CHAPTER 3
RULES OF ORIGIN AND ORIGIN PROCEDURES

Section A: Rules of Origin

Article 3.1: Definitions

For the purposes of this Chapter:

**aquaculture** means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed stock 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 materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

**Generally Accepted Accounting Principles** means those principles recognised by consensus or with substantial authoritative support in the territory of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These principles may encompass broad guidelines for general application, as well as detailed standards, practices and procedures;

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

**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, energy, catalysts and solvents;
(b) equipment, devices and supplies used to test or inspect the good;
(c) gloves, glasses, footwear, clothing, safety equipment and supplies;
(d) tools, dies and moulds;
(e) spare parts and materials used in the maintenance of equipment and buildings;
(f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and
(g) any other material that is not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

**material** means a good that is used in the production of another good;

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

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

**packing materials and containers for shipment** means goods used to protect another good during its transportation, but does not include the packaging materials or containers in which a good is packaged for retail sale;

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

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

**transaction value** means the price actually paid or payable for the good when sold for export or other value determined in accordance with the Customs Valuation Agreement; and

**value of the good** means the transaction value of the good excluding any costs incurred in the international shipment of the good.

**Article 3.2: Originating Goods**

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

(a) wholly obtained or produced entirely in the territory of one or more of the Parties as established in Article 3.3 (Wholly Obtained or Produced Goods);

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

(c) 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 3-D (Product-Specific Rules of Origin),

and the good satisfies all other applicable requirements of this Chapter.
Article 3.3: Wholly Obtained or Produced Goods

Each Party shall provide that for the purposes of Article 3.2 (Originating Goods), a good is wholly obtained or produced entirely in the territory of one or more of the Parties if it is:

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

(b) a live animal born and raised there;

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

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

(e) a good obtained from aquaculture there;

(f) a mineral or other naturally occurring substance, not included in subparagraphs (a) through (e), extracted or taken from there;

(g) fish, shellfish and other marine life taken from the sea, seabed or subsoil outside the territories of the Parties and, in accordance with international law, outside the territorial sea of non-Parties\(^1\) 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, and beyond areas over which non-Parties exercise jurisdiction provided that Party or person of that Party has the right to exploit that seabed or subsoil in accordance with international law;

(j) a good that is:

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

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

\(^1\) Nothing in this Chapter shall prejudice the positions of the Parties with respect to matters relating to the law of the sea.
(k) a good produced there, exclusively from goods referred to in subparagraphs (a) through (j), or from their derivatives.

**Article 3.4: Treatment of Recovered Materials Used in 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 3.2 (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 3.2 (Originating Goods).

**Article 3.5: Regional Value Content**

1. Each Party shall provide that a regional value content requirement specified in this Chapter, including related Annexes, to determine whether a good is originating, is calculated as follows:

   a) Focused Value Method: Based on the Value of Specified Non-Originating Materials

   \[
   \text{RVC} = \frac{\text{Value of the Good} - \text{FVNM} \times 100}{\text{Value of the Good}}
   \]

   b) Build-down Method: Based on Value of Non-Originating Materials

   \[
   \text{RVC} = \frac{\text{Value of the Good} - \text{VNM} \times 100}{\text{Value of the Good}}
   \]

   c) Build-up Method: Based on Value of Originating Materials

   \[
   \text{RVC} = \frac{\text{VOM}}{\text{Value of the Good}} \times 100
   \]

   or

   d) Net Cost Method (for Automotive Goods Only)

   \[
   \text{RVC} = \frac{\text{NC} - \text{VNM} \times 100}{\text{NC}}
   \]
where:

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

**VNM** is the value of non-originating materials, including materials of undetermined origin, used in the production of the good;

**NC** is the net cost of the good determined in accordance with Article 3.9 (Net Cost);

**FVNM** is the value of non-originating materials, including materials of undetermined origin, specified in the applicable product-specific-rule (PSR) in Annex 3-D (Product-Specific Rules of Origin) and used in the production of the good. For greater certainty, non-originating materials that are not specified in the applicable PSR in Annex 3-D (Product-Specific Rules of Origin) are not taken into account for the purpose of determining FVNM; and

**VOM** is the value of originating materials used in the production of the good in the territory of one or more of the Parties.

2. Each Party shall provide that all costs considered for the calculation of regional value content are recorded and maintained in conformity with the Generally Accepted Accounting Principles applicable in the territory of a Party where the good is produced.

**Article 3.6: Materials Used in Production**

1. Each Party shall provide that if a non-originating material undergoes further production such that it satisfies the requirements of this Chapter, the material is treated as originating when determining the originating status of the subsequently produced good, regardless of whether that material was produced by the producer of the good.

2. 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.

**Article 3.7: 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 good;
(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); or
   
   (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 3.8: Further Adjustments to the Value of Materials

1. Each Party shall provide that for an originating material, the following expenses may be added to the value of the material, if not included under Article 3.7 (Value of Materials Used in Production):
   
   (a) the costs of freight, insurance, packing and all other costs incurred to transport 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. 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
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(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.

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

Article 3.9: Net Cost

1. If Annex 3-D (Product-Specific Rules of Origin) specifies a regional value content requirement to determine whether an automotive good of subheading 8407.31 through 8407.34, 8408.20, heading 84.09, heading 87.01 through 87.08 or heading 87.11 is originating, each Party shall provide that the requirement to determine origin of that good based on the Net Cost Method is calculated as set out under Article 3.5 (Regional Value Content).

2. For the purposes of this Article:

(a) 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; and

(b) net cost of the good means the net cost that can be reasonably allocated to the good, using one of the following methods:

(i) calculating the total cost incurred with respect to all automotive goods produced by that producer, subtracting 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 allocating the resulting net cost of those goods to the good;

(ii) calculating the total cost incurred with respect to all automotive goods produced by that producer, reasonably allocating the total cost to the good, and then subtracting 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

(iii) reasonably allocating 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 Generally Accepted Accounting Principles.
3. Each Party shall provide that, for the purposes of the Net Cost Method for motor vehicles of heading 87.01 through 87.06 or heading 87.11, the calculation may be averaged over the producer’s fiscal year using any one of the following categories, on the basis of all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of another Party:

(a) the same model line of motor vehicles in the same class of motor 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.

4. Each Party shall provide that, for the purposes of the Net Cost Method in paragraphs 1 and 2, for automotive materials of subheading 8407.31 through 8407.34, 8408.20, heading 84.09, 87.06, 87.07, or 87.08, produced in the same plant, a 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.

5. For the purposes of this Article:

(a) **class of motor vehicles** means any one of the following categories of motor vehicles:

(i) motor vehicles classified under subheading 8701.20, motor vehicles for the transport of 16 or more persons classified under subheading 8702.10 or 8702.90, and motor vehicles classified under subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87.06;
(ii) motor vehicles classified under subheading 8701.10 or subheadings 8701.30 through 8701.90;

(iii) motor vehicles for the transport of 15 or fewer persons classified under subheading 8702.10 or 8702.90, and motor vehicles classified under subheading 8704.21 or 8704.31;

(iv) motor vehicles classified under subheadings 8703.21 through 8703.90;

or

(v) motor vehicles classified under heading 87.11.

(b) **model line of motor vehicles** means a group of motor vehicles having the same platform or model name;

(c) **non-allowable interest costs** means interest costs incurred by a producer that exceed 700 basis points above the yield on debt obligations of comparable maturities issued by the central level of government of the Party in which the producer is located;

(d) **reasonably allocate** means to apportion in a manner appropriate under Generally Accepted Accounting Principles;

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

(i) personnel training, without regard to where that training is performed;

or

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

(f) **sales promotion, marketing and after-sales service costs** means the following costs related to sales promotion, marketing and after-sales service:

(i) 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 (good brochures, catalogues, technical literature, price lists, service manuals and sales aid information); establishment and
protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; and entertainment;

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

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

(iv) 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;

(v) liability insurance for goods;

(vi) 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;

(vii) 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;

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

(ix) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centres, 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

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

(g) shipping and packing costs means the costs incurred to pack a good for shipment and to ship the good from the point of direct shipment to the buyer, excluding costs to prepare and package the good for retail sale; and

(h) total cost means all product costs, period costs and other costs for a good incurred in the territory of one or more of the Parties, where:
(i) product costs are costs that are associated with the production of a good and include the value of materials, direct labour costs and direct overhead;

(ii) 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

(iii) 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.

Article 3.10: 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 in Article 3.2 (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 that is used in the production of another good in the territory of another Party is considered as originating in the territory of the other Party.

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

Article 3.11: De Minimis

1. Except as provided in Annex 3-C (Exceptions to Article 3.11 (De Minimis)), each Party shall provide that a good that contains non-originating materials that do not satisfy the applicable change in tariff classification requirement specified in Annex 3-D (Product-Specific Rules of Origin) for the good is nonetheless an originating good if the value of all these materials does not exceed 10 per cent of the value of the good, as defined under Article 3.1 (Definitions), and the good meets all the other applicable requirements of this Chapter.

2. Paragraph 1 applies only when using a non-originating material in the production of another good.

3. 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.
4. With respect to a textile or apparel good, Article 4.2 (Rules of Origin and Related Matters) applies in place of paragraph 1.

Article 3.12: Fungible Goods or Materials

Each Party shall provide that a fungible good or material is treated as originating based on the:

(a) physical segregation of each fungible good or material; or

(b) use of any inventory management method recognised in the Generally Accepted Accounting Principles if the fungible good or material is commingled, provided that the inventory management method selected is used throughout the fiscal year of the person that selected the inventory management method.

Article 3.13: Accessories, Spare Parts, Tools and 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 3-D (Product-Specific Rules of Origin), accessories, spare parts, tools or instructional or other information materials, as described in paragraph 3, are to be disregarded; or

(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, and instructional or other information materials are covered when:

(a) the accessories, spare parts, tools and 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 and instructional or other information materials are customary for that good.

Article 3.14: 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 3-D (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 3.15: 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 3.16: Indirect materials

Each Party shall provide that an indirect material is considered to be originating without regard to where it is produced.

Article 3.17: Sets of Goods

1. Each Party shall provide that for a set classified as a result of the application of Rule 3(a) or (b) of the General Rules for the Interpretation of the Harmonized System, the originating status of the set shall be determined in accordance with the product-specific rule of origin that applies to the set.

2. Each Party shall provide that for a set classified as a result of the application of rule 3(c) of the General Rules of 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.

3. Notwithstanding paragraph 2, for a set classified as a result of the application of rule 3(c) of the General Rules of Interpretation of the Harmonized System, the set is originating if the value of all the non-originating goods in the set does not exceed 10 per cent of the value of the set.
4. For the purposes of Paragraph 3, 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.

Article 3.18: Transit and Transhipment

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 through the territory of one or more non-Parties, the good retains its originating status provided that the good:
   - does not undergo any operation outside the territories of the Parties other than: unloading; reloading; separation from a bulk shipment; storing; labelling or marking required by the importing Party; or any other operation necessary to preserve it in good condition or to transport the good to the territory of the importing Party; and
   - remains under the control of the customs administration in the territory of a non-Party.

Section B: Origin Procedures

Article 3.19: Application of Origin Procedures

Except as otherwise provided in Annex 3-A (Other Arrangements), each Party shall apply the procedures in this Section.

Article 3.20: Claims for Preferential Treatment

1. Except as otherwise provided in Annex 3-A (Other Arrangements), 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\(^2\)\(^3\).

\(^2\) Nothing in this Chapter shall prevent a Party from requiring an importer, exporter or producer in its territory that completes a certification of origin to demonstrate that it is able to support that certification.

\(^3\) For Brunei Darussalam, Malaysia, Mexico, Peru and Viet Nam, implementation of paragraph 1 with respect to a certification of origin by the importer shall be no later than five years after their respective dates of entry into force of this Agreement.
2. 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;
   (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 making a subsequent claim for preferential tariff treatment for the same importation based on a certification of origin completed by the exporter or producer.

3. Each Party shall provide that a certification of origin:
   (a) need not follow a prescribed format;
   (b) be in writing, including electronic format;
   (c) specifies that the good is both originating and meets the requirements of this Chapter; and
   (d) contains a set of minimum data requirements as set out in Annex 3-B (Minimum Data Requirements).

4. 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.

5. Each Party shall provide that a certification of origin is valid for one year after the date that it was issued or for such longer period specified by the laws and regulations of the importing Party.

6. Each Party shall allow an importer to submit a certification of origin in English. If the certification of origin is not in English, the importing Party may require the importer to submit a translation in the language of the importing Party.

Article 3.21: 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 that the good is originating.

2. Each Party shall provide that if the exporter is not the producer of the good, a certification of origin may be completed by the exporter of the good on the basis of:
   (a) the exporter having information that the good is originating; or
   (b) reasonable reliance on the producer’s information 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:
   (a) the importer having documentation that the good is originating; or
   (b) reasonable reliance on supporting documentation provided by the exporter or producer 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 to another person.

Article 3.22: Discrepancies

Each Party shall provide that it shall not reject a certification of origin due to minor errors or discrepancies in the certification of origin.

Article 3.23: Waiver of Certification of Origin

1. No Party shall require a certification of origin if:
   (a) the customs value of the importation does not exceed US $1000 or the equivalent amount in the importing Party’s currency or any higher amount as the importing Party may establish; or
   (b) it is a good for which the importing Party has waived the requirement or does not require the importer to present a certification of origin,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the importing Party’s laws governing claims for preferential tariff treatment under this Agreement.

Article 3.24: Obligations Relating to Importation
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 declaration\(^4\) that the good qualifies as an originating good;

   (b) have a valid certification of origin in its possession at the time the declaration referred to in subparagraph (a) is made;

   (c) provide a copy of the certification of origin to the importing Party if required by the Party; and

   (d) if required by a Party to demonstrate that the requirements in Article 3.18 (Transit and Transhipment) have been satisfied, provide relevant documents, such as transport documents, and in the case of storage, storage or customs documents.

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 correct the importation document and pay any customs duty and, if applicable, penalties owed.

3. No importing Party shall subject an importer to a penalty for making an invalid claim for preferential tariff treatment if the importer, on becoming aware that such a claim is not valid and prior to discovery of the error by that Party, voluntarily corrects the claim and pays any applicable customs duty under the circumstances provided for in the Party’s law.

**Article 3.25: Obligations Relating to Exportation**

1. Each Party shall provide that an exporter or producer in its territory that completes a certification of origin shall submit a copy of that certification of origin to the exporting Party, on its request.

2. Each Party may provide that a false certification of origin or other false information provided by an exporter or a producer in its territory to support a claim that a good exported to the territory of another Party is originating has the same legal consequences, with appropriate modifications, as those that would apply to an importer in its territory that makes a false statement or representation in connection with an importation.

3. 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

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\(^4\) A Party shall specify its declaration requirements in its laws, regulations or procedures that are published or otherwise made available in a manner as to enable interested persons to become acquainted with them.
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.

Article 3.26: 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; and

   (b) all records necessary to demonstrate that the good is originating and qualified for preferential tariff treatment, if the claim was based on a certification of origin completed by the importer.

2. Each Party shall provide that a producer or exporter in its territory that provides a certification of origin shall maintain, for a period of no less than five years from the date the certification of origin was issued, all records necessary to demonstrate that a good for which the exporter or producer provided a certification of origin is originating. Each Party shall endeavour to make available information on types of records that may be used to demonstrate that a good is originating.

3. Each Party shall provide that an importer, exporter or producer in its territory may choose to maintain the records specified in paragraphs 1 and 2 in any medium that allows for prompt retrieval, including electronic, optical, magnetic or written form in accordance with that Party’s law.

Article 3.27: Verification of Origin

1. For the purpose of determining whether a good imported into its territory is originating, the importing Party may conduct a verification of any claim for preferential tariff treatment by one or more of the following:

   (a) a written request for information from the importer of the good;

   (b) a written request for information from the exporter or producer of the good;

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5 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.
2. If an importing Party conducts a verification, it shall accept information 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 under paragraph 1(a), the importer does not provide information to the importing Party or the information provided is not sufficient to support a claim for preferential tariff treatment, the importing Party shall request information from the exporter or producer, under paragraph 1(b) or 1(c) 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(b) or 1(c), within the time provided in paragraph 6(e).  

4. A written request for information or for a verification visit under paragraphs 1(a) through 1(c) shall:

   (a) be in English or in an official language of the Party of the person to whom the request is made;

   (b) include the identity of the government authority issuing the request;

   (c) state the reason for the request, including the specific issue the requesting Party seeks to resolve with the verification;

   (d) include sufficient information to identify the good that is being verified;

   (e) include a copy of relevant information submitted with the good, including the certification of origin; and

   (f) in the case of a verification visit, request the written consent of the exporter or producer whose premises are going to be visited, and state the proposed date and location for the visit and its specific purpose.

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6 For greater certainty, a Party is not required to request information from the exporter or producer to support a claim for preferential tariff treatment or complete a verification through the exporter or producer if the claim for preferential tariff treatment is based on the importer’s certification of origin.
5. If an importing Party has initiated a verification in accordance with paragraph 1(b) or 1(c), it shall inform the importer of the initiation of the verification.

6. For a verification under paragraphs 1(a) through 1(c), the importing Party shall:

   (a) ensure that a written request for information, or for documentation to be reviewed during a verification visit, is limited to information and documentation to determine whether the good is originating;

   (b) describe the information or documentation in sufficient 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 under paragraph 1(a) or 1(b) to respond;

   (d) allow the exporter or producer 30 days from the date of receipt of the written request for a visit under paragraph 1(c) to consent or refuse the request; and

   (e) make a determination following a verification as expeditiously as possible and no later than 90 days after it receives the information necessary to make the determination, including, if applicable, any information received under paragraph 9, and no later than 365 days after the first request for information or other action under paragraph 1. If permitted by its law, a Party may extend the 365 day period in exceptional cases, such as where the technical information concerned is very complex.

7. If an importing Party makes a verification request under paragraph 1(b), it shall, on request of the Party where the exporter or producer is located and in accordance with the importing Party’s laws and regulations, inform that Party. The Parties concerned shall decide the manner and timing of informing the Party where the exporter or producer is located of the verification request. In addition, 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 a contact point for the verification, collecting information from the exporter or producer on behalf of the importing Party, or other activities in order that the importing Party may make a determination as to whether the good is originating. The importing Party shall not deny a claim for preferential tariff treatment solely on the ground 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(c), it shall, at the time of the request for the visit, inform the Party where the exporter or producer is located and provide the opportunity for the officials of the Party where the exporter or producer is located to accompany them during the visit.
9. Prior to issuing a written determination, the importing Party shall inform the importer and any exporter or producer that provided information directly to the importing Party, of the results of the verification and, if the importing Party intends to deny preferential tariff treatment, provide those persons a period of at least 30 days for the submission of additional information relating to the origin of the good.

10. The importing Party shall:

   (a) provide the importer with a written determination of whether the good is originating that includes the basis for the determination; and

   (b) provide the importer, exporter or producer that provided information during the verification or certified that the good was originating with the results of the verification and the reasons for that result.

11. During verification, the importing Party shall allow the release of the good, subject to payment of duties or provision of security as provided for in its law. If as a result of the verification the importing Party determines that the good is an originating good, it shall grant preferential tariff treatment to the good and refund any excess duties paid or release any security provided, unless the security also covers other obligations.

12. If verifications of identical goods by a Party indicate a pattern of conduct by an importer, exporter or producer of false or unsupported representations relevant to a claim that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to the good and refund any excess duties paid or release any security provided, unless the security also covers other obligations.

13. For the purpose of a verification request, it is sufficient for a Party to rely on the contact information of an exporter, producer or importer in a Party provided in a certification of origin.

Article 3.28: Determinations on Claims for Preferential Tariff Treatment

1. Except as otherwise provided in paragraph 2 or Article 4.7 (Determinations), each Party shall grant a claim for preferential tariff treatment made in accordance with this Chapter for a good that arrives in its territory on or after the date of entry into force of this Agreement for that Party. In addition, if permitted by the importing Party, the importing Party shall grant a claim for preferential tariff treatment made in accordance with this Chapter for a good which is imported into its territory or released from customs control on or after the date of entry into force of this Agreement for that Party.

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 3.27 (Verification of Origin), 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 for information in accordance with Article 3.27 (Verification of Origin);

(d) after receipt of a written notification for a verification visit, the exporter or producer does not provide its written consent in accordance with Article 3.27 (Verification of Origin); or

(e) the importer, exporter or producer fails to comply with the requirements of this Chapter.

3. If an importing Party denies a claim for preferential tariff treatment, it shall issue a determination to the importer that includes the reasons for the determination.

4. A Party shall not reject a claim for preferential tariff treatment for the sole reason that the invoice was issued in a non-Party. If an invoice is issued in a non-Party, a Party shall require that the certification of origin be separate from the invoice.

Article 3.29: 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. As a condition for preferential tariff treatment under paragraph 1, the importing Party may 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 such 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 3.30: Penalties
A Party may establish or maintain appropriate penalties for violations of its laws and regulations related to this Chapter.

**Article 3.31: Confidentiality**

Each Party shall maintain the confidentiality of the information collected in accordance with this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the person providing the information.

**Section C: Other Matters**

**Article 3.32: Committee on Rules of Origin and Origin Procedures**

1. The Parties hereby establish a Committee on Rules of Origin and Origin Procedures (Committee), composed of government representatives of each Party, to consider any matters arising under this Chapter.

2. The Committee shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter.

3. The Committee shall consult to discuss possible amendments or modifications to this Chapter and its Annexes, taking into account developments in technology, production processes or other related matters.

4. Prior to the entry into force of an amended version of the Harmonized System, the Committee shall consult to prepare updates to this Chapter that are necessary to reflect changes to the Harmonized System.

5. With respect to a textile or apparel good, Article 4.8 (Committee on Textile and Apparel Trade Matters) applies in place of this Article.

6. The Committee shall consult on the technical aspects of submission and the format of the electronic certification of origin.
Annex A: Other Arrangements

1. This Annex shall remain in force for a period of 12 years from the date of entry into force of this Agreement according to Article 30.5.1 (Entry Into Force).

2. A Party may apply the arrangements under paragraph 5 only if it has notified the other Parties of its intention to apply those arrangements at the time of entry into force of this Agreement for that Party. That Party (the notifying Party) may apply these arrangements for a period not exceeding five years after the date of entry into force of this Agreement for that Party.

3. The notifying Party may extend the period under paragraph 2 for one additional period of no more than five years if it notifies the other Parties no later than 60 days prior to the expiration of the initial period.

4. In no case shall a Party apply the arrangements under paragraph 5 beyond 12 years from the date of entry into force of this Agreement according to Article 30.5.1 (Entry Into Force).

5. An exporting Party may require that a certification of origin for a good exported from its territory be either:
   
   (a) issued by a competent authority; or
   
   (b) completed by an approved exporter.

6. If an exporting Party applies the arrangements under paragraph 5, it shall provide the requirements for those arrangements in publically available laws or regulations, inform the other Parties at the time of the notification under paragraph 2, and inform the other Parties at least 90 days before any modification to the requirements comes into effect.

7. An importing Party may treat a certification of origin issued by a competent authority or completed by an approved exporter in the same manner as a certification of origin under Section B.

8. An importing Party may condition acceptance of a certification of origin issued by a competent authority or completed by an approved exporter on the authentication of elements such as stamps, signatures or approved exporter numbers. To facilitate that authentication, the Parties concerned shall exchange information on those elements.

9. If a claim for preferential tariff treatment is based on a certification of origin issued by a competent authority or completed by an approved exporter, the importing Party may make a verification request to the exporter or producer in accordance with Article 3.27 (Verification of Origin) or to the competent authority that issued the certification of origin.
10. If a Party makes a verification request to the competent authority, the competent authority shall respond to it in the same manner as an exporter or producer under Article 3.27 (Verification of Origin). A competent authority shall maintain records in the same manner as an exporter or producer under Article 3.26 (Record Keeping Requirements). If the competent authority that issued the certification of origin fails to respond to a verification request, the importing Party may deny the claim for preferential tariff treatment.

11. If an importing Party makes a verification request under Article 3.27.1(b) (Verification of Origin), it shall, on request of the Party where the exporter or producer is located and in accordance with the importing Party’s laws and regulations, inform that Party. The Parties concerned shall decide the manner and timing of informing the Party where the exporter or producer is located of the verification request. In addition, on request of the importing Party, the competent authority of the Party where the exporter or producer is located may, as it deems appropriate and in accordance with the laws and regulations of the Party where the exporter or producer is located, assist in the verification in the same manner as Article 3.27.7 (Verification of Origin).
Annex B: Minimum Data Requirements

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, producer or importer in accordance with Article 3.20 (Claims for Preferential Treatment).

2. Certifier

   Provide the certifier’s name, 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 TPP country.

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 TPP country.

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 TPP country.

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 rule of origin 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 paragraph 3.20.4 (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.
Annex C: Exceptions to Article 3.11 (*De Minimis*)

Each Party shall provide that Article 3.11 (*De Minimis*) shall not apply to:

(a) non-originating materials of heading 04.01 through 04.06, or non-originating dairy preparations containing over 10 percent 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 other than a good of subheading 0402.10 through 0402.29 or 0406.30;  

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

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

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

(iii) dairy preparations containing over 10 percent 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 percent by dry weight of milk solids of subheading 2309.90;

(c) non-originating materials 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) non-originating materials of Chapter 15 of the Harmonized System, used in the production of a good of headings 15.07, 15.08, 15.12, or 15.14; or

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For greater certainty, milk powder of subheading 0402.10 through 0402.29, and processed cheese of subheading 0406.30, that is originating as a result of the application of the 10% de minimis allowance in Article 3.11 (*De Minimis*), shall be an originating material when used in the production of any good of heading 0401 through 0406 as referred to in subparagraph (a) or the goods listed in subparagraph (b).
(e) 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.
ANNEX 3-D

PRODUCT - SPECIFIC RULES OF ORIGIN

Section A: General Interpretative Notes

1. For the purposes of interpreting the product-specific rules of origin set forth in this Annex, the following definitions shall apply:

**section** means a section of the Harmonized System;

**chapter** means a chapter of the Harmonized System;

**heading** means the first four digits of the tariff classification number of the Harmonized System; and

**subheading** means the first six digits of the tariff classification number of the Harmonized System.

2. Under this Annex, a good is an originating good if it is produced entirely in the territory of one or more of the Parties by one or more producers using non-originating materials, and:

(a) each of the non-originating materials used in the production of the good satisfies any applicable change in tariff classification requirement, production process requirement, regional value content requirement, or any other requirement specified in this Annex; and

(b) the good satisfies all other applicable requirements of Chapter 3 (Rules of Origin and Origin Procedures).

3. For the purposes of interpreting the product-specific rules of origin set forth in this Annex:

(a) the specific rule, or specific set of rules, that applies to a particular heading, subheading or group of headings or subheadings is set out immediately adjacent to the heading, subheading or group of headings or subheadings;

(b) section, chapter or heading notes, where applicable, are found at the beginning of each section or chapter, and are read in conjunction with the product-specific rules of origin and may impose further conditions on, or provide an alternative to the product-specific rules of origin;

(c) the requirement of a change in tariff classification applies only to non-originating materials;
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

(d) if a product-specific rule of origin excludes certain materials of the Harmonized System, it shall be construed to mean that the product-specific rule of origin requires that the excluded materials be originating for the good to be originating;

(e) if a good is subject to alternative product-specific rules of origin, the good shall be originating if it satisfies one of the alternatives;

(f) if a good is subject to a product-specific rule of origin that includes multiple requirements, the good shall be originating only if it satisfies all of the requirements; and

(g) if a single product-specific rule of origin applies to a group of headings or subheadings and that rule of origin specifies a change of heading or subheading, it shall be understood that the change in heading or subheading may occur from any other heading or subheading, as the case may be, including from any other heading or subheading within the group.

4. The product-specific rules of origin for textile or apparel goods as defined in Chapter 4 are contained in Annex 4-A.

5. For goods of chapters 84 and 87 marked with a symbol (†), an optional methodology for satisfying the regional value content requirement of the product-specific rule of origin applies. This methodology is contained in Appendix 1 (Provisions Related to the Product-Specific Rules of Origin for Certain Vehicles and Parts of Vehicles) to this Annex.

