loss in the share of the U.S. market for long-haul truck services held by persons of the United States caused by or attributable to persons of Mexico.

[2] For greater certainty, a substantial increase in services supplied by the grantee may constitute a change in circumstances.

[3] The Parties confirm their shared understanding that current operations under existing grants of authority as of the date of entry into force of this Agreement are not causing material harm.

Sector:	Betting and Gambling
Obligations Concerned:	National Treatment (Articles 14.4 and 15.3) Market Access (Article 15.5) Local Presence (Article 15.6) Performance Requirements (Article 14.10) Senior Management and Boards of Directors (Article 14.11)
Description:	Cross-Border Trade in Services and Investment The United States reserves the right to adopt or maintain any measure relating to betting and gambling services.

Sector:	All
Obligations Concerned:	Market Access (Article 15.5)
Description:	Cross-Border Trade in Services

The United States reserves the right to adopt or maintain any measure that is not inconsistent with the United States' obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3).

For purposes of this entry only, the U.S. Schedule of Specific Commitments is modified as indicated in Appendix II-A.

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Sector: All

Obligations Concerned: Most-Favored-Nation Treatment (Articles 14.5 and 15.4)

Description: Cross-Border Trade in Services and Investment

The United States reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

The United States reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Appendix II-A

For the following Sectors, U.S. obligations under Article XVI of the General Agreement on Trade in Services as set out in the U.S. Schedule of Specific Commitments under the GATS (GATS/SC/90, GATS/SC/90/Suppl.1, GATS/SC/90/Suppl.2, and GATS/SC/90/Suppl.3) are improved as described.

Sector/Subsector	**Market Access Improvements**
Foreign Legal Consulting Services	Insert new commitments for the following states: Louisiana, New Mexico: No limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section." Arizona, Indiana, Massachusetts, North Carolina, Utah: No limitations modes 1-2; for mode 3 "in-state law office required," and mode 4 "Unbound, except as indicated in the horizontal section. Additionally, an in-state law office required." Missouri: No limitations modes 1-2; for mode 3 "Association with in-state law office required," and mode 4 "Unbound, except as indicated in the horizontal section. Additionally, association with an in-state law office required."
Accounting, Auditing and Bookkeeping Services	Modify mode 3 limitation as follows: Sole proprietorships or partnerships are limited to persons licensed as accountants~~, except in Iowa where accounting firms must incorporate~~ Modify mode 4 limitation as follows: In addition, an in-state office must be maintained ~~for licensure in~~ **to receive a license to perform audits in**:
Engineering Services Integrated Engineering Services	Replace existing description of Mode 4 with "Unbound, except as indicated in the horizontal section."
Research and development services: R&D services on natural sciences, social sciences and humanities, and interdisciplinary R&D services, excluding R&D financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Technical testing and analysis services, other than government-mandated services or services financed in whole or in part by public funds	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Other business services: Other	Insert new commitments for "Other" under "Other business services" with no limitations for modes 1-3 and mode 4 "Unbound, except as

Sector/Subsector	Market Access Improvements
	indicated in the horizontal section."
Express Delivery Services	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Other Delivery Services	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Multi-channel video services over provider-owned cable systems	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Information services (the offering of a capability for generating, acquiring, storing transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing)	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Higher Education Services (except flying instruction)[4]	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Motion Picture & Video Tape Home Video Entertainment Production and Distribution Promotion or advertising services Motion picture or video tape[5] production services Motion picture or video tape[3] distribution services Other services in connection with motion	Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."

[4] For transparency purposes, individual U.S. institutions maintain autonomy in admission policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established. In some jurisdictions, accreditation of institutions or programs may be required. Institutions maintain autonomy in selecting the jurisdiction in which they will operate, and institutions and programs maintain autonomy in choosing to meet standards set by accrediting organizations as well as to continue accredited status. Accrediting organizations maintain autonomy in setting accreditation standards. Tuition rates may vary for in-state and out-of-state residents. Additionally, admissions policies include considerations of equal opportunity for students (regardless of race, ethnicity, or gender), as permitted by domestic law, as well as recognition by regional, national, or specialty organizations; and required standards must be met to obtain and maintain accreditation. To participate in the U.S. student loan program, foreign institutions established in the United States are subject to the same requirements as U.S. institutions.

[5] For purposes of clarity, this class refers to theatrical and non-theatrical motion pictures, whether provided on fixed media or electronically.

Sector/Subsector	Market Access Improvements
pictures and video tape[3] production and distribution Motion Picture Projection Services Radio and Television Services Radio and Television Distribution Services Other services in connection with motion pictures and video tape[3] production and distribution[6]	
Environmental Services Wastewater Management, excluding Water for Human Use (Wastewater services (contracted by private industry)) Solid/hazardous waste management (contracted by private industry) Refuse disposal services Sanitation and Similar Services Protection of ambient air and climate (Services to reduce exhaust gases and other emissions to improve air quality) Remediation and cleanup of soil and water (Treatment, remediation of contaminated/ polluted soil and water) Noise and vibration abatement (Noise abatement services) Protection of biodiversity and landscape (Nature and landscape protection services) Other environmental and ancillary services (Other services not classified elsewhere)	Insert commitments according to this revised classification with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."

[6] For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

Sector/Subsector	**Market Access Improvements**
Physical well-being services[7] [8]	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Road freight transport	Insert new commitments for domestic transportation with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."
Cargo-handling services, Storage and warehouse services, and Freight transport agency services, except maritime or air transport services	Insert new commitments with no limitations for modes 1-3 and mode 4 "Unbound, except as indicated in the horizontal section."

[7] For transparency purposes, this subsector includes physical well-being services such as delivered by, *inter alia*, fitness centers, spas, salons, massage (excluding therapeutic massage), and ayurvedics. This subsector does not include regulated medical services.

[8] For greater certainty, nothing in this commitment authorizes the provision of unregulated substances or affects the ability of state authorities to regulate substances that may be affiliated with these services.

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ANNEX II

SCHEDULE OF CANADA

INTRODUCTORY NOTES

In the interpretation of an entry, all elements of the entry shall be considered. The Description element shall prevail over all other elements.

Reservation II-C-1

Sector: Aboriginal Affairs

Sub-sector:

Type of Reservation:

National Treatment (Articles YY and XX)
Most-Favored-Nation Treatment (Articles YY and XX)
Performance Requirements (Article YY)
Senior Management and Boards of Directors (Article YY)
Local Presence (Article XX)

Description: **Investment and Cross-Border Trade in Services**

Canada reserves the right to adopt or maintain measures conferring rights or privileges to aboriginal peoples.

Existing Measures: *Constitution Act*, *1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11 as well as land claims agreements and self-government agreements that have been implemented by statute.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-2

Sector: All Sectors

Sub-sector:

Type of Reservation: National Treatment (Article YY)

Description: **Investment**

Canada reserves the right to adopt or maintain a measure relating to residency requirements for the ownership of oceanfront land by investors of a Party or their investments.

Existing Measures:

Reservation II-C-3

Sector:	Fisheries
Sub-Sector:	Fishing and Services Incidental to Fishing
Type of Reservations:	National Treatment (Articles YY and XX) Most-Favored Nation Treatment (Articles YY and XX)
Description:	**Investment and Cross-Border Trade in Services** Canada reserves the right to adopt or maintain any measure with respect to licencing fishing or fishing related activities, including entry of foreign fishing vessels to Canada's exclusive economic zone, territorial sea, internal waters or ports, and use of any services therein.
Existing Measures:	*Fisheries Act*, R.S.C. 1985, c. F14 *Coastal Fisheries Protection Act*, R.S.C. 1985, c.33 *Coastal Fisheries Protection Regulations*, C.R.C. 1978, c. 413 *Commercial Fisheries Licensing Policy* *Policy on Foreign Investment in the Canadian Fisheries* Sector, 1985

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-4

Sector:	Government Finance
Sub-sector:	Securities
Type of Reservation:	National Treatment (Article YY)
Description:	**Investment** Canada reserves the right to adopt or maintain a measure relating to the acquisition, sale or other disposition by nationals of a Party of bonds, treasury bills or other kinds of debt securities issued by the Government of Canada or a Canadian sub-national government.
Existing Measures:	*Financial Administration Act*, R.S.C. 1985, c. F-11

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-5

Sector:	Minority Affairs
Sub-sector:	
Type of Reservation:	National Treatment (Articles YY and XX) Performance Requirements (Article YY) Senior Management and Boards of Directors (Article YY) Local Presence (Article XX)
Description:	**Investment and Cross-Border Trade in Services** Canada reserves the right to adopt or maintain a measure conferring rights or privileges to a socially or economically disadvantaged minority.
Existing Measures:	

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-6

Sector:	Social Services
Sub-sector:	
Type of Reservation:	National Treatment (Articles YY and XX) Most-Favored-Nation Treatment (Articles YY and XX) Senior Management and Boards of Directors (Article YY) Local Presence (Article XX) Performance Requirements (Article YY)
Description:	**Investment and Cross-Border Trade in Services** Canada reserves the right to adopt or maintain a measure with respect to the supply of public law enforcement and correctional services, as well as the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.
Existing Measures:	

Reservation II-C-7

Sector: Transportation

Sub-sector: Water transportation

Type of Reservation: National Treatment (Articles YY and XX)
Most-Favored-Nation Treatment (Articles YY and XX)
Performance Requirements (Article YY)
Senior Management and Boards of Directors (Article YY)
Local Presence (Article XX)

Description: **Investment and Cross-Border Trade in Services**

1. Canada reserves the right to adopt or maintain any measure affecting the investment in or supply of marine cabotage services, including:

(a) the transportation of goods or passengers by vessel between points in the territory of Canada or above the continental shelf of Canada, directly or by way of a place outside Canada; but with respect to waters above the continental shelf of Canada, the transportation of goods or passengers only in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada; and

(b) the engaging by vessel in any other marine activity of a commercial nature in the territory of Canada and, with respect to waters above the continental shelf, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada.

2. This reservation relates to, among other things, limitations and conditions for services suppliers entitled to participate in these activities, to criteria for the issuance of a temporary cabotage licence to foreign vessels, and to limits on the number of cabotage licences issued to foreign vessels.

3. For greater certainty, this reservation applies, among other things, to marine activities of a commercial nature

undertaken by or from a vessel, including feeder services and repositioning of empty containers.

Existing Measures:

Coasting Trade Act, S.C., 1992, c. 31
Canada Shipping Act, 2001, S.C. 2001, c.26
Customs Act, R.S.C., 1985, c.1 (2nd Supp.)
Customs and Excise Offshore Application Act, R.S.C., 1985, c. C-53.

Reservation II-C-8

Sector: Transportation

Sub-Sector: Water transportation

Type of Reservation: Most-Favored-Nation Treatment (Article XX)

Description: **Cross-Border Trade in Services**

Canada reserves the right to adopt or maintain a measure relating to the implementation of agreements, arrangements and other formal or informal undertakings with other countries with respect to maritime activities in waters of mutual interest in areas such as pollution control (including double hull requirements for oil tankers), safe navigation, barge inspection standards, water quality, pilotage, salvage, drug abuse control and maritime communications.

Existing Measures:

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-9

Sector:	Transportation
Sub-Sector:	Water transportation
Type of Reservation:	National Treatment (Articles YY and XX) Most-Favored-Nation Treatment (Articles YY and XX) Performance Requirements (Article YY) Senior Management Board of Directors (Article YY) Local Presence (Article XX)
Description:	**Investment and Cross-Border Trade in Services** Canada reserves the right to adopt or maintain any measure denying service providers or investors of United States, or their investments, the benefits accorded service providers or investors of Mexico or any other country, or their investments, in sectors or activities equivalent to those subject to Schedule of the United States, Annex II, page II-US-5
Existing Measures:	

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-10

Sector: Water Transportation

Sub-sector: Technical Testing and Analysis Services

Type of Reservation: Most-Favored-Nation Treatment (Article YY)
Local Presence (Article XX)

Description: **Investment and Cross-Border Trade in Services**

1. Canada reserves the right to adopt or maintain a measure affecting the statutory inspection and certification of vessels on behalf of Canada.
2. For greater certainty, only a person, classification society or other organisation authorised by Canada may carry out statutory inspections and issue Canadian Maritime Documents to Canadian registered vessels and their equipment on behalf of Canada.

Existing Measures:

Reservation II-C-11

Sector: All Sectors

Sub-sector:

Type of Reservation: Most-Favored-Nation Treatment (Articles YY and XX)

Description: **Cross-Border Trade in Services and Investment**

1. Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.

2. Canada reserves the right to adopt or maintain a measure that accords differential treatment to countries under any bilateral or multilateral agreement in force or signed after the date of entry into force of this Agreement involving:

(a) aviation;

(b) fisheries; or

(c) maritime matters, including salvage.

Existing Measures:

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Reservation II-C-12

Sector: All

Sub-sector:

Type of Reservation: Market Access (Articles XX)

Description: **Cross-Border Trade in Services**

Canada reserves the right to adopt or maintain a measure that is not inconsistent with:

(a) Canada's obligations under Article XVI of GATS[1]; and

(b) Canada's Schedule of Specific Commitments under the GATS (GATS/SC/16, GATS/SC/16/Suppl.1, GATS/SC/16/Suppl.1/Rev.1, GATS/SC/16/Suppl.2, GATS/SC/16/Suppl.2/Rev.1, GATS/SC/16/ Suppl.3, GATS/SC/16/Suppl.4 and GATS/SC/16/Suppl.4/Rev.1).

For greater certainty, this entry applies to measures adopted or maintained that affect the supply of a service by a covered investment pursuant to Article XX (Market Access). For purposes of this entry only, Canada's Schedule of Specific Commitments is modified as indicated in Appendix I.

Existing Measures:

[1] For greater certainty, this includes obligations resulting from future amendments to Canada's Schedule to Article XVI of GATS.

Appendix I

For the following Sectors, Canada's obligations under Article XVI of GATS are improved as described.