Section B: Product-Specific Rules of Origin

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tr>
<td><strong>SECTION I</strong></td>
<td><strong>LIVE ANIMALS; ANIMAL PRODUCTS</strong></td>
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<tr>
<td><strong>CHAPTER 1</strong></td>
<td><strong>LIVE ANIMALS</strong></td>
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<td><strong>MEAT AND EDIBLE MEAT OFFAL</strong></td>
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<td>02.01 - 02.10</td>
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<tr>
<td><strong>CHAPTER 3</strong></td>
<td><strong>FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES</strong></td>
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</table>
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

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<tr>
<td><strong>Chapter Note:</strong></td>
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<tr>
<td>A fish, crustacean, mollusc or other aquatic invertebrate obtained in the territory of a Party is originating even if obtained from eggs, larvae, fry, fingerlings, parr, smolts or other immature fish at a post-larval stage that are imported from a non-Party.</td>
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<td></td>
<td>A change to <em>Oncorhynchus nerka</em> (Sockeye or Red salmon), <em>Oncorhynchus gorbusha</em> (Pink or Humpback salmon), <em>Oncorhynchus keta</em> (Chum or Dog salmon), <em>Oncorhynchus tschawytscha</em> (King or Chinook salmon), <em>Oncorhynchus kisutch</em> (Silver or Coho salmon), <em>Oncorhynchus masou</em> (Cherry salmon), <em>Oncorhynchus rhodurus</em> (Biwa masu), <em>Salmo salar</em> (Atlantic salmon) or <em>Hucho hucho</em> (Danube salmon) of subheading 0304.19 from any other chapter;</td>
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<td></td>
<td>A change to <em>Sardina pilchardus</em> (European pilchard), <em>Sardinops spp.</em> (Sardines), <em>Sardinella spp.</em> (Sardinella) or <em>Sprattus sprattus</em> (Brisling or Sprats) of subheading 0304.19 from any other chapter;</td>
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<td>A change to <em>Merluccius angustimanus</em> (Panama hake) or <em>Merluccius productus</em> (North Pacific hake) of subheading 0304.19 from any other chapter;</td>
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### HS Classification (HS2007) | Product-Specific Rule of Origin

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A change to any other good of subheading 0304.29 from any other heading. |
| 0304.91 | A change to a good of subheading 0304.91 from any other chapter. |
| 0304.92 | A change to a good of subheading 0304.92 from any other heading. |
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A change to *Merluccius angustimanus* (Panama hake) or *Merluccius productus* (North Pacific hake) of subheading 0304.99 from any other chapter;  
A change to any other good of subheading 0304.99 from any other heading. |
| 0305.10 - 0305.20         | A change to a good of subheading 0305.10 through 0305.20 from any other heading. |
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>0305.30</td>
<td>A change to <em>Thunnus thynnus</em> (Atlantic Bluefin tuna), <em>Thunnus orientalis</em> (Pacific Bluefin tuna), <em>Thunnus maccovii</em> (Southern Bluefin tuna), <em>Thunnus albacares</em> (Yellowfin tuna), <em>Thunnus obesus</em> (Bigeye tuna) or <em>Euthynnus (Katsuwonus) pelamis</em> (Skipjack or Stripe-bellied bonito) of subheading 0305.30 from any other chapter; A change to <em>Oncorhynchus nerka</em> (Sockeye or Red salmon), <em>Oncorhynchus gorbuscha</em> (Pink or Humpback salmon), <em>Oncorhynchus keta</em> (Chum or Dog salmon), <em>Oncorhynchus tschawytscha</em> (King or Chinook salmon), <em>Oncorhynchus kisutch</em> (Silver or Coho salmon), <em>Oncorhynchus masou</em> (Cherry salmon), <em>Oncorhynchus rhodurus</em> (Biwa masu), <em>Salmo salar</em> (Atlantic salmon) or <em>Hucho hucho</em> (Danube salmon) of subheading 0305.30 from any other chapter; A change to <em>Xiphias gladius</em> (Swordfish) of subheading 0305.30 from any other chapter; A change to <em>Sardina pilchardus</em> (European pilchard), <em>Sardinops spp.</em> (Sardines), <em>Sardinella spp.</em> (Sardinella) or <em>Sprattus sprattus</em> (Brisling or Sprats) of subheading 0305.30 from any other chapter; A change to <em>Engraulis spp.</em> (Anchovies) of subheading 0305.30 from any other chapter; A change to <em>Merluccius angustimanus</em> (Panama hake) or <em>Merluccius productus</em> (North Pacific hake) of subheading 0305.30 from any other chapter; A change to any other good of subheading 0305.30 from any other heading.</td>
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<td>0305.41</td>
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<td>0305.42</td>
<td>A change to a good of subheading 0305.42 from any other heading.</td>
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<td>0305.49</td>
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<tr>
<td>0305.51</td>
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<td>0305.59</td>
<td>A change to <em>Thunnus thynnus</em> (Atlantic Bluefin tuna), <em>Thunnus orientalis</em> (Pacific Bluefin tuna), <em>Thunnus maccyoi</em> (Southern Bluefin tuna), <em>Thunnus albacares</em> (Yellowfin tuna), <em>Thunnus obesus</em> (Bigeye tuna) or <em>Euthynnus (Katsuwonus) pelamis</em> (Skipjack or Stripe-bellied bonito) of subheading 0305.59 from any other chapter;</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Oncorhynchus nerka</em> (Sockeye or Red salmon), <em>Oncorhynchus gorbuscha</em> (Pink or Humpback salmon), <em>Oncorhynchus keta</em> (Chum or Dog salmon), <em>Oncorhynchus tschawytshcha</em> (King or Chinook salmon), <em>Oncorhynchus kisutch</em> (Silver or Coho salmon), <em>Oncorhynchus masou</em> (Cherry salmon), <em>Oncorhynchus rhodurus</em> (Biwa masu), <em>Salmo salar</em> (Atlantic salmon) or <em>Hucho hucho</em> (Danube salmon) of subheading 0305.59 from any other chapter;</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Xiphias gladius</em> (Swordfish) of subheading 0305.59 from any other chapter;</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Sardina pilchardus</em> (European pilchard), <em>Sardinops spp.</em> (Sardines), <em>Sardinella spp.</em> (Sardinella) or <em>Sprattus sprattus</em> (Brisling or Sprats) of subheading 0305.59 from any other chapter;</td>
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<tr>
<td></td>
<td>A change to <em>Engraulis spp.</em> (Anchovies) other than <em>Encrasicholina punctifer</em> (Buccaneer anchovy), <em>Encrasicholina heteroloba</em> (Shorthead anchovy), <em>Stolephorus commersonii</em> (Commerson’s anchovy) or <em>Stolephorus andhraensis</em> (Andhra anchovy) of subheading 0305.59 from any other chapter;</td>
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<tr>
<td></td>
<td>A change to <em>Merluccius angustimanus</em> (Panama hake) or <em>Merluccius productus</em> (North Pacific hake) of subheading 0305.59 from any other chapter;</td>
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<td>A change to any other good of subheading 0305.59 from any other heading.</td>
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<td>0305.61 - 0305.62</td>
<td>A change to a good of subheading 0305.61 through 0305.62 from any other heading.</td>
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<td>0305.63</td>
<td>A change to a good of subheading 0305.63 from any other chapter.</td>
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<td>0305.69</td>
<td>A change to <em>Thunnus thynnus</em> (Atlantic Bluefin tuna), <em>Thunnus orientalis</em> (Pacific Bluefin tuna), <em>Thunnus maccocyii</em> (Southern Bluefin tuna), <em>Thunnus albacares</em> (Yellowfin tuna), <em>Thunnus obesus</em> (Bigeye tuna) or <em>Euthynnus (Katsuwonus) pelamis</em> (Skipjack or Stripe-bellied bonito) of subheading 0305.69 from any other chapter;</td>
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<td>A change to <em>Oncorhynchus nerka</em> (Sockeye or Red salmon), <em>Oncorhynchus gorbuscha</em> (Pink or Humpback salmon), <em>Oncorhynchus keta</em> (Chum or Dog salmon), <em>Oncorhynchus tschawytscha</em> (King or Chinook salmon), <em>Oncorhynchus kisutch</em> (Silver or Coho salmon), <em>Oncorhynchus masou</em> (Cherry salmon), <em>Oncorhynchus rhodurus</em> (Biwa masu), <em>Salmo salar</em> (Atlantic salmon) or <em>Hucho hucho</em> (Danube salmon) of subheading 0305.69 from any other chapter;</td>
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<td>A change to <em>Xiphias gladius</em> (Swordfish) of subheading 0305.69 from any other chapter;</td>
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<td>A change to <em>Sardina pilchardus</em> (European pilchard), <em>Sardinops spp.</em> (Sardines), <em>Sardinella spp.</em> (Sardinella) or <em>Sprattus sprattus</em> (Brisling or Sprats) of subheading 0305.69 from any other chapter;</td>
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<tr>
<td>0306.11 - 0306.14</td>
<td>A change to a good of subheading 0306.11 through 0306.14 from any other chapter.</td>
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<td>0306.19</td>
<td>A change to a good of subheading 0306.19 from any other chapter; or</td>
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<td>No change in tariff classification required for a good of subheading 0306.19, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
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<tr>
<td>0306.21 - 0306.24</td>
<td>A change to a good of subheading 0306.21 through 0306.24 from any other chapter.</td>
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### HS Classification (HS2007) | Product-Specific Rule of Origin

| 0306.29 | A change to a good of subheading 0306.29 from any other chapter; or  
No change in tariff classification required for a good of subheading 0306.29, provided there is a regional value content of not less than 45 per cent under the build-down method. |
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<td>0307.10 - 0307.60</td>
<td>A change to a good of subheading 0307.10 through 0307.60 from any other chapter.</td>
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| 0307.91 - 0307.99 | A change to *Haliotis spp.* (Abalone) of subheading 0307.91 through 0307.99 from any other chapter;  
A change to any other good of subheading 0307.91 through 0307.99 from any other chapter; or  
No change in tariff classification required for any other good of subheading 0307.91 through 0307.99, provided there is a regional value content of not less than 40 per cent under the build-down method. |

### CHAPTER 4  
**DAIRY PRODUCE; BIRDS’ EGGS; NATURAL HONEY; EDIBLE PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED**

| 04.01 - 04.04 | A change to a good of heading 04.01 through 04.04 from any other chapter, except from dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids. |
| 04.05 | A change to a good of heading 04.05 from any other chapter, except from dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids or dairy preparations of subheading 2106.90 containing more than 10 per cent by dry weight of milk solids. |
| 04.06 | A change to a good of heading 04.06 from any other chapter, except from dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids. |
| 04.07 - 04.09 | A change to a good of heading 04.07 through 04.09 from any other chapter. |
| 04.10 | No change in tariff classification required for edible birds' nests of heading 04.10, provided there is a regional value content of not less than 40 per cent under the build-down method;  
A change to any other good of heading 04.10 from any other chapter. |

### CHAPTER 5  
**PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED**
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
05.01 - 05.11 | A change to a good of heading 05.01 through 05.11 from any other chapter.

#### SECTION II
**VEGETABLE PRODUCTS**

#### Section Note:
An agricultural or horticultural good grown in the territory of a Party is originating even if grown from seed, bulbs, rhizomes, rootstock, cuttings, slips, grafts, shoots, buds or other live parts of plants that are imported from a non-Party.

### CHAPTER 6
**LIVE TREES AND OTHER PLANTS; BULBS, ROOTS AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE**

<table>
<thead>
<tr>
<th>HS Classification</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
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<td>06.01 - 06.04</td>
<td>A change to a good of heading 06.01 through 06.04 from any other chapter.</td>
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### CHAPTER 7
**EDIBLE VEGETABLES AND CERTAIN ROOTS AND TUBERS**

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<th>HS Classification</th>
<th>Product-Specific Rule of Origin</th>
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<tr>
<td>07.01 - 07.14</td>
<td>A change to a good of heading 07.01 through 07.14 from any other chapter.</td>
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### CHAPTER 8
**EDIBLE FRUIT AND NUTS; PEEL OF CITRUS FRUIT OR MELONS**

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<td>A change to a good of subheading 0801.32 from any other subheading.</td>
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<td>08.02 - 08.13</td>
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<td>08.14</td>
<td>A change to a good of heading 08.14 from any other chapter; or No change in tariff classification required for a good of heading 08.14, provided there is a regional value content of not less than 45 per cent under the build-down method.</td>
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### CHAPTER 9
**COFFEE, TEA, MATÉ AND SPICES**

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<th>Product-Specific Rule of Origin</th>
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<td>0901.21 - 0901.90</td>
<td>A change to a good of subheading 0901.21 through 0901.90 from any other subheading, provided that the dry weight of non-originating materials of subheading 0901.11 and 0901.12 does not exceed 60 per cent by dry weight of the materials of subheading 0901.11 and 0901.12 used in the preparation of the good.</td>
</tr>
</tbody>
</table>
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<td>A change to a good of subheading 0902.30 from any other subheading.</td>
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<td>A change to any other good of subheading 0904.20 from any other chapter; or</td>
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<td>No change in tariff classification required for a good of heading 09.05, provided that the good is crushed or ground from a good that is not crushed or ground.</td>
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<td>0906.20</td>
<td>A change to a good of subheading 0906.20 from any other subheading.</td>
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<td>CHAPTER 11 PRODUCTS OF THE MILLING INDUSTRY; MALT; STARCHES; INULIN; WHEAT GLUTEN</td>
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<tr>
<td>1103.11 - 1103.19</td>
<td>A change to a good of subheading 1103.11 through 1103.19 from any other chapter.</td>
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<tr>
<td>1103.20</td>
<td>A change to a good of subheading 1103.20 from any other chapter, except from heading 10.06.</td>
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<td>11.04</td>
<td>A change to a good of heading 11.04 from any other chapter.</td>
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<td>11.05</td>
<td>A change to a good of heading 11.05 from any other chapter, except from heading 07.01.</td>
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<td>1108.13</td>
<td>A change to a good of subheading 1108.13 from any other chapter, except from heading 07.01.</td>
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<td>A change to a good of subheading 1108.14 from any other chapter, except from subheading 0714.10.</td>
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<td>1108.19 - 1108.20</td>
<td>A change to a good of subheading 1108.19 through 1108.20 from any other chapter.</td>
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<td>11.09</td>
<td>A change to a good of heading 11.09 from any other chapter.</td>
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<tr>
<td><strong>CHAPTER 12</strong></td>
<td></td>
</tr>
<tr>
<td>OIL SEEDS AND OLEAGINOUS FRUITS; MISCELLANEOUS GRAINS, SEEDS AND FRUIT; INDUSTRIAL OR MEDICINAL PLANTS; STRAW AND FODDER</td>
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<td>A change to a good of subheading 1208.10 from any other chapter.</td>
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<td>1208.90</td>
<td>A change to flours or meals of safflower seeds of subheading 1208.90 from any other chapter;</td>
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<td>12.09 - 12.14</td>
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<tr>
<td><strong>CHAPTER 13</strong></td>
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<td>LAC; GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS</td>
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<tbody>
<tr>
<td>1302.39</td>
<td>A change to mucilage and thickener derived from <em>Caesalpinia spinosa</em> (Tara) of subheading 1302.39 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for mucilage or thickener derived from <em>Caesalpinia spinosa</em> (Tara) of subheading 1302.39, provided there is a regional value content of not less than 45 per cent under the build-down method;</td>
</tr>
<tr>
<td></td>
<td>A change to any other good of subheading 1302.39 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for any other good of subheading 1302.39, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>14.01 - 14.04</td>
<td>A change to a good of heading 14.01 through 14.04 from any other chapter.</td>
</tr>
<tr>
<td>15.01 - 15.09</td>
<td>A change to a good of heading 15.01 through 15.09 from any other chapter.</td>
</tr>
<tr>
<td>15.10</td>
<td>A change to a good of heading 15.10 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 15.10, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>1511.10</td>
<td>A change to a good of subheading 1511.10 from any other chapter.</td>
</tr>
<tr>
<td>1511.90</td>
<td>A change to a good of subheading 1511.90 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 1511.90, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>15.12</td>
<td>A change to a good of heading 15.12 from any other chapter.</td>
</tr>
</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
1513.11 | A change to a good of subheading 1513.11 from any other chapter.
1513.19 | A change to a good of subheading 1513.19 from any other chapter; or
No change in tariff classification required for a good of subheading 1513.19, provided there is a regional value content of not less than 40 per cent under the build-down method.
1513.21 | A change to a good of subheading 1513.21 from any other chapter.
1513.29 | A change to a good of subheading 1513.29 from any other chapter; or
No change in tariff classification required for a good of subheading 1513.29, provided there is a regional value content of not less than 40 per cent under the build-down method.
15.14 | A change to a good of heading 15.14 from any other chapter.
1515.11 | A change to a good of subheading 1515.11 from any other chapter.
1515.19 | A change to a good of subheading 1515.19 from any other chapter; or
No change in tariff classification required for a good of subheading 1515.19, provided there is a regional value content of not less than 40 per cent under the build-down method.
1515.21 | A change to a good of subheading 1515.21 from any other chapter.
1515.29 - 1515.50 | A change to a good of subheading 1515.29 through 1515.50 from any other chapter; or
No change in tariff classification required for a good of subheading 1515.29 through 1515.50, provided there is a regional value content of not less than 40 per cent under the build-down method.
1515.90 | A change to rice bran oil of subheading 1515.90 from any other chapter;
A change to any other good of subheading 1515.90 from any other chapter; or
No change in tariff classification required for any other good of subheading 1515.90, provided there is a regional value content of not less than 40 per cent under the build-down method.
15.16 - 15.17 | A change to a good of heading 15.16 through 15.17 from any other chapter.
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.18 - 15.22</td>
<td>A change to a good of heading 15.18 through 15.22 from any other heading.</td>
</tr>
</tbody>
</table>

**SECTION IV**
PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

**CHAPTER 16**
PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES

<table>
<thead>
<tr>
<th>16.01</th>
<th>A change to a good of heading 16.01 from any other chapter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1602.10 - 1602.31</td>
<td>A change to a good of subheading 1602.10 through 1602.31 from any other chapter.</td>
</tr>
<tr>
<td>1602.32</td>
<td>A change to a good of subheading 1602.32 from any other chapter, except from chapter 2; or No change in tariff classification required for a good of subheading 1602.32, provided there is a regional value content of not less than 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>1602.39</td>
<td>A change to a good of subheading 1602.39 from any other chapter.</td>
</tr>
<tr>
<td>1602.41 - 1602.50</td>
<td>A change to a good of subheading 1602.41 through 1602.50 from any other chapter, except from chapter 2; or No change in tariff classification required for a good of subheading 1602.41 through 1602.50, provided there is a regional value content of not less than 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>1602.90</td>
<td>A change to a good of subheading 1602.90 from any other chapter.</td>
</tr>
<tr>
<td>16.03</td>
<td>A change to a good of heading 16.03 from any other chapter.</td>
</tr>
<tr>
<td>1604.11 - 1604.12</td>
<td>A change to a good of subheading 1604.11 through 1604.12 from any other chapter.</td>
</tr>
<tr>
<td>1604.13</td>
<td>A change to <em>Sardinella brachysoma</em> (Deepbody sardinella), <em>Sardinella fimbriata</em> (Fringescale sardinella), <em>Sardinella longiceps</em> (Indian oil sardine), <em>Sardinella melanura</em> (Blacktip sardinella), <em>Sardinella samarensis</em> or <em>lemuru</em> (Bali sardinella) or <em>Sardinella gibbosa</em> (Goldstripe sardinella) of subheading 1604.13 from any other chapter; A change to any other good of subheading 1604.13 from any other chapter, except from chapter 3.</td>
</tr>
<tr>
<td>1604.14</td>
<td>A change to a good of subheading 1604.14 from any other chapter, except from chapter 3.</td>
</tr>
</tbody>
</table>
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

*The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.*

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>1604.15</td>
<td>A change to a good of subheading 1604.15 from any other chapter.</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Encrasicholina punctifer</em> (Buccaneer anchovy), <em>Encrasicholina heteroloba</em> (Shorthead anchovy), <em>Stolephorus commersonii</em> (Commerson’s anchovy) or <em>Stolephorus andhraensis</em> (Andhra anchovy) of subheading 1604.16 from any other chapter;</td>
</tr>
<tr>
<td></td>
<td>A change to any other good of subheading 1604.16 from any other chapter, except from chapter 3.</td>
</tr>
<tr>
<td>1604.16</td>
<td>A change to <em>Merluccius angustimanus</em> (Panama hake) or <em>Merluccius productus</em> (North Pacific hake) of subheading 1604.19 from any other chapter, except from chapter 3;</td>
</tr>
<tr>
<td></td>
<td>A change to any other good of subheading 1604.19 from any other chapter.</td>
</tr>
<tr>
<td>1604.19</td>
<td>A change to anchovies of subheading 1604.20 other than <em>Encrasicholina punctifer</em> (Buccaneer anchovy), <em>Encrasicholina heteroloba</em> (Shorthead anchovy), <em>Stolephorus commersonii</em> (Commerson’s anchovy) or <em>Stolephorus andhraensis</em> (Andhra anchovy) from any other chapter, except from chapter 3;</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Thunnini</em> (Tuna) of subheading 1604.20 from any other chapter, except from chapter 3;</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Merluccius angustimanus</em> (Panama hake) or <em>Merluccius productus</em> (North Pacific hake) of subheading 1604.20 from any other chapter, except from chapter 3;</td>
</tr>
<tr>
<td></td>
<td>A change to a change to <em>Sardina pilchardus</em> (European pilchard), <em>Sardinops spp.</em> (Sardines), <em>Sardinella spp.</em> (Sardinella) or <em>Sprattus sprattus</em> (Brisling or Sprats) of subheading 1604.20 other than <em>Sardinella brachysoma</em> (Deepbody sardinella), <em>Sardinella fimbriata</em> (Fringescale sardinella), <em>Sardinella longiceps</em> (Indian oil sardine), <em>Sardinella melanura</em> (Blacktip sardinella), <em>Sardinella samarensis</em> or <em>lemuru</em> (Bali sardinella) or <em>Sardinella gibbosa</em> (Goldstripe sardinella) from any other chapter, except from chapter 3;</td>
</tr>
<tr>
<td></td>
<td>A change to <em>Sardinella brachysoma</em> (Deepbody sardinella), <em>Sardinella fimbriata</em> (Fringescale sardinella), <em>Sardinella longiceps</em> (Indian oil sardine), <em>Sardinella melanura</em> (Blacktip sardinella), <em>Sardinella samarensis</em> or <em>lemuru</em> (Bali sardinella) or <em>Sardinella gibbosa</em> (Goldstripe sardinella) of subheading 1604.20 from any other chapter; or</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>1604.30</td>
<td>A change to a good of subheading 1604.30 from any other chapter.</td>
</tr>
<tr>
<td>16.05</td>
<td>A change to a good of heading 16.05 from any other chapter.</td>
</tr>
</tbody>
</table>

**CHAPTER 17**
**SUGARS AND SUGAR CONFECTIONERY**

<table>
<thead>
<tr>
<th>Subheading</th>
<th>Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>1701.11</td>
<td>A change to a good of subheading 1701.11 from any other chapter, except from sugar cane of subheading 1212.99.</td>
</tr>
<tr>
<td>1701.12</td>
<td>A change to a good of subheading 1701.12 from any other chapter.</td>
</tr>
<tr>
<td>1701.91 - 1701.99</td>
<td>A change to a good of subheading 1701.91 through 1701.99 from any other chapter, except from sugar cane of subheading 1212.99.</td>
</tr>
<tr>
<td>1702.11 - 1702.20</td>
<td>A change to a good of subheading 1702.11 through 1702.20 from any other chapter.</td>
</tr>
<tr>
<td>1702.30 - 1702.60</td>
<td>A change to a good of subheading 1702.30 through 1702.60 from any other chapter, except from sugar cane of subheading 1212.99.</td>
</tr>
<tr>
<td>1702.90</td>
<td>A change to a good of subheading 1702.90 from any other chapter.</td>
</tr>
<tr>
<td>17.03</td>
<td>A change to a good of heading 17.03 from any other chapter.</td>
</tr>
<tr>
<td>17.04</td>
<td>A change to a good of heading 17.04 from any other heading.</td>
</tr>
</tbody>
</table>

**CHAPTER 18**
**COCOA AND COCOA PREPARATIONS**

**Heading Note 1: Cacao content**

For the purposes of heading 18.06, “cacao content” consists of ingredients that come from the cocoa bean, that is the total chocolate liquor or cocoa powder (cocoa solids) and cocoa butter. The per cent cacao content means the total percentage of such ingredients by weight of the good.
<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Heading Note 2: Confectionery</strong></td>
<td>For the purposes of heading 18.06, “confectionery” is a good which is put up for retail sale and principally intended to be eaten without any further preparation.</td>
</tr>
<tr>
<td>18.01 - 18.02</td>
<td>A change to a good of heading 18.01 through 18.02 from any other chapter.</td>
</tr>
<tr>
<td>18.03 - 18.05</td>
<td>A change to a good of heading 18.03 through 18.05 from any other heading.</td>
</tr>
<tr>
<td>1806.10</td>
<td>A change to sweetened cocoa powder of subheading 1806.10 containing 90 per cent or more by dry weight of sugar from any other heading, except from heading 17.01; A change to any other good of subheading 1806.10 from any other heading, provided that the weight of non-originating materials of heading 17.01 does not exceed 50 per cent by weight of the good.</td>
</tr>
<tr>
<td>1806.20</td>
<td>A change to a good of subheading 1806.20 containing more than 70 per cent cacao content by weight of the good from any other chapter; or No change in tariff classification required for a good of subheading 1806.20 containing more than 70 per cent cacao content by weight of the good, provided there is a regional value content of not less than 50 per cent under the build-down method; A change to any other good of subheading 1806.20 from any other heading.</td>
</tr>
<tr>
<td>1806.31 - 1806.90</td>
<td>A change to confectionery of subheading 1806.31 through 1806.90 containing more than 70 per cent cacao content by weight of the good from any other chapter; or No change in tariff classification required for a good of subheading 1806.31 through 1806.90 containing more than 70 per cent cacao content by weight of the good, provided there is a regional value content of not less than 50 per cent under the build-down method; A change to any other good of subheading 1806.31 through 1806.90 from any other subheading.</td>
</tr>
</tbody>
</table>

**CHAPTER 19**
**PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; PASTRYCOOKS' PRODUCTS**
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901.10</td>
<td>A change to a good of subheading 1901.10 containing more than 10 per cent by dry weight of milk solids from any other chapter, except from heading 04.01 through 04.06; A change to any other good of subheading 1901.10 from any other chapter.</td>
</tr>
<tr>
<td>1901.20</td>
<td>A change to a good of subheading 1901.20 containing more than 25 per cent by dry weight of butterfat, not put up for retail sale from any other chapter, except from heading 04.01 through 04.06; A change to a good of subheading 1901.20 containing more than 30 per cent by dry weight of rice flour from any other chapter, provided that the value of non-originating rice flour of subheading 1102.90 does not exceed 30 per cent of the value of the good; A change to any other good of subheading 1901.20 from any other chapter. Note: Where more than one product-specific rule is applicable to a good of subheading 1901.20, the good must satisfy the requirements of each applicable product-specific rule.</td>
</tr>
<tr>
<td>1901.90</td>
<td>A change to a good of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids from any other chapter, except from heading 04.01 through 04.06; A change to a good of subheading 1901.90 containing more than 30 per cent by dry weight of rice flour from any other chapter, provided that the value of non-originating rice flour of subheading 1102.90 does not exceed 30 per cent of the value of the good; A change to any other good of subheading 1901.90 from any other chapter. Note: Where more than one product-specific rule is applicable to a good of subheading 1901.90, the good must satisfy the requirements of each applicable product-specific rule.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.02 - 19.04</td>
<td>A change to a good of heading 19.02 through 19.04 from any other chapter.</td>
</tr>
<tr>
<td>19.05</td>
<td>A change to a good of heading 19.05 from any other heading.</td>
</tr>
</tbody>
</table>