Sector/Sub-sector	**Market Access Improvements**
Accounting, Auditing and Book-keeping services	Under Mode 1 remove: <u>Auditing</u> - Commercial presence requirement: Nova Scotia. - Citizenship requirement for accreditation: Manitoba and Quebec. - Permanent residence requirement for accreditation: Ontario. Under Mode 2 remove: <u>Auditing</u> - Commercial presence requirement: Nova Scotia. - Citizenship requirement for accreditation: Manitoba and Quebec. - Permanent residence requirement for accreditation: Ontario.
Architectural services	Under Mode 1 remove: <u>Architects</u> - Citizenship requirement for accreditation: Quebec.
Engineering services	Under Mode 1 remove: <u>Consulting Engineers</u> - Commercial presence requirement for accreditation: Manitoba. <u>Engineers</u> - Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. - Citizenship requirement for accreditation: Quebec. Under Mode 2 remove: <u>Consulting Engineers</u> - Commercial presence requirement for accreditation: Manitoba. <u>Engineers</u>

	- Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. - Citizenship requirement for accreditation: Quebec.
Integrated engineering services	Under Mode 1 remove: <u>Consulting Engineers</u> - Commercial presence requirement for accreditation: Manitoba. <u>Engineers</u> - Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. - Citizenship requirement for accreditation: Quebec. Under Mode 2 remove: <u>Consulting Engineers</u> - Commercial presence requirement for accreditation: Manitoba. <u>Engineers</u> - Permanent residence requirement for accreditation: Newfoundland and Labrador, Nova Scotia. - Citizenship requirement for accreditation: Quebec.
Urban planning and landscape architectural services	Under Mode 1 remove: <u>Community/ Urban Planning</u> - Citizenship requirement for use of title: Quebec.
Real estate services	Under Mode 1 remove: <u>Chartered Appraisers</u> - Citizenship requirement for use of title: Quebec.
Management consulting services	Under Mode 1 remove: <u>Agrologists</u> - Citizenship requirement for accreditation: Quebec. <u>Professional Administrators and Certified Management Consultants</u> - Citizenship requirement for use of title: Quebec Professional Corporation of Administrators.

	Industrial Relations Counsellors - Citizenship requirement for use of title: Quebec. Under Mode 2 remove: Agrologists - Citizenship requirement for accreditation: Quebec.
Investigation and security services	Under Mode 3 remove: Business and Personnel Information Investigations - Foreign ownership restriction to 25 per cent in total and 10 per cent by any individual holding shares: Ontario.
Related scientific and technical consulting services	Under Mode 1 remove: Land Surveyors - Citizenship requirement for accreditation: Nova Scotia and Quebec. Subsurface Surveying Services - Citizenship requirement for accreditation: Quebec. Professional Technologist - Citizenship requirement for accreditation: Quebec. Chemists - Citizenship requirement for accreditation: Quebec. Under Mode 2 remove: Land Surveyors - Citizenship requirement for accreditation: Nova Scotia and Quebec. Subsurface Surveying Services - Citizenship requirement for accreditation: Quebec
Other business services	Under Mode 1 remove: Certified Translators and Interpreters - Citizenship requirement for use of title: Quebec. Under Mode 2 remove: Certified Translators and Interpreters

	- Citizenship requirement for use of title: Quebec. Under Mode 3 remove: <u>Collection Agencies</u> - Foreign Ownership restriction to 25 per cent in total and 10 per cent by any individual: Ontario.
Courier services	Under Mode 3 remove: - Economic needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to supply proper service.): Nova Scotia and Manitoba.
General construction work for civil engineering	Under Mode 3 remove: <u>Construction</u> - An applicant and holder of a water power site development permit must be incorporated in Ontario.
Wholesale trade services	Under Mode 1, remove: Marketing of Fish Products (Nova Scotia): Nova Scotia residents require ministerial approval to enter into agreements with non-residents.
Railway passenger and freight transport	Under Mode 1, remove: - cabotage limitation
Road Passenger Transportation	Under Mode 3 remove: <u>Interurban bus transport and scheduled services</u>: - Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to supply proper service.): Prince Edward Island.

Road Freight transportation	Under Mode 3 remove: <u>Highway freight transportation</u> - Public convenience and needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to supply proper service.): British Columbia, Manitoba, Ontario, Prince Edward Island, Nova Scotia.
Telecommunications	Under Mode 3 remove: Nova Scotia: no person may vote more than 1,000 shares of Maritime Telegraph and Telephone Ltd.

ANNEX III

EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out:

   (a) headnotes or introductory notes that limit or clarify the commitments of a Party with respect to the obligations described in paragraphs 1(b) and 1(c);

   (b) in Section A, pursuant to Article 17.10.1 (Non-Conforming Measures), a Party's existing measures that are not subject to some or all of the obligations imposed by:

      (i) Article 17.3 (National Treatment);

      (ii) Article 17.4 (Most-Favored-Nation Treatment);

      (iii) Article 17.5 (Market Access); or

      (iv) Article 17.9 (Senior Management and Boards of Directors); and

   (c) in Section B, pursuant to Article 17.10.2 (Non-Conforming Measures), the specific sectors, subsectors or activities for which a Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

      (i) Article 17.3 (National Treatment);

      (ii) Article 17.4 (Most-Favored-Nation Treatment);

      (iii) Article 17.5 (Market Access);

      (iv) Article 17.6 (Cross-Border Trade Standstill); or

      (v) Article 17.9 (Senior Management and Boards of Directors).

2. Each Schedule entry in Section A sets out the following elements:

   (a) **Sector** refers to the sector for which the entry is made;

   (b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligations referred to in paragraph 1(b) that, pursuant to Article 17.10.1(a) (Non-Conforming Measures), do not apply to the listed measures as indicated in the headnote or introductory note for each Party's Schedule;

(d) **Level of Government** indicates the level of government maintaining the listed measures;

(e) **Measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:

(i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and

(ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and

(f) **Description**, as indicated in the headnote or introductory note for each Party's Schedule, either sets out the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

3. Each Schedule entry in Section B sets out the following elements:

(a) **Sector** refers to the sector for which the entry is made;

(b) **Sub-Sector**, where referenced, refers to the specific subsector for which the entry is made;

(c) **Obligations Concerned** specifies the obligations referred to in paragraph 1(c) that, pursuant to Article 17.10.2 (Non-Conforming Measures), do not apply to the sectors, subsectors or activities listed in the entry;

(d) **Level of Government** indicates the level of government maintaining the listed measures;

(e) **Description** sets out the scope or nature of the sectors, subsectors or activities covered by the entry to which the reservation applies; and

(f) **Existing Measures** identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, subsectors or activities covered by the entry.

4. Parties recognize that measures falling under exceptions applicable to this Chapter, such as those in Article 17.11 (Exceptions), need not be scheduled. Nevertheless, some Parties have listed measures that may fall within applicable exceptions. For greater certainty, the listing of

a measure in a Party's Schedule to Annex III is without prejudice to whether that measure or any other measure:

(a) adopted or maintained by the Party; or

(b) adopted or maintained by any other Party;

is covered by exceptions such as those in Article 17.11 (Exceptions).

ANNEX III

MEXICO'S RESERVATIONS TO CHAPTER 17 (FINANCIAL SERVICES)

SCHEDULE OF MEXICO HEADNOTES

1. Commitments in the financial services sector under this Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. With respect to Article 17.5 (Market Access), juridical persons supplying financial services and constituted under the laws of Mexico are subject to non-discriminatory limitations on juridical form.

3. Paragraph 1(c) of Article 17.10 (Non-Conforming Measures) shall not apply to those non-conforming measures relating to paragraph (e) of Article 17.5 (Market Access).

4. **Description**, provides a general non-binding description of the measure for which the entry is made.

5. In the interpretation of a reservation in Section A, all elements of the entry shall be considered. The **Measures** element shall prevail over all other elements.

6. In the interpretation of a reservation in Section B, all elements of the entry shall be considered. The **Description** element shall prevail over all other elements.

ANNEX III

SECTION A

A-1

Sector:	Financial Services
Sub-Sector:	Banking and other Financial Services (excluding Insurance)
Obligations Concerned:	National Treatment (Article 17.3), paragraphs 1 and 2
Level of Government:	Central
Measures:	Credit Unions Law (*Ley de Uniones de Crédito*); Article 21 General Law of Credit Organizations and Auxiliary Activities (*Ley General de Organizaciones y Actividades Auxiliares del Crédito*); Article 87-D
Description:	Participation by any individual or legal entity, whether direct or indirect, in the capital stock of a credit union or a regulated multiple purpose financial entity linked to a credit union shall not exceed 15 percent, unless authorized by the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*) (*CNBV*). Without prejudice to the preceding paragraph, any foreign individual or legal entity, including any foreign legal entity with no legal personality, may participate indirectly in the capital stock of a credit union or a regulated multiple purpose financial entity linked to a credit union up to 15 percent, provided that the respective shares of the credit union are purchased by a Mexican legal entity in which such foreign

individual or legal entity holds a participation.

A-2

Sector:	Financial services
Sub-sector:	All Services
Obligations concerned:	National Treatment (Article 17.3), paragraphs 1 and 2 Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Law to Regulate Financial Groups (*Ley para Regular las Agrupaciones Financieras*); Articles 67, 68, 70, 72, 74 and 76 Credit Institutions Law (*Ley de Instituciones de Crédito*); Articles 45-A, 45-B, 45-C 45-E, 45-G and 45-I Securities Market Law (*Ley del Mercado de Valores*); Articles 2, 160, 161, 163, 165 and 167 Insurance and Surety Institutions Law (*Ley de Instituciones de Seguros y Fianzas*); Articles 2, 74, 75, 77, 78, 79 and 81 General Law of Credit Organizations and Auxiliary Activities (*Ley General de Organizaciones y Actividades Auxiliares del Crédito*); Articles 45 Bis 1, 45 Bis 2, 45 Bis 3, 45 Bis 5 45 Bis 7 and 45 Bis 9 Investment Funds Law (*Ley de Fondos de Inversión*); Articles 62, 63, 64, 66, 68 and 70 Retirement Savings Systems Law (*Ley de los Sistemas de Ahorro para el Retiro*); Article 21

Rules for the Establishment of Foreign Financial Institution Subsidiaries (*Reglas para el establecimiento de Filiales de Instituciones Financieras del Exterior*); First, Eighth and Ninth Rule.

Description:

A financial institution of another Party may invest in the capital stock of a holding company of a financial group, a commercial bank, a securities firm, a surety institution, an insurance institution, a foreign exchange firm, a general deposit warehouse, a managing company of investment funds, a distributing company of investment fund shares, and a retirement funds management company, organized as a Mexican subsidiary (*filial*) of a foreign financial institution, provided that such financial institution of the other Party meets the following conditions:

(a) directly or indirectly carries out in the territory of that other Party, in accordance with applicable law, the same type of financial service that the respective subsidiary is allowed to carry out in Mexico;

(b) is incorporated in and under the laws of that other Party provided further that such Party remains as a party to this Agreement, and

(c) obtains prior authorization from the competent Mexican financial authorities and complies with the requirements set out in the respective law.

A financial institution of another Party must own at least 51 percent of the subsidiary's capital stock.

A-3

Sector:	Financial Services
Sub-sector:	All Services
Obligations concerned:	Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Law to Regulate Financial Groups (*Ley para Regular las Agrupaciones Financieras*); Article 67 Credit Institutions Law (*Ley de Instituciones de Crédito*); Article 45-A Securities Market Law (*Ley del Mercado de Valores*); Article 2 Insurance and Surety Institutions Law (*Ley de Instituciones de Seguros y Fianzas*); Article 2 General Law of Credit Organizations and Auxiliary Activities (*Ley General de Organizaciones y Actividades Auxiliares del Crédito*); Article 45 Bis 1 Investment Funds Law (*Ley de Fondos de Inversión*); Article 62 Retirement Savings Systems Law (*Ley de los Sistemas de Ahorro para el Retiro*); Article 21 Rules for the Establishment of Foreign Financial Institution Subsidiaries (*Reglas para el establecimiento de Filiales de Instituciones Financieras del Exterior*); First Rule

Description:	Financial institutions of another Party, as any other foreign financial institution, are not permitted to establish branches within Mexican territory.[1]

[1] For clarification purposes, this wording should not be considered as a departure from Mexico's position in other international agreements it has entered into.

A-4

Sector:	Financial Services
Sub-sector:	All Services
Obligations Concerned:	National Treatment (Article 17.3), paragraphs 1 and 2 Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Law to Regulate Financial Groups (*Ley para Regular las Agrupaciones Financieras*); Article 24 Credit Institutions Law (*Ley de Instituciones de Crédito*); Article 13 Securities Market Law (*Ley del Mercado de Valores*); Articles 117 and 237 Law to Regulate Credit Information Corporations (*Ley para Regular las Sociedades de Información Crediticia*); Article 8 Insurance and Surety Institutions Law (*Ley de Instituciones de Seguros y Fianzas*); Article 50 Retirement Saving Systems Law (*Ley de los Sistemas de Ahorro para el Retiro*); Article 21 General Law of Credit Organizations and Auxiliary Activities (*Ley General de Organizaciones y Actividades Auxiliares de Crédito*); Article 8 and 87-D Investment Funds Law (*Ley de Fondos de Inversión*); Article 37

Credit Unions Law (*Ley de Uniones de Crédito*); Article 21

Description:

Foreign governments are not allowed to participate, directly or indirectly, in the capital stock of holding companies of financial groups, commercial banks, securities firms, stock exchange, credit information corporations, surety institutions, insurance institutions, retirement funds management companies, foreign exchange firms, auxiliary credit organizations, general deposit warehouses, managing companies of investment funds, distributing companies of investment fund shares, value assessment companies of investment fund shares, credit unions regulated multiple purpose financial entities linked to a credit institution except:

I. In case such participation is done it should be only as a temporary prudential measure, such as financial support or aid.

The financial institutions that fall in this situation must submit to the competent financial authority the relevant information and documents to prove such situation.

II. In case such participation implies that the foreign government takes control[2] over such financial institutions, and it is carried out through official legal entities, such as sovereign funds and public development entities, provided that an authorization is previously granted, on a discretionary basis, by the competent financial authority, subject to the condition that such authority is satisfied that such legal entities prove that:

(a) Do not exercise any government function, and

[2] The term "control" is defined in each of the laws indicated in this measure.

(b) Their managing boards are independent from the respective foreign government.

III. When such participation is indirect and does not imply the control of the financial institutions.

A-5

Sector:	Financial Services
Sub-sector:	All Services
Obligations Concerned:	Senior Management and Boards of Directors (Article 17.9)
Level of Government:	Central
Measures:	Cooperative Companies General Law (*Ley General de Sociedades Cooperativas*); Article 7
Description:	Directors and managers of savings and loans cooperative companies must be Mexican.

A-6

Sector:	Financial Services
Sub-sector:	Banking and other Financial Services (excluding insurance)
Obligations Concerned:	National Treatment (Article 17.3), paragraphs 1 and 2 Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Securities Market Law (*Ley del Mercado de Valores*); Article 167
Description:	If a securities firm organized as a subsidiary (*filial*) of a financial institution of another Party acquires shares of a Mexican securities firm, which shall not be below 51 percent of its capital stock, such subsidiary must merge with the securities firm.

A-7

Sector:	Financial Services
Sub-sector:	Banking and other Financial Services (excluding insurance)
Obligations Concerned:	Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Retirement Savings Systems Law (*Ley de los Sistemas de Ahorro para el Retiro*); Article 26
Description:	A retirement fund management company may not own more than 20 percent share of the retirement savings systems market.[3] The Retirement Savings System National Commission *(Comisión Nacional del Sistema de Ahorro para el Retiro) (CONSAR)* may authorize a limit beyond 20 percent, provided that this does not constitute prejudice to the interests of workers.

[3] The term "market" refers to the total amount of individual retirement accounts.

A-8

Sector:	Financial Services
Sub-sector:	Banking and other Financial Services (excluding insurance)
Obligations Concerned:	Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Securities Market Law (*Ley del Mercado de Valores*); Article 234
Description:	The organization of a stock exchange is subject to a concession previously granted, on a discretionary basis, by the Federal Government. The decision to grant such concessions will be subject to considerations regarding the market's development.

A-9

Sector:	Financial Services
Sub-sector:	Insurance and insurance-related services
Obligations Concerned:	National Treatment (Article 17.3), paragraph 3, subparagraph (b) Market Access (Article 17.5), paragraph 1, subparagraph (c)
Level of Government:	Central
Measures:	Insurance and Surety Institutions Law (*Ley de Instituciones de Seguros y Fianzas)*; Articles 20, 21, 22, 23 and 24.
Description:	Any person is prohibited from contracting with foreign entities the insurance of: (i) maritime or aircraft hulls, and any kind of vehicle, for risks inherent to the maritime and transportation industries, provided that such hulls and vehicles have Mexican registration or are owned by persons domiciled in Mexico; (ii) credit, housing credit, surety and financial guarantee[4], if the insured is subject to Mexican law. (iii) third party liability derived from events that may take place in the territory of Mexico; and (iv) other risks that may take place in Mexican territory, except for insurance contracted outside such territory with respect to goods transported from the territory of Mexico to a foreign territory or vice versa, and insurance contracted by non-residents in Mexico for their persons or vehicles to cover

[4] The prohibition for insurance of financial guarantee will not apply when the securities or documents matter of the insurance participate in foreign markets exclusively.

risks during their temporary entries into the territory of Mexico.

For greater certainty, any person is prohibited from contracting with entities of another Party the insurance of persons provided that the person is located in the territory of Mexico at the moment of the execution of the insurance agreement if that person is an individual, or that the insured resides in Mexico if the insurance is contracted by a legal entity.[5]

As an exception to the prohibitions indicated above, the National Insurance and Surety Commission (*Comisión Nacional de Seguros y Fianzas*) (CNSF) may authorize a person to contract any of the insurance described above provided that such person demonstrates that none of the insurance institutions authorized to operate in Mexico is able or deems convenient to enter into a given insurance operation proposed to it.

[5] For clarification purposes, this wording should not be considered as a departure from Mexico's position in other international agreements it has entered into.

A-10

Sector:	Financial Services
Sub-sector:	Banking and other Financial Services (excluding insurance)
Obligations Concerned:	National Treatment (Article 17.3), paragraph 3, subparagraph (b) Market Access (Article 17.5), paragraph 1, subparagraph (c)
Level of Government:	Central
Measures:	Insurance and Surety Institutions Law (*Ley de Instituciones de Seguros y Fianzas*); Articles 34 and 35.
Description:	Any person is prohibited from contracting with foreign entities sureties to guarantee acts of individuals and legal entities bound to fulfil obligations in Mexican territory, except for rebonding or in case such sureties are received by Mexican surety institutions as counter guarantee. As an exception to the prohibitions indicated above, the National Insurance and Surety Commission (*Comisión Nacional de Seguros y Fianzas*) (CNSF) may authorize a person to contract any of the sureties described above provided that none of the financial institutions authorized to operate in Mexico is able or deems it convenient to undertake a surety operation proposed to it, upon prior verification of such circumstances have been proved to it.

A-11

Sector:	Financial Services
Sub-sector:	All
Obligations Concerned:	National Treatment (Article 17.3), paragraphs 1 and 2 Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government:	Central
Measures:	Insurance and Surety Institutions Law (*Ley de Instituciones de Seguros y Fianzas*); Article 337 Regulation of Insurance and Surety Agents (*Reglamento de Agentes de Seguros y de Fianzas*); Article 12 Rules for the authorization and operation of reinsurance brokers (*Reglas para la autorización y operación de intermediarios de reaseguros*); Rule Fourth
Description:	Foreign governments or official foreign entities may not participate in mutual insurance societies, in the capital stock of insurance and surety agencies, or in the capital stock of reinsurance brokers, either directly or indirectly. Foreign financial entities may not participate in the capital stock of insurance or surety agencies, or in mutual insurance societies. Groups of foreign individuals or legal entities, regardless of the form they adopt, may not participate in mutual insurance societies, either directly or indirectly. For clarification purposes, foreign individuals may participate in mutual insurance societies as long as they do so individually and not as part of a group or entity.

A-12

Sector:	Financial Services
Subsector:	Insurance
Obligations Concerned:	National Treatment (Article 17.3), paragraphs 1 and 2 Market Access (Article 17.5), paragraph 1, subparagraph (a)
Level of Government	Central
Measures:	Agricultural and Rural Insurance Funds Law (*Ley de Fondos de Aseguramiento Agropecuario y Rural*); Article 26
Description	Only Mexicans or Mexican legal entities with a foreigner exclusion clause may participate in Agricultural and Rural Insurance Funds.

ANNEX III

SECTION B

B-1

Sector:	Financial Services
Sub-sector:	All Services
Obligations Concerned:	Market Access (Article 17.5), paragraph 1, subparagraphs (a) and (c) Senior Management and Boards of Directors (Article 17.9)
Level of Government:	Central
Description:	Mexico, when selling or disposing of its equity interest in, or the assets of, an existing state enterprise or an existing governmental entity, may prohibit or impose limitations on the ownership of such interest or assets, and on the ability of owners of such interest or assets to control any resulting enterprise, by investors of Mexico of another Party or of a non-Party or their investments. Additionally, Mexico may impose limitations on the supply of the services related to such investments. With respect to such a sale or other disposition, Mexico may adopt or maintain any measure relating to the nationality of individuals appointed to senior management positions of members of the board of directors. For the purposes of this reservation: (a) Any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interest or assets

or imposes nationality requirements described in this reservation shall be deemed to be an existing measure; and

(b) "state enterprise" means an enterprise owned or controlled through ownership interest by Mexico and includes an enterprise established after the date of entry into force of this agreement solely for the purposes of selling or disposing of equity interest in, or the assets of, an existing state enterprise or governmental entity.

B-2

Sector:	Financial Services
Sub-sector:	Banking and other Financial Services (excluding insurance)
Obligations Concerned:	National Treatment (Article 17.3)
Level of Government:	Central
Description:	Mexico reserves the right to adopt or maintain measures that grant advantages, including exclusive rights, to development banks, decentralized entities or public funds for the economic development already established at the time that this Agreement comes into force, as well as any new, reorganized or transferee development bank, decentralized entity or public fund for the economic development with similar functions and objectives with respect to development banking. The institutions of development banking include: - National Financial Institution, S.N.C. (*Nacional Financiera, S.N.C.*); - National Bank of Public Works and Services, S.N.C. (*Banco Nacional de Obras y Servicios Públicos, S.N.C.*); - National Bank of Foreign Trade, S.N.C. (*Banco Nacional del Comercio Exterior, S.N.C.*); - Federal Mortgage Corporation, S.N.C. (*Sociedad Hipotecaria Federal, S.N.C.*); - National Savings and Financial Services Bank, S.N.C (*Banco del Ahorro Nacional y Servicios Financieros, S.N.C.*);

- National Bank of the Army, Air Force and Navy, S.N.C. (*Banco Nacional del Ejército, Fuerza Aérea y Armada, S.N.C.*),

or their respective successors.

B-3

Sector:	Financial Services
Sub-sector:	All Services
Obligations Concerned:	National Treatment (Article 17.3)
Level of Government:	Central
Description:	Mexico reserves the right to adopt or maintain measures that grant advantages, including exclusive rights, to the national insurance institutions, national surety institutions, a national pension fund or national auxiliary organizations of credit in existence at the date of entry into force of this Agreement, as well as any new, reorganized or transferee national insurance institution, national surety institution, a national pension fund or national auxiliary organization of credit with similar functions and objectives with respect to public policy purposes.

B-4

Sector:	Financial Services
Sub-sector:	All Financial Services
Obligations Concerned:	Market Access (Article 17.5), paragraph 1, subparagraph (a) Senior Management and Boards of Directors (Article 17.9)
Level of Government:	Central
Description:	1. With respect to the supply of a financial service that Mexico does not require to be supplied by a financial institution on or before the date of entry into force of this Agreement but requires to be supplied by a financial institution after the date of entry into force of this Agreement, Mexico reserves the right to adopt after the date of entry into force of this Agreement any measure or maintain any such measure that: a. imposes limitations on the number of financial institutions that may supply the financial service in Mexico, subject to an economic needs test; b. imposes limitations in the form of numerical quotas on the total value of financial service transactions or assets, subject to an economic needs test with respect to the financial service that may be supplied in Mexico; or c. imposes requirements related to the nationality or residency in Mexico of individuals appointed to senior management positions or members of the board of directors that are inconsistent with Article 17.9 (Senior Management and Boards of Directors),

provided that:

d. any amendment to the measure, or adoption of any other measure as described in paragraph 1 (a-c) applied to the financial service, does not decrease the conformity of Mexico's measures as they existed when Mexico first adopted a measure inconsistent with Article 17.5.1(a) (Market Access) and Article 17.9 (Senior Management and Boards of Directors); and

e. the measure described in subparagraphs 1(a-c) is not applied to withdraw a tangible or intangible asset from a covered investment; and,

f. the amendment to the measure, or adoption of any other measure described in subparagraphs 1(a-c) is not applied to withdraw a tangible or intangible asset from (1) a financial institution of another Party; or (2) an investor of another Party, or an investment of such an investor, in a financial institution of another Party.

B-5

Sector:	Financial Services
Sub-Sector:	Banking and other Financial Services (excluding Insurance)
Obligations Concerned:	Market Access (Article 17.5), paragraph 1, subparagraph (b) National Treatment (Article 17.3), paragraph 3, subparagraph (a)
Level of Government:	Central
Description:	A cross-border service supplier of another Party may supply the electronic payments services into Mexico specified in Annex 17-A, provided that the cross-border service supplier supplies such services in the territory of that other Party. In addition, such cross-border supply of electronic payment services into Mexico must be supplied on a contractual relationship between a cross-border service supplier of another Party and an affiliate of that supplier established and authorized as a payments network participant under Mexican law in the territory of Mexico.

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ANNEX III

SCHEDULE OF THE UNITED STATES

HEADNOTES

1. Commitments in these sub-sectors under Chapter 17 (Financial Services) are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. National treatment commitments in these sub-sectors are subject to the following limitations:

(a) National treatment with respect to banking will be provided based upon the foreign bank's "home state" in the United States, as that term is defined under the *International Banking Act*, when that Act is applicable. A domestic bank subsidiary of a foreign firm will have its own "home state", and national treatment will be provided based upon the subsidiary's home state, as determined under applicable law.[1]

(b) National treatment with respect to insurance financial institutions will be provided according to a non-U.S. insurance financial institution's state of domicile, when applicable, in the United States. State of domicile is defined by individual states, and is generally the state in which an insurer either is incorporated, is organized or maintains its principal office in the United States.

3. To clarify the U.S. commitment with respect to Article 17.5 (Market Access), juridical persons supplying banking or other financial services (excluding insurance) and constituted under the laws of the United States are subject to non-discriminatory limitations on juridical form.[2]

4. For entries in Section A, in accordance with Article 17.10.1(a) (Non-Conforming Measures), and subject to Article 17.10.1(c) (Non-Conforming Measures), the Articles

[1] Foreign banking organizations are generally subject to geographic and other limitations in the United States on a national treatment basis. If the limitations do not conform to national treatment, they have been listed as non-conforming measures. For purposes of illustration, under this approach, the following situation does not accord national treatment and would therefore be listed as a non-conforming measure: a foreign bank from a particular home state is accorded less favorable treatment than that accorded to a domestic bank from that state with respect to expansion by branching. For greater certainty, a bank that is incorporated in the United States, including a U.S. bank subsidiary of a foreign bank, is considered a "domestic bank" and not a "foreign bank". The referenced measures include the relevant comprehensive definitions.

[2] For example, partnerships and sole proprietorships are generally not acceptable juridical forms for depository financial institutions in the United States. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation or other measure identified in the **Measures** element of that entry. In addition, **Description** provides a general, non-binding description of the measure for which the entry is made.

5. For entries in Section B, in accordance with Article 17.10.2 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors and activities identified in the **Description** element of that entry.

6. Article 17.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 17.5.1(e) (Market Access).

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ANNEX III

Section A

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Senior Management and Boards of Directors (Article 17.9)
Level of Government:	Central
Measures:	12 U.S.C. 72
Description:	All directors of a national bank must be U.S. citizens except that the Comptroller of the Currency may waive the citizenship requirement for not more than a minority of the total number of directors.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Articles 17.3.1 and 17.3.2) Market Access (Article 17.5.1(a))
Level of Government:	Central
Measures:	12 U.S.C. 619
Description:	Foreign ownership of Edge Act corporations is limited to foreign banks and U.S. subsidiaries of foreign banks, while domestic non-bank firms may own such corporations.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Articles 17.3.1 and 17.3.2) Market Access (Article 17.5.1(a))
Level of Government:	Central
Measures:	12 U.S.C. 1463 *et seq.* 12 U.S.C. 1751 *et seq.*
Description:	Federal and state laws do not permit a credit union, savings bank, or savings association (both of the latter two entities may be also called thrift institutions) in the United States to be established through branches of corporations organized under a foreign country's law.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Articles 17.3.1 and 17.3.2) Market Access (Article 17.5.1(a))
Level of Government:	Central
Measures:	12 U.S.C. 3104(d)
Description:	In order to accept or maintain domestic retail deposits of less than the standard maximum deposit insurance amount, and requiring deposit insurance protection, a foreign bank must establish an insured banking subsidiary. This requirement does not apply to a foreign bank branch that was engaged in insured deposit-taking activities on December 19, 1991.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 17.3)
Level of Government:	Central
Measures:	15 U.S.C. 80b-2 and 80b-3
Description:	Foreign banks are required to register as investment advisers under the *Investment Advisers Act of 1940* to engage in securities advisory and investment management services in the United States, while domestic banks[1] (or a separately identifiable department or division of the bank) do not have to register unless they advise registered investment companies. The registration requirement involves record maintenance, inspections, submission of reports and payment of a fee.