**CHAPTER 20 PREPARATIONS OF VEGETABLES, FRUIT, NUTS OR OTHER PARTS OF PLANTS**

<table>
<thead>
<tr>
<th>2001.10</th>
<th>A change to a good of subheading 2001.10 from any other chapter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001.90</td>
<td>A change to a preparation of a single vegetable of subheading 2001.90 from any other chapter, except from subheading 0703.10, 0709.60, olives or artichokes of 0709.90, 0711.20, or artichokes, onions or peppers of 0711.90; A change to any other good of subheading 2001.90 from any other chapter, provided that the value of non-originating materials of subheading 0703.10, 0709.60, olives and artichokes of 0709.90, 0711.20 and artichokes, onions and peppers of 0711.90 does not exceed 40 per cent of the value of the good.</td>
</tr>
<tr>
<td>2002.02</td>
<td>A change to a good of heading 20.02 from any other chapter.</td>
</tr>
<tr>
<td>2003.10</td>
<td>A change to a good of subheading 2003.10 from any other chapter, except from subheading 0709.51, 0710.80 or 0711.51.</td>
</tr>
<tr>
<td>2004.10</td>
<td>A change to a good of subheading 2004.10 from any other chapter, except from heading 07.01, subheading 0710.10, 0711.90 or 0712.90.</td>
</tr>
<tr>
<td>2004.90</td>
<td>A change to a preparation of a single vegetable of subheading 2004.90 from any other chapter, except from subheading 0703.10, 0709.60, 0713.10 or 0713.32 through 0713.40; A change to any other good of subheading 2004.90 from any other chapter, provided that the value of non-originating materials of subheading 0703.10, 0709.60, 0713.10 and 0713.32 through 0713.40 does not exceed 40 per cent of the value of the good.</td>
</tr>
<tr>
<td>2005.10</td>
<td>A change to a good of subheading 2005.10 from any other chapter.</td>
</tr>
<tr>
<td>2005.20</td>
<td>A change to a good of subheading 2005.20 from any other chapter, except from heading 07.01, subheading 0710.10, 0711.90, 0712.90 or heading 11.05.</td>
</tr>
<tr>
<td>2005.40</td>
<td>A change to a good of subheading 2005.40 from any other chapter, except from subheading 0713.10.</td>
</tr>
</tbody>
</table>
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<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005.51</td>
<td>A change to a good of subheading 2005.51 from any other chapter, except from subheading 0713.32 through 0713.39.</td>
</tr>
<tr>
<td>2005.59</td>
<td>A change to a good of subheading 2005.59 from any other chapter.</td>
</tr>
<tr>
<td>2005.60</td>
<td>A change to a good of subheading 2005.60 from any other chapter, except from subheading 0709.20 or asparagus of subheading 0710.80.</td>
</tr>
<tr>
<td>2005.70</td>
<td>A change to a good of subheading 2005.70 from any other chapter, except from subheading 0709.90 or 0711.20.</td>
</tr>
<tr>
<td>2005.99</td>
<td>A change to a preparation of a single vegetable of subheading 2005.99 from any other chapter, except from heading 07.01, subheading 0709.51, 0709.60 or potatoes or mushrooms of the genus <em>Agaricus</em> of heading 07.10 through 07.12; A change to any other good of subheading 2005.99 from any other chapter, provided that the value of non-originating materials of heading 07.01, subheading 0709.51, 0709.60 and potatoes and mushrooms of the genus <em>Agaricus</em> of heading 07.10 through 07.12 does not exceed 40 per cent of the value of the good.</td>
</tr>
<tr>
<td>20.06</td>
<td>A change to a good of heading 20.06 from any other chapter.</td>
</tr>
<tr>
<td>2007.99</td>
<td>A change to a preparation of a single fruit of subheading 2007.99 from any other heading, except from mangoes or guavas of subheading 0804.50, peaches of 0809.30, 0810.10, 0811.10, heading 20.06, 20.08, subheading 2009.41 through 2009.49 or mango or guava juice of 2009.80, provided that the value of non-originating materials of 0804.30 does not exceed 50 per cent of the value of the good; or A change to any other good of subheading 2007.99 from any other heading, provided that the value of non-originating materials of subheading 0804.30, mangoes and guavas of 0804.50, peaches of 0809.30, 0810.10, 0811.10, heading 20.06, 20.08, subheading 2009.41 through 2009.49 and mango juice and guava juice of 2009.80 does not exceed 40 per cent of the value of the good.</td>
</tr>
<tr>
<td>2008.11</td>
<td>A change to a good of subheading 2008.11 from any other chapter, except from heading 12.02.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008.19</td>
<td>A change to nuts or groundnuts of subheading 2008.19 which have been prepared merely by roasting, either dry or in oil, whether or not salted, from any other chapter, except from heading 08.02 or 12.02; A change to mixtures of subheading 2008.19 containing 50 per cent or more by dry weight of nuts or groundnuts which have been prepared merely by roasting, either dry or in oil, whether or not salted, from any other chapter, except from heading 08.02 or 12.02; A change to any other good of subheading 2008.19 from any other chapter.</td>
</tr>
<tr>
<td>2008.20</td>
<td>A change to a good of subheading 2008.20 from any other chapter, except from subheading 0804.30 or 0811.90.</td>
</tr>
<tr>
<td>2008.30</td>
<td>A change to a good of subheading 2008.30 from any other chapter.</td>
</tr>
<tr>
<td>2008.40</td>
<td>A change to a good of subheading 2008.40 from any other chapter, except from subheading 0808.20 or 0811.90.</td>
</tr>
<tr>
<td>2008.50</td>
<td>A change to a good of subheading 2008.50 from any other chapter, except from subheading 0809.10 or 0811.90.</td>
</tr>
<tr>
<td>2008.60</td>
<td>A change to a good of subheading 2008.60 from any other chapter.</td>
</tr>
<tr>
<td>2008.70</td>
<td>A change to a good of subheading 2008.70 from any other chapter, except from peaches of subheading 0809.30 or peaches of subheading 0811.90.</td>
</tr>
<tr>
<td>2008.80</td>
<td>A change to a good of subheading 2008.80 from any other chapter, except from subheading 0810.10 or 0811.10.</td>
</tr>
<tr>
<td>2008.91</td>
<td>A change to a good of subheading 2008.91 from any other chapter.</td>
</tr>
<tr>
<td>2008.92</td>
<td>A change to mixtures packed in liquid or in gelatin of subheading 2008.92 from any other chapter, except from mangoes or guavas of subheading 0804.50, heading 08.05, pears of subheading 0808.20 or 0809.10, peaches of 0809.30 or frozen apricots, pears or peaches of 0811.90, provided that the value of non-originating materials of 0804.30 does not exceed 50 per cent of the value of the good; A change to any other good of subheading 2008.92 from any other chapter; or No change in tariff classification required for any other good of subheading 2008.92, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
</tbody>
</table>
### HS Classification (HS2007) vs. Product-Specific Rule of Origin

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008.99</td>
<td>A change to a good of subheading 2008.99 from any other chapter, except from mangoes or guavas of subheading 0804.50.</td>
</tr>
<tr>
<td>2009.11 - 2009.39</td>
<td>A change to a good of subheading 2009.11 through 2009.39 from any other chapter, except from heading 08.05.</td>
</tr>
<tr>
<td>2009.41 - 2009.49</td>
<td>A change to a good of subheading 2009.41 through 2009.49 from any other chapter, except from subheading 0804.30.</td>
</tr>
<tr>
<td>2009.50 - 2009.79</td>
<td>A change to a good of subheading 2009.50 through 2009.79 from any other chapter.</td>
</tr>
<tr>
<td>2009.80</td>
<td>A change to a good of subheading 2009.80 from any other chapter, except from mangoes or guavas of subheading 0804.50 or 0807.20 or passionfruit of subheading 0810.90.</td>
</tr>
<tr>
<td>2009.90</td>
<td>A change to a good of subheading 2009.90 from any other chapter; or No change in tariff classification required for a good of subheading 2009.90, provided there is a regional value content of not less than 45 per cent under the build-down method.</td>
</tr>
</tbody>
</table>

### CHAPTER 21
**MISCELLANEOUS EDIBLE PREPARATIONS**

<table>
<thead>
<tr>
<th>HS Classification</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2101.11 - 2101.20</td>
<td>A change to a good of subheading 2101.11 through 2101.20 from any other chapter.</td>
</tr>
<tr>
<td>2101.30</td>
<td>A change to roasted barley tea of subheading 2101.30 from any other chapter, except from heading 10.03; A change to any other good of subheading 2101.30 from any other chapter.</td>
</tr>
<tr>
<td>21.02</td>
<td>A change to a good of heading 21.02 from any other chapter.</td>
</tr>
<tr>
<td>2103.10</td>
<td>A change to a good of subheading 2103.10 from any other heading.</td>
</tr>
<tr>
<td>2103.20</td>
<td>A change to ketchup of subheading 2103.20 from any other chapter, except from subheading 2002.90; A change to any other good of subheading 2103.20 from any other subheading.</td>
</tr>
<tr>
<td>2103.30</td>
<td>A change to a good of subheading 2103.30 from any other heading.</td>
</tr>
</tbody>
</table>
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2103.90</td>
<td>A change to a good of subheading 2103.90 from any other subheading; or No change in tariff classification required for a good of subheading 2103.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>21.04</td>
<td>A change to a good of heading 21.04 from any other heading.</td>
</tr>
<tr>
<td>21.05</td>
<td>A change to a good of heading 21.05 from any other heading, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids or dairy preparations of 2106.90 containing more than 10 per cent by dry weight of milk solids.</td>
</tr>
<tr>
<td>2106.10</td>
<td>A change to a good of subheading 2106.10 from any other subheading.</td>
</tr>
</tbody>
</table>
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2106.90</td>
<td>A change to a single fruit or single vegetable juice of subheading 2106.90 from any other chapter, except from heading 08.05 or 20.09, or fruit or vegetable juice of subheading 2202.90;</td>
</tr>
<tr>
<td></td>
<td>A change to fruit packed in gelatin of subheading 2106.90 containing more than 20 per cent by weight of fruit from any other chapter, except from chapter 20;</td>
</tr>
<tr>
<td></td>
<td>A change to preparations of subheading 2106.90 containing more than 10 per cent by dry weight of milk solids from any other chapter, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids;</td>
</tr>
<tr>
<td></td>
<td>A change to sugar syrups of subheading 2106.90 from any other chapter, except from chapter 17;</td>
</tr>
<tr>
<td></td>
<td>A change to preparations of subheading 2106.90 containing more than 30 per cent by dry weight of rice flour from any other chapter, provided that the value of non-originating rice flour of 1102.90 does not exceed 30 per cent of the value of the good;</td>
</tr>
<tr>
<td></td>
<td>A change to preparations of Konnyaku of subheading 2106.90 from any other chapter, except from subheading 1212.99;</td>
</tr>
<tr>
<td></td>
<td>A change to any other good of subheading 2106.90 from any other subheading, or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for any other good of subheading 2106.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td></td>
<td>Note: Where more than one product-specific rule is applicable to a good of subheading 2106.90, the good must satisfy the requirements of each applicable product-specific rule.</td>
</tr>
</tbody>
</table>

CHAPTER 22
BEVERAGES, SPIRITS AND VINEGAR

Heading Note:

For the purposes of heading 22.08, “alcoholic volume” and “alcoholic strength” shall be interpreted by reference to the following: the “alcoholic strength by volume” of a mixture of water and pure ethyl alcohol is the ratio of the volume of pure alcohol in the mixture, measured at 20°C, to the total
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>volume of the mixture measured at the same temperature.</td>
<td></td>
</tr>
<tr>
<td>22.01</td>
<td>A change to a good of heading 22.01 from any other chapter.</td>
</tr>
<tr>
<td>2202.10</td>
<td>A change to a good of subheading 2202.10 from any other chapter.</td>
</tr>
<tr>
<td>2202.90</td>
<td>A change to beverages of subheading 2202.90 containing milk from any other chapter, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids; A change to a single fruit or single vegetable juice of subheading 2202.90 from any other chapter, except from heading 08.05 or 20.09, or fruit or vegetable juice of subheading 2106.90; A change to any other good of subheading 2202.90 from any other chapter, or No change in tariff classification required for any other good of subheading 2202.90, provided there is a regional value content of not less than 45 per cent under the build-down method. Note: Where more than one product-specific rule is applicable to a good of subheading 2202.90, the good must satisfy the requirements of each applicable product-specific rule.</td>
</tr>
<tr>
<td>22.03</td>
<td>A change to a good of heading 22.03 from any other heading.</td>
</tr>
<tr>
<td>22.04</td>
<td>A change to a good of heading 22.04 from any other chapter.</td>
</tr>
<tr>
<td>22.05 - 22.06</td>
<td>A change to a good of heading 22.05 through 22.06 from any other heading.</td>
</tr>
<tr>
<td>22.07</td>
<td>A change to a good of heading 22.07 from any other chapter.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2208.20</td>
<td>A change to pisco of subheading 2208.20 from any other chapter; A change to brandy of subheading 2208.20 from any other heading, except from heading 22.07; or No change in tariff classification required for brandy of subheading 2208.20, provided there is a regional value content of not less than 40 per cent under the build-down method; No change in tariff classification required for any other good of subheading 2208.20, provided that the total alcoholic volume of the non-originating materials does not exceed 10 per cent of the volume of the total alcoholic strength of the good.</td>
</tr>
<tr>
<td>2208.30</td>
<td>No change in tariff classification required for a good of subheading 2208.30, provided that the total alcoholic volume of the non-originating materials does not exceed 10 per cent of the volume of the total alcoholic strength of the good.</td>
</tr>
<tr>
<td>2208.40</td>
<td>A change to charanda of subheading 2208.40 from any other chapter; No change in tariff classification required for any other good of subheading 2208.40, provided that the total alcoholic volume of the non-originating materials does not exceed 10 per cent of the volume of the total alcoholic strength of the good.</td>
</tr>
<tr>
<td>2208.50 - 2208.60</td>
<td>No change in tariff classification required for a good of subheading 2208.50 through 2208.60, provided that the total alcoholic volume of the non-originating materials does not exceed 10 per cent of the volume of the total alcoholic strength of the good.</td>
</tr>
<tr>
<td>2208.70</td>
<td>A change to liqueurs of subheading 2208.70 from any other heading, except from heading 22.07; or No change in tariff classification required for liqueurs of subheading 2208.70, provided there is a regional value content of not less than 40 per cent under the build-down method; No change in tariff classification required for any other good of subheading 2208.70, provided that the total alcoholic volume of the non-originating materials does not exceed 10 per cent of the volume of the total alcoholic strength of the good.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2208.90</td>
<td>A change to tequila, mezcal, sotol or bacanora of subheading 2208.90 from any other chapter; A change to sake compounds or cooking sake (mirin) of subheading 2208.90 from any other heading, provided there is a regional value content of not less than 40 per cent under the build-down method; A change to any other good of subheading 2208.90 from any other heading, except from heading 22.07.</td>
</tr>
<tr>
<td>22.09</td>
<td>A change to a good of heading 22.09 from any other heading.</td>
</tr>
<tr>
<td><strong>CHAPTER 23</strong></td>
<td></td>
</tr>
<tr>
<td><strong>RESIDUES AND WASTE FROM THE FOOD INDUSTRIES; PREPARED ANIMAL FODDER</strong></td>
<td></td>
</tr>
<tr>
<td>23.01 - 23.05</td>
<td>A change to a good of heading 23.01 through 23.05 from any other chapter.</td>
</tr>
<tr>
<td>2306.10 - 2306.50</td>
<td>A change to a good of subheading 2306.10 through 2306.50 from any other chapter.</td>
</tr>
<tr>
<td>2306.60</td>
<td>A change to a good of subheading 2306.60 from any other chapter; or No change in tariff classification required for a good of subheading 2306.60, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>2306.90</td>
<td>A change to a good of subheading 2306.90 from any other chapter.</td>
</tr>
<tr>
<td>23.07 - 23.08</td>
<td>A change to a good of heading 23.07 through 23.08 from any other chapter.</td>
</tr>
<tr>
<td>2309.10</td>
<td>A change to a good of subheading 2309.10 from any other heading.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2309.90</td>
<td>A change to preparations used in animal feeding of subheading 2309.90 containing more than 10 per cent by dry weight of milk solids from any other heading, except from heading 04.01 through 04.06 or dairy preparations of subheading 1901.90 containing more than 10 per cent by dry weight of milk solids;</td>
</tr>
<tr>
<td></td>
<td>A change to preparations other than pet food of subheading 2309.90 containing more than 30 per cent by dry weight of rice from any other heading, provided that the value of non-originating materials of heading 10.06 does not exceed 30 per cent of the value of the good;</td>
</tr>
<tr>
<td></td>
<td>A change to any other good of subheading 2309.90 from any other heading.</td>
</tr>
<tr>
<td></td>
<td>Note: Where more than one product-specific rule is applicable to a good of subheading 2309.90, the good must satisfy the requirements of each applicable product-specific rule.</td>
</tr>
</tbody>
</table>

**CHAPTER 24**

**TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES**

<table>
<thead>
<tr>
<th>24.01</th>
<th>A change to a good of heading 24.01 from any other chapter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2402.10</td>
<td>A change to a good of subheading 2402.10 from any other heading.</td>
</tr>
<tr>
<td>2402.20 - 2402.90</td>
<td>A change to a good of subheading 2402.20 through 2402.90 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>A change to a good of subheading 2402.20 through 2402.90 from any other heading, provided that 55 per cent by dry weight of the unmanufactured tobacco or tobacco refuse of heading 24.01 is originating; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 2402.20 through 2402.90, provided there is a regional value content of not less than 70 per cent under the build-down method.</td>
</tr>
<tr>
<td>2403.10</td>
<td>A change to a good of subheading 2403.10 from any other chapter.</td>
</tr>
<tr>
<td>2403.91</td>
<td>A change to homogenized or reconstituted tobacco suitable for use as wrapper tobacco of subheading 2403.91 from any other heading;</td>
</tr>
<tr>
<td></td>
<td>A change to any other good of subheading 2403.91 from any other chapter.</td>
</tr>
<tr>
<td>2403.99</td>
<td>A change to a good of subheading 2403.99 from any other chapter.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SECTION V</strong></td>
<td><strong>MINERAL PRODUCTS</strong></td>
</tr>
<tr>
<td><strong>CHAPTER 25</strong></td>
<td></td>
</tr>
<tr>
<td>SALT; SULPHUR; EARTHS AND STONE; PLASTERING MATERIALS, LIME AND CEMENT</td>
<td></td>
</tr>
<tr>
<td>25.01 - 25.16</td>
<td>A change to a good of heading 25.01 through 25.16 from any other heading.</td>
</tr>
<tr>
<td>2517.10</td>
<td>A change to a good of subheading 2517.10 from any other heading.</td>
</tr>
<tr>
<td>2517.20 - 2517.30</td>
<td>A change to a good of subheading 2517.20 through 2517.30 from any other subheading.</td>
</tr>
<tr>
<td>2517.41 - 2517.49</td>
<td>A change to a good of subheading 2517.41 through 2517.49 from any other heading.</td>
</tr>
<tr>
<td>25.18 - 25.22</td>
<td>A change to a good of heading 25.18 through 25.22 from any other heading.</td>
</tr>
<tr>
<td>2523.10</td>
<td>A change to a good of subheading 2523.10 from any other heading.</td>
</tr>
<tr>
<td>2523.21 - 2523.29</td>
<td>A change to a good of subheading 2523.21 through 2523.29 from any other subheading.</td>
</tr>
<tr>
<td>2523.30 - 2523.90</td>
<td>A change to a good of subheading 2523.30 through 2523.90 from any other heading.</td>
</tr>
<tr>
<td>25.24</td>
<td>A change to a good of heading 25.24 from any other heading.</td>
</tr>
<tr>
<td>2525.10 - 2525.20</td>
<td>A change to a good of subheading 2525.10 through 2525.20 from any other heading.</td>
</tr>
<tr>
<td>2525.30</td>
<td>A change to a good of subheading 2525.30 from any other subheading.</td>
</tr>
<tr>
<td>25.26 - 25.30</td>
<td>A change to a good of heading 25.26 through 25.30 from any other heading.</td>
</tr>
<tr>
<td><strong>CHAPTER 26</strong></td>
<td></td>
</tr>
<tr>
<td>ORES, SLAG AND ASH</td>
<td></td>
</tr>
<tr>
<td>26.01 - 26.21</td>
<td>A change to a good of heading 26.01 through 26.21 from any other heading.</td>
</tr>
<tr>
<td><strong>CHAPTER 27</strong></td>
<td></td>
</tr>
<tr>
<td>MINERAL FUELS, MINERAL OILS AND PRODUCTS OF THEIR DISTILLATION; BITUMINOUS SUBSTANCES; MINERAL WAXES</td>
<td></td>
</tr>
<tr>
<td><strong>Chapter Note 1: Chemical Reaction Rule</strong></td>
<td></td>
</tr>
</tbody>
</table>

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) which results in a molecule with a new structure by breaking intramolecular bonds and by forming
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.</td>
<td></td>
</tr>
</tbody>
</table>

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 crystallization.

**Heading Note 1: Distillation Rule**

Notwithstanding the applicable product-specific rules of origin, a good of heading 27.10 that undergoes atmospheric or vacuum distillation in the territory of one or more of the Parties is an originating good.

For the purposes of this rule:

(a) Atmospheric distillation means a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapour then condensed into different liquefied fractions. Goods produced from petroleum distillation may include liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils, and lubricating oil; and

(b) Vacuum distillation means distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is used 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.

**Heading Note 2: Direct Blending Rule**

Notwithstanding the applicable product-specific rules of origin, a good of heading 27.10 that undergoes “direct blending” in the territory of one or more of the Parties is an originating good. For the purposes of this rule, “direct blending” means a process whereby various petroleum streams from processing units or petroleum components from holding or storage tanks are combined to create a finished product with pre-determined parameters, provided that the non-originating material of heading 27.10 constitutes no more than 25 per cent by volume of the good and no component of that non-originating material is classified under heading 22.07.

**Heading Note 3: Diluent Rule**

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.

<table>
<thead>
<tr>
<th>27.01 - 27.09</th>
<th>A change to a good of heading 27.01 through 27.09 from any other heading.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2710.11 - 2710.19</td>
<td>A change to a good of subheading 2710.11 through 2710.19 from any other heading, except from heading 22.07.</td>
</tr>
</tbody>
</table>
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<tr>
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<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2710.91 - 2710.99</td>
<td>A change to a good of subheading 2710.91 through 2710.99 from any other subheading.</td>
</tr>
<tr>
<td>2711.11 - 2711.29</td>
<td>A change to a good of subheading 2711.11 through 2711.29 from any other subheading.</td>
</tr>
<tr>
<td>27.12</td>
<td>A change to a good of heading 27.12 from any other heading; or No change in tariff classification required for a good of heading 27.12, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>27.13 - 27.16</td>
<td>A change to a good of heading 27.13 through 27.16 from any other heading.</td>
</tr>
</tbody>
</table>

SECTION VI

PRODUCTS OF THE CHEMICAL OR ALLIED INDUSTRIES

Section Note 1: Chemical Reaction Rule

Notwithstanding the applicable product-specific rules of origin, a good of chapter 28 through 38 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) which 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 crystallization.

Section Note 2: Purification Rule

Notwithstanding the applicable product-specific rules of origin, a good of chapter 28 through 35 or chapter 38, that is subject to purification is an originating good if that purification occurs in the territory of one or more of the Parties and results in the elimination of not less than 80 per cent of the content of existing impurities.

Section Note 3: Mixing and Blending Rule

Notwithstanding the applicable product-specific rules of origin, a good of chapter 30 or 31, heading 33.02 or 37.07, is an originating good if, in the territory of one or more of the Parties, the deliberate and proportionally controlled mixing or blending (including dispersing) of materials to conform to predetermined specifications results in the production of a good having physical or chemical characteristics that are relevant to the purposes or uses of the good and are different from the input materials.
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
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<tr>
<th>HS Classification (HS2007)</th>
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<tr>
<td><strong>Section Note 4: Change in Particle Size Rule</strong></td>
<td></td>
</tr>
<tr>
<td>Notwithstanding the applicable product-specific rules of origin, a good of chapter 30 or 31, subheading 3204.17 or heading 33.04 is an originating good if, in the territory of one or more of the Parties, the deliberate and controlled modification in particle size of a good occurs, including micronizing by dissolving a polymer and subsequent precipitation, other than by merely crushing or pressing, 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 with different physical or chemical characteristics from the input materials.</td>
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</tr>
<tr>
<td><strong>Section Note 5: Standards Materials Rule</strong></td>
<td></td>
</tr>
<tr>
<td>Notwithstanding the applicable product-specific rules of origin, a standards material of chapter 28 through 38, except for a good of heading 35.01 through 35.05 or subheading 3824.60, is an originating good if the production of such good occurs 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 with precise degrees of purity or proportions certified by the manufacturer.</td>
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<tr>
<td><strong>Section Note 6: Isomer Separation Rule</strong></td>
<td></td>
</tr>
<tr>
<td>Notwithstanding the applicable product-specific rules of origin, a good of chapter 28 through 38 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.</td>
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**CHAPTER 28 INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE ELEMENTS OR OF ISOTOPES**

| 2801.10 - 2801.30 | A change to a good of subheading 2801.10 through 2801.30 from any other subheading. |
| 28.02 - 28.03 | A change to a good of heading 28.02 through 28.03 from any other heading. |
| 2804.10 - 2804.90 | A change to a good of subheading 2804.10 through 2804.90 from any other subheading. |
| 2805.11 - 2805.40 | A change to a good of subheading 2805.11 through 2805.40 from any other subheading. |
| 2806.10 - 2806.20 | A change to a good of subheading 2806.10 through 2806.20 from any other subheading. |
| 28.07 - 28.08 | A change to a good of heading 28.07 through 28.08 from any other heading. |
| 2809.10 - 2809.20 | A change to a good of subheading 2809.10 through 2809.20 from any other subheading. |
| 28.10 | A change to a good of heading 28.10 from any other heading. |
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**CHAPTER 29**  
**ORGANIC CHEMICALS**
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**CHAPTER 33**
**ESSENTIAL OILS AND RESINOIDS; PERFUMERY, COSMETIC OR TOILET PREPARATIONS**

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| 33.02 - 33.07             | A change to a good of heading 33.02 through 33.07 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 a good of heading 34.01 from any other heading. |
| 3402.11 - 3402.19         | A change to a good of subheading 3402.11 through 3402.19 from any other subheading. |
| 3402.20                   | A change to a good of subheading 3402.20 from any other subheading, except from subheading 3402.90. |
| 3402.90                   | A change to a good of subheading 3402.90 from any other subheading. |
| 3403.11 - 3403.99         | A change to a good of subheading 3403.11 through 3403.99 from any other subheading. |
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<td>3404.20 - 3404.90</td>
<td>A change to a good of subheading 3404.20 through 3404.90 from any other subheading.</td>
</tr>
<tr>
<td>34.05 - 34.07</td>
<td>A change to a good of heading 34.05 through 34.07 from any other heading.</td>
</tr>
</tbody>
</table>

**CHAPTER 35**
ALBUMINOIDAL SUBSTANCES; MODIFIED STARCHES; GLUES; ENZYMES

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>3501.10 - 3501.90</td>
<td>A change to a good of subheading 3501.10 through 3501.90 from any other subheading.</td>
</tr>
<tr>
<td>3502.11 - 3502.19</td>
<td>A change to a good of subheading 3502.11 through 3502.19 from any other heading.</td>
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<tr>
<td>3502.20 - 3502.90</td>
<td>A change to a good of subheading 3502.20 through 3502.90 from any other subheading.</td>
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<tr>
<td>35.03 - 35.04</td>
<td>A change to a good of heading 35.03 through 35.04 from any other heading.</td>
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<td>3505.10</td>
<td>A change to a good of subheading 3505.10 from any other heading.</td>
</tr>
<tr>
<td>3505.20</td>
<td>A change to a good of subheading 3505.20 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 3505.20, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>35.06 - 35.07</td>
<td>A change to a good of heading 35.06 through 35.07 from any other heading.</td>
</tr>
</tbody>
</table>

**CHAPTER 36**
EXPLOSIVES; PYROTECHNIC PRODUCTS; MATCHES; PYROPHORIC ALLOYS; CERTAIN COMBUSTIBLE PREPARATIONS

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>36.01 - 36.06</td>
<td>A change to a good of heading 36.01 through 36.06 from any other heading.</td>
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</tbody>
</table>

**CHAPTER 37**
PHOTOGRAPHIC OR CINEMATOGRAPHIC GOODS

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
<tr>
<td>37.01 - 37.07</td>
<td>A change to a good of heading 37.01 through 37.07 from any other heading.</td>
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**CHAPTER 38**
MISCELLANEOUS CHEMICAL PRODUCTS

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
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<td>3801.10 - 3801.90</td>
<td>A change to a good of subheading 3801.10 through 3801.90 from any other subheading.</td>
</tr>
<tr>
<td>38.02 - 38.05</td>
<td>A change to a good of heading 38.02 through 38.05 from any other heading.</td>
</tr>
</tbody>
</table>
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>3806.10 - 3806.90</td>
<td>A change to a good of subheading 3806.10 through 3806.90 from any other subheading.</td>
</tr>
<tr>
<td>38.07</td>
<td>A change to a good of heading 38.07 from any other heading.</td>
</tr>
<tr>
<td>3808.50 - 3808.99</td>
<td>A change to a good of subheading 3808.50 through 3808.99 from any other subheading, provided that not less than 50 per cent by weight of the active ingredient or ingredients is originating; or No change in tariff classification required for a good of subheading 3808.50 through 3808.99, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>38.09 - 38.22</td>
<td>A change to a good of heading 38.09 through 38.22 from any other heading.</td>
</tr>
<tr>
<td>3823.11 - 3823.70</td>
<td>A change to a good of subheading 3823.11 through 3823.70 from any other subheading.</td>
</tr>
<tr>
<td>3824.10 - 3824.90</td>
<td>A change to a good of subheading 3824.10 through 3824.90 from any other subheading.</td>
</tr>
<tr>
<td>38.25</td>
<td>A change to a good of heading 38.25 from any other heading.</td>
</tr>
</tbody>
</table>

SECTION VII
PLASTICS AND ARTICLES THEREOF;
RUBBER AND ARTICLES THEREOF

CHAPTER 39
PLASTICS AND ARTICLES THEREOF

Chapter Note:

Notwithstanding the applicable product-specific rules of origin, a good of heading 39.01 through 39.14, except for a good of subheading 3903.11 or 3907.60, that is the product of a chemical reaction is an originating good if the chemical reaction occurs 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) which 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.