[1] For greater clarity, "domestic banks" include U.S. bank subsidiaries of foreign banks.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Articles 17.3.1 and 17.3.2)
Level of Government:	Central
Measures:	12 U.S.C. 221, 302 and 321
Description:	Foreign banks cannot be members of the Federal Reserve System, and thus may not vote for directors of a Federal Reserve Bank. U.S. bank subsidiaries of foreign banks are not subject to this measure.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Market Access (Article 17.5.1(a))
Level of Government:	Central
Measures:	12 U.S.C. 36(g) 12 U.S.C. 1828(d)(4) 12 U.S.C. 1831u
Description:	The United States undertakes no commitment with respect to Article 17.5.1(e) (Market Access) in relation to the expansion, by a foreign bank into another state from its "home state," as that term is defined under applicable law, via: (a) the establishment of a "*de novo*" branch in another state; (b) the establishment of branches by merger with a bank in another state; or (c) the acquisition of one or more branches of a bank in another state without the acquisition of the entire bank, if not permitted by the state in which the resulting branch is or would be located. Except as provided elsewhere in this Schedule, such expansion shall be accorded on a national treatment basis in accordance with paragraph 2(a) of the headnote.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Articles 17.3.1 and 17.3.2) Market Access (Article 17.5.1(a))
Level of Government:	Central
Measures:	12 U.S.C. 3102(a)(1) 12 U.S.C. 3102(d) 12 U.S.C. 3103(a)
Description:	Establishment of a federal branch or agency by a foreign bank is not available in the following states that may prohibit establishment of a branch or agency by a foreign bank: (a) branches and agencies may be prohibited in Kansas, Maryland, and North Dakota; and (b) branches, but not agencies, may be prohibited in Georgia, Missouri and Oklahoma. Certain restrictions on fiduciary powers apply to federal agencies. Note: The cited federal measures provide that certain state law restrictions apply to the establishment of federal branches or agencies.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Most-Favored-Nation Treatment (Article 17.4) Market Access (Articles 17.5.1(a), 17.5.1(b), and 17.5.1(c))
Level of Government:	Central
Measures:	15 U.S.C. 77jjj(a)(1)
Description:	The authority to act as a sole trustee of an indenture for a bond offering in the United States is subject to a reciprocity test.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Most-Favored-Nation Treatment (Article 17.4) Market Access (Article 17.5.1(a))
Level of Government:	Central
Measures:	22 U.S.C. 5341 and 5342
Description:	Designation as a primary dealer in U.S. government debt securities is conditioned on reciprocity.[2]

[2] A foreign-owned firm from any country that accords to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments as the country accords to a domestic company will be entitled to be designated as a primary dealer, assuming the firm meets applicable business requirements established by the Federal Reserve. If such country has entered into a Free Trade Agreement with the United States and the country has undertaken an obligation to provide national treatment for its government debt market, that fact shall be a positive factor in the consideration of such firm's request for designation.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Most-Favored-Nation Treatment (Article 17.4)
Level of Government:	Central
Measures:	15 U.S.C. 78o(c)
Description:	A broker-dealer registered under U.S. law that has its principal place of business in Canada may maintain its required reserves in a bank in Canada subject to the supervision of Canada.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 17.3)
Level of Government:	Central
Measures:	12 U.S.C. 1421 *et seq.* (Federal Home Loan Banks) 12 U.S.C. 1451 *et seq.* (Federal Home Loan Mortgage Corporation) 12 U.S.C. 1717 *et seq.* (Federal National Mortgage Association) 12 U.S.C. 2011 *et seq.* (Farm Credit Banks) 12 U.S.C. 2279aa-1 *et seq.* (Federal Agricultural Mortgage Corporation) 20 U.S.C. 1087-2 *et seq.* (Student Loan Marketing Association)
Description:	The United States may grant advantages, including but not limited to the following, to one or more of the Government-Sponsored Enterprises (GSEs) listed above: (a) Capital, reserves and income of the GSE are exempt from certain taxation. (b) Securities issued by the GSE are exempt from registration and periodic reporting requirements under federal securities laws. (c) The U.S. Treasury may, in its discretion, purchase obligations issued by the GSE.

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Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Articles 17.3.1 and 17.3.2) Most-Favored-Nation Treatment (Article 17.4) Market Access (Article 17.5.1(a)) Senior Management and Boards of Directors (Article 17.9)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states, the District of Columbia and Puerto Rico
Description:	Pursuant to the measures referred to above, some U.S. states may, among other things: (a) restrict or fail to provide an explicit mechanism for initial entry for the various juridical forms (for example, subsidiary, branch, agency, representative office) through which foreign banks may obtain a state license to conduct business activities within their territory;[3] and (b) impose citizenship requirements on some or all members of the boards of directors of state-chartered depository institutions. Additionally, states may impose restrictions or conditions upon the business activities with respect to juridical form; that is, with respect to a foreign bank operating in the state as a state-licensed or state-chartered incorporated entity, branch, agency or representative office. Some of the above limitations may reflect state reciprocity requirements.

[3] For the purposes of transparency, Appendix III-A sets out an illustrative, non-binding list of foreign bank structures explicitly provided for at the regional level of government.

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Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 17.3) Market Access (Articles 17.5.1(a), 17.5.1(b), and 17.5.1(c))
Level of Government:	Central
Measures:	31 U.S.C. 9304
Description:	Branches of foreign insurance companies are not permitted to provide surety bonds for U.S. Government contracts.

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Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 17.3.3)
Level of Government:	Central
Measures:	46 C.F.R. 249.9
Description:	When more than 50 per cent of the value of a maritime vessel whose hull was built under federally guaranteed mortgage funds is insured by a non-U.S. insurer, the insured must demonstrate that the risk was substantially first offered in the U.S. market.

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Sector:	Financial Services
Sub-Sector:	Insurance
Obligations Concerned:	National Treatment (Article 17.3) Most-Favored-Nation Treatment (Article 17.4) Market Access (Article 17.5) Senior Management and Boards of Directors (Article 17.9)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states, the District of Columbia and Puerto Rico. For the purposes of transparency, Appendix III-B sets out an illustrative, non-binding list of non-conforming measures maintained at the regional level of government.

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APPENDIX III-A

LIST OF FOREIGN BANK STRUCTURES EXPLICITLY PROVIDED FOR AT THE REGIONAL LEVEL OF GOVERNMENT[4]

	Commercial Bank Ownership	Branches	Agencies	Rep Offices
Alabama	Yes	Yes	Yes	Yes
Alaska	Yes	Yes	No	No
Arizona	No	No	No	No
Arkansas	No	No	No	No
California	Yes	Yes	Yes	Yes
Colorado	No	No	No	No
Connecticut	Yes	Yes	Yes	Yes
Delaware	Yes	Yes	Yes	Yes
District of Columbia	Yes	Yes	Yes	Yes
Florida	No	Yes	Yes	Yes
Georgia	No	No	Yes	Yes
Hawaii	Yes	Yes	Yes	Yes
Idaho	Yes	Yes	Yes	Yes
Illinois	No	Yes	No	Yes
Indiana	Yes	No	No	No
Iowa	No	No	No	No
Kansas	No	No	No	No
Kentucky	No	No	No	Yes
Louisiana	Yes	Yes	Yes	Yes
Maine	Yes	Yes	Yes	Yes
Maryland	No	No	No	No
Massachusetts	Yes	Yes	Yes	Yes
Michigan	Yes	Yes	Yes	Yes
Minnesota	Yes	No	No	Yes
Mississippi	Yes	Yes	Yes	Yes
Missouri	Yes	No	Yes	Yes
Montana	Yes	No	No	No
Nebraska	No	No	No	No
Nevada	Yes	Yes	Yes	Yes
New Hampshire	Yes	Yes	Yes	Yes
New Jersey	Yes	Yes	Yes	Yes
New Mexico	No	No	No	No
New York	Yes	Yes	Yes	Yes

[4] This list provides illustrative examples for transparency purposes only; it is neither exhaustive nor binding.

North Carolina	Yes	Yes	Yes	Yes
North Dakota	No	No	No	No
Ohio	Yes	Yes	Yes	Yes
Oklahoma	No	No	Yes	Yes
Oregon	No	Yes	No	No
Pennsylvania	Yes	Yes	Yes	Yes
Puerto Rico	Yes	Yes	Yes	Yes
Rhode Island	Yes	No	No	No
South Carolina	No	No	No	No
South Dakota	No	No	No	No
Tennessee	No	No	No	No
Texas	Yes	Yes	Yes	Yes
Utah	No	Yes	Yes	Yes
Vermont	Yes	Yes	No	No
Virginia	No	No	No	No
Washington	No	Yes	Yes	Yes
West Virginia	Yes	Yes	Yes	Yes
Wisconsin	Yes	No	No	No
Wyoming	No	No	No	No

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APPENDIX III-B

ILLUSTRATIVE LIST OF U.S. REGIONAL NON-CONFORMING MEASURES AFFECTING INSURANCE[5]

Part I: Measures affecting a commercial presence			
	Juridical Form	**Senior Management and Boards of Directors**	**Government Ownership or Control**
Direct insurance	The following states have no mechanism for licensing initial entry of a non-U.S. insurance company as a subsidiary, unless that company is already licensed in some other U.S. state: Minnesota, Mississippi and Tennessee. The following states have no mechanism for licensing initial entry of a non-U.S. insurance company as a branch, unless that company is already licensed in some other U.S. state: Arkansas, Arizona, Connecticut, Georgia, Kansas, Maryland, Minnesota, Nebraska, New Jersey, North Carolina, Tennessee, Vermont and Wyoming.	Citizenship requirement (for board of directors): Louisiana, Washington, Oklahoma, Pennsylvania, California, Florida, Georgia, Idaho, Indiana, Mississippi, Oregon, New York, South Dakota, Wyoming, Tennessee, Illinois and Missouri. Citizenship requirement (for incorporators): Hawaii, Idaho, Indiana, South Dakota, Washington, Georgia, Alaska, Florida, Kansas, Kentucky, Maine, Missouri, Montana, Texas and Wyoming. Residency requirement (for organizing members of mutuals): Arkansas, California; Idaho; Kansas; North Dakota, Minnesota, Mississippi, Montana, Vermont and Wyoming.	Government-owned or -controlled insurance companies are not authorized to conduct business: Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Maine, Maryland, Montana, Nevada, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Washington and Wyoming.

[5] This list provides illustrative examples for transparency purposes only; it is neither exhaustive nor binding.

Part I: Measures affecting a commercial presence			
	Juridical Form	**Senior Management and Boards of Directors**	**Government Ownership or Control**
Direct Insurance (continued)		Citizenship/residency requirement (for organizers of fraternal benefit societies): Alaska, Arizona, Arkansas, California, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, North Dakota, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Vermont, Washington, West Virginia and Wyoming. Residency requirement (for organizers of domestic reciprocal insurers): Arizona, Arkansas, California, Delaware, Georgia, Idaho, Indiana, Kentucky, Maine, Maryland, Mississippi, Montana, Pennsylvania, South Dakota, Tennessee, Virginia, Washington and Wyoming.	
Part I: Measures affecting a commercial presence			

	Juridical Form	**Senior Management and Boards of Directors**	**Government Ownership or Control**
Reinsurance and retrocession	The following states have no mechanism for licensing initial entry of a non-U.S. insurance company as a subsidiary, unless that company is already licensed in some other U.S. state: Maryland, Minnesota and Mississippi. The following states have no mechanism for licensing initial entry of a non-U.S. insurance company as a branch, unless that company is already licensed in some other U.S. state: Arkansas, Arizona, Connecticut, Georgia, Kansas, Maryland, Minnesota, Nebraska, New Jersey, North Carolina, Pennsylvania, Tennessee, Vermont and Wyoming.		Government-owned or -controlled insurance companies are not authorized to conduct business: Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Maine, Maryland, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Washington and Wyoming.

Part II: Measures affecting a natural person			
	Residency	**Citizenship**	**Differential license fees**
Insurance intermediation, and services auxiliary to insurance	Non-resident licenses are not issued to individuals not licensed in another U.S. state in: Connecticut, Colorado, California, Delaware, Georgia, Florida, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Mississippi, Montana, Nevada, New Jersey, North Dakota, Nebraska, New York, North Carolina, Oregon, Pennsylvania, South Dakota, Virginia, West Virginia, Texas and Washington.		
Brokerage services	Residency requirement: Alabama, Arkansas, California and Louisiana. Residency requirement (for surplus lines brokers): All states except California, Idaho, Maine, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oregon, South Dakota, Texas, Vermont, West Virginia and		Differential license fees for non-residents: Alaska, California, Colorado, Georgia, Indiana, Louisiana, Maine, Montana, New Hampshire, North Dakota, Oklahoma, Rhode Island and Vermont.

Part II: Measures affecting a natural person			
	Residency	**Citizenship**	**Differential license fees**
	Wyoming.		
Agency services	Residency requirement: California, Florida, Kansas, Louisiana, Oregon, Rhode Island and Texas. Residency requirement (for surplus lines brokers): All states except Alaska, Arkansas, Florida, Idaho, Kentucky, Louisiana, Nevada, New Mexico, Ohio, Oregon, South Dakota, Texas, West Virginia and Wyoming.		Differential license fees for non-residents: Alaska, California, Colorado, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, New Hampshire, New Jersey, North Dakota, Oklahoma, Rhode Island, South Dakota, Tennessee, Vermont, Wisconsin and Wyoming.
Consultancy, actuarial, risk assessment, and claim settlement services	Residency requirement: Alabama, California, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Michigan, Mississippi, Montana, Nevada, North Carolina, Oklahoma, Oregon, Pennsylvania and Washington.	Citizenship requirement: Alabama, Missouri, New Mexico and Oklahoma.	

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ANNEX III

Section B

Sector:	Financial Services
Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	National Treatment (Article 17.3)
Level of Government:	Central
Description:	With regard to the Federal Home Loan Banks, Federal Home Loan Mortgage Corporation and Federal National Mortgage Association, the United States reserves the right to adopt or maintain measures that grant advantages, including those described in the entry on page Annex III – US – 14 to that entity, or any new, reorganized or transferee entity with similar functions and objectives with respect to housing finance.
Existing Measures:	12 U.S.C. 1421 *et seq.* (Federal Home Loan Banks) 12 U.S.C. 1451 *et seq.* (Federal Home Loan Mortgage Corporation) 12 U.S.C. 1717 *et seq.* (Federal National Mortgage Association)

Sector: Financial Services

Sub-Sector:	Banking and other financial services (excluding insurance)
Obligations Concerned:	Cross-Border Trade Standstill (Article 17.6)
Level of Government:	Central Regional
Description:	With respect to Canada, the United States reserves the right to adopt or maintain any measure relating to cross-border trade in securities and derivatives services.

ANNEX III

SCHEDULE OF CANADA

INTRODUCTORY NOTES

1. For Canada, in the interpretation of a reservation in Section A, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of the Chapter against which the reservation is taken. To the extent that:

   (a) the **Measures** element is qualified by a specific reference in the **Description** element, the **Measures** element as so qualified shall prevail over all other elements; and

   (b) the **Measures** element is not so qualified, the **Measures** element shall prevail over all other elements, unless any discrepancy between the **Measures** element and the other elements considered in their totality is so substantial and material that it would be unreasonable to conclude that the **Measures** element should prevail, in which case the other elements shall prevail to the extent of that discrepancy.

2. For Canada, in the interpretation of a reservation in Section B, all elements of the reservation shall be considered. The **Description** element shall prevail over all other elements.

Headnotes

1. Commitments under the Agreement, in the subsectors listed in this Schedule, are undertaken subject to the limitations and conditions set forth in these headnotes and in the Schedule below.

2. To clarify Canada's commitment with respect to Article 14.5, juridical persons supplying financial services and constituted under the laws of Canada are subject to non-discriminatory limitations on juridical form.[1]

3. Article 14.10.1(c) (Non-Conforming Measures) shall not apply to non-conforming measures relating to Article 14.5.1(e) (Market Access).

[1] For example, partnerships and sole proprietorships are generally not acceptable juridical forms for financial institutions in Canada. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

Section A

1.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Market Access (Article 14.5.1(a))
Level of Government:	Central
Measures:	Section 524 of the *Bank Act*
Description:	In order to establish a bank branch, a foreign bank must be a bank in the jurisdiction under whose laws it is incorporated.

2.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Articles 14.3.1 and 14.3.2) Market Access (Article 14.5.1(a))
Level of Government:	Central
Measures:	*Bank Act* s. 520, 524, 540, 545 *Sales or Trades (Authorized Foreign Banks) Regulations*
Description:	A foreign bank must establish a subsidiary as a condition for accepting retail deposits. A foreign lending branch may not accept deposits.

3.

Sector:	Financial Services
Sub-Sector:	All
Obligations Concerned:	Market Access (Article 14.5.1(a))
Level of Government:	Central
Measures:	*Trust and Loan Companies Act* *Bank Act* *Cooperative Credit Associations Act* *Insurance Companies Act*
Description:	Federal laws do not permit a company established under the Trust and Loan Companies Act, a cooperative credit Association, or a fraternal benefit society in Canada to be established through branches of corporations organized under a foreign country's law.

4.

Sector:	Financial Services
Subsector:	All
Obligations Concerned:	Market Access (Article 14.5.1(a))
Level of Government:	Central
Measures:	*Bank Act* s. 510, 522.16, 524 *Insurance Companies Act* s. 573, 574, 581
Description:	A bank branch must be established directly under the authorised foreign bank incorporated in the jurisdiction where the authorised foreign bank principally carries on business. A foreign entity authorised to insure, in Canada, risks must be established directly under the foreign insurance company incorporated in the jurisdiction where the foreign insurance company, either directly or through a subsidiary, principally carries on business.

5.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Articles 14.3.1 and 14.3.2) Market Access (Article 14.5.1(a))
Level of Government:	Central
Measures:	*Bank Act* s. 520, 540, 545 Schedule I and Schedule II to the *Bank Act* *Canada Deposit Insurance Corporation Act* s. 2, 8, 17
Description:	Full service foreign bank branches and lending foreign bank branches are prohibited from becoming member institutions of the Canada Deposit Insurance Corporation.

6.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	National Treatment (Articles 14.3.1 and 14.3.2) Market Access (Article 14.5.1(a))
Level of Government:	Central
Measures:	*Canadian Payments Act* s. 2, 4 *Bank Act s. 524, 540*
Description:	Lending branches of foreign banks are prohibited from being members of Payments Canada.

7.

Sector:	Financial Services
Subsector:	All
Obligations Concerned:	National Treatment (Article 14.3) Most Favoured Nation Treatment (Article 14.4) Senior Management and Boards of Directors (Article 14.9)
Level of Government:	Regional
Description:	All existing non-conforming measures of all Provinces and Territories.

Section B

1.

Sector:	Financial Services
Subsector:	All
Obligations Concerned:	National Treatment (Article 14.3.1 and 14.3.2)
Level of Government:	Central
Description:	With regard to the Canada Mortgage and Housing Corporation and Canada Housing Trusts, Canada reserves the right to adopt or maintain any measure that grants advantages to these entities or any new, reorganized, or transferee entities having similar functions and objectives with respect to housing finance.

2.

Sector:	Financial Services
Subsector:	All
Obligations Concerned:	Market Access (Article 14.5)
Level of Government:	Regional
Description:	Canada reserves the right to adopt or maintain any measure that is not inconsistent with Canada's obligations under the General Agreement on Trade in Services.

3.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services (Excluding Insurance)
Obligations Concerned:	Cross-Border Trade Standstill (Article 14.6)
Level of Government:	Regional
Description:	Canada reserves the right to adopt or maintain any measure relating to cross-border trade in securities and derivatives services

ANNEX IV

NON-CONFORMING ACTIVITIES

EXPLANATORY NOTES

1. The Schedule of a Party to this Annex sets out, pursuant to Article 22.9.1 (Party-Specific Annexes), the non-conforming activities of a state-owned enterprise or designated monopoly, with respect to which some or all of the following obligations shall not apply:

    (a) Article 22.4 (Non-discriminatory Treatment and Commercial Considerations); and

    (b) Article 22.6 (Non-commercial Assistance).

2. Each Schedule entry sets out the following elements:

    (a) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 22.9.1 (Party-Specific Annexes), shall not apply to the non-conforming activities of the state-owned enterprises or designated monopoly, as set out in paragraph 3;

    (b) **Entity** identifies the state-owned enterprise or designated monopoly that undertakes the non-conforming activities for which the entry is made;

    (c) **Scope of Non-conforming Activities** provides a description of the scope of non-conforming activities of the state-owned enterprise or designated monopoly for which the entry is made; and

    (d) **Measures** identifies, for transparency purposes, a non-exhaustive list of the laws, regulations, or other measures pursuant to which the state-owned enterprise or designated monopoly engages in the non-conforming activities for which the entry is made.

3. In accordance with Article 22.9.1 (Party-Specific Annexes), the articles of this Agreement specified in the **Obligations Concerned** element of an entry shall not apply to the non-conforming activities (identified in the **Scope of Non-conforming Activities** element of that entry) of the state-owned enterprise or designated monopoly (identified in the **Entity** element of that entry).

SCHEDULE OF MEXICO

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), Article 22.4.1(b) and Article 22.4.1(c) Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.5(b) (Non-commercial Assistance)
Entity:	Banco Nacional de Obras y Servicios Públicos, S.N.C., or any new, reorganised or successor enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	The purpose of the Entity, as a development bank, is to finance or refinance projects that are directly or indirectly related to public or private investment in infrastructure and public services, and supporting the institutional strengthening of the Government (Federal, State and Municipal levels). With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(c) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programmes oriented to promote access to credit only to nationals or Mexican enterprises. With respect to Article 22.6.4(b) (Non-commercial Assistance) and Article 22.6.5(b) (Non-commercial Assistance) the Entity may receive government guarantees for banking services in order to comply with the Entity's purpose referred to in the first paragraph above and pursuant to considerations consistent with its laws and regulations. The services provided by the Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.

Measures:	*Ley de Instituciones de Crédito*, Articles 30 to 44 Bis 2, 46, 46 Bis 1, 47 and 75.
	Ley Orgánica del Banco Nacional de Obras y Servicios Públicos, Articles 2, 3, 4, 6, 7, 8, 11, 29 and 31.
	Disposiciones de Carácter General Aplicables a las Instituciones de Crédito, Chapter XI.

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), Article 22.4.1(b) and Article 22.4.1(c) Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.5(b) (Non-commercial Assistance)
Entity:	Banco del Ahorro Nacional y Servicios Financieros, S.N.C., or any new, reorganised or successor enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	The purpose of the Entity, as a development bank, is to promote savings, financing and investment among the members of the Banking sector, offer financial services and instruments among such members, and channel financial and technical aids that are necessary to promote savings habits and sound development of the Banking sector. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(c) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programmes oriented to promote access to credit only to nationals or Mexican enterprises. With respect to Article 22.6.4(b) (Non-commercial Assistance) and Article 22.6.5(b) (Non-commercial Assistance), the Entity may receive government guarantees on banking services in order to comply with the Entity's purpose referred to in the first paragraph above and pursuant to considerations consistent with its laws and regulations. The services provided by the Entity are not intended to displace or impede financial services provided by privately

owned enterprises from the relevant market.

Measures:

Ley de Instituciones de Crédito, Articles 30 to 44 Bis 2, 46, 46 Bis 1, 47 and 75.

Ley Orgánica del Banco del Ahorro Nacional y Servicios Financieros, Articles 3, 4, 7, 8, 10, 32 and 36.

Disposiciones de Carácter General Aplicables a las Instituciones de Crédito, Chapter XI.

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), Article 22.4.1(b) and Article 22.4.1(c) Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.5(b) (Non-commercial Assistance)
Entity:	Banco Nacional del Ejército, Fuerza Aérea y Armada, S.N.C., or any new, reorganised or successor enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	The purpose of the Entity, as a development bank, is to grant financial aid mainly to the members of the Mexican Army, Air Force, and Navy. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(c) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programmes oriented to promote access to credit only to nationals or Mexican enterprises. With respect to Article 22.6.4(b) (Non-commercial Assistance) and Article 22.6.5(b) (Non-commercial Assistance) the Entity may receive government guarantees on banking services in order to comply with the Entity's purpose referred to in the first paragraph above and pursuant to considerations consistent with its laws and regulations. The services provided by the Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.
Measures:	*Ley de Instituciones de Crédito,* Articles 30 to 44 Bis 2, 46, 46 Bis 1, 47 and 75.

Ley Orgánica del Banco Nacional del Ejército, Fuerza Aérea y Armada, Articles 2, 3, 4, 6, 7, 9 and 52.

Disposiciones de Carácter General Aplicables a las Instituciones de Crédito, Chapter XI.

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), Article 22.4.1(b) and Article 22.4.1(c) Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.5(b) (Non-commercial Assistance)
Entity:	Nacional Financiera, S.N.C., or any new, reorganised or successor enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	The purpose of the Entity, as a development bank, is to promote savings and investment, and to channel financial and technical resources for the industrial development and national and regional economic development. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(c) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programmes oriented to promote access to credit only to nationals or Mexican enterprises. With respect to Article 22.6.4(b) (Non-commercial Assistance) and Article 22.6.5(b) (Non-commercial Assistance), the Entity may receive government guarantees on banking services in order to comply with the Entity's purpose referred to in the first paragraph above and pursuant to considerations consistent with its laws and regulations. The services provided by the Entity are not intended to displace or impede financial services provided by privately owned enterprises from the relevant market.
Measures:	*Ley de Instituciones de Crédito,* Articles 30 to 44 Bis 2, 46, 46 Bis 1, 47 and 75.

Ley Orgánica de Nacional Financiera, Articles 2, 3, 5, 6, 10, 29, 30, 32, 33 and 36.

Disposiciones de Carácter General Aplicables a las Instituciones de Crédito, Chapter XI.

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), Article 22.4.1(b) and Article 22.4.1(c) Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.5(b) (Non-commercial Assistance)
Entity:	Sociedad Hipotecaria Federal, S.N.C, or any new, reorganised or successor enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	The purpose of the Entity, as a development bank, is to foster the development of primary and secondary mortgage markets, by granting credit and guarantees for the construction, acquisition and improvement of housing, preferably social interest housing, as well as increase production capacity and technological development related to housing. It could also guarantee funding related to the equipment of housing complexes. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its purchase of services required for its commercial activities to Mexican enterprises. With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.4.1(c) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, pursuant to considerations set out in laws and regulations, accord preferential treatment in its sale of financial services related to programmes oriented to promote access to credit only to nationals or Mexican enterprises. With respect to Article 22.6.4(b) (Non-commercial Assistance) and Article 22.6.5(b) (Non-commercial Assistance) the Entity may receive government guarantees, in order to provide banking services in order to comply with the Entity's purpose referred to in the first paragraph above and pursuant to considerations consistent with its laws and regulations. The services provided by the Entity are not intended to displace or impede financial services provided by privately

owned enterprises from the relevant market.

Measures:

Ley de Instituciones de Crédito, Articles 30 to 44 Bis 2, 46, 46 Bis 1, 47 and 75.