This definition comprises all types of polymerization reactions.
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 39.01 | A change to a good of heading 39.01 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or

No change in tariff classification required for a good of heading 39.01, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method. |
| 3902.10 | A change to a good of subheading 3902.10 from any other heading, except from heading 29.01; or

A change to a good of subheading 3902.10 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or

No change in tariff classification required for a good of subheading 3902.10, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method. |
| 3902.20 | A change to a good of subheading 3902.20 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or

No change in tariff classification required for a good of subheading 3902.20, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method. |
| 3902.30 | A change to a good of subheading 3902.30 from any other heading, except from heading 29.01; or

A change to a good of subheading 3902.30 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or

No change in tariff classification required for a good of subheading 3902.30, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method. |
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 3902.90                   | A change to a good of subheading 3902.90 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or  
No change in tariff classification required for a good of subheading 3902.90, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method. |
| 3903.11                   | A change to a good of subheading 3903.11 from any other heading, except from heading 29.02; or  
A change to a good of subheading 3903.11 from any other heading, provided there is a regional value content of not less than 50 per cent under the build-down method. |
| 3903.19 - 3903.90         | A change to a good of subheading 3903.19 through 3903.90 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or  
No change in tariff classification required for a good of subheading 3903.19 through 3903.90, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method. |
| 39.04 - 39.06             | A change to a good of heading 39.04 through 39.06 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or  
No change in tariff classification required for a good of heading 39.04 through 39.06, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method. |
<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>3907.10 - 3907.50</td>
<td>A change to a good of subheading 3907.10 through 3907.50 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or No change in tariff classification required for a good of subheading 3907.10 through 3907.50, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>3907.60</td>
<td>A change to a good of subheading 3907.60 from any other heading, except from subheading 2905.31 or 2917.36; or A change to a good of subheading 3907.60 from any other heading, provided there is a regional value content of not less than 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>3907.70 - 3907.99</td>
<td>A change to a good of subheading 3907.70 through 3907.99 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or No change in tariff classification required for a good of subheading 3907.70 through 3907.99, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>39.08 - 39.15</td>
<td>A change to a good of heading 39.08 through 39.15 from any other heading, provided that not less than 50 per cent by weight of the total polymer content is originating; or No change in tariff classification required for a good of heading 39.08 through 39.15, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>3916.10 - 3916.90</td>
<td>A change to a good of subheading 3916.10 through 3916.90 from any other subheading.</td>
</tr>
<tr>
<td>3917.10 - 3917.40</td>
<td>A change to a good of subheading 3917.10 through 3917.40 from any other subheading.</td>
</tr>
<tr>
<td>39.18</td>
<td>A change to a good of heading 39.18 from any other heading.</td>
</tr>
</tbody>
</table>
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 39.19 - 39.20             | A change to a good of heading 39.19 through 39.20 from any other heading; or No change in tariff classification required for a good of heading 39.19 through 39.20, provided there is a regional value content of not less than:  
  (a) 30 per cent under the build-up method; or  
  (b) 40 per cent under the build-down method. |
| 3921.11 - 3921.90         | A change to a good of subheading 3921.11 through 3921.90 from any other subheading. |
| 39.22 - 39.26             | A change to a good of heading 39.22 through 39.26 from any other heading. |
| 40.01                     | A change to a good of heading 40.01 from any other heading; or No change in tariff classification required for a good of heading 40.01, provided there is a regional value content of not less than 40 per cent under the build-down method. |
| 40.02 - 40.17             | A change to a good of heading 40.02 through 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**

**RAW HIDES AND SKINS (OTHER THAN FURSKINS) AND LEATHER**

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
<tr>
<td>41.01 - 41.03</td>
<td>A change to a good of heading 41.01 through 41.03 from any other chapter.</td>
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<td>4104.11 - 4104.19</td>
<td>A change to a good of subheading 4104.11 through 4104.19 from any other heading.</td>
</tr>
<tr>
<td>4104.41</td>
<td>A change to a good of subheading 4104.41 from any other subheading.</td>
</tr>
<tr>
<td>4104.49</td>
<td>A change to a good of subheading 4104.49 from any other subheading, except from subheading 4104.41.</td>
</tr>
<tr>
<td>4105.10</td>
<td>A change to a good of subheading 4105.10 from any other heading.</td>
</tr>
<tr>
<td>4105.30</td>
<td>A change to a good of subheading 4105.30 from any other subheading.</td>
</tr>
<tr>
<td>4106.21</td>
<td>A change to a good of subheading 4106.21 from any other heading.</td>
</tr>
<tr>
<td>4106.22</td>
<td>A change to a good of subheading 4106.22 from any other heading.</td>
</tr>
</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin
---|---
4106.31 | A change to a good of subheading 4106.31 from any other heading.
4106.32 | A change to a good of subheading 4106.32 from any other subheading.
4106.40 | A change to a good of subheading 4106.40 from any other heading; or
| No change in tariff classification required for a good in the dry state of subheading 4106.40, provided there is a change from a good in the wet state.
4106.91 | A change to a good of subheading 4106.91 from any other heading.
4106.92 | A change to a good of subheading 4106.92 from any other subheading.
41.07 - 41.13 | A change to a good of heading 41.07 through 41.13 from any other heading.
4114.10 | A change to a good of subheading 4114.10 from any other heading.
4114.20 | A change to a good of subheading 4114.20 from any other subheading.
4115.10 - 4115.20 | A change to a good of subheading 4115.10 through 4115.20 from any other subheading.

### CHAPTER 42
ARTICLES OF LEATHER; SADDLERY AND HARNESS; TRAVEL GOODS, HANDBAGS AND SIMILAR CONTAINERS; ARTICLES OF ANIMAL GUT (OTHER THAN SILK-WORM GUT)

### Chapter Note:
The product-specific rules of origin for goods of subheading 4202.12, 4202.22, 4202.32 and 4202.92 are contained in Annex 4-A.

| 42.01 | A change to a good of heading 42.01 from any other heading.
| 4202.11 | A change to a good of subheading 4202.11 from any other chapter.
| 4202.19 - 4202.21 | A change to a good of subheading 4202.19 through 4202.21 from any other chapter.
| 4202.29 - 4202.31 | A change to a good of subheading 4202.29 through 4202.31 from any other chapter.
| 4202.39 - 4202.91 | A change to a good of subheading 4202.39 through 4202.91 from any other chapter.
| 4202.99 | A change to a good of subheading 4202.99 from any other chapter.
| 42.03 - 42.06 | A change to a good of heading 42.03 through 42.06 from any other chapter.

### CHAPTER 43
FURSKINS AND ARTIFICIAL FUR; MANUFACTURES THEREOF
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
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<tbody>
<tr>
<td>43.01</td>
<td>A change to a good of heading 43.01 from any other chapter.</td>
</tr>
<tr>
<td>43.02 - 43.03</td>
<td>A change to a good of heading 43.02 through 43.03 from any other heading.</td>
</tr>
<tr>
<td>43.04</td>
<td>A change to a good of heading 43.04 from any other heading; or No change in tariff classification required for a good of heading 43.04, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 43.04.</td>
</tr>
</tbody>
</table>

### 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

**WOOD AND ARTICLES OF WOOD; WOOD CHARCOAL**

| 44.01 - 44.21 | A change to a good of heading 44.01 through 44.21 from any other heading. |

#### CHAPTER 45

**CORK AND ARTICLES OF CORK**

| 45.01 - 45.04 | A change to a good of heading 45.01 through 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 a good of heading 46.01 from any other chapter. |
| 46.02         | A change to a good of heading 46.02 from any other heading. |

### SECTION X

**PULP OF WOOD OR OF OTHER FIBROUS CELLULOSIC MATERIAL; RECOVERED (WASTE AND SCRAP) PAPER OR PAPERBOARD; PAPER AND PAPERBOARD AND ARTICLES THEREOF**

#### CHAPTER 47

**PULP OF WOOD OR OF OTHER FIBROUS CELLULOSIC MATERIAL; RECOVERED (WASTE AND SCRAP) PAPER OR PAPERBOARD**

| 47.01 - 47.07 | A change to a good of heading 47.01 through 47.07 from any other heading. |

#### CHAPTER 48

**PAPER AND PAPERBOARD; ARTICLES OF PAPER PULP, OF PAPER OR OF PAPERBOARD**
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
<tr>
<td>48.01 - 48.07</td>
<td>A change to a good of heading 48.01 through 48.07 from any other heading.</td>
</tr>
<tr>
<td>4808.10</td>
<td>A change to a good of subheading 4808.10 from any other heading.</td>
</tr>
<tr>
<td>4808.20 - 4808.30</td>
<td>A change to a good of subheading 4808.20 through 4808.30 from any other heading, except from heading 48.04.</td>
</tr>
<tr>
<td>4808.90</td>
<td>A change to a good of subheading 4808.90 from any other heading.</td>
</tr>
<tr>
<td>48.09 - 48.14</td>
<td>A change to a good of heading 48.09 through 48.14 from any other heading.</td>
</tr>
<tr>
<td>48.16</td>
<td>A change to a good of heading 48.16 from any other heading, except from heading 48.09.</td>
</tr>
<tr>
<td>48.17</td>
<td>A change to a good of heading 48.17 from any other heading.</td>
</tr>
<tr>
<td>4818.10 - 4818.30</td>
<td>A change to a good of subheading 4818.10 through 4818.30 from any other heading, except from heading 48.03.</td>
</tr>
<tr>
<td>4818.40 - 4818.90</td>
<td>A change to a good of subheading 4818.40 through 4818.90 from any other heading.</td>
</tr>
<tr>
<td>48.19 - 48.22</td>
<td>A change to a good of heading 48.19 through 48.22 from any other heading.</td>
</tr>
<tr>
<td>4823.20</td>
<td>A change to a good of subheading 4823.20 from any other heading, except from subheading 4805.40.</td>
</tr>
<tr>
<td>4823.40 - 4823.90</td>
<td>A change to a good of subheading 4823.40 through 4823.90 from any other heading.</td>
</tr>
</tbody>
</table>

CHAPTER 49
PRINTED BOOKS, NEWSPAPERS, PICTURES AND OTHER PRODUCTS OF THE PRINTING INDUSTRY; MANUSCRIPTS, TYPESCRIPTS AND PLANS

| 49.01 - 49.11             | A change to a good of heading 49.01 through 49.11 from any other heading. |

SECTION XI
TEXTILES AND TEXTILE ARTICLES

Section Note:

The product-specific rules of origin for goods of Section XI are contained in Annex 4-A.

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
FOOTWEAR, GAITERS AND THE LIKE; PARTS OF SUCH ARTICLES
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>64.01</td>
<td>A change to a good of heading 64.01 from any other chapter; or A change to a good of heading 64.01 from any other heading, except from heading 64.02 through 64.05, subheading 6406.10 or assemblies of uppers of subheading 6406.99, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>64.02</td>
<td>A change to a good of heading 64.02 from any other chapter; or A change to a good of heading 64.02 from any other heading, except from heading 64.01, 64.03 through 64.05, subheading 6406.10 or assemblies of uppers of subheading 6406.99, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>64.03</td>
<td>A change to a good of heading 64.03 from any other chapter; or A change to a good of heading 64.03 from any other heading, except from heading 64.01 through 64.02 or 64.04 through 64.05, subheading 6406.10 or assemblies of uppers of subheading 6406.99, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>64.04</td>
<td>A change to a good of heading 64.04 from any other chapter; or A change to a good of heading 64.04 from any other heading, except from heading 64.01 through 64.03 or 64.05, subheading 6406.10 or assemblies of uppers of subheading 6406.99, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 55 per cent under the build-down method.</td>
</tr>
</tbody>
</table>
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>64.05</td>
<td>A change to a good of heading 64.05 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>A change to a good of heading 64.05 from any other heading, except from heading 64.01 through 64.04, subheading 6406.10 or assemblies of uppers of subheading 6406.99, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 45 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>64.06</td>
<td>A change to a good of heading 64.06 from any other chapter; or</td>
</tr>
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<td></td>
<td>No change in tariff classification required for a good of heading 64.06, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 45 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td><strong>CHAPTER 65</strong></td>
<td><strong>HEADGEAR AND PARTS THEREOF</strong></td>
</tr>
<tr>
<td>65.01 - 65.02</td>
<td>A change to a good of heading 65.01 through 65.02 from any other chapter.</td>
</tr>
<tr>
<td>65.04 - 65.07</td>
<td>A change to a good of heading 65.04 through 65.07 from any other heading.</td>
</tr>
<tr>
<td><strong>CHAPTER 66</strong></td>
<td><strong>UMBRELLAS, SUN UMBRELLAS, WALKING-STICKS, SEAT-STICKS, WHIPS, RIDING-CROPS AND PARTS THEREOF</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Chapter Note:</strong></td>
</tr>
<tr>
<td></td>
<td>The product-specific rules of origin for goods of heading 66.01 are contained in Annex 4-A.</td>
</tr>
<tr>
<td>66.02</td>
<td>A change to a good of heading 66.02 from any other heading.</td>
</tr>
<tr>
<td>66.03</td>
<td>A change to a good of heading 66.03 from any other chapter.</td>
</tr>
<tr>
<td><strong>CHAPTER 67</strong></td>
<td><strong>PREPARED FEATHERS AND DOWN AND ARTICLES MADE OF FEATHERS OR OF DOWN; ARTIFICIAL FLOWERS; ARTICLES OF HUMAN HAIR</strong></td>
</tr>
<tr>
<td>67.01</td>
<td>A change to a good of heading 67.01 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 67.01, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method.</td>
</tr>
</tbody>
</table>
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>6702.10</td>
<td>A change to a good of subheading 6702.10 from any other heading; or No change in tariff classification required for a good of subheading 6702.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 67.02.</td>
</tr>
<tr>
<td>6702.90</td>
<td>A change to a good of subheading 6702.90 from any other chapter; or No change in tariff classification required for a good of subheading 6702.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 67.</td>
</tr>
<tr>
<td>67.03 - 67.04</td>
<td>A change to a good of heading 67.03 through 67.04 from any other heading.</td>
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</table>

SECTION XIII
ARTICLES OF STONE, PLASTER, CEMENT, ASBESTOS, MICA OR SIMILAR MATERIALS; CERAMIC PRODUCTS; GLASS AND GLASSWARE

CHAPTER 68
ARTICLES OF STONE, PLASTER, CEMENT, ASBESTOS, MICA OR SIMILAR MATERIALS

| 68.01 - 68.11             | A change to a good of heading 68.01 through 68.11 from any other heading. |
| 6812.80 - 6812.99         | A change to a good of subheading 6812.80 through 6812.99 from any other subheading. |
| 68.13 - 68.15             | A change to a good of heading 68.13 through 68.15 from any other heading. |

CHAPTER 69
CERAMIC PRODUCTS

| 69.01 - 69.14             | A change to a good of heading 69.01 through 69.14 from any other chapter. |

CHAPTER 70
GLASS AND GLASSWARE

Chapter Note:
The product-specific rules of origin for goods of heading 70.19 are contained in Annex 4-A.
### HS Classification (HS2007) vs. Product-Specific Rule of Origin

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>70.01 - 70.04</td>
<td>A change to a good of heading 70.01 through 70.04 from any other heading.</td>
</tr>
</tbody>
</table>
| 70.05                     | A change to a good of heading 70.05 from any other heading, except from heading 70.03 through 70.04; or  
                                    No change in tariff classification required for a good of heading 70.05, provided there is a regional value content of not less than:  
                                      (a) 30 per cent under the build-up method; or  
                                      (b) 40 per cent under the build-down method; or  
                                      (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 70.03 through 70.05. |
| 70.06                     | A change to a good of heading 70.06 from any other heading, except from heading 70.03 through 70.04; or  
                                    No change in tariff classification required for a good of heading 70.06, provided there is a regional value content of not less than:  
                                      (a) 30 per cent under the build-up method; or  
                                      (b) 40 per cent under the build-down method; or  
                                      (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 70.03 through 70.04 and 70.06. |
| 70.07                     | A change to a good of heading 70.07 from any other heading. |
| 70.08                     | A change to a good of heading 70.08 from any other heading, except from heading 70.03 through 70.07; or  
                                    No change in tariff classification required for a good of heading 70.08, provided there is a regional value content of not less than:  
                                      (a) 40 per cent under the build-down method; or  
                                      (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 70.03 through 70.08. |
| 70.09                     | A change to a good of heading 70.09 from any other heading, except from heading 70.07 through 70.08; or  
                                    No change in tariff classification required for a good of heading 70.09, provided there is a regional value content of not less than:  
                                      (a) 30 per cent under the build-up method; or  
                                      (b) 40 per cent under the build-down method; or  
                                      (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 70.07 through 70.09. |
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<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
<tr>
<td>70.10 - 70.11</td>
<td>A change to a good of heading 70.10 through 70.11 from any other heading.</td>
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<td>70.13</td>
<td>A change to a good of heading 70.13 from any other heading, except from heading 70.10.</td>
</tr>
<tr>
<td>70.14 - 70.18</td>
<td>A change to a good of heading 70.14 through 70.18 from any other heading.</td>
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<tr>
<td>70.20</td>
<td>A change to a good of heading 70.20 from any other heading.</td>
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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
NATURAL OR CULTURED PEARLS, PRECIOUS OR SEMI-PRECIOUS STONES, PRECIOUS METALS, METALS CLAD WITH PRECIOUS METAL, AND ARTICLES THEREOF; IMITATION JEWELLERY; COIN

<table>
<thead>
<tr>
<th>Product-Specific Rule of Origin</th>
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</thead>
<tbody>
<tr>
<td>71.01</td>
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<td>7102.10 - 7102.21</td>
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<td>7102.31</td>
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<td>7102.39</td>
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<td>7103.10</td>
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<td>7103.91 - 7103.99</td>
</tr>
<tr>
<td>71.04 - 71.05</td>
</tr>
<tr>
<td>71.06 - 71.08</td>
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<tr>
<td>71.09</td>
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<tr>
<td>71.10 - 71.11</td>
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<td>71.12</td>
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<thead>
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<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
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<td>71.13 - 71.14</td>
<td>A change to a good of heading 71.13 through 71.14 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 71.13 through 71.14, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 45 per cent under the build-down method.</td>
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<tr>
<td>71.15 - 71.16</td>
<td>A change to a good of heading 71.15 through 71.16 from any other heading.</td>
</tr>
<tr>
<td>7117.11</td>
<td>A change to a good of subheading 7117.11 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7117.11, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 71.17.</td>
</tr>
<tr>
<td>7117.19 - 7117.90</td>
<td>A change to a good of subheading 7117.19 through 7117.90 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7117.19 through 7117.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 71.17.</td>
</tr>
<tr>
<td>71.18</td>
<td>A change to a good of heading 71.18 from any other heading.</td>
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</table>

SECTION XV
BASE METALS AND ARTICLES OF BASE METAL

CHAPTER 72
IRON AND STEEL
| 72.01 - 72.05             | A change to a good of heading 72.01 through 72.05 from any other chapter. |
| 72.06                     | A change to a good of heading 72.06 from any other heading. |
| 72.07                     | A change to a good of heading 72.07 from any other heading, except from heading 72.06. |
| 72.08                     | A change to a good of heading 72.08 from any other heading. |
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<thead>
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<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tr>
<td>72.09</td>
<td>A change to a good of heading 72.09 from any other heading, except from heading 72.08 or 72.11.</td>
</tr>
<tr>
<td>72.10</td>
<td>A change to a good of heading 72.10 from any other heading, except from heading 72.08 through 72.09 or 72.11.</td>
</tr>
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<td>72.11</td>
<td>A change to a good of heading 72.11 from any other heading, except from heading 72.08 through 72.09.</td>
</tr>
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<td>7212.10</td>
<td>A change to a good of subheading 7212.10 from any other heading, except from heading 72.08 through 72.11; or No change in tariff classification required for a good of subheading 7212.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>7212.20 - 7212.60</td>
<td>A change to a good of subheading 7212.20 through 7212.60 from any other heading, except from heading 72.08 through 72.11.</td>
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<td>72.13</td>
<td>A change to a good of heading 72.13 from any other heading.</td>
</tr>
<tr>
<td>72.14</td>
<td>A change to a good of heading 72.14 from any other heading, except from heading 72.13.</td>
</tr>
<tr>
<td>72.15</td>
<td>A change to a good of heading 72.15 from any other heading, except from heading 72.13 through 72.14.</td>
</tr>
<tr>
<td>72.16</td>
<td>A change to a good of heading 72.16 from any other heading, except from heading 72.08 through 72.15.</td>
</tr>
<tr>
<td>72.17</td>
<td>A change to a good of heading 72.17 from any other heading, except from heading 72.13 through 72.15.</td>
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<tr>
<td>72.18</td>
<td>A change to a good of heading 72.18 from any other heading.</td>
</tr>
<tr>
<td>72.19</td>
<td>A change to a good of heading 72.19 from any other heading, except from heading 72.20.</td>
</tr>
<tr>
<td>72.20</td>
<td>A change to a good of heading 72.20 from any other heading, except from heading 72.19.</td>
</tr>
<tr>
<td>72.21</td>
<td>A change to a good of heading 72.21 from any other heading.</td>
</tr>
<tr>
<td>72.22</td>
<td>A change to a good of heading 72.22 from any other heading, except from heading 72.21.</td>
</tr>
<tr>
<td>72.23</td>
<td>A change to a good of heading 72.23 from any other heading, except from heading 72.21 through 72.22.</td>
</tr>
<tr>
<td>72.24</td>
<td>A change to a good of heading 72.24 from any other heading.</td>
</tr>
<tr>
<td>72.25</td>
<td>A change to a good of heading 72.25 from any other heading, except from heading 72.26.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
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<tr>
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<td>72.26</td>
<td>A change to a good of heading 72.26 from any other heading, except from heading 72.25.</td>
</tr>
<tr>
<td>72.27</td>
<td>A change to a good of heading 72.27 from any other heading.</td>
</tr>
<tr>
<td>72.28</td>
<td>A change to a good of heading 72.28 from any other heading, except from heading 72.27.</td>
</tr>
<tr>
<td>72.29</td>
<td>A change to a good of heading 72.29 from any other heading, except from heading 72.27 through 72.28.</td>
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**CHAPTER 73**

**ARTICLES OF IRON OR STEEL**

<table>
<thead>
<tr>
<th>73.01 - 73.07</th>
<th>A change to a good of heading 73.01 through 73.07 from any other chapter.</th>
</tr>
</thead>
</table>
| 7308.10        | A change to a good of subheading 7308.10 from any other heading, except from heading 72.16; or

No change in tariff classification required for a good of subheading 7308.10, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method. |

| 7308.20 - 7308.40 | A change to a good of subheading 7308.20 through 7308.40 from any other heading, except from heading 72.16; or

No change in tariff classification required for a good of subheading 7308.20 through 7308.40, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method; or
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 72.16 and 73.08. |

| 7308.90 | A change to a good of subheading 7308.90 from any other heading, except from heading 72.16; or

No change in tariff classification required for a good of subheading 7308.90, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 72.16 and 73.08. |

| 73.09 - 73.12 | A change to a good of heading 73.09 through 73.12 from any other heading. |
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tr>
<td>73.13</td>
<td>A change to a good of heading 73.13 from any other chapter.</td>
</tr>
<tr>
<td>7314.12 - 7314.19</td>
<td>A change to a good of subheading 7314.12 through 7314.19 from any other heading.</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7314.20 through 7314.50, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>7314.20 - 7314.50</td>
<td>A change to a good of subheading 7314.20 through 7314.50 from any other chapter; or</td>
</tr>
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<td></td>
<td>No change in tariff classification required for a good of subheading 7315.11 through 7315.12, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 73.</td>
</tr>
<tr>
<td>7315.11 - 7315.12</td>
<td>A change to a good of subheading 7315.11 through 7315.12 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7315.19, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method.</td>
</tr>
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<td>7315.19</td>
<td>A change to a good of subheading 7315.19 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7315.20 through 7315.81, provided there is a regional value content of not less than:</td>
</tr>
<tr>
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<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
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<td>7315.82</td>
<td>A change to a good of subheading 7315.82 from any other heading; or No change in tariff classification required for a good of subheading 7315.82, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 73.15.</td>
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<tr>
<td>7315.89</td>
<td>A change to a good of subheading 7315.89 from any other chapter; or No change in tariff classification required for a good of subheading 7315.89, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 73.</td>
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<td>7315.90</td>
<td>A change to a good of subheading 7315.90 from any other chapter; or No change in tariff classification required for a good of subheading 7315.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
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<td>73.16</td>
<td>A change to a good of heading 73.16 from any other heading; or No change in tariff classification required for a good of heading 73.16, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 73.16.</td>
</tr>
<tr>
<td>73.17</td>
<td>A change to a good of heading 73.17 from any other chapter.</td>
</tr>
<tr>
<td>73.18 - 73.19</td>
<td>A change to a good of heading 73.18 through 73.19 from any other heading.</td>
</tr>
</tbody>
</table>
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<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 7320.10                     | A change to a good of subheading 7320.10 from any other heading; or  
                             | No change in tariff classification required for a good of subheading 7320.10, provided there is a regional value content of not less than:  
                             | (a) 35 per cent under the build-up method; or  
                             | (b) 45 per cent under the build-down method; or  
                             | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 73.20. |
| 7320.20 - 7320.90           | A change to a good of subheading 7320.20 through 7320.90 from any other heading. |
| 73.21                       | A change to a good of heading 73.21 from any other heading; or  
                             | No change in tariff classification required for a good of heading 73.21, provided there is a regional value content of not less than:  
                             | (a) 40 per cent under the build-up method; or  
                             | (b) 50 per cent under the build-down method. |
| 73.22                       | A change to a good of heading 73.22 from any other heading; or  
                             | No change in tariff classification required for a good of heading 73.22, provided there is a regional value content of not less than:  
                             | (a) 40 per cent under the build-up method; or  
                             | (b) 50 per cent under the build-down method; or  
                             | (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 73.22. |
| 7323.10 - 7323.94           | A change to a good of subheading 7323.10 through 7323.94 from any other heading; or  
                             | No change in tariff classification required for a good of subheading 7323.10 through 7323.94, provided there is a regional value content of not less than:  
                             | (a) 35 per cent under the build-up method; or  
                             | (b) 45 per cent under the build-down method. |
| 7323.99                     | A change to a good of subheading 7323.99 from any other heading; or  
                             | No change in tariff classification required for a good of subheading 7323.99, provided there is a regional value content of not less than 45 per cent under the build-down method. |
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>7324.10</td>
<td>A change to a good of subheading 7324.10 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7324.10, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 40 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>7324.21 - 7324.90</td>
<td>A change to a good of subheading 7324.21 through 7324.90 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 7324.21 through 7324.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 40 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 50 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 73.24.</td>
</tr>
<tr>
<td>73.25 - 73.26</td>
<td>A change to a good of heading 73.25 through 73.26 from any other heading.</td>
</tr>
</tbody>
</table>

CHAPTER 74
COPPER AND ARTICLES THEREOF

<p>| 74.01 - 74.07             | A change to a good of heading 74.01 through 74.07 from any other heading. |
| 7408.11 - 7408.19         | A change to a good of subheading 7408.11 through 7408.19 from any other heading, except from heading 74.07; or |
|                           | No change in tariff classification required for a good of subheading 7408.11 through 7408.19, provided there is a regional value content of not less than 40 per cent under the build-down method. |
| 7408.21                   | A change to a good of subheading 7408.21 from any other heading, except from heading 74.07; or |
|                           | No change in tariff classification required for a good of subheading 7408.21, provided there is a regional value content of not less than: |
|                           | (a) 40 per cent under the build-down method; or |
|                           | (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 74.07 through 74.08. |</p>
<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>7408.22</td>
<td>A change to a good of subheading 7408.22 from any other heading, except from heading 74.07; or No change in tariff classification required for a good of subheading 7408.22, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>7408.29</td>
<td>A change to a good of subheading 7408.29 from any other heading, except from heading 74.07; or No change in tariff classification required for a good of subheading 7408.29, provided there is a regional value content of not less than: (a) 40 per cent under the build-down method; or (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 74.07 through 74.08.</td>
</tr>
<tr>
<td>74.09 - 74.15</td>
<td>A change to a good of heading 74.09 through 74.15 from any other heading.</td>
</tr>
<tr>
<td>7418.11</td>
<td>A change to a good of subheading 7418.11 from any other heading; or No change in tariff classification required for a good of subheading 7418.11, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 74.18.</td>
</tr>
<tr>
<td>7418.19 - 7418.20</td>
<td>A change to a good of subheading 7418.19 through 7418.20 from any other heading; or No change in tariff classification required for a good of subheading 7418.19 through 7418.20, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.18.</td>
</tr>
</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
7419.10 - 7419.91 | A change to a good of subheading 7419.10 through 7419.91 from any other heading; or
No change in tariff classification required for a good of subheading 7419.10 through 7419.91, provided there is a regional value content of not less than:
(a) 40 per cent under the build-up method; or
(b) 50 per cent under the build-down method; or
(c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.19.

7419.99 | A change to a good of subheading 7419.99 from any other heading; or
No change in tariff classification required for a good of subheading 7419.99, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method; or
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 74.19.

### CHAPTER 75  
NICKEL AND ARTICLES THEREOF

75.01 - 75.05 | A change to a good of heading 75.01 through 75.05 from any other heading.

75.06 | A change to a good of heading 75.06 from any other heading; or
No change in tariff classification required for a good of heading 75.06, provided there is a regional value content of not less than:
(a) 40 per cent under the build-down method; or
(b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 75.06.

7507.11 - 7507.20 | A change to a good of subheading 7507.11 through 7507.20 from any other subheading.

7508.10 - 7508.90 | A change to a good of subheading 7508.10 through 7508.90 from any other subheading.

### CHAPTER 76  
ALUMINIUM AND ARTICLES THEREOF

76.01 - 76.04 | A change to a good of heading 76.01 through 76.04 from any other heading.
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>76.05</td>
<td>A change to a good of heading 76.05 from any other heading, except from heading 76.04; or No change in tariff classification required for a good of heading 76.05, provided there is a regional value content of not less than 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>76.06</td>
<td>A change to a good of heading 76.06 from any other heading.</td>
</tr>
<tr>
<td>7607.11 - 7607.19</td>
<td>A change to a good of subheading 7607.11 through 7607.19 from any other heading; or No change in tariff classification required for a good of subheading 7607.11 through 7607.19, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 76.07.</td>
</tr>
<tr>
<td>7607.20</td>
<td>A change to a good of subheading 7607.20 from any other heading; or No change in tariff classification required for a good of subheading 7607.20, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 76.07.</td>
</tr>
<tr>
<td>76.08 - 76.13</td>
<td>A change to a good of heading 76.08 through 76.13 from any other heading.</td>
</tr>
<tr>
<td>76.14</td>
<td>A change to a good of heading 76.14 from any other heading, except from heading 76.04 through 76.05; or No change in tariff classification required for a good of heading 76.14, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------------------</td>
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</table>
| 76.15                     | A change to a good of heading 76.15 from any other heading; or  
No change in tariff classification required for a good of heading 76.15, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 76.15. |
| 7616.10                   | A change to a good of subheading 7616.10 from any other heading. |
| 7616.91                   | A change to a good of subheading 7616.91 from any other subheading; or  
No change in tariff classification required for a good of subheading 7616.91, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of subheading 7616.91. |
| 7616.99                   | A change to a good of subheading 7616.99 from any other subheading; or  
No change in tariff classification required for a good of subheading 7616.99, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method. |

**CHAPTER 78**  
**LEAD AND ARTICLES THEREOF**

| 78.01 - 78.04 | A change to a good of heading 78.01 through 78.04 from any other heading. |
| 78.06         | A change to a good of heading 78.06 from any other heading; or  
No change in tariff classification required for a good of heading 78.06, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 78.06. |

**CHAPTER 79**  
**ZINC AND ARTICLES THEREOF**

| 79.01 - 79.05 | A change to a good of heading 79.01 through 79.05 from any other heading. |
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
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<tbody>
<tr>
<td>79.07</td>
<td>A change to a good of heading 79.07 from any other heading; or No change in tariff classification required for a good of heading 79.07, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 79.07.</td>
</tr>
</tbody>
</table>

**CHAPTER 80**  
**TIN AND ARTICLES THEREOF**

| 80.01 - 80.03 | A change to a good of heading 80.01 through 80.03 from any other heading. |
| 80.07         | A change to a good of heading 80.07 from any other heading; or No change in tariff classification required for a good of heading 80.07, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 80.07. |

**CHAPTER 81**  
**OTHER BASE METALS; CERMETS; ARTICLES THEREOF**

<p>| 8101.10 - 8101.97 | A change to a good of subheading 8101.10 through 8101.97 from any other subheading. |
| 8101.99          | A change to a good of subheading 8101.99 from any other subheading; or No change in tariff classification required for a good of subheading 8101.99, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8101.99. |
| 8102.10 - 8102.99 | A change to a good of subheading 8102.10 through 8102.99 from any other subheading. |
| 8103.20 - 8103.90 | A change to a good of subheading 8103.20 through 8103.90 from any other subheading. |
| 8104.11 - 8104.90 | A change to a good of subheading 8104.11 through 8104.90 from any other subheading. |</p>
<table>
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<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>8105.20 - 8105.90</td>
<td>A change to a good of subheading 8105.20 through 8105.90 from any other subheading.</td>
</tr>
<tr>
<td>81.06</td>
<td>A change to a good of heading 81.06 from any other chapter; or No change in tariff classification required for a good of heading 81.06, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 81.</td>
</tr>
<tr>
<td>8107.20 - 8107.90</td>
<td>A change to a good of subheading 8107.20 through 8107.90 from any other subheading.</td>
</tr>
<tr>
<td>8108.20 - 8108.90</td>
<td>A change to a good of subheading 8108.20 through 8108.90 from any other subheading.</td>
</tr>
<tr>
<td>8109.20 - 8109.90</td>
<td>A change to a good of subheading 8109.20 through 8109.90 from any other subheading.</td>
</tr>
<tr>
<td>8110.10 - 8110.90</td>
<td>A change to a good of subheading 8110.10 through 8110.90 from any other subheading.</td>
</tr>
<tr>
<td>81.11</td>
<td>A change to a good of heading 81.11 from any other chapter; or No change in tariff classification required for a good of heading 81.11, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 81.</td>
</tr>
<tr>
<td>8112.12 - 8112.59</td>
<td>A change to a good of subheading 8112.12 through 8112.59 from any other subheading.</td>
</tr>
<tr>
<td>8112.92</td>
<td>A change to a good of subheading 8112.92 from any other subheading; or No change in tariff classification required for a good of subheading 8112.92, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8112.92.</td>
</tr>
</tbody>
</table>
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 8112.99                   | A change to a good of subheading 8112.99 from any other subheading; or  
No change in tariff classification required for a good of subheading 8112.99, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8112.99. |
| 81.13                     | A change to a good of heading 81.13 from any other heading; or  
No change in tariff classification required for a good of heading 81.13, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 81.13. |

**CHAPTER 82**  
TOOLS, IMPLEMENTS, CUTLERY, SPOONS AND FORKS, OF BASE METAL; PARTS THEREOF OF BASE METAL

**Chapter Note:**  
Handles of base metal used in the production of a good of heading 82.01 through 82.10 shall be disregarded in determining whether the good is originating.

<table>
<thead>
<tr>
<th>82.01 - 82.04</th>
<th>A change to a good of heading 82.01 through 82.04 from any other chapter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>8205.10 - 8205.80</td>
<td>A change to a good of subheading 8205.10 through 8205.80 from any other chapter.</td>
</tr>
</tbody>
</table>
| 8205.90 | A change to a good of subheading 8205.90 from any other chapter; or  
No change in tariff classification required for a good of subheading 8205.90, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 82. |
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>82.06</td>
<td>A change to a good of heading 82.06 from any other chapter; or No change in tariff classification required for a good of heading 82.06, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of chapter 82.</td>
</tr>
<tr>
<td>8207.13 - 8207.40</td>
<td>A change to a good of subheading 8207.13 through 8207.40 from any other heading; or No change in tariff classification required for a good of subheading 8207.13 through 8207.40, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 82.07.</td>
</tr>
<tr>
<td>8207.50</td>
<td>A change to a good of subheading 8207.50 from any other heading; or No change in tariff classification required for a good of subheading 8207.50, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 82.07.</td>
</tr>
<tr>
<td>8207.60 - 8207.90</td>
<td>A change to a good of subheading 8207.60 through 8207.90 from any other heading; or No change in tariff classification required for a good of subheading 8207.60 through 8207.90, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 82.07.</td>
</tr>
<tr>
<td>82.08 - 82.10</td>
<td>A change to a good of heading 82.08 through 82.10 from any other chapter.</td>
</tr>
</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
8211.10 | A change to a good of subheading 8211.10 from any other chapter; or  
No change in tariff classification required for a good of subheading 8211.10, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method.
8211.91 - 8211.93 | A change to a good of subheading 8211.91 through 8211.93 from any other chapter; or  
No change in tariff classification required for a good of subheading 8211.91 through 8211.93, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of chapter 82.
8211.94 - 8211.95 | A change to a good of subheading 8211.94 through 8211.95 from any other chapter.
82.12 | A change to a good of heading 82.12 from any other chapter; or  
No change in tariff classification required for a good of heading 82.12, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 82.
82.13 | A change to a good of heading 82.13 from any other chapter.
8214.10 | A change to a good of subheading 8214.10 from any other chapter.  
8214.20 | A change to a good of subheading 8214.20 from any other chapter; or  
No change in tariff classification required for a good of subheading 8214.20, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of chapter 82.
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
8214.90 | A change to a good of subheading 8214.90 from any other chapter; or
No change in tariff classification required for a good of subheading 8214.90, provided there is a regional value content of not less than:
(a) 40 per cent under the build-up method; or
(b) 50 per cent under the build-down method; or
(c) 60 per cent under the focused value method taking into account only the non-originating materials of chapter 82.

8215.10 - 8215.20 | A change to a good of subheading 8215.10 through 8215.20 from any other chapter; or
No change in tariff classification required for a good of subheading 8215.10 through 8215.20, provided there is a regional value content of not less than:
(a) 40 per cent under the build-up method; or
(b) 50 per cent under the build-down method.

8215.91 - 8215.99 | A change to a good of subheading 8215.91 through 8215.99 from any other chapter.

### CHAPTER 83
**MISCELLANEOUS ARTICLES OF BASE METAL**

8301.10 - 8301.50 | A change to a good of subheading 8301.10 through 8301.50 from any other subheading.

8301.60 - 8301.70 | A change to a good of subheading 8301.60 through 8301.70 from any other heading.

83.02 - 83.04 | A change to a good of heading 83.02 through 83.04 from any other heading.

8305.10 | A change to a good of subheading 8305.10 from any other subheading.

8305.20 - 8305.90 | A change to a good of subheading 8305.20 through 8305.90 from any other heading.

83.06 - 83.07 | A change to a good of heading 83.06 through 83.07 from any other heading.

8308.10 - 8308.20 | A change to a good of subheading 8308.10 through 8308.20 from any other heading.
### HS Classification (HS2007) | Product-Specific Rule of Origin
---|---
8308.90 | A change to a good of subheading 8308.90 from any other heading; or
No change in tariff classification required for a good of subheading 8308.90, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method.

83.09 - 83.11 | A change to a good of heading 83.09 through 83.11 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
**NUCLEAR REACTORS, BOILERS, MACHINERY AND MECHANICAL APPLIANCES; PARTS THEREOF**

<table>
<thead>
<tr>
<th>HS Classification</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>8401.10 - 8401.30</td>
<td>A change to a good of subheading 8401.10 through 8401.30 from any other subheading.</td>
</tr>
<tr>
<td>8401.40</td>
<td>A change to a good of subheading 8401.40 from any other heading.</td>
</tr>
</tbody>
</table>
| 8402.11 - 8402.20 | A change to a good of subheading 8402.11 through 8402.20 from any other heading; or
No change in tariff classification required for a good of subheading 8402.11 through 8402.20, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method; or
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.02. |
| 8402.90           | A change to a good of subheading 8402.90 from any other heading; or
No change in tariff classification required for a good of subheading 8402.90, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.02. |
| 8403.10           | A change to a good of subheading 8403.10 from any other subheading. |
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

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<tbody>
<tr>
<td>8403.90</td>
<td>A change to a good of subheading 8403.90 from any other heading.</td>
</tr>
<tr>
<td>8404.10 - 8404.20</td>
<td>A change to a good of subheading 8404.10 through 8404.20 from any other subheading.</td>
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<tr>
<td>8404.90</td>
<td>A change to a good of subheading 8404.90 from any other heading.</td>
</tr>
<tr>
<td>8405.10</td>
<td>A change to a good of subheading 8405.10 from any other subheading.</td>
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<tr>
<td>8405.90</td>
<td>A change to a good of subheading 8405.90 from any other heading.</td>
</tr>
<tr>
<td>8406.10 - 8406.82</td>
<td>A change to a good of subheading 8406.10 through 8406.82 from any other subheading.</td>
</tr>
<tr>
<td>8406.90</td>
<td>A change to a good of subheading 8406.90 from any other heading; or No change in tariff classification required for a good of subheading 8406.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.06.</td>
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<tr>
<td>8407.10 - 8407.29</td>
<td>A change to a good of subheading 8407.10 through 8407.29 from any other heading.</td>
</tr>
<tr>
<td>8407.31 - 8407.32</td>
<td>A change to a good of subheading 8407.31 through 8407.32 from any other heading; or No change in tariff classification required for a good of subheading 8407.31 through 8407.32, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 35 per cent under the net cost method; or (c) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>8407.33† - 8407.34†</td>
<td>No change in tariff classification required for a good of subheading 8407.33 through 8407.34, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 45 per cent under the net cost method; or (c) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>8407.90</td>
<td>A change to a good of subheading 8407.90 from any other heading.</td>
</tr>
<tr>
<td>8408.10</td>
<td>A change to a good of subheading 8408.10 from any other heading.</td>
</tr>
</tbody>
</table>

† See also Appendix 1 (Provisions Related to the Product-Specific Rules of Origin for Certain Vehicles and Parts of Vehicles)
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<tbody>
<tr>
<td>8408.20†</td>
<td>No change in tariff classification required for a good of subheading 8408.20, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 45 per cent under the net cost method; or (c) 55 per cent under the build-down method.</td>
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<tr>
<td>8408.90</td>
<td>A change to a good of subheading 8408.90 from any other heading.</td>
</tr>
<tr>
<td>8409.10</td>
<td>A change to a good of subheading 8409.10 from any other heading; or No change in tariff classification required for a good of subheading 8409.10, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.09.</td>
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<tr>
<td>8409.91 - 8409.99</td>
<td>A change to a good of subheading 8409.91 through 8409.99 from any other heading; or No change in tariff classification required for a good of subheading 8409.91 through 8409.99, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 35 per cent under the net cost method; or (c) 45 per cent under the build-down method.</td>
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<td>8410.11</td>
<td>A change to a good of subheading 8410.11 from any other subheading, except from subheading 8410.12.</td>
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<tr>
<td>8410.12</td>
<td>A change to a good of subheading 8410.12 from any other subheading, except from subheading 8410.11 or 8410.13.</td>
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<tr>
<td>8410.13</td>
<td>A change to a good of subheading 8410.13 from any other subheading, except from subheading 8410.12.</td>
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<td>8410.90</td>
<td>A change to a good of subheading 8410.90 from any other heading; or No change in tariff classification required for a good of subheading 8410.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.10.</td>
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<td>8411.11 - 8411.82</td>
<td>A change to a good of subheading 8411.11 through 8411.82 from any other subheading.</td>
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<td>8411.91</td>
<td>A change to a good of subheading 8411.91 from any other heading.</td>
</tr>
<tr>
<td>8411.99</td>
<td>A change to a good of subheading 8411.99 from any other heading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8411.99, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.11.</td>
</tr>
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<td>8412.10 - 8412.80</td>
<td>A change to a good of subheading 8412.10 through 8412.80 from any other subheading.</td>
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<tr>
<td>8412.90</td>
<td>A change to a good of subheading 8412.90 from any other heading.</td>
</tr>
<tr>
<td>8413.11 - 8413.82</td>
<td>A change to a good of subheading 8413.11 through 8413.82 from any other subheading.</td>
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<tr>
<td>8413.91 - 8413.92</td>
<td>A change to a good of subheading 8413.91 through 8413.92 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 8413.91 through 8413.92, provided there is a regional value content of not less than:</td>
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<td>(a) 30 per cent under the build-up method; or</td>
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<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.13.</td>
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<tr>
<td>8414.10</td>
<td>A change to a good of subheading 8414.10 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 8414.10, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.14.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
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<td>8414.20</td>
<td>A change to a good of subheading 8414.20 from any other heading; or No change in tariff classification required for a good of subheading 8414.20, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.14.</td>
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<tr>
<td>8414.30</td>
<td>A change to a good of subheading 8414.30 from any other heading; or No change in tariff classification required for a good of subheading 8414.30, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.14.</td>
</tr>
<tr>
<td>8414.40</td>
<td>A change to a good of subheading 8414.40 from any other heading; or No change in tariff classification required for a good of subheading 8414.40, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.14.</td>
</tr>
<tr>
<td>8414.51 - 8414.59</td>
<td>A change to a good of subheading 8414.51 through 8414.59 from any other heading; or No change in tariff classification required for a good of subheading 8414.51 through 8414.59, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
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<td>8414.60</td>
<td>A change to a good of subheading 8414.60 from any other heading; or No change in tariff classification required for a good of subheading 8414.60, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.14.</td>
</tr>
<tr>
<td>8414.80 - 8414.90</td>
<td>A change to a good of subheading 8414.80 through 8414.90 from any other heading; or No change in tariff classification required for a good of subheading 8414.80 through 8414.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.14.</td>
</tr>
<tr>
<td>8415.10 - 8415.83</td>
<td>A change to a good of subheading 8415.10 through 8415.83 from any other subheading.</td>
</tr>
<tr>
<td>8415.90</td>
<td>A change to a good of subheading 8415.90 from any other heading; or No change in tariff classification required for a good of subheading 8415.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.15.</td>
</tr>
<tr>
<td>8416.10 - 8416.30</td>
<td>A change to a good of subheading 8416.10 through 8416.30 from any other subheading.</td>
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<tr>
<td>8416.90</td>
<td>A change to a good of subheading 8416.90 from any other heading.</td>
</tr>
<tr>
<td>8417.10 - 8417.80</td>
<td>A change to a good of subheading 8417.10 through 8417.80 from any other subheading.</td>
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<tr>
<td>8417.90</td>
<td>A change to a good of subheading 8417.90 from any other heading.</td>
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</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
8418.10 | A change to a good of subheading 8418.10 from any other heading; or

A change to a good of subheading 8418.10 from any other subheading, except from:
(a) subheading 8418.21 or 8418.91,
(b) door assemblies of subheading 8418.99 incorporating two or more of the following:
   (i) inner panel,
   (ii) outer panel,
   (iii) insulation,
   (iv) hinges,
   (v) handles, or
(c) assemblies of 8418.69 incorporating two or more of the following:
   (i) compressor,
   (ii) condenser,
   (iii) evaporator,
   (iv) connecting tubing; or

No change in tariff classification required for a good of subheading 8418.10, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method.
### HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
8418.21 | A change to a good of subheading 8418.21 from any other heading; or
A change to a good of subheading 8418.21 from any other subheading, except from:
(a) subheading 8418.10 or 8418.91,
(b) door assemblies of subheading 8418.99 incorporating two or more of the following:
(i) inner panel,
(ii) outer panel,
(iii) insulation,
(iv) hinges,
(v) handles, or
(c) assemblies of 8418.69 incorporating two or more of the following:
(i) compressor,
(ii) condenser,
(iii) evaporator,
(iv) connecting tubing; or
No change in tariff classification required for a good of subheading 8418.21, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method.

8418.29 - 8418.40 | A change to a good of subheading 8418.29 through 8418.40 from any other heading; or
No change in tariff classification required for a good of subheading 8418.29 through 8418.40, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 45 per cent under the build-down method.

8418.50 - 8418.69 | A change to a good of subheading 8418.50 through 8418.69 from any other heading; or
No change in tariff classification required for a good of subheading 8418.50 through 8418.69, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method.
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<td>A change to a good of subheading 8418.91 through 8418.99 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 8418.91 through 8418.99, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.18.</td>
</tr>
<tr>
<td>8419.11 - 8419.19</td>
<td>A change to a good of subheading 8419.11 through 8419.19 from any other heading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8419.11 through 8419.19, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 45 per cent under the build-down method.</td>
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<td>8419.20 - 8419.89</td>
<td>A change to a good of subheading 8419.20 through 8419.89 from any other subheading.</td>
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<tr>
<td>8419.90</td>
<td>A change to a good of subheading 8419.90 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 8419.90, provided there is a regional value content of not less than:</td>
</tr>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.19.</td>
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<td>A change to a good of subheading 8420.10 from any other subheading.</td>
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<tr>
<td>8420.91 - 8420.99</td>
<td>A change to a good of subheading 8420.91 through 8420.99 from any other heading.</td>
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<tr>
<td>8421.11 - 8421.39</td>
<td>A change to a good of subheading 8421.11 through 8421.39 from any other subheading.</td>
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| 8421.91 - 8421.99          | A change to a good of subheading 8421.91 through 8421.99 from any other heading; or  
                            | No change in tariff classification required for a good of subheading 8421.91 through 8421.99, provided there is a regional value content of not less than:  
                            | (a) 30 per cent under the build-up method; or  
                            | (b) 40 per cent under the build-down method; or  
                            | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.21. |
| 8422.11                    | A change to a good of subheading 8422.11 from any other heading; or  
                            | No change in tariff classification required for a good of subheading 8422.11, provided there is a regional value content of not less than:  
                            | (a) 40 per cent under the build-up method; or  
                            | (b) 50 per cent under the build-down method. |
| 8422.19                    | A change to a good of subheading 8422.19 from any other heading; or  
                            | No change in tariff classification required for a good of subheading 8422.19, provided there is a regional value content of not less than:  
                            | (a) 40 per cent under the build-up method; or  
                            | (b) 50 per cent under the build-down method; or  
                            | (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 84.22. |
| 8422.20 - 8422.90          | A change to a good of subheading 8422.20 through 8422.90 from any other heading; or  
                            | No change in tariff classification required for a good of subheading 8422.20 through 8422.90, provided there is a regional value content of not less than:  
                            | (a) 30 per cent under the build-up method; or  
                            | (b) 40 per cent under the build-down method; or  
                            | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.22. |
| 8423.10 - 8423.89          | A change to a good of subheading 8423.10 through 8423.89 from any other subheading. |
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<td>A change to a good of subheading 8423.90 from any other heading; or No change in tariff classification required for a good of subheading 8423.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.23.</td>
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<td>A change to a good of subheading 8424.10 through 8424.89 from any other subheading.</td>
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<td>8424.90</td>
<td>A change to a good of subheading 8424.90 from any other heading; or No change in tariff classification required for a good of subheading 8424.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.24.</td>
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<td>A change to a good of heading 84.25 through 84.30 from any other heading.</td>
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<tr>
<td>84.31</td>
<td>A change to a good of heading 84.31 from any other heading; or No change in tariff classification required for a good of heading 84.31, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.31.</td>
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<td>8432.10 - 8432.80</td>
<td>A change to a good of subheading 8432.10 through 8432.80 from any other subheading.</td>
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<td>8432.90</td>
<td>A change to a good of subheading 8432.90 from any other heading.</td>
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<tr>
<td>8433.11 - 8433.60</td>
<td>A change to a good of subheading 8433.11 through 8433.60 from any other subheading.</td>
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<td>8433.90</td>
<td>A change to a good of subheading 8433.90 from any other heading.</td>
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<td>8434.10 - 8434.20</td>
<td>A change to a good of subheading 8434.10 through 8434.20 from any other subheading.</td>
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<td>8434.90</td>
<td>A change to a good of subheading 8434.90 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 8434.90, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.34.</td>
</tr>
<tr>
<td>8435.10</td>
<td>A change to a good of subheading 8435.10 from any other subheading.</td>
</tr>
<tr>
<td>8435.90</td>
<td>A change to a good of subheading 8435.90 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8435.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.35.</td>
</tr>
<tr>
<td>8436.10 - 8436.80</td>
<td>A change to a good of subheading 8436.10 through 8436.80 from any other subheading.</td>
</tr>
<tr>
<td>8436.91 - 8436.99</td>
<td>A change to a good of subheading 8436.91 through 8436.99 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8436.91 through 8436.99, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.36.</td>
</tr>
<tr>
<td>8437.10 - 8437.80</td>
<td>A change to a good of subheading 8437.10 through 8437.80 from any other subheading.</td>
</tr>
<tr>
<td>8437.90</td>
<td>A change to a good of subheading 8437.90 from any other heading.</td>
</tr>
<tr>
<td>8438.10 - 8438.80</td>
<td>A change to a good of subheading 8438.10 through 8438.80 from any other subheading.</td>
</tr>
</tbody>
</table>
## HS Classification (HS2007) | Product-Specific Rule of Origin