Ley Orgánica de Sociedad Hipotecaria Federal, Articles 2, 4, 5, 8, 8 Bis, 24 Bis, 24 Ter and 28.
Disposiciones de Carácter General Aplicables a las Instituciones de Crédito, Chapter XI.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

SCHEDULE OF THE UNITED STATES OF AMERICA

Obligations Concerned:	Article 22.4.1(a) Non-discriminatory Treatment and Commercial Considerations), with respect to the supply of financial services Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations), with respect to the supply of financial services Article 22.6.4(b) (Non-commercial Assistance)
Entity:	Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and the Government National Mortgage Association, or any new, reorganised or transferee enterprises, with similar functions and objectives.
Scope of Non-Conforming Activities:	With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.6.4(b) (Non-commercial Assistance), to facilitate housing finance in the United States, the Entity, pursuant to considerations, consistent with laws and regulations: (a) purchases, sells or trades single-family, multi-family, and commercial mortgage loans, and assets underlying these loans as a consequence of foreclosure or a similar action in connection with defaulted debt; (b) issues mortgage-backed securities and direct debt or other obligations related to risks associated with those securities; (c) guarantees or insures the timely payment of principal and interest on mortgage-backed securities; (d) administers payments associated with mortgage-backed securities; and (e) purchases, sells or trades mortgage-backed securities and direct debt or other obligations related to risks associated with those securities.

With respect to Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations), to facilitate housing finance in the United States, the Entity may, in certain circumstances, pursuant to considerations consistent with laws and regulations such as 12 U.S.C. 1451-1459 and 12 U.S.C. 1763-1723i:

(a) purchase, sell, trade single-family, multi-family, and commercial mortgage loans, and assets underlying such loans as a consequence of foreclosure or a similar action in connection with defaulted debt, and administer payments associated with such loans or assets, only with enterprises in the territory of the United States; and

(b) guarantee or insure the timely payment of principal and interest only on mortgage-backed securities that are issued by enterprises in the territory of the United States.

The scope of non-conforming activities listed with respect to Article 22.4.1(a) and Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations) includes the purchase of associated financial services.

Measures: 12 U.S.C. 1451-1459
12 U.S.C. 1716-1723i

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), with respect to the supply of financial services Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations), with respect to the supply of financial services Article 22.6.4(b) (Non-commercial Assistance)
Entity:	Federal Financing Bank, or any new, reorganised or transferee enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) and Article 22.6.4(b) (Non-commercial Assistance), the Entity may, pursuant to considerations set out in laws and regulations: (a) provide loans (including through the purchase of obligations, such as bonds or notes) that are guaranteed by U.S. federal agencies or by U.S. federal government-authorized entities to (i) enterprises, or to (ii) a government of another Party; and (b) issue or sell obligations to privately owned enterprises. With respect to Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations), the Entity may, in certain circumstances and pursuant to considerations set out in laws and regulations: (a) provide loans (including through the purchase of obligations, such as bonds or notes) that are guaranteed by U.S. federal agencies or by U.S. federal government-authorised entities only to (i) privately owned enterprises in the territory of the United States, (ii) enterprises in the territories of certain other countries, or (iii) governments of certain other countries as determined by the United States; and (b) issue or sell obligations only to (i) privately owned enterprises in the territory of the United States, or (ii)

enterprises in the territories of certain other countries as determined by the United States.

The scope of non-conforming activities listed with respect to Article 22.4.1(a) and Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations) includes the purchase of associated financial services.

Measures: 12 U.S.C. 2285

SCHEDULE OF CANADA

Obligations Concerned:	Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.4(c) (Non-commercial Assistance) Article 22.6.5(b) (Non-commercial Assistance) Article 22.6.5(c) (Non-commercial Assistance)
Entity:	Bridge Authorities that manage international crossings, or any new, reorganised, or transferee enterprise, with similar functions and objectives. The Bridge Authorities that currently manage international crossings are the Federal Bridge Corporation Limited and the Windsor-Detroit Bridge Authority.
Scope of Non-Conforming Activities:	Canada, its state enterprises or state-owned enterprises may provide the Entity or Entities with appropriations or assistance from funding programs to manage international crossings, including the design, construction, operation, and maintenance of the Entity or Entities' crossings and any related infrastructure, to the extent that this involves the supply of services from the territory of Canada into the territory of another Party, or through an enterprise that is a covered investment in the territory of that other Party or any other Party.
Measures:	*International Bridges and Tunnels Act,* S.C. 2007, c. 1 (and regulations thereof) And including any future amendments.

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations) Article 22.6.4(b) (Non-commercial Assistance)
Entity:	Canadian Commercial Corporation, or any new, reorganised, or transferee enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), the Entity or Entities may restrict the sale of services associated with facilitating the import or export of goods or services to enterprises located within Canada as set out in applicable laws, regulations, policies, and practices. With respect to Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord preferences in the sale of services associated with facilitating the import or export of goods or services to or from certain countries based on bilateral arrangements with the relevant country. With respect to Article 22.6.4(b) (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance with respect to its supply of a service from Canada into the territory of another Party associated with facilitating the import or export of goods and services, as set out in applicable laws, regulations, and policies.
Measures:	*Canadian Commercial Corporation Act*, R.S.C. 1985, c. C-14 (and regulations thereof) And including any future amendments.

Obligations Concerned:	Article 22.6.1(a) (Non-commercial Assistance) Article 22.6.1(c) (Non-commercial Assistance) Article 22.6.2 (Non-commercial Assistance) Article 22.6.3 (Non-commercial Assistance) Article 22.6.4(a) (Non-commercial Assistance) Article 22.6.4(b) (Non-commercial Assistance)
Entity:	Canadian Dairy Commission, or any new, reorganised, or transferee enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	With respect to Article 22.6.1(a) (Non-commercial Assistance), the Entity or Entities may receive non-commercial assistance with respect to loans or loan guarantees, in circumstances that jeopardize the continued viability of the recipient enterprise, and for the sole purpose of enabling the enterprise to return to viability and fulfil its mandate pursuant to the *Canadian Dairy Commission Act*. With respect to Article 22.6.1(c) (Non-commercial Assistance), Canada may provide non-commercial assistance to the Entity or Entities with respect to the conversion of debt to equity, in circumstances that jeopardize the continued viability of the recipient enterprise, and for the sole purpose of enabling the enterprise to return to viability and fulfil its mandate pursuant to the *Canadian Dairy Commission Act*. With respect to Article 22.6.2 (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance referred to in Article 22.6.1(c). With respect to Article 22.6.3 (Non-commercial Assistance), the Entity or Entities may provide Canada's state-owned enterprises with non-commercial assistance referred to in Article 22.6.1(a), or Article 22.6.1(c). With respect to Article 22.6.4(a) (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance that may cause adverse effects to the interests of another Party with respect to the production and sale of dairy products in the territory of Canada pursuant to the *Canadian Dairy Commission Act*. With respect to Article 22.6.4(b) (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance that may cause adverse effects to the interests of

	another Party regarding services related to the cross-border trade of dairy products (export and import) such as shipping, insuring, and wholesale trade and distribution, pursuant to the *Canadian Dairy Commission Act*.
Measures:	*Canadian Dairy Commission Act*, R.S.C. 1985, c. C-15 (and regulations thereof) And including any future amendments.

Obligations Concerned:	Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations) Article 22.4.1(b)(i) (Non-discriminatory Treatment and Commercial Considerations) Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations) Article 22.6.4(b) (Non-commercial Assistance)
Entity:	Canada Mortgage and Housing Corporation and Canada Housing Trusts, or any new, reorganised, or transferee enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), the Entity or Entities may take into account factors other than commercial considerations in the provision of financial or housing-related services such as: (a) guarantees, mortgage insurance, loans, and mortgage-backed securities; and (b) management of nursing homes, retirement homes, on-reserve and rental housing, and ancillary infrastructure, in furtherance of the mandate to support housing needs and housing affordability in Canada as set out in laws, regulations, policies, or programmes. With respect to Article 22.4.1(b)(i) and Article 22.4.1(c)(i) (Non-discriminatory Treatment and Commercial Considerations) and as set out in applicable laws, regulations, policies, or programmes, the Entity or Entities may: (a) provide financial or housing-related services such as mortgage insurance, loans, and advisory services only to enterprises in Canada or provide such services to enterprises in certain other countries; and (b) purchase financial or housing-related services from enterprises in certain other countries. With respect to Article 22.6.4(b) (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance with respect to its supply of financial or housing-related services from Canada into the territory of another Party as set out in applicable laws, regulations, policies, or programmes.

Measures:	*Canada Mortgage and Housing Corporation Act*, R.S.C. 1985, c. C-7 *National Housing Act*, R.S.C. 1985, c. N-11 (and regulations thereof) And including any future amendments.

Obligations Concerned:	Article 22.6.1(b) (Non-commercial Assistance) Article 22.6.1(c) (Non-commercial Assistance) Article 22.6.2 (Non-commercial Assistance) Article 22.6.4(b) (Non-commercial Assistance) Article 22.6.4(c) (Non-commercial Assistance)
Entity:	Trans Mountain Corporation, or any new, reorganised, or transferee enterprise, with similar functions and objectives.
Scope of Non-Conforming Activities:	With respect to Article 22.6.1(b) and Article 22.6.2 (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance, in circumstances that jeopardize the continued viability of the recipient enterprise, and for the sole purpose of enabling the enterprise to return to viability and fulfil its mandate. Canada may provide this assistance until either the privatization of the Entity or Entities occurs or ten years has elapsed since the date of entry into force of this Agreement, whichever is earlier. With respect to Article 22.6.1(c) and Article 22.6.2 (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance with respect to the conversion of debt to equity, in circumstances that jeopardize the continued viability of the recipient enterprise, and for the sole purpose of enabling the enterprise to return to viability and fulfil its mandate. Canada may provide this assistance until either the privatization of the Entity or Entities occurs or ten years has elapsed since the date of entry into force of this Agreement, whichever is earlier. With respect to Article 22.6.4(b) (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance until the privatization of the Entity or Entities, where that assistance may cause adverse effects to the interests of another Party with respect to the supply of pipeline operation services from the territory of Canada into the territory of another Party. With respect to Article 22.6.4(c) (Non-commercial Assistance), Canada may provide the Entity or Entities with non-commercial assistance until the privatization of the Entity or Entities, where that assistance may cause adverse effects to the interests of another Party with respect to the supply of pipeline operation services in the territory of another Party through an enterprise that is a covered investment in the territory of that other Party or

any other Party.

Measures: *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 (and regulations thereof)
And including any future amendments.

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Entity:	All existing and future state-owned enterprises
Scope of Non-Conforming Activities:	With respect to Article 22.4.1(a) (Non-discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord more favourable treatment to aboriginal persons and organisations in the purchase of a good or service. With respect to Article 22.4.1(b) (Non-discriminatory Treatment and Commercial Considerations), the Entity or Entities may accord more favourable treatment to aboriginal persons and organisations in the purchase of a good or service.
Measures:	*Constitution Act,* 1982, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11

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The Honorable Ildefonso Guajardo Villarreal
Secretary of Economy
Mexico

Dear Secretary Guajardo,

In connection with the signing on this date of the Agreement, I have the honor to confirm the following understanding reached between the Government of the United States of America (hereinafter the United States) and the Government of the United Mexican States (hereinafter Mexico) regarding the use of certain terms for cheeses produced and marketed in the United States and Mexico.

In recognition of their shared commitment to certainty and transparency in trade, the Parties recognize that the following terms are terms used in connection with cheeses from U.S. producers currently being marketed in Mexico. Mexico confirms that Mexican cheese producers also use these terms. Mexico confirms that market access of U.S. products in Mexico is not restricted due to the mere use of these individual terms.

List of individual terms (cheeses):

- Blue
- Blue vein
- Brie
- Burrata
- Camembert
- Cheddar
- Chevre
- Colby
- Cottage
- Coulommiers
- Cream
- Danbo
- Edam
- Emmental
- Emmentaler
- Emmenthal
- Gouda
- Grana
- Havarti
- Mascarpone
- Monterey Jack

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- Mozzarella
- Pecorino
- Pepper Jack
- Provolone
- Ricotta
- Saint-Paulin
- Samsø
- Swiss
- Tomme
- Tome
- Toma
- Tilsiter

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding, equally valid in English and Spanish, shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the Agreement.

Sincerely,

Ambassador Robert E. Lighthizer

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Subject to Language Authentication

Ambassador Robert E. Lighthizer
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington D.C. 20508

Dear Ambassador Lighthizer,

I am pleased to acknowledge your letter of XX, 2018, which reads as follows:

In connection with the signing on this date of the Agreement, I have the honor to confirm the following understanding reached between the Government of the United States of America (hereinafter the United States) and the Government of the United Mexican States (hereinafter Mexico) regarding the use of certain terms for cheeses produced and marketed in the United States and Mexico.

In recognition of their shared commitment to certainty and transparency in trade, the Parties recognize that the following terms are terms used in connection with cheeses from U.S. producers currently being marketed in Mexico. Mexico confirms that Mexican cheese producers also use these terms. Mexico confirms that market access of U.S. products in Mexico is not restricted due to the mere use of these individual terms.

List of individual terms (cheeses):

- Blue
- Blue vein
- Brie
- Burrata
- Camembert
- Cheddar
- Chevre
- Colby
- Cottage
- Coulommiers
- Cream
- Danbo
- Edam
- Emmental
- Emmentaler
- Emmenthal
- Gouda
- Grana

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- Havarti
- Mascarpone
- Monterey Jack
- Mozzarella
- Pecorino
- Pepper Jack
- Provolone
- Ricotta
- Saint-Paulin
- Samsø
- Swiss
- Tomme
- Tome
- Toma
- Tilsiter

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding, equally valid in English and Spanish, shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the United States-Mexico Trade Agreement.

I have the further honor to confirm that Mexico shares this understanding and that your letter and this letter in reply constitutes an understanding between the Mexico and the United States, which shall enter into force on the date of entry into force of the Agreement.

Sincerely,

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

The Honorable Ildefonso Guajardo Villarreal
Secretary of Economy
Mexico

Dear Secretary Guajardo,

In connection with the signing on this date of the Agreement, I have the honor to confirm the following understanding reached between the Government of the United States of America (hereinafter the United States) and the Government of the United Mexican States (hereinafter Mexico) regarding consideration of American Rye Whiskey, Charanda, Sotol, and Bacanora as distinctive products:

1. Mexico shall initiate, subject to its applicable laws and regulations, the process to consider prohibiting the sale of any product in Mexico as American Rye Whiskey, if it has not been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of American Rye Whiskey.

2. The United States shall initiate, subject to its applicable laws and regulations, the process to consider prohibiting the sale of any product in the United States as Charanda, Sotol, or Bacanora, if it has not been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of Charanda, Sotol, and Bacanora.