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>8438.90</td>
<td>A change to a good of subheading 8438.90 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8438.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.38.</td>
</tr>
<tr>
<td>8439.10 - 8439.30</td>
<td>A change to a good of subheading 8439.10 through 8439.30 from any other subheading.</td>
</tr>
<tr>
<td>8439.91 - 8439.99</td>
<td>A change to a good of subheading 8439.91 through 8439.99 from any other heading.</td>
</tr>
<tr>
<td>8440.10</td>
<td>A change to a good of subheading 8440.10 from any other subheading.</td>
</tr>
<tr>
<td>8440.90</td>
<td>A change to a good of subheading 8440.90 from any other heading.</td>
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<tr>
<td>8441.10 - 8441.80</td>
<td>A change to a good of subheading 8441.10 through 8441.80 from any other subheading.</td>
</tr>
<tr>
<td>8441.90</td>
<td>A change to a good of subheading 8441.90 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8441.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.41.</td>
</tr>
<tr>
<td>8442.30</td>
<td>A change to a good of subheading 8442.30 from any other subheading.</td>
</tr>
<tr>
<td>8442.40 - 8442.50</td>
<td>A change to a good of subheading 8442.40 through 8442.50 from any other heading.</td>
</tr>
<tr>
<td>8443.11 - 8443.14</td>
<td>A change to a good of subheading 8443.11 through 8443.14 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8443.11 through 8443.14, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.43.</td>
</tr>
</tbody>
</table>
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<th>HS Classification (HS2007)</th>
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<tr>
<td>8443.15 - 8443.31</td>
<td>A change to a good of subheading 8443.15 through 8443.31 from any other subheading.</td>
</tr>
</tbody>
</table>
| 8443.32                   | A change to a good of subheading 8443.32 from any other subheading; or  
|                           | No change in tariff classification required for a good of subheading 8443.32, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8443.32. |
| 8443.39                   | A change to a good of subheading 8443.39 from any other subheading. |
| 8443.91                   | A change to a good of subheading 8443.91 from any other subheading; or  
|                           | No change in tariff classification required for a good of subheading 8443.91, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8443.91. |
| 8443.99                   | A change to a good of subheading 8443.99 from any other subheading; or  
|                           | No change in tariff classification required for a good of subheading 8443.99, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8443.99. |
| 84.44                     | A change to a good of heading 84.44 from any other heading. |
| 84.45                     | A change to a good of heading 84.45 from any other heading; or  
|                           | No change in tariff classification required for a good of heading 84.45, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.45.
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<tr>
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<tbody>
<tr>
<td>8446.10</td>
<td>A change to a good of subheading 8446.10 from any other heading; or No change in tariff classification required for a good of subheading 8446.10, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.46.</td>
</tr>
<tr>
<td>8446.21 - 8446.30</td>
<td>A change to a good of subheading 8446.21 through 8446.30 from any other heading; or No change in tariff classification required for a good of subheading 8446.21 through 8446.30, provided there is a regional value content of not less than: (a) 40 per cent under the build-down method; or (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.46.</td>
</tr>
<tr>
<td>8447.11 - 8447.12</td>
<td>A change to a good of subheading 8447.11 through 8447.12 from any other heading; or No change in tariff classification required for a good of subheading 8447.11 through 8447.12, provided there is a regional value content of not less than: (a) 40 per cent under the build-down method; or (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.47.</td>
</tr>
<tr>
<td>8447.20</td>
<td>A change to a good of subheading 8447.20 from any other heading; or No change in tariff classification required for a good of subheading 8447.20, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.47.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
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</table>
| 8447.90                   | A change to a good of subheading 8447.90 from any other heading; or No change in tariff classification required for a good of subheading 8447.90, provided there is a regional value content of not less than:  
  (a) 40 per cent under the build-down method; or  
  (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.47. |
| 8448.11 - 8448.19         | A change to a good of subheading 8448.11 through 8448.19 from any other subheading. |
| 8448.20 - 8448.59         | A change to a good of subheading 8448.20 through 8448.59 from any other heading; or No change in tariff classification required for a good of subheading 8448.20 through 8448.59, provided there is a regional value content of not less than:  
  (a) 40 per cent under the build-down method; or  
  (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.48. |
| 84.49                     | A change to a good of heading 84.49 from any other heading; or No change in tariff classification required for a good of heading 84.49, provided there is a regional value content of not less than:  
  (a) 40 per cent under the build-down method; or  
  (b) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.49. |
| 8450.11 - 8450.19         | A change to a good of subheading 8450.11 through 8450.19 from any other heading, except from control panels of subheading 8537.10; or No change in tariff classification required for a good of subheading 8450.11 through 8450.19, provided there is a regional value content of not less than:  
  (a) 35 per cent under the build-up method; or  
  (b) 45 per cent under the build-down method. |
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<tr>
<th>HS Classification (HS2007)</th>
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<tbody>
<tr>
<td>8450.20</td>
<td>A change to a good of subheading 8450.20 from any other heading, except from control panels of subheading 8537.10; or No change in tariff classification required for a good of subheading 8450.20, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of control panels of subheading 8537.10 and heading 84.50.</td>
</tr>
<tr>
<td>8450.90</td>
<td>A change to a good of subheading 8450.90 from any other heading; or No change in tariff classification required for a good of subheading 8450.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.50.</td>
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<tr>
<td>8451.10 - 8451.80</td>
<td>A change to a good of subheading 8451.10 through 8451.80 from any other subheading.</td>
</tr>
<tr>
<td>8451.90</td>
<td>A change to a good of subheading 8451.90 from any other heading; or No change in tariff classification required for a good of subheading 8451.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.51.</td>
</tr>
<tr>
<td>8452.10 - 8452.29</td>
<td>A change to a good of subheading 8452.10 through 8452.29 from any other subheading.</td>
</tr>
<tr>
<td>8452.30</td>
<td>A change to a good of subheading 8452.30 from any other heading.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------------------</td>
</tr>
</tbody>
</table>
| 8452.40 - 8452.90        | A change to a good of subheading 8452.40 through 8452.90 from any other heading; or  
|                           | No change in tariff classification required for a good of subheading 8452.40 through 8452.90, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.52. |
| 8453.10 - 8453.80        | A change to a good of subheading 8453.10 through 8453.80 from any other subheading. |
| 8453.90                  | A change to a good of subheading 8453.90 from any other heading. |
| 8454.10 - 8454.30        | A change to a good of subheading 8454.10 through 8454.30 from any other subheading. |
| 8454.90                  | A change to a good of subheading 8454.90 from any other heading. |
| 8455.10 - 8455.22        | A change to a good of subheading 8455.10 through 8455.22 from any other subheading. |
| 8455.30 - 8455.90        | A change to a good of subheading 8455.30 through 8455.90 from any other heading. |
| 84.56                    | A change to a good of heading 84.56 from any other heading, except from heading 84.66; or  
|                           | No change in tariff classification required for a good of heading 84.56, provided there is a regional value content of not less than:  
|                           | (a) 35 per cent under the build-up method; or  
|                           | (b) 45 per cent under the build-down method; or  
|                           | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.56 and 84.66. |
| 84.57                    | A change to a good of heading 84.57 from any other heading, except from heading 84.66; or  
|                           | No change in tariff classification required for a good of heading 84.57, provided there is a regional value content of not less than:  
|                           | (a) 35 per cent under the build-up method; or  
|                           | (b) 45 per cent under the build-down method; or  
<p>|                           | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.57 and 84.66. |</p>
<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>84.58</td>
<td>A change to a good of heading 84.58 from any other heading, except from heading 84.66; or No change in tariff classification required for a good of heading 84.58, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.58 and 84.66.</td>
</tr>
<tr>
<td>84.59</td>
<td>A change to a good of heading 84.59 from any other heading, except from heading 84.66; or No change in tariff classification required for a good of heading 84.59, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.59 and 84.66.</td>
</tr>
<tr>
<td>84.60</td>
<td>A change to a good of heading 84.60 from any other heading, except from heading 84.66; or No change in tariff classification required for a good of heading 84.60, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.60 and 84.66.</td>
</tr>
<tr>
<td>84.61</td>
<td>A change to a good of heading 84.61 from any other heading, except from heading 84.66; or No change in tariff classification required for a good of heading 84.61, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.61 and 84.66.</td>
</tr>
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</table>
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</table>
| 84.62                     | A change to a good of heading 84.62 from any other heading, except from heading 84.66; or  
No change in tariff classification required for a good of heading 84.62, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.62 and 84.66. |
| 84.63                     | A change to a good of heading 84.63 from any other heading, except from heading 84.66; or  
No change in tariff classification required for a good of heading 84.63, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.63 and 84.66. |
| 84.64 - 84.65             | A change to a good of heading 84.64 through 84.65 from any other heading. |
| 84.66                     | A change to a good of heading 84.66 from any other heading; or  
No change in tariff classification required for a good of heading 84.66, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.66. |
| 8467.11 - 8467.89         | A change to a good of subheading 8467.11 through 8467.89 from any other subheading. |
| 8467.91                   | A change to a good of subheading 8467.91 from any other heading. |
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

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<tbody>
<tr>
<td>8467.92 - 8467.99</td>
<td>A change to a good of subheading 8467.92 through 8467.99 from any other heading; or No change in tariff classification required for a good of subheading 8467.92 through 8467.99, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.67.</td>
</tr>
<tr>
<td>8468.10 - 8468.80</td>
<td>A change to a good of subheading 8468.10 through 8468.80 from any other subheading.</td>
</tr>
<tr>
<td>8468.90</td>
<td>A change to a good of subheading 8468.90 from any other heading.</td>
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<tr>
<td>84.69 - 84.70</td>
<td>A change to a good of heading 84.69 through 84.70 from any other heading.</td>
</tr>
<tr>
<td>8471.30 - 8471.90</td>
<td>A change to a good of subheading 8471.30 through 8471.90 from any other subheading.</td>
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<tr>
<td>84.72</td>
<td>A change to a good of heading 84.72 from any other heading.</td>
</tr>
<tr>
<td>84.73</td>
<td>A change to a good of heading 84.73 from any other heading; or No change in tariff classification required for a good of heading 84.73, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.73.</td>
</tr>
<tr>
<td>8474.10 - 8474.80</td>
<td>A change to a good of subheading 8474.10 through 8474.80 from any other subheading.</td>
</tr>
<tr>
<td>8474.90</td>
<td>A change to a good of subheading 8474.90 from any other heading; or No change in tariff classification required for a good of subheading 8474.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.74.</td>
</tr>
<tr>
<td>8475.10 - 8475.29</td>
<td>A change to a good of subheading 8475.10 through 8475.29 from any other subheading.</td>
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<td>8475.90</td>
<td>A change to a good of subheading 8475.90 from any other heading.</td>
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<tr>
<td>8476.21 - 8476.89</td>
<td>A change to a good of subheading 8476.21 through 8476.89 from any other subheading.</td>
</tr>
<tr>
<td>8476.90</td>
<td>A change to a good of subheading 8476.90 from any other heading; or No change in tariff classification required for a good of subheading 8476.90, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.76.</td>
</tr>
<tr>
<td>8477.10</td>
<td>A change to a good of subheading 8477.10 from any other heading; or No change in tariff classification required for a good of subheading 8477.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.77.</td>
</tr>
<tr>
<td>8477.20</td>
<td>A change to a good of subheading 8477.20 from any other heading; or No change in tariff classification required for a good of subheading 8477.20, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.77.</td>
</tr>
<tr>
<td>8477.30 - 8477.90</td>
<td>A change to a good of subheading 8477.30 through 8477.90 from any other heading; or No change in tariff classification required for a good of subheading 8477.30 through 8477.90, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.77.</td>
</tr>
<tr>
<td>8478.10</td>
<td>A change to a good of subheading 8478.10 from any other subheading.</td>
</tr>
</tbody>
</table>
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<tbody>
<tr>
<td>8478.90</td>
<td>A change to a good of subheading 8478.90 from any other heading.</td>
</tr>
<tr>
<td>8479.10 - 8479.89</td>
<td>A change to a good of subheading 8479.10 through 8479.89 from any other subheading.</td>
</tr>
<tr>
<td>8479.90</td>
<td>A change to a good of subheading 8479.90 from any other heading; or No change in tariff classification required for a good of subheading 8479.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.79.</td>
</tr>
<tr>
<td>84.80</td>
<td>A change to a good of heading 84.80 from any other heading.</td>
</tr>
<tr>
<td>8481.10 - 8481.80</td>
<td>A change to a good of subheading 8481.10 through 8481.80 from any other heading; or No change in tariff classification required for a good of subheading 8481.10 through 8481.80, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.81.</td>
</tr>
<tr>
<td>8481.90</td>
<td>A change to a good of subheading 8481.90 from any other heading; or No change in tariff classification required for a good of subheading 8481.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.81.</td>
</tr>
<tr>
<td>8482.10</td>
<td>A change to a good of subheading 8482.10 from any other subheading, except from inner or outer rings or races of subheading 8482.99; or No change in tariff classification required for a good of subheading 8482.10, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method.</td>
</tr>
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<tbody>
<tr>
<td>8482.20 - 8482.80</td>
<td>A change to a good of subheading 8482.20 through 8482.80 from any other subheading, except from inner or outer rings or races of subheading 8482.99; or No change in tariff classification required for a good of subheading 8482.20 through 8482.80, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>8482.91 - 8482.99</td>
<td>A change to a good of subheading 8482.91 through 8482.99 from any other heading.</td>
</tr>
<tr>
<td>8483.10</td>
<td>A change to a good of subheading 8483.10 from any other subheading.</td>
</tr>
<tr>
<td>8483.20</td>
<td>A change to a good of subheading 8483.20 from any other subheading, except from subheading 8482.10 through 8482.80; or No change in tariff classification required for a good of subheading 8483.20, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>8483.30</td>
<td>A change to a good of subheading 8483.30 from any other heading; or No change in tariff classification required for a good of subheading 8483.30, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>8483.40 - 8483.50</td>
<td>A change to a good of subheading 8483.40 through 8483.50 from any other heading; or No change in tariff classification required for a good of subheading 8483.40 through 8483.50, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 84.83.</td>
</tr>
<tr>
<td>8483.60</td>
<td>A change to a good of subheading 8483.60 from any other subheading.</td>
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</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin

| 8483.90  | A change to a good of subheading 8483.90 from any other heading; or
|          | No change in tariff classification required for a good of subheading 8483.90, provided there is a regional value content of not less than:
|          | (a) 30 per cent under the build-up method; or
|          | (b) 40 per cent under the build-down method; or
|          | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.83. |
| 8484.10  | A change to a good of subheading 8484.10 from any other heading; or
|          | No change in tariff classification required for a good of subheading 8484.10, provided there is a regional value content of not less than:
|          | (a) 35 per cent under the build-up method; or
|          | (b) 45 per cent under the build-down method; or
|          | (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 84.84. |
| 8484.20  | A change to a good of subheading 8484.20 from any other heading; or
|          | No change in tariff classification required for a good of subheading 8484.20, provided there is a regional value content of not less than:
|          | (a) 30 per cent under the build-up method; or
|          | (b) 40 per cent under the build-down method; or
|          | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 84.84. |
| 8484.90  | A change to a good of subheading 8484.90 from any other heading; or
|          | No change in tariff classification required for a good of subheading 8484.90, provided there is a regional value content of not less than:
|          | (a) 35 per cent under the build-up method; or
|          | (b) 45 per cent under the build-down method; or
|          | (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 84.84. |
### HS Classification (HS2007) | Product-Specific Rule of Origin

| 8486.10 | A change to a good of subheading 8486.10 from any other subheading; or  
No change in tariff classification required for a good of subheading 8486.10, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8486.10. |
| 8486.20 | A change to a good of subheading 8486.20 from any other subheading; or  
No change in tariff classification required for a good of subheading 8486.20, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8486.20. |
| 8486.30 | A change to a good of subheading 8486.30 from any other subheading; or  
No change in tariff classification required for a good of subheading 8486.30, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8486.30. |
| 8486.40 | A change to a good of subheading 8486.40 from any other subheading; or  
No change in tariff classification required for a good of subheading 8486.40, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8486.40. |
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| 8486.90                   | A change to a good of subheading 8486.90 from any other subheading; or  
|                           | No change in tariff classification required for a good of subheading  
|                           | 8486.90, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8486.90. |
| 8487.10                   | A change to a good of subheading 8487.10 from any other subheading. |
| 8487.90                   | A change to a good of subheading 8487.90 from any other subheading. |

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

| 8501.10                   | A change to a good of subheading 8501.10 from any other heading, except from stators or rotors of heading 85.03; or  
|                           | No change in tariff classification required for a good of subheading 8501.10, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.01 and stators and rotors of heading 85.03. |
| 8501.20 - 8501.64         | A change to a good of subheading 8501.20 through 8501.64 from any other heading. |
| 85.02 - 85.03             | A change to a good of heading 85.02 through 85.03 from any other heading. |
| 85.04                     | A change to a good of heading 85.04 from any other heading; or  
|                           | No change in tariff classification required for a good of heading 85.04, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.04. |
| 8505.11 - 8505.20         | A change to a good of subheading 8505.11 through 8505.20 from any other subheading. |
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<tr>
<td>8505.90</td>
<td>A change to a good of subheading 8505.90 from any other heading; or No change in tariff classification required for a good of subheading 8505.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.05.</td>
</tr>
<tr>
<td>8506.10</td>
<td>A change to a good of subheading 8506.10 from any other heading; or No change in tariff classification required for a good of subheading 8506.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 85.06.</td>
</tr>
<tr>
<td>8506.30 - 8506.40</td>
<td>A change to a good of subheading 8506.30 through 8506.40 from any other heading; or No change in tariff classification required for a good of subheading 8506.30 through 8506.40, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.06.</td>
</tr>
<tr>
<td>8506.50</td>
<td>A change to a good of subheading 8506.50 from any other heading; or No change in tariff classification required for a good of subheading 8506.50, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 85.06.</td>
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<td>8506.60 - 8506.80</td>
<td>A change to a good of subheading 8506.60 through 8506.80 from any other heading; or No change in tariff classification required for a good of subheading 8506.60 through 8506.80, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.06.</td>
</tr>
<tr>
<td>8506.90</td>
<td>A change to a good of subheading 8506.90 from any other heading.</td>
</tr>
<tr>
<td>8507.10 - 8507.20</td>
<td>A change to a good of subheading 8507.10 through 8507.20 from any other heading; or No change in tariff classification required for a good of subheading 8507.10 through 8507.20, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>8507.30 - 8507.80</td>
<td>A change to a good of subheading 8507.30 through 8507.80 from any other heading; or No change in tariff classification required for a good of subheading 8507.30 through 8507.80, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>8507.90</td>
<td>A change to a good of subheading 8507.90 from any other heading; or No change in tariff classification required for a good of subheading 8507.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.07.</td>
</tr>
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<tr>
<td>8508.11</td>
<td>A change to a good of subheading 8508.11 from any other subheading, except from heading 85.01; or No change in tariff classification required for a good of subheading 8508.11, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>8508.19</td>
<td>A change to domestic vacuum cleaners of subheading 8508.19 from any other subheading, except from heading 85.01; or No change in tariff classification required for domestic vacuum cleaners of subheading 8508.19, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>8508.60</td>
<td>A change to a good of subheading 8508.60 from any other heading; or No change in tariff classification required for a good of subheading 8508.60, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
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<tr>
<td>8508.70</td>
<td>A change to a good of subheading 8508.70 from any other heading.</td>
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<td>8509.40 - 8509.80</td>
<td>A change to a good of subheading 8509.40 through 8509.80 from any other heading; or No change in tariff classification required for a good of subheading 8509.40 through 8509.80, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
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<tr>
<td>8509.90</td>
<td>A change to a good of subheading 8509.90 from any other heading.</td>
</tr>
<tr>
<td>8510.10 - 8510.30</td>
<td>A change to a good of subheading 8510.10 through 8510.30 from any other subheading.</td>
</tr>
<tr>
<td>8510.90</td>
<td>A change to a good of subheading 8510.90 from any other heading.</td>
</tr>
<tr>
<td>8511.10 - 8511.80</td>
<td>A change to a good of subheading 8511.10 through 8511.80 from any other subheading.</td>
</tr>
<tr>
<td>8511.90</td>
<td>A change to a good of subheading 8511.90 from any other heading.</td>
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<tr>
<td>8512.10 - 8512.30</td>
<td>A change to a good of subheading 8512.10 through 8512.30 from any other subheading.</td>
</tr>
<tr>
<td>8512.40 - 8512.90</td>
<td>A change to a good of subheading 8512.40 through 8512.90 from any other heading; or No change in tariff classification required for a good of subheading 8512.40 through 8512.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.12.</td>
</tr>
<tr>
<td>8513.10</td>
<td>A change to a good of subheading 8513.10 from any other heading; or No change in tariff classification required for a good of subheading 8513.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 85.13.</td>
</tr>
<tr>
<td>8513.90</td>
<td>A change to a good of subheading 8513.90 from any other heading.</td>
</tr>
<tr>
<td>8514.10 - 8514.40</td>
<td>A change to a good of subheading 8514.10 through 8514.40 from any other subheading.</td>
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<td>A change to a good of subheading 8514.90 from any other heading.</td>
</tr>
<tr>
<td>8515.11 - 8515.80</td>
<td>A change to a good of subheading 8515.11 through 8515.80 from any other subheading.</td>
</tr>
<tr>
<td>8515.90</td>
<td>A change to a good of subheading 8515.90 from any other heading.</td>
</tr>
<tr>
<td>8516.10</td>
<td>A change to a good of subheading 8516.10 from any other heading; or No change in tariff classification required for a good of subheading 8516.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>8516.21 - 8516.33</td>
<td>A change to a good of subheading 8516.21 through 8516.33 from any other subheading.</td>
</tr>
<tr>
<td>8516.40</td>
<td>A change to a good of subheading 8516.40 from any other heading; or No change in tariff classification required for a good of subheading 8516.40, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
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<tr>
<td>8516.50</td>
<td>A change to a good of subheading 8516.50 from any other subheading.</td>
</tr>
<tr>
<td>8516.60</td>
<td>A change to a good of subheading 8516.60 from any other heading, except from assemblies with outer housing or supports of subheading 8537.10; or No change in tariff classification required for a good of subheading 8516.60, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 85.16 and assemblies with outer housing and supports of subheading 8537.10.</td>
</tr>
<tr>
<td>8516.71</td>
<td>A change to a good of subheading 8516.71 from any other subheading.</td>
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<td>8516.72</td>
<td>A change to a good of subheading 8516.72 from any other heading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8516.72, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.16.</td>
</tr>
<tr>
<td>8516.79</td>
<td>A change to a good of subheading 8516.79 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8516.79, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>8516.80</td>
<td>A change to a good of subheading 8516.80 from any other subheading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8516.80, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8516.80.</td>
</tr>
<tr>
<td>8516.90</td>
<td>A change to a good of subheading 8516.90 from any other heading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8516.90, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.16.</td>
</tr>
<tr>
<td>8517.11 - 8517.69</td>
<td>A change to a good of subheading 8517.11 through 8517.69 from any other subheading.</td>
</tr>
</tbody>
</table>
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<th>HS Classification (HS2007)</th>
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<tbody>
<tr>
<td>8517.70</td>
<td>A change to a good of subheading 8517.70 from any other heading; or No change in tariff classification required for a good of subheading 8517.70, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.17.</td>
</tr>
<tr>
<td>8518.10</td>
<td>A change to a good of subheading 8518.10 from any other heading; or No change in tariff classification required for a good of subheading 8518.10, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.18.</td>
</tr>
<tr>
<td>8518.21 - 8518.22</td>
<td>A change to a good of subheading 8518.21 through 8518.22 from any other heading; or No change in tariff classification required for a good of subheading 8518.21 through 8518.22, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method.</td>
</tr>
<tr>
<td>8518.29</td>
<td>A change to a good of subheading 8518.29 from any other heading; or No change in tariff classification required for a good of subheading 8518.29, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.18.</td>
</tr>
</tbody>
</table>
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<thead>
<tr>
<th>HS Classification (HS2007)</th>
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</thead>
</table>
| 8518.30 - 8518.50         | A change to a good of subheading 8518.30 through 8518.50 from any other heading; or  
                              No change in tariff classification required for a good of subheading 8518.30 through 8518.50, provided there is a regional value content of not less than:  
                              (a) 30 per cent under the build-up method; or  
                              (b) 40 per cent under the build-down method. |
| 8518.90                   | A change to a good of subheading 8518.90 from any other heading; or  
                              No change in tariff classification required for a good of subheading 8518.90, provided there is a regional value content of not less than:  
                              (a) 30 per cent under the build-up method; or  
                              (b) 40 per cent under the build-down method; or  
                              (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.18. |
| 85.19 - 85.21             | A change to a good of heading 85.19 through 85.21 from any other heading. |
| 8522.10                   | A change to a good of subheading 8522.10 from any other heading. |
| 8522.90                   | A change to a good of subheading 8522.90 from any other heading; or  
                              No change in tariff classification required for a good of subheading 8522.90, provided there is a regional value content of not less than:  
                              (a) 30 per cent under the build-up method; or  
                              (b) 40 per cent under the build-down method; or  
                              (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.22. |
| 8523.21 - 8523.29         | A change to a good of subheading 8523.21 through 8523.29 from any other heading; or  
                              No change in tariff classification required for a good of subheading 8523.21 through 8523.29, provided there is a regional value content of not less than:  
                              (a) 30 per cent under the build-up method; or  
                              (b) 40 per cent under the build-down method; or  
                              (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.23. |
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<tbody>
<tr>
<td>8523.40</td>
<td>A change to a good of subheading 8523.40 from any other heading; or No change in tariff classification required for a good of subheading 8523.40, provided that sound or other similarly recorded phenomena onto blank or unrecorded media takes place in one or more of the parties.</td>
</tr>
<tr>
<td>8523.51 - 8523.80</td>
<td>A change to a good of subheading 8523.51 through 8523.80 from any other heading; or No change in tariff classification required for a good of subheading 8523.51 through 8523.80, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.23.</td>
</tr>
<tr>
<td>85.25 - 85.27</td>
<td>A change to a good of heading 85.25 through 85.27 from any other heading.</td>
</tr>
<tr>
<td>85.28</td>
<td>A change to a good of heading 85.28 from any other heading; or No change in tariff classification required for a good of heading 85.28, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.28.</td>
</tr>
<tr>
<td>85.29</td>
<td>A change to a good of heading 85.29 from any other heading; or No change in tariff classification required for a good of heading 85.29, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.29.</td>
</tr>
<tr>
<td>8530.10 - 8530.80</td>
<td>A change to a good of subheading 8530.10 through 8530.80 from any other subheading.</td>
</tr>
<tr>
<td>8530.90</td>
<td>A change to a good of subheading 8530.90 from any other heading.</td>
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<tr>
<td>8531.10 - 8531.80</td>
<td>A change to a good of subheading 8531.10 through 8531.80 from any other subheading.</td>
</tr>
<tr>
<td>8531.90</td>
<td>A change to a good of subheading 8531.90 from any other heading.</td>
</tr>
<tr>
<td>8532.10 - 8532.30</td>
<td>A change to a good of subheading 8532.10 through 8532.30 from any other subheading.</td>
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<tr>
<td>8532.90</td>
<td>A change to a good of subheading 8532.90 from any other heading.</td>
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<tr>
<td>8533.10 - 8533.40</td>
<td>A change to a good of subheading 8533.10 through 8533.40 from any other subheading.</td>
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<tr>
<td>8533.90</td>
<td>A change to a good of subheading 8533.90 from any other heading.</td>
</tr>
<tr>
<td>85.34</td>
<td>A change to a good of heading 85.34 from any other heading; or No change in tariff classification required for a good of heading 85.34, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.34.</td>
</tr>
<tr>
<td>8535.10 - 8535.90</td>
<td>A change to a good of subheading 8535.10 through 8535.90 from any other subheading.</td>
</tr>
<tr>
<td>8536.10 - 8536.90</td>
<td>A change to a good of subheading 8536.10 through 8536.90 from any other subheading.</td>
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<tr>
<td>85.37 - 85.38</td>
<td>A change to a good of heading 85.37 through 85.38 from any other heading.</td>
</tr>
<tr>
<td>8539.10 - 8539.49</td>
<td>A change to a good of subheading 8539.10 through 8539.49 from any other subheading.</td>
</tr>
<tr>
<td>8539.90</td>
<td>A change to a good of subheading 8539.90 from any other heading.</td>
</tr>
<tr>
<td>8540.11</td>
<td>A change to a good of subheading 8540.11 from any other subheading; or No change in tariff classification required for a good of subheading 8540.11, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.11.</td>
</tr>
</tbody>
</table>
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<th>Product-Specific Rule of Origin</th>
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</thead>
<tbody>
<tr>
<td>8540.12</td>
<td>A change to a good of subheading 8540.12 from any other subheading; or</td>
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<td>No change in tariff classification required for a good of subheading 8540.12, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.12.</td>
</tr>
<tr>
<td>8540.20</td>
<td>A change to a good of subheading 8540.20 from any other heading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8540.20, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.40.</td>
</tr>
<tr>
<td>8540.40</td>
<td>A change to a good of subheading 8540.40 from any other subheading; or</td>
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<td>No change in tariff classification required for a good of subheading 8540.40, provided there is a regional value content of not less than:</td>
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<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.40.</td>
</tr>
<tr>
<td>8540.50</td>
<td>A change to a good of subheading 8540.50 from any other subheading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8540.50, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.50.</td>
</tr>
</tbody>
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<tr>
<td>8540.60</td>
<td>A change to a good of subheading 8540.60 from any other subheading; or No change in tariff classification required for a good of subheading 8540.60, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.60.</td>
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<tr>
<td>8540.71</td>
<td>A change to a good of subheading 8540.71 from any other subheading; or No change in tariff classification required for a good of subheading 8540.71, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.71.</td>
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<tr>
<td>8540.72</td>
<td>A change to a good of subheading 8540.72 from any other subheading; or No change in tariff classification required for a good of subheading 8540.72, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.72.</td>
</tr>
<tr>
<td>8540.79</td>
<td>A change to a good of subheading 8540.79 from any other subheading; or No change in tariff classification required for a good of subheading 8540.79, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.79.</td>
</tr>
</tbody>
</table>
### Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

### Subject to Authentication of English, Spanish and French Versions

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<tbody>
<tr>
<td>8540.81</td>
<td>A change to a good of subheading 8540.81 from any other subheading; or</td>
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<td>No change in tariff classification required for a good of subheading 8540.81, provided there is a regional value content of not less than:</td>
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<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.81.</td>
</tr>
<tr>
<td>8540.89</td>
<td>A change to a good of subheading 8540.89 from any other subheading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8540.89, provided there is a regional value content of not less than:</td>
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<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8540.89.</td>
</tr>
<tr>
<td>8540.91 - 8540.99</td>
<td>A change to a good of subheading 8540.91 through 8540.99 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8540.91 through 8540.99, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 8540.</td>
</tr>
<tr>
<td>8541.10</td>
<td>A change to a good of subheading 8541.10 from any other subheading; or</td>
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<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8541.10, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.10.</td>
</tr>
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</table>
HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
8541.21 | A change to a good of subheading 8541.21 from any other subheading; or
No change in tariff classification required for a good of subheading 8541.21, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.21.

8541.29 | A change to a good of subheading 8541.29 from any other subheading; or
No change in tariff classification required for a good of subheading 8541.29, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.29.

8541.30 | A change to a good of subheading 8541.30 from any other subheading; or
No change in tariff classification required for a good of subheading 8541.30, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.30.

8541.40 | A change to a good of subheading 8541.40 from any other subheading; or
No change in tariff classification required for a good of subheading 8541.40, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.40.
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<tr>
<td>8541.50</td>
<td>A change to a good of subheading 8541.50 from any other subheading; or No change in tariff classification required for a good of subheading 8541.50, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.50.</td>
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<tr>
<td>8541.60</td>
<td>A change to a good of subheading 8541.60 from any other subheading; or No change in tariff classification required for a good of subheading 8541.60, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.60.</td>
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<tr>
<td>8541.90</td>
<td>A change to a good of subheading 8541.90 from any other subheading; or No change in tariff classification required for a good of subheading 8541.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8541.90.</td>
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<td>8542.31</td>
<td>A change to a good of subheading 8542.31 from any other subheading; or No change in tariff classification required for a good of subheading 8542.31, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8542.31.</td>
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<td>8542.32</td>
<td>A change to a good of subheading 8542.32 from any other subheading; or No change in tariff classification required for a good of subheading 8542.32, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8542.32.</td>
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<td>8542.33</td>
<td>A change to a good of subheading 8542.33 from any other subheading; or No change in tariff classification required for a good of subheading 8542.33, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8542.33.</td>
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<tr>
<td>8542.39</td>
<td>A change to a good of subheading 8542.39 from any other subheading; or No change in tariff classification required for a good of subheading 8542.39, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8542.39.</td>
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<tr>
<td>8542.90</td>
<td>A change to a good of subheading 8542.90 from any other subheading; or No change in tariff classification required for a good of subheading 8542.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 8542.90.</td>
</tr>
<tr>
<td>8543.10 - 8543.70</td>
<td>A change to a good of subheading 8543.10 through 8543.70 from any other subheading.</td>
</tr>
</tbody>
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<td>A change to a good of subheading 8543.90 from any other heading; or No change in tariff classification required for a good of subheading 8543.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.43.</td>
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<td>8544.11</td>
<td>A change to a good of subheading 8544.11 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14 or subheading 8544.19 through 8544.60; or No change in tariff classification required for a good of subheading 8544.11, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
</tr>
<tr>
<td>8544.19</td>
<td>A change to a good of subheading 8544.19 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14, subheading 8544.11, or 8544.20 through 8544.60; or No change in tariff classification required for a good of subheading 8544.19, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
</tr>
</tbody>
</table>
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<thead>
<tr>
<th>HS Classification (HS2007)</th>
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<tbody>
<tr>
<td>8544.20</td>
<td>A change to a good of subheading 8544.20 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14, subheading 8544.11 through 8544.19, or 8544.30 through 8544.60; or No change in tariff classification required for a good of subheading 8544.20, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
</tr>
<tr>
<td>8544.30</td>
<td>A change to a good of subheading 8544.30 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14 or subheading 8544.11 through 8544.20 or 8544.42 through 8544.60; or No change in tariff classification required for a good of subheading 8544.30, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
</tr>
<tr>
<td>8544.42</td>
<td>A change to a good of subheading 8544.42 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14, subheading 8544.11 through 8544.30, or 8544.49 through 8544.60; or No change in tariff classification required for a good of subheading 8544.42, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
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<tbody>
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<td>8544.49</td>
<td>A change to a good of subheading 8544.49 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14, subheading 8544.11 through 8544.42 or 8544.60; or No change in tariff classification required for a good of subheading 8544.49, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
</tr>
<tr>
<td>8544.60</td>
<td>A change to a good of subheading 8544.60 from any other subheading, except from heading 74.08, 74.13, 76.05, 76.14 or subheading 8544.11 through 8544.49; or No change in tariff classification required for a good of subheading 8544.60, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 74.08, 74.13, 76.05, 76.14 and subheading 8544.11 through 8544.60.</td>
</tr>
<tr>
<td>8544.70</td>
<td>A change to a good of subheading 8544.70 from any other heading; or No change in tariff classification required for a good of subheading 8544.70, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 85.44.</td>
</tr>
<tr>
<td>85.45 - 85.48</td>
<td>A change to a good of heading 85.45 through 85.48 from any other heading.</td>
</tr>
</tbody>
</table>

SECTION XVII
VEHICLES, AIRCRAFT, VESSELS AND ASSOCIATED TRANSPORT EQUIPMENT
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
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<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SIGNALLING EQUIPMENT OF ALL KINDS</strong></td>
<td></td>
</tr>
<tr>
<td>86.01 - 86.06</td>
<td>A change to a good of heading 86.01 through 86.06 from any other heading.</td>
</tr>
<tr>
<td>86.07</td>
<td>A change to a good of heading 86.07 from any other heading; or No change in tariff classification required for a good of heading 86.07, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 86.07.</td>
</tr>
<tr>
<td>86.08</td>
<td>A change to a good of heading 86.08 from any other heading; or No change in tariff classification required for a good of heading 86.08, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 86.08.</td>
</tr>
<tr>
<td>86.09</td>
<td>A change to a good of heading 86.09 from any other heading.</td>
</tr>
<tr>
<td><strong>CHAPTER 87</strong></td>
<td></td>
</tr>
<tr>
<td><strong>VEHICLES OTHER THAN RAILWAY OR TRAMWAY ROLLING-STOCK, AND PARTS AND ACCESSORIES THEREOF</strong></td>
<td></td>
</tr>
<tr>
<td>8701.10† - 8701.30†</td>
<td>No change in tariff classification required for a good of subheading 8701.10 through 8701.30, provided there is a regional value content of not less than: (a) 45 per cent under the net cost method; or (b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>8701.90</td>
<td>No change in tariff classification required for a good of subheading 8701.90, provided there is a regional value content of not less than: (a) 45 per cent under the net cost method; or (b) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>87.02† - 87.05†</td>
<td>No change in tariff classification required for a good of heading 87.02 through 87.05, provided there is a regional value content of not less than: (a) 45 per cent under the net cost method; or (b) 55 per cent under the build-down method.</td>
</tr>
</tbody>
</table>

† See also Appendix 1 (Provisions Related to the Product-Specific Rules of Origin for Certain Vehicles and Parts of Vehicles)
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<tr>
<td>87.06†</td>
<td>No change in tariff classification required for a good of heading 87.06, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 45 per cent under the net cost method; or (c) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>87.07</td>
<td>A change to a good of heading 87.07 from any other heading; or No change in tariff classification required for a good of heading 87.07, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 35 per cent under the net cost method; or (c) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>8708.10† - 8708.21†</td>
<td>A change to a good of subheading 8708.10 through 8708.21 from any other subheading; or No change in tariff classification required for a good of subheading 8708.10 through 8708.21, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 45 per cent under the net cost method; or (c) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>8708.29†</td>
<td>A change to a good of subheading 8708.29 from any other subheading; or No change in tariff classification required for a good of subheading 8708.29, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 40 per cent under the net cost method; or (c) 50 per cent under the build-down method.</td>
</tr>
</tbody>
</table>

† See also Appendix 1 (Provisions Related to the Product-Specific Rules of Origin for Certain Vehicles and Parts of Vehicles)
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<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 8708.30† - 8708.40†        | A change to a good of subheading 8708.30 through 8708.40 from any other subheading; or  
No change in tariff classification required for a good of subheading 8708.30 through 8708.40, provided there is a regional value content of not less than:  
(a) 45 per cent under the build-up method; or  
(b) 45 per cent under the net cost method; or  
(c) 55 per cent under the build-down method. |
| 8708.50†                  | A change to a good of subheading 8708.50 from any other subheading; or  
No change in tariff classification required for a good of subheading 8708.50, provided there is a regional value content of not less than:  
(a) 40 per cent under the build-up method; or  
(b) 40 per cent under the net cost method; or  
(c) 50 per cent under the build-down method. |
| 8708.70                   | A change to a good of subheading 8708.70 from any other subheading; or  
No change in tariff classification required for a good of subheading 8708.70, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 35 per cent under the net cost method; or  
(c) 45 per cent under the build-down method. |
| 8708.80†                  | A change to a good of subheading 8708.80 from any other subheading; or  
No change in tariff classification required for a good of subheading 8708.80, provided there is a regional value content of not less than:  
(a) 45 per cent under the build-up method; or  
(b) 45 per cent under the net cost method; or  
(c) 55 per cent under the build-down method. |

† See also Appendix 1 (Provisions Related to the Product-Specific Rules of Origin for Certain Vehicles and Parts of Vehicles)
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<tbody>
<tr>
<td>8708.91 - 8708.93</td>
<td>A change to a good of subheading 8708.91 through 8708.93 from any other subheading; or No change in tariff classification required for a good of subheading 8708.91 through 8708.93, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 35 per cent under the net cost method; or (c) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>8708.94†</td>
<td>A change to a good of subheading 8708.94 from any other subheading; or No change in tariff classification required for a good of subheading 8708.94, provided there is a regional value content of not less than: (a) 45 per cent under the build-up method; or (b) 45 per cent under the net cost method; or (c) 55 per cent under the build-down method.</td>
</tr>
<tr>
<td>8708.95† - 8708.99†</td>
<td>A change to a good of subheading 8708.95 through 8708.99 from any other subheading; or No change in tariff classification required for a good of subheading 8708.95 through 8708.99, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 40 per cent under the net cost method; or (c) 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>8709.11 - 8709.19</td>
<td>A change to a good of subheading 8709.11 through 8709.19 from any other heading; or No change in tariff classification required for a good of subheading 8709.11 through 8709.19, provided there is a regional value content of not less than: (a) 40 per cent under the net cost method; or (b) 50 per cent under the build-down method.</td>
</tr>
</tbody>
</table>
HS Classification (HS2007) | Product-Specific Rule of Origin
--- | ---
8709.90 | A change to a good of subheading 8709.90 from any other heading; or
No change in tariff classification required for a good of subheading 8709.90, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 35 per cent under the net cost method; or
(c) 45 per cent under the build-down method.

87.10 | A change to a good of heading 87.10 from any other heading; or
No change in tariff classification required for a good of heading 87.10, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 40 per cent under the build-down method; or
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 87.10.

8711.10 - 8711.30 | A change to a good of subheading 8711.10 through 8711.30 from any other heading, except from heading 87.14; or
No change in tariff classification required for a good of subheading 8711.10 through 8711.30, provided there is a regional value content of not less than:
(a) 30 per cent under the build-up method; or
(b) 30 per cent under the net cost method; or
(c) 40 per cent under the build-down method; or
(d) 50 per cent under the focused value method taking into account only the non-originating materials of heading 87.11 and heading 87.14.

8711.40 - 8711.90 | A change to a good of subheading 8711.40 through 8711.90 from any other heading, except from heading 87.14; or
No change in tariff classification required for a good of subheading 8711.40 through 8711.90, provided there is a regional value content of not less than:
(a) 35 per cent under the build-up method; or
(b) 35 per cent under the net cost method; or
(c) 45 per cent under the build-down method; or
(d) 55 per cent under the focused value method taking into account only the non-originating materials of heading 87.11 and heading 87.14.
<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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</thead>
</table>
| 87.12                     | A change to a good of heading 87.12 from any other heading, except from heading 87.14; or  
                               No change in tariff classification required for a good of heading 87.12, provided there is a regional value content of not less than:  
                               (a) 35 per cent under the build-up method; or  
                               (b) 45 per cent under the build-down method; or  
                               (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 87.12 and 87.14. |
| 87.13                     | A change to a good of heading 87.13 from any other heading. |
| 8714.11 - 8714.20         | A change to a good of subheading 8714.11 through 8714.20 from any other heading; or  
                               No change in tariff classification required for a good of subheading 8714.11 through 8714.20, provided there is a regional value content of not less than:  
                               (a) 30 per cent under the build-up method; or  
                               (b) 40 per cent under the build-down method; or  
                               (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 87.14. |
| 8714.91 - 8714.99         | A change to a good of subheading 8714.91 through 8714.99 from any other heading; or  
                               No change in tariff classification required for a good of subheading 8714.91 through 8714.99, provided there is a regional value content of not less than:  
                               (a) 35 per cent under the build-up method; or  
                               (b) 45 per cent under the build-down method; or  
                               (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 87.14. |
| 87.15                     | A change to a good of heading 87.15 from any other heading; or  
                               No change in tariff classification required for a good of heading 87.15, provided there is a regional value content of not less than:  
                               (a) 30 per cent under the build-up method; or  
                               (b) 40 per cent under the build-down method; or  
                               (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 87.15. |
<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>8716.10 - 8716.20</td>
<td>A change to a good of subheading 8716.10 through 8716.20 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8716.10 through 8716.20, provided there is a regional value content of not less than:</td>
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<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
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<td></td>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 87.16.</td>
</tr>
<tr>
<td>8716.31 - 8716.39</td>
<td>A change to a good of subheading 8716.31 through 8716.39 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8716.31 through 8716.39, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 87.16.</td>
</tr>
<tr>
<td>8716.40 - 8716.90</td>
<td>A change to a good of subheading 8716.40 through 8716.90 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8716.40 through 8716.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 87.16.</td>
</tr>
</tbody>
</table>

CHAPTER 88
AIRCRAFT, SPACECRAFT, AND PARTS THEREOF

| 88.01 - 88.02 | A change to a good of heading 88.01 through 88.02 from any other heading. |
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<tr>
<td>88.03</td>
<td>A change to a good of heading 88.03 from any other heading; or No change in tariff classification required for a good of heading 88.03, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 88.03.</td>
</tr>
<tr>
<td>88.04</td>
<td>A change to a good of heading 88.04 from any other heading; or No change in tariff classification required for a good of heading 88.04, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 88.04.</td>
</tr>
<tr>
<td>88.05</td>
<td>A change to a good of heading 88.05 from any other heading; or No change in tariff classification required for a good of heading 88.05, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 88.05.</td>
</tr>
<tr>
<td>8901.10</td>
<td>A change to a good of subheading 8901.10 from any other chapter; or No change in tariff classification required for a good of subheading 8901.10, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 89.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
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</tr>
<tr>
<td>8901.20</td>
<td>A change to a good of subheading 8901.20 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8901.20, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 89.01.</td>
</tr>
<tr>
<td>8901.30 - 8901.90</td>
<td>A change to a good of subheading 8901.30 through 8901.90 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 8901.30 through 8901.90, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 89.</td>
</tr>
<tr>
<td>89.02</td>
<td>A change to a good of heading 89.02 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 89.02, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 89.</td>
</tr>
<tr>
<td>89.03</td>
<td>A change to a good of heading 89.03 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 89.03, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 89.03.</td>
</tr>
</tbody>
</table>
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<tr>
<td>89.04 - 89.05</td>
<td>A change to a good of heading 89.04 through 89.05 from any other chapter; or No change in tariff classification required for a good of heading 89.04 through 89.05, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 89.</td>
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<tr>
<td>8906.10</td>
<td>A change to a good of subheading 8906.10 from any other heading.</td>
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<td>8906.90</td>
<td>A change to a good of subheading 8906.90 from any other heading; or No change in tariff classification required for a good of subheading 8906.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 89.06.</td>
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<td>A change to a good of subheading 8907.10 from any other heading.</td>
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<td>8907.90</td>
<td>A change to a good of subheading 8907.90 from any other heading; or No change in tariff classification required for a good of subheading 8907.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 89.07.</td>
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<tr>
<td>89.08</td>
<td>A change to a good of heading 89.08 from any other heading.</td>
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<tr>
<th>HS Classification (HS2007)</th>
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<tr>
<td>9001.10</td>
<td>A change to a good of subheading 9001.10 from any other chapter, except from heading 70.02; or</td>
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<td>No change in tariff classification required for a good of subheading 9001.10, provided there is a regional value content of not less than:</td>
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<td>(a) 35 per cent under the build-up method; or</td>
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<td>(b) 45 per cent under the build-down method.</td>
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<td>9001.20 - 9001.50</td>
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<td>9001.90</td>
<td>A change to a good of subheading 9001.90 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 9001.90, provided there is a regional value content of not less than:</td>
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.01.</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.01 through 90.02.</td>
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.03.</td>
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<td>90.04</td>
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<td>A change to a good of subheading 9005.80 from any other heading; or No change in tariff classification required for a good of subheading 9005.80, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 90.05.</td>
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<td>A change to a good of subheading 9008.10 from any other subheading.</td>
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<td>A change to a good of subheading 9008.20 from any other subheading; or No change in tariff classification required for a good of subheading 9008.20, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9008.20.</td>
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<td>A change to a good of subheading 9008.90 from any other heading; or No change in tariff classification required for a good of subheading 9008.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.08.</td>
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<td>(b) 45 per cent under the build-down method; or</td>
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<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 90.10.</td>
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<td>A change to a good of subheading 9010.90 from any other heading; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.11.</td>
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<td>A change to a good of subheading 9011.80 from any other heading; or</td>
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<td>9011.90</td>
<td>A change to a good of subheading 9011.90 from any other heading; or</td>
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<td>No change in tariff classification required for a good of subheading 9011.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.11.</td>
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<td>A change to a good of subheading 9012.10 from any other subheading; or</td>
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<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
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<td>A change to a good of subheading 9014.20 from any other subheading; or</td>
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<td>A change to a good of subheading 9014.80 from any other subheading; or</td>
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<td>(b) 45 per cent under the build-down method; or</td>
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<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 90.15.</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.15.</td>
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### HS Classification (HS2007) | Product-Specific Rule of Origin

| 9017.30 | A change to a good of subheading 9017.30 from any other subheading; or  
No change in tariff classification required for a good of subheading 9017.30, provided there is a regional value content of not less than:  
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(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9017.30. |
| 9017.80 | A change to a good of subheading 9017.80 from any other heading; or  
No change in tariff classification required for a good of subheading 9017.80, provided there is a regional value content of not less than:  
(a) 35 per cent under the build-up method; or  
(b) 45 per cent under the build-down method; or  
(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 90.17. |
| 9017.90 | A change to a good of subheading 9017.90 from any other heading; or  
No change in tariff classification required for a good of subheading 9017.90, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.17. |
| 9018.11 | A change to a good of subheading 9018.11 from any other subheading; or  
No change in tariff classification required for a good of subheading 9018.11, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.11. |
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.19.</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.20.</td>
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<td>9018.31 - 9018.39</td>
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.41.</td>
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.49.</td>
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<th>HS Classification (HS2007)</th>
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| 9018.50                   | A change to a good of subheading 9018.50 from any other subheading; or No change in tariff classification required for a good of subheading 9018.50, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.50. |
| 9018.90                   | A change to a good of subheading 9018.90 from any other subheading; or No change in tariff classification required for a good of subheading 9018.90, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9018.90. |
| 90.19                     | A change to a good of heading 90.19 from any other heading; or No change in tariff classification required for a good of heading 90.19, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.19. |
| 90.20                     | A change to a good of heading 90.20 from any other heading; or No change in tariff classification required for a good of heading 90.20, provided there is a regional value content of not less than:  
(a) 30 per cent under the build-up method; or  
(b) 40 per cent under the build-down method; or  
(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.20. |
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<td>9021.10</td>
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<td>9021.21</td>
<td>A change to a good of subheading 9021.21 from any other subheading; or No change in tariff classification required for a good of subheading 9021.21, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.21.</td>
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<td>9021.29</td>
<td>A change to a good of subheading 9021.29 from any other subheading; or No change in tariff classification required for a good of subheading 9021.29, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.29.</td>
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<td>A change to a good of subheading 9021.31 from any other subheading; or No change in tariff classification required for a good of subheading 9021.31, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.31.</td>
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### HS Classification (HS2007) | Product-Specific Rule of Origin

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| 9021.39                   | A change to a good of subheading 9021.39 from any other subheading; or  
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                            | (a) 30 per cent under the build-up method; or  
                            | (b) 40 per cent under the build-down method; or  
                            | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.39. |
| 9021.40                   | A change to a good of subheading 9021.40 from any other subheading; or  
                            | No change in tariff classification required for a good of subheading 9021.40, provided there is a regional value content of not less than:  
                            | (a) 30 per cent under the build-up method; or  
                            | (b) 40 per cent under the build-down method; or  
                            | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.40. |
| 9021.50                   | A change to a good of subheading 9021.50 from any other subheading; or  
                            | No change in tariff classification required for a good of subheading 9021.50, provided there is a regional value content of not less than:  
                            | (a) 30 per cent under the build-up method; or  
                            | (b) 40 per cent under the build-down method; or  
                            | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.50. |
| 9021.90                   | A change to a good of subheading 9021.90 from any other subheading; or  
                            | No change in tariff classification required for a good of subheading 9021.90, provided there is a regional value content of not less than:  
                            | (a) 30 per cent under the build-up method; or  
                            | (b) 40 per cent under the build-down method; or  
<pre><code>                        | (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9021.90. |
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9022.13.</td>
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<td>A change to a good of subheading 9022.14 from any other subheading; or</td>
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<td>A change to a good of subheading 9022.19 from any other subheading; or</td>
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9022.19.</td>
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### HS Classification (HS2007) | Product-Specific Rule of Origin

| 9022.21 | A change to a good of subheading 9022.21 from any other subheading; or  
No change in tariff classification required for a good of subheading 9022.21, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9022.21. |
| 9022.29 | A change to a good of subheading 9022.29 from any other subheading; or  
No change in tariff classification required for a good of subheading 9022.29, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9022.29. |
| 9022.30 | A change to a good of subheading 9022.30 from any other subheading; or  
No change in tariff classification required for a good of subheading 9022.30, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of subheading 9022.30. |
| 9022.90 | A change to a good of subheading 9022.90 from any other heading; or  
No change in tariff classification required for a good of subheading 9022.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.22. |
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<td>(b) 40 per cent under the build-down method; or</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.23.</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.25.</td>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.26.</td>
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<td>9027.10 - 9027.80</td>
<td>A change to a good of subheading 9027.10 through 9027.80 from any other subheading.</td>
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### HS Classification (HS2007) | Product-Specific Rule of Origin

<p>| 9027.90 | A change to a good of subheading 9027.90 from any other heading; or No change in tariff classification required for a good of subheading 9027.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.27. |
| 9028.10 | A change to a good of subheading 9028.10 from any other subheading. |
| 9028.20 | A change to a good of subheading 9028.20 from any other heading; or No change in tariff classification required for a good of subheading 9028.20, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.28. |
| 9028.30 | A change to a good of subheading 9028.30 from any other heading; or No change in tariff classification required for a good of subheading 9028.30, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method; or (c) 65 per cent under the focused value method taking into account only the non-originating materials of heading 90.28. |
| 9028.90 | A change to a good of subheading 9028.90 from any other heading; or No change in tariff classification required for a good of subheading 9028.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.28. |</p>
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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 90.33.</td>
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**CHAPTER 91**

**CLOCKS AND WATCHES AND PARTS THEREOF**

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<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 91.</td>
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<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 91.</td>
</tr>
<tr>
<td>91.08 - 91.10</td>
<td>A change to a good of heading 91.08 through 91.10 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 91.08 through 91.10, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of chapter 91.</td>
</tr>
<tr>
<td>9111.10 - 9111.80</td>
<td>A change to a good of subheading 9111.10 through 9111.80 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 9111.10 through 9111.80, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
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<tr>
<td></td>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 91.11.</td>
</tr>
<tr>
<td>9111.90</td>
<td>A change to a good of subheading 9111.90 from any other heading.</td>
</tr>
<tr>
<td>9112.20</td>
<td>A change to a good of subheading 9112.20 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 9112.20, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 91.12.</td>
</tr>
<tr>
<td>9112.90</td>
<td>A change to a good of subheading 9112.90 from any other heading.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>9113.10 - 9113.20</td>
<td>A change to a good of subheading 9113.10 through 9113.20 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 9113.10 through 9113.20, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 9113.</td>
</tr>
<tr>
<td>9113.90</td>
<td>A change to a good of subheading 9113.90 from any other chapter.</td>
</tr>
<tr>
<td>91.14</td>
<td>A change to a good of heading 91.14 from any other heading.</td>
</tr>
<tr>
<td>9201.10</td>
<td>A change to a good of subheading 9201.10 from any other heading.</td>
</tr>
<tr>
<td>9201.20 - 9201.90</td>
<td>A change to a good of subheading 9201.20 through 9201.90 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 9201.20 through 9201.90, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 35 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 45 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of chapter 92.</td>
</tr>
<tr>
<td>9202.10</td>
<td>A change to a good of subheading 9202.10 from any other chapter; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of subheading 9202.10, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 92.</td>
</tr>
</tbody>
</table>
### HS Classification (HS2007) | Product-Specific Rule of Origin
---|---
9202.90 | A change to a good of subheading 9202.90 from any other chapter; or No change in tariff classification required for a good of subheading 9202.90, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of chapter 92.
9205.10 | A change to a good of subheading 9205.10 from any other heading.
9205.90 | A change to a good of subheading 9205.90 from any other chapter; or No change in tariff classification required for a good of subheading 9205.90, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 92.
92.06 - 92.08 | A change to a good of heading 92.06 through 92.08 from any other chapter; or No change in tariff classification required for a good of heading 92.06 through 92.08, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 92.
92.09 | A change to a good of heading 92.09 from any other heading.

### SECTION XIX
ARMS AND AMMUNITION; PARTS AND ACCESSORIES THEREOF

### CHAPTER 93
ARMS AND AMMUNITION; PARTS AND ACCESSORIES THEREOF

93.01 - 93.07 | A change to a good of heading 93.01 through 93.07 from any other heading.