3. For greater certainty, nothing in this letter shall be construed to create or confer any right relating to a trademark or geographical indication.

4. This understanding is without prejudice to the outcome of the processes initiated by the United States and Mexico pursuant to this letter.

Mexico and the United States shall discuss preserving the integrity of Mezcal marketed in the territories of both Parties and ensuring that the laws and regulations of both Parties operate effectively to preserve the status of Mezcal as a distinctive product of Mexico, and, if appropriate, consider a bilateral agreement.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding, equally valid in English and Spanish, shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the Agreement.

Sincerely,

Ambassador Robert E. Lighthizer

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Ambassador Robert E. Lighthizer
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington D.C. 20508

Dear Ambassador Lighthizer,

I am pleased to acknowledge your letter of XX, 2018, which reads as follows:

"In connection with the signing on this date of the Agreement, I have the honor to confirm the following understanding reached between the Government of the United States of America (hereinafter the United States) and the Government of the United Mexican States (hereinafter Mexico) regarding consideration of American Rye Whiskey, Charanda, Sotol, and Bacanora as distinctive products:

1. Mexico shall initiate, subject to its applicable laws and regulations, the process to consider prohibiting the sale of any product in Mexico as American Rye Whiskey, if it has not been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of American Rye Whiskey.

2. The United States shall initiate, subject to its applicable laws and regulations, the process to consider prohibiting the sale of any product in the United States as Charanda, Sotol, or Bacanora, if it has not been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of Charanda, Sotol, and Bacanora.

3. For greater certainty, nothing in this letter shall be construed to create or confer any right relating to a trademark or geographical indication.

4. This understanding is without prejudice to the outcome of the processes initiated by the United States and Mexico pursuant to this letter.

Mexico and the United States shall discuss preserving the integrity of Mezcal marketed in the territories of both Parties and ensuring that the laws and regulations of both Parties operate effectively to preserve the status of Mezcal as a distinctive product of Mexico, and, if appropriate, consider a bilateral agreement."

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding, equally valid in English and Spanish, shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the Agreement.

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I have the further honor to confirm that Mexico shares this understanding and that your letter and this letter in reply constitutes an understanding between Mexico and the United States, which shall enter into force on the date of entry into force of the Agreement.

Sincerely,

Subject to Legal Review for Accuracy, Consistency, and Clarity
Subject to Language Authentication

The Honorable Ambassador Robert E. Lighthizer
United States Trade Representative
Washington, D.C.,
United States of America

Dear Ambassador Lighthizer:

I have the honor to refer to the following understanding between representatives of the Government of the United Mexican States (Mexico) and the Government of the United States of America (United States) reached during the course of the negotiations of the Intellectual Property Rights Chapter of the Agreement.

Mexico and the United States confirm that implementation of "effective market protection" under Article 20.F.14 (Biologics) is without prejudice to a Party's ability to stipulate a period of time during which an application for a follow-on biologic product that relies on the innovator's safety and efficacy data may not be submitted.[1]

I have the honor to propose that this letter, and your letter of confirmation in reply that you share this understanding, both equally authentic in the English and the Spanish languages, shall constitute an agreement between our Governments.

Sincerely,

Ildefonso Guajardo Villarreal

[1] For example, the United States has the Biologics Price Competition and Innovation Act of 2009, which includes relevant provisions at 42 USC 262(k)(7).

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The Honorable Ildefonso Guajardo Villarreal
Secretary of Economy
Mexico City,
Mexico

Dear Secretary Guajardo,

I am pleased to acknowledge your letter, which reads as follows:

> I have the honor to refer to the following understanding between representatives of the Government of the United Mexican States (Mexico) and the Government of the United States of America (United States) reached during the course of the negotiations of the Intellectual Property Rights Chapter of the Agreement:
>
> Mexico and the United States confirm that implementation of "effective market protection" under Article 20.F.14 (Biologics) is without prejudice to a Party's ability to stipulate a period of time during which an application for a follow-on biologic product that relies on the innovator's safety and efficacy data may not be submitted.[1]
>
> I have the honor to propose that this letter, and your letter of confirmation in reply that you share this understanding, both equally authentic in the English and the Spanish languages, shall constitute an agreement between our Governments.

I have the further honor of confirming that my Government shares this understanding and that your letter and this letter in reply, equally valid in the English and Spanish languages, shall constitute an agreement between our two Governments.

Sincerely,

Ambassador Robert E. Lighthizer

[1] For example, the United States has the Biologics Price Competition and Innovation Act of 2009, which includes relevant provisions at 42 USC 262(k)(7).

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The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

I have the honor to confirm that, in connection with the negotiations of the United States – Mexico – Canada Agreement, the Government of the United States (United States) and the Government of Canada (Canada) have agreed on disciplines related to energy regulatory measures and energy regulatory transparency, contained in the Annex to this letter.

I have the honor to propose that this letter and your letter of confirmation in reply, equally valid in English and French, shall constitute an agreement between our two Governments, integral to the USMCA, and shall enter into force on the date of entry into force of the USMCA.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

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ANNEX

Energy Regulatory Measures and Regulatory Transparency

Article 1: Definitions

For the purposes of this Annex:

authorization refers to the permission, license or similar administrative or contractual instrument by which the competent regulatory authority of a Party entitles a person to exercise a certain economic activity in its territory;

electric transmission facility means all transmission elements that are operated at 100kV or higher, and real power and reactive power resources connected at 100kV or higher, that are subject to an energy regulatory authority of a Party's central level of government with respect to tolls, rates, or charges for services provided over such elements. Such transmission elements do not include facilities used in the local distribution of electric energy;

energy regulatory measure means any measure adopted or maintained by a Party's central level of government that directly affects the exploration for, or production, storage[1], transportation, transmission or distribution, purchase or sale, import or export of oil[2], natural gas, hydrocarbon gas liquids, coal, electricity, refined petroleum products, biofuels, and uranium, but does not include measures related to energy efficiency;

monetary payment means a payment, in cash or its equivalent in kind, required by law or regulation to be made by a person to a Party's central level of government in connection with an application for or authorization to participate in energy-related activities in its territory;

pipeline network means a line transporting oil, natural gas, refined petroleum products or hydrocarbon gas liquids within a Party's borders, or across sub-national or international boundaries, and includes associated facilities such as pumps and other compressor stations and storage tanks regulated by an energy regulatory authority of the Party;

renewable energy means energy derived from natural processes that are replenished at a higher rate than they are consumed. They are virtually inexhaustible. Renewable energy resources include biomass, waste carbon streams, hydro, geothermal, solar, wind, ocean thermal, wave action, and tidal action. Renewable energy also includes renewable fuels and renewable fuel blending components in petroleum-based fuels, such as renewable diesel fuel, fuel ethanol, and advanced and cellulosic biofuels, produced from renewable biomass; and

unduly discriminatory or unduly preferential means differential treatment of like products, or differential treatment of service suppliers, investors, or investments in like circumstances, that

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[1] For greater certainty, storage does not include reservoir water levels for hydro-electric dams.
[2] Oil includes crude oil, bitumen, condensates, and other oil-derived fuels.

reflects arbitrary or unjustifiable discrimination within the meaning of Article XX of the GATT 1994 and its interpretive notes or Article XIV of GATS, as applicable.

Article 2: Scope

This Annex applies to energy regulatory measures proposed, maintained, or adopted by a Party's central level of government.

Article 3: Cooperation

The Parties recognize the importance of enhancing the integration of North American energy markets based on market principles, including open trade and investment among the Parties, to support North American energy competitiveness, security, and independence. The Parties shall endeavor to promote North American energy cooperation, including with respect to energy security and efficiency, standards, joint analysis, and the development of common approaches.

Article 4: Energy Regulatory Measures and Regulatory Transparency

1. Each Party shall maintain or establish regulatory authorities that are separate from, and not accountable to, persons subject to energy regulatory measures.

2. Each Party shall seek to ensure that in the application of any energy regulatory measure, energy regulatory authorities within its territory avoid disruption of contractual relationships to the maximum extent practicable, support North American energy market integration, and provide for orderly and equitable implementation appropriate to such measures[3].

3. A Party may require an authorization to participate in energy-related activities in its territory.

4. If a Party requires an authorization of the kind referred to in paragraph 3, it shall ensure that all information prescribed in law or regulation relevant to the authorization process is published, including:

(a) the process for applying;

(b) any monetary payment associated with the application;

(c) the regulatory authority to which an application or other relevant documentation must be submitted;

(d) criteria an applicant must meet to be eligible to seek an authorization;

[3] This paragraph does not apply to measures related exclusively to the protection of human health or the environment.

(e) criteria to be considered in determining if an authorization should be granted;

(f) timelines relevant to the authorization process; and

(g) a contact point or points from which applicants can obtain further information on their application for an authorization.

5. Each Party shall endeavor to administer its process for obtaining an authorization of the kind referred to in paragraph 3 in accordance with the information published pursuant to paragraph 4.

6. Each Party shall endeavor to ensure that energy-related activities that do not result in any facility exceeding its previously authorized capacity and are limited to performing maintenance work on existing cross-border infrastructure or other actions taken to ensure the safety of existing cross-border infrastructure may be undertaken under the initial authorization and shall not require a new authorization.

7. Each Party may require a person which has been granted an authorization of the kind referred in paragraph 3 to make a reasonable monetary payment. The monetary payment and any changes to it shall be determined in a transparent manner with reasonable advance notice so as to provide legal certainty for the person which has been granted that authorization, in accordance with the applicable legal provisions of the authorizing Party. If recovery of administrative costs is provided for in the Party's relevant rules, these costs do not have to be determined in advance.

8. Each Party shall provide that the applicant for an authorization of the kind referred to in paragraph 3 has a right of appeal or judicial review of the decision concerning the authorization by an authority independent from the authority that issued the decision, in accordance with the applicable legal provisions of each Party. [4]

Article 5: Access to Electric Transmission Facilities and Pipeline Networks

1. Each Party shall ensure that any measures governing access to or use of electric transmission facilities and pipeline networks:

(a) accord access to these facilities and pipeline networks for purposes of importation from another Party, that is neither unduly discriminatory nor unduly preferential; and

(b) to the extent that tolls, rates, or charges are set, assessed, approved, or subject to oversight by a Party, establish that any tolls, rates, or charges payable for that

[4] This paragraph does not apply to authorizations for the construction, connection, operation, or maintenance of cross-border infrastructure, including electric transmission facilities and pipeline networks, at international boundaries.

access are just, reasonable, and neither unduly discriminatory nor unduly preferential.

2. The United States shall ensure that the Intertie Access Policy of the Bonneville Power Administration affords British Columbia Hydro treatment no less favorable than the most favorable treatment afforded to utilities located outside the Pacific Northwest.

Article 6: Relation to other Chapters

For greater certainty, the obligations contained in Article 4 (Energy Regulatory Measures and Regulatory Transparency) and Article 5 (Access to Electric Transmission Facilities and Pipeline Networks) are (a) subject to the relevant provisions, exceptions and non-conforming measures of Chapter 14 (Investment), Chapter 15 (Cross-Border Trade in Services) and Chapter 2 (National Treatment and Market Access for Goods), and Article 32.1 (General Exceptions); and (b) to be read in conjunction with any other relevant provisions in this Agreement.

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Subject to Language Authentication

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

I have the honor to confirm the following understanding reached between the Government of the United States of America ("the United States") and the Government of Canada ("Canada") regarding measures maintained by the Canadian province of British Columbia ("BC") governing the sale of wine in grocery stores.

In recognition of the shared commitment of the United States and Canada to resolve this ongoing trade concern, Canada shall ensure that BC modifies the measures identified in the U.S. panel request (WT/DS531/7 (May 29, 2018)) and implement any changes no later than November 1, 2019. Specifically, BC shall eliminate the measures which allow only BC wine to be sold on regular grocery store shelves while imported wine may be sold in grocery stores only through a so-called "store within a store," and such contested measures shall not be replicated.

The United States shall take no further action at the WTO in relation to the BC measures, including in relation to WTO disputes WT/DS520 and WT/DS531 prior to November 1, 2019.

If BC revises the wine measures described above so as to ensure the treatment of U.S. goods is consistent with Article III:4 of the GATT 1994, the United States shall join Canada to notify the WTO Dispute Settlement Body ("DSB") that the United States and Canada have reached a mutually agreed solution ("MAS") in WTO disputes WT/DS520 and WT/DS531. To the extent that the United States agrees that BC has fulfilled the commitments in paragraph 2, the Parties shall provide such notification to the DSB no later than 15 days after the changes to the BC wine measure have entered into force. If BC fails to revise the BC wine measures as described, the United States may resume the panel selection process.

I have the honor to propose that this letter and your letter in reply confirming that Canada shares this understanding, equally valid in English and French, shall constitute an agreement between the United States and Canada, to enter into force on the date of your reply.

Sincerely,

Ambassador Robert E. Lighthizer

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Ambassador Robert E. Lighthizer
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington D.C. 20508

Dear Ambassador Lighthizer,

I am pleased to acknowledge your letter of XX, 2018, which reads as follows:

> "I have the honor to confirm the following understanding reached between the Government of the United States of America ("the United States") and the Government of Canada ("Canada") regarding measures maintained by the Canadian province of British Columbia ("BC") governing the sale of wine in grocery stores.
>
> In recognition of the shared commitment of the United States and Canada to resolve this ongoing trade concern, Canada shall ensure that BC modifies the measures identified in the U.S. panel request (WT/DS531/7 (May 29, 2018) and implement any changes no later than November 1, 2019. Specifically, BC shall eliminate the measures which allow only BC wine to be sold on regular grocery store shelves while imported wine may be sold in grocery stores only through a so-called "store within a store," and such contested measures shall not be replicated.
>
> The United States shall take no further action at the WTO in relation to the BC measures, including in relation to WTO disputes WT/DS520 and WT/DS531 prior to November 1, 2019.
>
> If BC revises the wine measures described above so as to ensure the treatment of U.S. goods is consistent with Article III:4 of the GATT 1994, the United States shall join Canada to notify the WTO Dispute Settlement Body ("DSB") that the United States and Canada have reached a mutually agreed solution ("MAS") in WTO disputes WT/DS520 and WT/DS531. To the extent that the United States agrees that BC has fulfilled the commitments in paragraphs 2, the Parties shall provide such notification to the DSB no later than 15 days after the changes to the BC wine measure have entered into force. If BC fails to revise the BC wine measures as described, the United States may resume the panel selection process."

I have the honor to propose that this letter and your letter in reply confirming that Canada shares this understanding, equally valid in English and French, shall constitute an agreement between the United States and Canada, to enter into force on the date of your reply.

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I have the further honour to confirm that Canada shares this understanding and that your letter and this letter in reply constitutes an understanding between the United States and Canada, which shall enter into force on the date of this reply.

Sincerely,

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Side Letter on Guidelines for Research and Development Expenditures, 2004

Dear:

In connection with the signing on [this date] of the Agreement, I have the honor to confirm the following understanding reached between the governments of Canada and the United States:

> It has been agreed that the *Guidelines for Research and Development Expenditures, 2004*, would not be listed as a non-conforming measure in Canada's reservation I-C-14. Notwithstanding this agreement, the United States confirms that Canada's maintenance of the *Guidelines for Research and Development Expenditures, 2004*, will not serve as an impediment to the United States' certification of this Agreement under the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. This confirmation is without prejudice to the United States' or Canada's position as to whether the *Guidelines for Research and Development Expenditures, 2004*, are consistent with this Agreement.

I have the honor to propose that this letter and your letter in reply, equally valid in English and French, confirming that your government shares this understanding, shall constitute an understanding between the United States and Canada, which shall enter into effect on the date of entry into force of the Agreement.

Sincerely,

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Dear:

The United States shall not adopt or maintain a measure imposing tariffs or import restrictions on goods or services of Canada under Section 232 of the Trade Act of 1974, as amended (Section 232), for at least 60 days after imposition of a measure.

During that 60-day period, the United States and Canada shall seek to negotiate an appropriate outcome based on industry dynamics and historical trading patterns.

Notwithstanding the NAFTA 1994, the United States – Mexico – Canada Agreement (USMCA), and the WTO Agreement, if the United States takes an action under Section 232 that is inconsistent with one of those Agreements, Canada may take a measure of equivalent commercial effect in response.

For greater certainty, Canada also retains its WTO rights to challenge a Section 232 measure.

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between our two Governments, which shall enter into force on the date of your letter in reply.

Regards,

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Dear Minister Freeland:

Recognizing that in the negotiations for United States – Mexico- Canada Agreement (USMCA) the United States and Canada (the "Parties") have made changes to the automotive rules of origin compared to NAFTA 1994, and in order to support and enhance the existing manufacturing capacity and mutually beneficial trade of the Parties, if the United States imposes a measure pursuant to section 232 of the Trade Expansion Act of 1962, as amended, with respect to passenger vehicles classified under subheadings 8703.21 through 8703.90, light trucks classified under subheadings 8704.21 and 8704.31, or auto parts, the United States shall exclude from the measure:

(1) 2,600,000 passenger vehicles imported from Canada on an annual basis

(2) light trucks imported from Canada; and

(3) such quantity of auto parts amounting to 32.4 billion U.S. dollars in declared customs value in any calendar year.

The Parties will determine how to monitor and allocate or otherwise administer quantities of passenger vehicles and auto parts eligible for this treatment. The Parties may also discuss any modifications to the quantities described above due to changes in production, capacity, or trade.

Canada may have recourse to the dispute settlement procedures in Chapter 20 (Institutional Arrangements and Dispute Settlement Procedures) of the NAFTA 1994 or the dispute settlement chapter of USMCA, whichever is in effect at the time a dispute arises, only with respect to whether the United States has excluded the number of passenger vehicles and light trucks, and the value of auto parts as set out above, from a measure taken pursuant to section 232 of the Trade Expansion Act of 1962, as amended. Those procedures are incorporated and made part of this agreement *mutatis mutandis.*

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between our two Governments, which shall enter into force on the date of your letter in reply.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Dear:

The United States shall not adopt or maintain a measure imposing tariffs or import restrictions on goods or services of Mexico under Section 232 of the Trade Act of 1974, as amended (Section 232), for at least 60 days after imposition of a measure.

During that 60-day period, the United States and Mexico shall seek to negotiate an appropriate outcome based on industry dynamics and historical trading patterns.

Notwithstanding the NAFTA 1994, the United States – Mexico – Canada Agreement (USMCA), and the WTO Agreement, if the United States takes an action under Section 232 that is inconsistent with one of those Agreements, Mexico may take a measure of equivalent commercial effect in response.

For greater certainty, Mexico also retains its WTO rights to challenge a Section 232 measure.

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between our two Governments.

Regards,

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Dear Minister Guajardo:

Recognizing that in the negotiations for United States – Mexico- Canada Agreement (USMCA) the United States and Mexico (the "Parties") have made changes to the automotive rules of origin compared to NAFTA 1994, and in order to support and enhance the existing manufacturing capacity and mutually beneficial trade of the Parties, if the United States imposes a measure pursuant to section 232 of the Trade Expansion Act of 1962, as amended, with respect to passenger vehicles classified under subheadings 8703.21 through 8703.90, light trucks classified under subheadings 8704.21 and 8704.31, or auto parts, the United States shall exclude from the measure:

(1) 2,600,000 passenger vehicles imported from Mexico on an annual basis

(2) light trucks imported from Mexico; and

(3) such quantity of auto parts amounting to 108 billion U.S. dollars in declared customs value in any calendar year.

The Parties will determine how to monitor and allocate or otherwise administer quantities of passenger vehicles and auto parts eligible for this treatment. The Parties may also discuss any modifications to the quantities described above due to changes in production, capacity, or trade.

Mexico may have recourse to the dispute settlement procedures in Chapter 20 (Institutional Arrangements and Dispute Settlement Procedures) of the NAFTA 1994 or the dispute settlement chapter of the USMCA, whichever is in effect at the time a dispute arises, only with respect to whether the United States has excluded the number of passenger vehicles and light trucks, and the value of auto parts as set out above, from a measure taken pursuant to section 232 of the Trade Expansion Act of 1962, as amended. Those procedures are incorporated and made part of this agreement *mutatis mutandis.*

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between our two Governments, which shall enter into force on the date of your letter in reply.

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

Dear Minister Freeland:

Recognizing that in the negotiations for United States – Mexico- Canada Agreement (USMCA) the United States and Canada (the "Parties") have made changes to the automotive rules of origin compared to NAFTA 1994, and in order to support and enhance the existing manufacturing capacity and mutually beneficial trade of the Parties, if the United States imposes a measure pursuant to section 232 of the Trade Expansion Act of 1962, as amended, with respect to passenger vehicles classified under subheadings 8703.21 through 8703.90, light trucks classified under subheadings 8704.21 and 8704.31, or auto parts, the United States shall exclude from the measure:

(1) 2,600,000 passenger vehicles imported from Canada on an annual basis

(2) light trucks imported from Canada; and

(3) such quantity of auto parts amounting to 32.4 billion U.S. dollars in declared customs value in any calendar year.

The Parties will determine how to monitor and allocate or otherwise administer quantities of passenger vehicles and auto parts eligible for this treatment. The Parties may also discuss any modifications to the quantities described above due to changes in production, capacity, or trade.

Canada may have recourse to the dispute settlement procedures in Chapter 20 (Institutional Arrangements and Dispute Settlement Procedures) of the NAFTA 1994 or the dispute settlement chapter of USMCA, whichever is in effect at the time a dispute arises, only with respect to whether the United States has excluded the number of passenger vehicles and light trucks, and the value of auto parts as set out above, from a measure taken pursuant to section 232 of the Trade Expansion Act of 1962, as amended. Those procedures are incorporated and made part of this agreement *mutatis mutandis.*

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between our two Governments, which shall enter into force on the date of your letter in reply.

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Side Letter on Natural Water Resources

Dear:

In connection with the signing on [date] of this Agreement I have the honor to confirm the following understanding reached between the governments of Canada and the United States, taking note of the 1993 Canada-United States-Mexico Declaration on Water Resources and the NAFTA:

•The Agreement creates no rights to the natural water resources of a Party to the Agreement.

Unless water, in any form, has entered into commerce and become a good or product, it is not covered by the provisions of this Agreement. Nothing in the Agreement would oblige a Party to exploit its water for commercial use, including its withdrawal, extraction, or diversion for export in bulk.

International rights and obligations respecting natural water resources are addressed in separate treaties and agreements. An example is the *1909 Treaty Between the United States and Great Britain Relating to Boundary Waters, and Questions Arising Between the United States and Canada*.

I have the honor to propose that this letter and your letter in reply, equally valid in English and French, confirming that your government shares this understanding, shall constitute an understanding between the United States and Canada, which shall enter into effect on the date of your letter in reply.

Sincerely,

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[Date]

The Honorable Robert E. Lighthizer
United States Trade Representative
Washington, D.C.

Dear Ambassador Lighthizer:

Mexico and the United States reaffirm their commitment to strengthen the North American automotive sector, and to actively promote and facilitate fair and reciprocal trade between both countries. To that effect, I have the honor to confirm the following agreement reached between the Government of the United Mexican States (herein referred to as "Mexico") and the Government of the United States of America (herein referred to as "United States"):

Mexico affirms that its measure, NOM-194-SCFI-2015, incorporates Federal Motor Vehicle Safety Standards (FMVSS). Mexico shall continue to recognize and accept FMVSS maintained by the United States as satisfying the relevant specifications for essential safety devices set forth under NOM-194-SCFI-2015, or any amendment or successor instrument to NOM-194-SCFI-2015, unless, due to unforeseen developments, Mexico determines through a regulatory process consistent with relevant provisions in this Agreement, including those in Chapter 11 (Technical Barriers to Trade), that a Federal Motor Vehicle Safety Standard achieves a lower level of safety than another standard Mexico intends to adopt for a particular specification[1] or would be inconsistent with Mexico's legitimate objective.

I have the honor to propose that this letter and your letter in reply, both equally authentic in the English and Spanish languages, shall constitute an integral part of the Agreement and be subject to Chapter 31 (Dispute Settlement).

Sincerely

[SGN/]
[Minister of Economy]

[1] For greater certainty, nothing in this letter limits Mexico's ability to incorporate, recognize, or accept other automotive safety standards, in addition to FMVSS, in NOM-194-SCFI-2015 or any amendment or successor instrument thereto.

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[Date]

The Honorable Ildefonso Guajardo Villarreal
Secretary of the Economy
México, D.F., México

Dear Secretary Guajardo:

I have the honor to acknowledge the receipt of you letter of this date, which reads as follows:

> "Mexico and the United States reaffirm their commitment to strengthen the North American automotive sector, and to actively promote and facilitate fair and reciprocal trade between both countries. To that effect, I have the honor to confirm the following agreement reached between the Government of the United Mexican States (herein referred to as "Mexico") and the Government of the United States of America (herein referred to as "United States"):
>
> Mexico affirms that its measure, NOM-194-SCFI-2015, incorporates Federal Motor Vehicle Safety Standards (FMVSS). Mexico shall continue to recognize and accept FMVSS maintained by the United States as satisfying the relevant specifications for essential safety devices set forth under NOM-194-SCFI-2015, or any amendment or successor instrument to NOM-194-SCFI-2015, unless, due to unforeseen developments, Mexico determines through a regulatory process consistent with relevant provisions in this Agreement, including those in Chapter 11 (Technical Barriers to Trade), that a Federal Motor Vehicle Safety Standard achieves a lower level of safety than another standard Mexico intends to adopt for a particular specification[1] or would be inconsistent with Mexico's legitimate objective.
>
> I have the honor to propose that this letter and your letter in reply, both equally authentic in the English and Spanish languages, shall constitute an integral part of the Agreement and be subject to Chapter 31 (Dispute Settlement).

[1] For greater certainty, nothing in this letter limits Mexico's ability to incorporate, recognize, or accept other automotive safety standards, in addition to FMVSS, in NOM-194-SCFI-2015 or any amendment or successor instrument thereto."

I have the further honor of confirming that my Government shares this understanding and that your letter and this letter in reply, equally valid in the English and Spanish languages, shall constitute an integral part of the Agreement.

Sincerely,

Ambassador Robert E. Lighthizer

Subject to Legal Review for Accuracy, Consistency, and Clarity
Subject to Language Authentication

The Honorable Ambassador Robert E. Lighthizer
United States Trade Representative
Washington, D.C.,
United States of America

Dear Ambassador Lighthizer:

I have the honor to confirm the following understanding of the United Mexican States (Mexico) regarding the term "prior users", when referred to in the Sub-Section of Geographical Indications of the Intellectual Property Rights Chapter of the Modernized Trade Pillar of the Mexico-European Union Global Agreement:

Mexico confirms that it understands the term "prior users" to include any natural or legal person, including their successors and assignees, who have used the corresponding term in good faith, in the territory of Mexico in any of the following activities: production, distribution, marketing, importation, and exportation to Mexico of cheeses. Mexico also confirms that with respect to some terms, "prior users" only refers to persons having used the term in a continuous manner, prior to the agreement in principle between Mexico and the European Union.

I have the honor to propose that this letter and your letter of confirmation in reply, both equally authentic in English and Spanish, shall be treated as an integral part of the Agreement which shall enter into force on the date of entry into force of the Agreement.

Sincerely,

Ildefonso Guajardo Villarreal

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Language Authentication

The Honorable Ildefonso Guajardo Villarreal
Secretary of Economy
Mexico City,
Mexico

Dear Secretary Guajardo,

I am pleased to acknowledge your letter, which reads as follows:

> I have the honor to confirm the following understanding of the United Mexican States (Mexico) regarding the term "prior users", when referred to in the Sub-Section of Geographical Indications of the Intellectual Property Rights Chapter of the Modernized Trade Pillar of the Mexico-European Union Global Agreement:
>
> Mexico confirms that it understands the term "prior users" to include any natural or legal person, including their successors and assignees, who have used the corresponding term in good faith, in the territory of Mexico in any of the following activities: production, distribution, marketing, importation, and exportation to Mexico of cheeses. Mexico also confirms that with respect to some terms, "prior users" only refers to persons having used the term in a continuous manner, prior to the agreement in principle between Mexico and the European Union.
>
> I have the honor to propose that this letter and your letter of confirmation in reply, both equally authentic in English and Spanish, shall be treated as an integral part of the Agreement which shall enter into force on the date of entry into force of the Agreement.

I have the further honor of confirming that my Government shares this understanding and that your letter and this letter in reply, equally valid in the English and Spanish languages, shall constitute an integral part of the Agreement.

Sincerely,

Ambassador Robert E. Lighthizer