### SECTION XX
MISCELLANEOUS MANUFACTURED ARTICLES

### CHAPTER 94
FURNITURE; BEDDING, MATTRESSES, MATTRESS SUPPORTS, CUSHIONS AND SIMILAR STUFFED FURNISHINGS; LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED; ILLUMINATED SIGNS, ILLUMINATED
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAME-PLATES AND THE LIKE; PREFABRICATED BUILDINGS</td>
<td></td>
</tr>
<tr>
<td>Chapter Note:</td>
<td></td>
</tr>
<tr>
<td>The product-specific rules of origin for goods of subheading 9404.90 are contained in Annex 4-A.</td>
<td></td>
</tr>
<tr>
<td>9401.10 - 9401.20</td>
<td>A change to a good of subheading 9401.10 through 9401.20 from any other heading; or</td>
</tr>
<tr>
<td>No change in tariff classification required for a good of subheading 9401.10 through 9401.20, provided there is a regional value content of not less than:</td>
<td></td>
</tr>
<tr>
<td>(a) 30 per cent under the build-up method; or</td>
<td></td>
</tr>
<tr>
<td>(b) 40 per cent under the build-down method; or</td>
<td></td>
</tr>
<tr>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.01.</td>
<td></td>
</tr>
<tr>
<td>9401.30 - 9401.40</td>
<td>A change to a good of subheading 9401.30 through 9401.40 from any other heading; or</td>
</tr>
<tr>
<td>No change in tariff classification required for a good of subheading 9401.30 through 9401.40, provided there is a regional value content of not less than:</td>
<td></td>
</tr>
<tr>
<td>(a) 35 per cent under the build-up method; or</td>
<td></td>
</tr>
<tr>
<td>(b) 45 per cent under the build-down method; or</td>
<td></td>
</tr>
<tr>
<td>(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.01.</td>
<td></td>
</tr>
<tr>
<td>9401.51 - 9401.59</td>
<td>A change to a good of subheading 9401.51 through 9401.59 from any other heading; or</td>
</tr>
<tr>
<td>No change in tariff classification required for a good of subheading 9401.51 through 9401.59, provided there is a regional value content of not less than:</td>
<td></td>
</tr>
<tr>
<td>(a) 30 per cent under the build-up method; or</td>
<td></td>
</tr>
<tr>
<td>(b) 40 per cent under the build-down method; or</td>
<td></td>
</tr>
<tr>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.01.</td>
<td></td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 9401.61 - 9401.80         | A change to a good of subheading 9401.61 through 9401.80 from any other heading; or  
                             No change in tariff classification required for a good of subheading 9401.61 through 9401.80, provided there is a regional value content of not less than:  
                             (a) 35 per cent under the build-up method; or  
                             (b) 45 per cent under the build-down method; or  
                             (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.01. |
| 9401.90                   | A change to a good of subheading 9401.90 from any other heading; or  
                             No change in tariff classification required for a good of subheading 9401.90, provided there is a regional value content of not less than:  
                             (a) 30 per cent under the build-up method; or  
                             (b) 40 per cent under the build-down method; or  
                             (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.01. |
| 94.02                     | A change to a good of heading 94.02 from any other heading; or  
                             No change in tariff classification required for a good of heading 94.02, provided there is a regional value content of not less than:  
                             (a) 30 per cent under the build-up method; or  
                             (b) 40 per cent under the build-down method; or  
                             (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.02. |
| 9403.10 - 9403.40         | A change to a good of subheading 9403.10 through 9403.40 from any other heading; or  
                             No change in tariff classification required for a good of subheading 9403.10 through 9403.40, provided there is a regional value content of not less than:  
                             (a) 30 per cent under the build-up method; or  
                             (b) 40 per cent under the build-down method; or  
                             (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.03. |
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
</table>
| 9403.50                   | A change to a good of subheading 9403.50 from any other heading; or  
|                           | No change in tariff classification required for a good of subheading 9403.50, provided there is a regional value content of not less than:  
|                           | (a) 35 per cent under the build-up method; or  
|                           | (b) 45 per cent under the build-down method; or  
|                           | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.03. |
| 9403.60                   | A change to outdoor furniture of subheading 9403.60 from any other heading; or  
|                           | No change in tariff classification required for outdoor furniture of subheading 9403.60, provided there is a regional value content of not less than:  
|                           | (a) 30 per cent under the build-up method; or  
|                           | (b) 40 per cent under the build-down method; or  
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.03;  
|                           | A change to any other good of subheading 9403.60 from any other heading; or  
|                           | No change in tariff classification required for any other good of subheading 9403.60, provided there is a regional value content of not less than:  
|                           | (a) 35 per cent under the build-up method; or  
|                           | (b) 45 per cent under the build-down method; or  
|                           | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.03. |
| 9403.70                   | A change to a good of subheading 9403.70 from any other heading; or  
|                           | No change in tariff classification required for a good of subheading 9403.70, provided there is a regional value content of not less than:  
|                           | (a) 35 per cent under the build-up method; or  
|                           | (b) 45 per cent under the build-down method; or  
|                           | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.03. |
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>9403.81 - 9403.90</td>
<td>A change to a good of subheading 9403.81 through 9403.90 from any other heading; or&lt;br&gt;No change in tariff classification required for a good of subheading 9403.81 through 9403.90, provided there is a regional value content of not less than:&lt;br&gt;(a) 30 per cent under the build-up method; or&lt;br&gt;(b) 40 per cent under the build-down method; or&lt;br&gt;(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.03.</td>
</tr>
<tr>
<td>9404.10 - 9404.30</td>
<td>A change to a good of subheading 9404.10 through 9404.30 from any other heading.</td>
</tr>
<tr>
<td>9405.10 - 9405.20</td>
<td>A change to a good of subheading 9405.10 through 9405.20 from any other heading; or&lt;br&gt;No change in tariff classification required for a good of subheading 9405.10 through 9405.20, provided there is a regional value content of not less than:&lt;br&gt;(a) 35 per cent under the build-up method; or&lt;br&gt;(b) 45 per cent under the build-down method; or&lt;br&gt;(c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.05.</td>
</tr>
<tr>
<td>9405.30 - 9405.40</td>
<td>A change to a good of subheading 9405.30 through 9405.40 from any other heading; or&lt;br&gt;No change in tariff classification required for a good of subheading 9405.30 through 9405.40, provided there is a regional value content of not less than:&lt;br&gt;(a) 30 per cent under the build-up method; or&lt;br&gt;(b) 40 per cent under the build-down method; or&lt;br&gt;(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.05.</td>
</tr>
<tr>
<td>9405.50</td>
<td>A change to a good of subheading 9405.50 from any other heading; or&lt;br&gt;No change in tariff classification required for a good of subheading 9405.50, provided there is a regional value content of not less than:&lt;br&gt;(a) 35 per cent under the build-up method; or&lt;br&gt;(b) 45 per cent under the build-down method.</td>
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<tbody>
<tr>
<td>9405.60</td>
<td>A change to a good of subheading 9405.60 from any other heading; or No change in tariff classification required for a good of subheading 9405.60, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 94.05.</td>
</tr>
<tr>
<td>9405.91 - 9405.99</td>
<td>A change to a good of subheading 9405.91 through 9405.99 from any other heading.</td>
</tr>
<tr>
<td>94.06</td>
<td>A change to a good of heading 94.06 from any other heading; or No change in tariff classification required for a good of heading 94.06, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 94.06.</td>
</tr>
<tr>
<td>95.03</td>
<td>A change to a good of heading 95.03 from any other heading; or No change in tariff classification required for a good of heading 95.03, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.03.</td>
</tr>
<tr>
<td>95.04</td>
<td>A change to a good of heading 95.04 from any other heading; or No change in tariff classification required for a good of heading 95.04, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.04.</td>
</tr>
</tbody>
</table>
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<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
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<tbody>
<tr>
<td>95.05</td>
<td>A change to a good of heading 95.05 from any other heading; or No change in tariff classification required for a good of heading 95.05, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.05.</td>
</tr>
<tr>
<td>9506.11 - 9506.61</td>
<td>A change to a good of subheading 9506.11 through 9506.61 from any other heading; or No change in tariff classification required for a good of subheading 9506.11 through 9506.61, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.06.</td>
</tr>
<tr>
<td>9506.62</td>
<td>A change to a good of subheading 9506.62 from any other heading; or No change in tariff classification required for a good of subheading 9506.62, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 95.06.</td>
</tr>
<tr>
<td>9506.69 - 9506.99</td>
<td>A change to a good of subheading 9506.69 through 9506.99 from any other heading; or No change in tariff classification required for a good of subheading 9506.69 through 9506.99, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.06.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
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</tr>
<tr>
<td><strong>95.07</strong></td>
<td>A change to a good of heading 95.07 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 95.07, provided there is a regional value content of not less than:</td>
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<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
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<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.07.</td>
</tr>
<tr>
<td><strong>95.08</strong></td>
<td>A change to a good of heading 95.08 from any other heading; or</td>
</tr>
<tr>
<td></td>
<td>No change in tariff classification required for a good of heading 95.08, provided there is a regional value content of not less than:</td>
</tr>
<tr>
<td></td>
<td>(a) 30 per cent under the build-up method; or</td>
</tr>
<tr>
<td></td>
<td>(b) 40 per cent under the build-down method; or</td>
</tr>
<tr>
<td></td>
<td>(c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 95.08.</td>
</tr>
</tbody>
</table>

### CHAPTER 96
**MISCELLANEOUS MANUFACTURED ARTICLES**

| **96.01**                  | A change to a good of heading 96.01 from any other chapter; or |
|                           | No change in tariff classification required for a good of heading 96.01, provided there is a regional value content of not less than: |
|                           | (a) 30 per cent under the build-up method; or |
|                           | (b) 40 per cent under the build-down method; or |
|                           | (c) 50 per cent under the focused value method taking into account only the non-originating materials of chapter 96. |
| **96.02**                 | A change to a good of heading 96.02 from any other heading; or |
|                           | No change in tariff classification required for a good of heading 96.02, provided there is a regional value content of not less than: |
|                           | (a) 35 per cent under the build-up method; or |
|                           | (b) 45 per cent under the build-down method; or |
|                           | (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.02. |
| **96.03 - 96.05**         | A change to a good of heading 96.03 through 96.05 from any other heading. |
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<tr>
<th>HS Classification (HS2007)</th>
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</tr>
</thead>
<tbody>
<tr>
<td>9606.10</td>
<td>A change to a good of subheading 9606.10 from any other heading; or No change in tariff classification required for a good of subheading 9606.10, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.06.</td>
</tr>
<tr>
<td>9606.21</td>
<td>A change to a good of subheading 9606.21 from any other heading; or No change in tariff classification required for a good of subheading 9606.21, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 96.06.</td>
</tr>
<tr>
<td>9606.22</td>
<td>A change to a good of subheading 9606.22 from any other heading; or No change in tariff classification required for a good of subheading 9606.22, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.06.</td>
</tr>
<tr>
<td>9606.29</td>
<td>A change to a good of subheading 9606.29 from any other heading; or No change in tariff classification required for a good of subheading 9606.29, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 96.06.</td>
</tr>
<tr>
<td>9606.30</td>
<td>A change to a good of subheading 9606.30 from any other heading.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>9607.11</td>
<td>A change to a good of subheading 9607.11 from any other heading; or No change in tariff classification required for a good of subheading 9607.11, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.07.</td>
</tr>
<tr>
<td>9607.19</td>
<td>A change to a good of subheading 9607.19 from any other heading; or No change in tariff classification required for a good of subheading 9607.19, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 96.07.</td>
</tr>
<tr>
<td>9607.20</td>
<td>A change to a good of subheading 9607.20 from any other heading.</td>
</tr>
<tr>
<td>9608.10 - 9608.20</td>
<td>A change to a good of subheading 9608.10 through 9608.20 from any other heading; or No change in tariff classification required for a good of subheading 9608.10 through 9608.20, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method.</td>
</tr>
<tr>
<td>9608.31 - 9608.39</td>
<td>A change to a good of subheading 9608.31 through 9608.39 from any other heading; or No change in tariff classification required for a good of subheading 9608.31 through 9608.39, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method; or (c) 60 per cent under the focused value method taking into account only the non-originating materials of heading 96.08.</td>
</tr>
<tr>
<td>HS Classification (HS2007)</td>
<td>Product-Specific Rule of Origin</td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>9608.40 - 9608.50</td>
<td>A change to a good of subheading 9608.40 through 9608.50 from any other heading; or No change in tariff classification required for a good of subheading 9608.40 through 9608.50, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>9608.60 - 9608.99</td>
<td>A change to a good of subheading 9608.60 through 9608.99 from any other heading.</td>
</tr>
<tr>
<td>9609.10</td>
<td>A change to a good of subheading 9609.10 from any other heading; or No change in tariff classification required for a good of subheading 9609.10, provided there is a regional value content of not less than: (a) 40 per cent under the build-up method; or (b) 50 per cent under the build-down method.</td>
</tr>
<tr>
<td>9609.20 - 9609.90</td>
<td>A change to a good of subheading 9609.20 through 9609.90 from any other heading.</td>
</tr>
<tr>
<td>96.10 - 96.12</td>
<td>A change to a good of heading 96.10 through 96.12 from any other heading.</td>
</tr>
<tr>
<td>9613.10 - 9613.80</td>
<td>A change to a good of subheading 9613.10 through 9613.80 from any other heading; or No change in tariff classification required for a good of subheading 9613.10 through 9613.80, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.13.</td>
</tr>
<tr>
<td>9613.90</td>
<td>A change to a good of subheading 9613.90 from any other heading.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>HS Classification (HS2007)</th>
<th>Product-Specific Rule of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>96.14</td>
<td>A change to a good of heading 96.14 from any other heading; or No change in tariff classification required for a good of heading 96.14, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 96.14.</td>
</tr>
<tr>
<td>96.15</td>
<td>A change to a good of heading 96.15 from any other heading; or No change in tariff classification required for a good of heading 96.15, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.15.</td>
</tr>
<tr>
<td>96.16</td>
<td>A change to a good of heading 96.16 from any other heading.</td>
</tr>
<tr>
<td>96.17</td>
<td>A change to a good of heading 96.17 from any other heading; or No change in tariff classification required for a good of heading 96.17, provided there is a regional value content of not less than: (a) 35 per cent under the build-up method; or (b) 45 per cent under the build-down method; or (c) 55 per cent under the focused value method taking into account only the non-originating materials of heading 96.17.</td>
</tr>
<tr>
<td>96.18</td>
<td>A change to a good of heading 96.18 from any other heading; or No change in tariff classification required for a good of heading 96.18, provided there is a regional value content of not less than: (a) 30 per cent under the build-up method; or (b) 40 per cent under the build-down method; or (c) 50 per cent under the focused value method taking into account only the non-originating materials of heading 96.18.</td>
</tr>
</tbody>
</table>

**SECTION XXI**

**WORKS OF ART, COLLECTORS' PIECES AND ANTIQUES**

**CHAPTER 97**

**WORKS OF ART, COLLECTORS’ PIECES AND ANTIQUES**

| | A change to a good of heading 97.01 through 97.06 from any other heading. |
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.
Appendix 1 to Annex 3-D:
Provisions related to the Product-Specific Rules of Origin for certain vehicles and parts of vehicles

1. For the purpose of satisfying the regional value content requirement of the product-specific rule of origin applicable to a good of subheading 8701.10 through 8701.30 or heading 87.02 through 87.05, a material listed in Table A used in the production of that good is originating if:

(a) it meets the applicable requirements for that material under the PSR Annex; or

(b) the production undertaken on that material in the territory of one or more of the Parties involves\(^1\) one or more of the operations listed in Table B.

2. For the purpose of satisfying the regional value content requirement of the product-specific rule of origin applicable to a good listed in Table C, a material used in the production of that good is originating if:

(a) it meets the applicable requirements for that material under the PSR Annex; or

(b) subject to paragraph 3, the production undertaken on that material in the territory of one or more of the Parties involves one or more of the operations listed in Table B.

3. The value of the materials that are originating under paragraph 2(b) shall be counted as originating content, provided that the value counted as originating content does not exceed the applicable threshold listed in Table C of the value (Build-Up / Build-Down) or cost (Net Cost) of the good.

<table>
<thead>
<tr>
<th>HS Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>7007.11</td>
<td>Toughened (tempered) safety glass</td>
</tr>
<tr>
<td>7007.21</td>
<td>Laminated safety glass</td>
</tr>
<tr>
<td>8707.10</td>
<td>Bodies (including cabs), for the motor vehicles of heading 87.03</td>
</tr>
<tr>
<td>8707.90</td>
<td>Bodies (including cabs), for the motor vehicles of heading 87.01, 87.02, 87.04 and 87.05</td>
</tr>
<tr>
<td>ex 8708.10</td>
<td>Bumpers (not including parts thereof)</td>
</tr>
<tr>
<td>ex 8708.29</td>
<td>Body stampings and door assemblies (not including parts thereof)</td>
</tr>
<tr>
<td>ex 8708.50</td>
<td>Drive-axles with differential, whether or not provided with other transmission</td>
</tr>
</tbody>
</table>

\(^1\) For greater certainty, one or more of the listed operations must be involved in the production of a material listed in Table A. Performing a listed operation on one or more parts or subsystems that are subsequently used in the production of a material listed in Table A is not sufficient to confer origin on that material.
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

components, and non-driving axles (not including parts thereof)
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

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Table B

<table>
<thead>
<tr>
<th>Complex assembly</th>
<th>Complex welding</th>
<th>Die or other casting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extrusion</td>
<td>Forging</td>
<td>Heat treating including glass or metal tempering</td>
</tr>
<tr>
<td>Laminating</td>
<td>Machining</td>
<td>Metal forming</td>
</tr>
<tr>
<td>Moulding</td>
<td>Stamping including pressing</td>
<td></td>
</tr>
</tbody>
</table>

Note 1: “Complex” means an operation that requires specialized skills and the use of machines, apparatus or tools that are especially produced or installed to carry out that operation, regardless of whether such machines, apparatus or tools were produced with the intention of carrying out that operation on a specific good.

Note 2: The operations referred to in Table B do not include the mere assembly of non-originating components classified as a good in accordance with Rule 2(a) of the General Rules for the Interpretation of the Harmonized System.

Table C

<table>
<thead>
<tr>
<th>HS Code</th>
<th>Description</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>8407.33</td>
<td>Spark-ignition reciprocating piston engines of a kind used for the propulsion of vehicles of Chapter 87: Of a cylinder capacity exceeding 250 cc but not exceeding 1,000 cc</td>
<td>10%</td>
</tr>
<tr>
<td>8407.34</td>
<td>Spark-ignition reciprocating piston engines of a kind used for the propulsion of vehicles of Chapter 87: Of a cylinder capacity exceeding 1,000 cc</td>
<td>10%</td>
</tr>
<tr>
<td>8408.20</td>
<td>Compression-ignition internal combustion piston engines (diesel or semi-diesel engines) of a kind used for the propulsion of vehicles of Chapter 87</td>
<td>10%</td>
</tr>
<tr>
<td>8706.00</td>
<td>Chassis fitted with engines, for the motor vehicles of headings 87.01 to 87.05</td>
<td>10%</td>
</tr>
<tr>
<td>8708.10</td>
<td>Bumpers and parts thereof</td>
<td>10%</td>
</tr>
<tr>
<td>8708.21</td>
<td>Safety seat belts</td>
<td>10%</td>
</tr>
<tr>
<td>8708.29</td>
<td>Other parts and accessories of bodies (including cabs)</td>
<td>5%</td>
</tr>
<tr>
<td>8708.30</td>
<td>Brakes and servo-brakes; parts thereof</td>
<td>10%</td>
</tr>
<tr>
<td>8708.40</td>
<td>Gear boxes and parts thereof</td>
<td>10%</td>
</tr>
<tr>
<td>8708.50</td>
<td>Drive-axles with differential, whether or not provided with other transmission components, and non-driving axles; parts thereof</td>
<td>5%</td>
</tr>
<tr>
<td>8708.80</td>
<td>Suspension systems and parts thereof (including shock-absorbers)</td>
<td>10%</td>
</tr>
<tr>
<td>8708.94</td>
<td>Steering wheels, steering columns and steering boxes; parts thereof</td>
<td>10%</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>8708.95</td>
<td>Safety airbags with inflater system; parts thereof</td>
<td>5%</td>
</tr>
<tr>
<td>8708.99</td>
<td>Other parts and accessories</td>
<td>5%</td>
</tr>
</tbody>
</table>
CHAPTER 4
TEXTILES AND APPAREL

Article 4.1: Definitions

For purposes of this Chapter:

textile or apparel good means a good listed in Annex A (Textiles and Apparel Product - Specific Rules of Origin).

customs offence 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 textile or apparel goods amongst the Parties, specifically those that violate a customs law or regulation for restrictions or prohibitions on imports or exports, duty evasion, falsification of documents relating to the importation or exportation of goods, fraud or smuggling.

transition period means the period beginning at entry into force of the Agreement between the Parties concerned until five years after the date on which the importing Party eliminates duties on that good for that exporting Party pursuant to this Agreement.

Article 4.2: Rules of Origin and Related Matters

Application of Chapter 4

1. Except as provided in this Chapter, including the Annexes thereto, Chapter 3 (Rules of Origin and Origin Procedures) applies to textile and apparel goods.

De Minimis

2. A textile or apparel good in Annex A (Textiles and Apparel Product - Specific Rules of Origin) classified outside of Chapters 61 through 63 that is not an originating good because the materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex A (Textiles and Apparel Product - Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all such materials is not more than ten percent of the total weight of the good.

3. A textile or apparel good of Chapters 61 through 63 that is not an originating good because the fibers or yarns used in the production of the component of the good that determine the tariff classification of the good that do not undergo an applicable change in tariff classification set out in Annex A (Textiles and Apparel Product - Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all such fibers or yarns is not more than ten per cent of the total weight of that component.
4. Notwithstanding paragraphs 2 and 3, a good of paragraph 2 containing elastomeric yarn or a good of paragraph 3 containing elastomeric yarn in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of one or more of the Parties.\textsuperscript{1,2}

*Treatment of Sets*

5. Notwithstanding the textile and apparel specific rules of origin set out in Annex A (Textiles and Apparel Product - Specific Rules of Origin), textile and apparel goods classifiable as goods put up in sets for retail sale as provided for in 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.

6. For the purposes of paragraph 5:

   a) the value of non-originating goods in the set is calculated in the same manner as the value of non-originating materials in Chapter 3 (Rules of Origin and Origin Procedures) and

   b) the value of the set is calculated in the same manner as the value of the good in Chapter 3 (Rules of Origin and Origin Procedures).

*Treatment of Short Supply List*

7. Each Party shall provide that, for purposes of determining whether a good is originating under Chapter 3, Article 2(c), a material listed in Appendix 1 (Short Supply List) to Annex A (Textiles and Apparel Product - Specific Rules of Origin) is originating provided the material meets any requirement, including any end use requirement, specified in the Appendix 1 (Short Supply List) to Annex A (Textiles and Apparel Product - Specific Rules of Origin).

8. Where a claim that a good is originating relies on incorporation of a material on Appendix 1 (Short Supply List) to Annex A (Textiles and Apparel Product - Specific Rules of Origin), the importing Party may require in the importation documentation, such as a certification of origin, the number or description of the material on Appendix 1 (Short Supply List) to Annex A (Textiles and Apparel Product - Specific Rules of Origin).

\textsuperscript{1} For greater certainty, a Party shall not construe paragraph 4 to require a material on the short supply list to be produced from elastomeric yarns wholly formed in the territory of one or more of the Parties.

\textsuperscript{2} For purposes of paragraph 4, wholly formed means all production processes and finishing operations, beginning with the extrusion of filaments, strips, film, or sheet, and including drawing to fully orient a filament or slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn.
9. Non-originating materials marked as temporary in Appendix 1 (Short Supply List) to Annex A (Textiles and Apparel Product - Specific Rules of Origin) may be considered as originating under paragraph 7 for 5 years from entry into force of this Agreement.

Treatment for Certain Handmade or Folkloric Goods

10. An importing Party may identify particular textile or apparel goods of an exporting Party to be eligible for duty-free or preferential tariff treatment that the importing and exporting Parties mutually agree fall within:

   (a) hand-loomed fabrics of a cottage industry;

   (b) hand-printed fabrics with a pattern created with a wax-resistance technique;

   (c) hand-made cottage industry goods made of such hand-loomed or hand-printed fabrics; or

   (d) traditional folklore handicraft goods

provided that any requirements agreed by the importing and exporting Parties for such treatment are met.

Article 4.3: Emergency Actions

1. Subject to the provisions of this Article if, as a result of the reduction or elimination of a customs duty provided for in this Agreement, a textile or apparel good benefiting from preferential tariff treatment under this Agreement is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to the domestic market for that good, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the importing Party may, to the extent and for such time as may be necessary to prevent or remedy such damage and to facilitate adjustment, take emergency action in accordance with paragraph 6, consisting of an increase in the rate of duty on the good of the exporting Party or Parties to a level not to exceed the lesser of:

   (a) the most-favoured-nation (MFN) applied rate of customs duty in effect at the time the action is taken; and

   (b) the MFN applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement for that Party.

2. Nothing in this article shall be construed to limit a Party’s rights and obligations under Article XIX of the GATT 1994, the WTO Agreement on Safeguards, or Chapter 6 (Trade Remedies).

3. In determining serious damage, or actual threat thereof, the importing Party:
(a) shall examine the effect of increased imports from the exporting Party or Parties of a textile or apparel good benefiting from preferential tariff treatment under this Agreement on the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and investment, none of which either alone or combined with other factors, shall necessarily be decisive; and

(b) shall not consider changes in technology or consumer preference in the importing Party as factors supporting a determination of serious damage or actual threat thereof.

4. The importing Party may take an emergency action under this Article only following its publication of procedures that identify the criteria for a finding of serious damage and only following an investigation by its competent authorities. Such an investigation must use data based on the factors described in 3(a) that serious damage or actual threat thereof is demonstrably caused by increased imports of the product concerned as a result of this Agreement.

5. The importing Party shall submit to the exporting Party or Parties, without delay, written notice of the initiation of the investigation provided for in paragraph 4, as well as of its intent to take emergency action, and, on the request of the exporting Party or Parties, shall enter into consultations with that Party or Parties regarding the matter. The importing Party shall provide the exporting party full details of the emergency action to be taken. The Parties concerned shall begin consultations without delay and, unless otherwise decided, shall complete them within 60 days of receipt of the request. After completion of the consultations, the importing Party shall notify the exporting Party of any decision. If it decides to apply a safeguard measure, the notification shall include the details of the measure, including when it will take effect.

6. The following conditions and limitations shall apply to any emergency action taken under this Article:

(a) no emergency action may be maintained for a period exceeding two years with a possible extension for an additional two years;

(b) no emergency action against a good may be taken or maintained beyond the transition period;

(c) no emergency action may be taken by an importing Party against any particular good of another Party or Parties more than once; and

(d) on termination of the emergency action, the importing Party shall accord to the good that was subject to the emergency action the tariff treatment that would have been in effect but for the action.
7. The Party taking an emergency action under this Article shall provide to the exporting Party or Parties against whose goods the measure 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 emergency action. Such concessions shall be limited to textile and apparel goods, unless the Parties concerned otherwise agree. If the Parties concerned are unable to agree on compensation within 60 days or a longer period agreed by the Parties concerned, the Party or Parties against whose good the emergency action is taken may take tariff action having trade effects substantially equivalent to the trade effects of the emergency action taken under this Article. Such tariff action may be taken against any goods of the Party taking the emergency action. The Party taking the tariff action shall apply the tariff action only for the minimum period necessary to achieve the substantially equivalent trade effects. The importing Party’s obligation to provide trade compensation and the exporting Party’s right to take tariff action shall terminate when the emergency action terminates.

8. A Party may not take or maintain an emergency action under this Article against a textile or apparel good that is subject, or becomes subject, to a transitional safeguard measure under Chapter 6 (Trade Remedies), or a safeguard measure that a Party takes pursuant to Article XIX of the GATT 1994, or the WTO Agreement on Safeguards.

9. The investigations referred to in this Article shall be carried out according to procedures established by each Party. Each Party shall, upon entry into force of this Agreement or before it initiates an investigation, notify the other Parties of these procedures.

10. Each Party shall, in any year where it takes or maintains an emergency action under this Article, provide a report on such actions to the other Parties.

**Article 4.4: Cooperation**

1. 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 offences for trade in textile or apparel goods among the Parties, including ensuring the accuracy of claims for preferential tariff treatment under this Agreement.

2. Each Party shall take appropriate measures, which may include legislative, administrative, judicial, or other action for:

   (a) enforcement of its laws, regulations and procedures related to customs offences, and

   (b) cooperation with an importing Party in the enforcement of its laws regulations and procedures related to prevention of customs offences.

3. For the purposes of paragraph 2, “appropriate measures” means measures a Party takes, in accordance with its laws, regulations, and procedures, such as:
(a) providing its government officials with the legal authority to meet the obligations under this Chapter;

(b) enabling its law enforcement officials to identify and address customs offences;

(c) establishing or maintaining criminal, civil or administrative penalties that are aimed at deterring customs offences;

(d) undertaking appropriate enforcement action where it believes, based on a request from another Party that includes relevant facts, that a customs offence has occurred or is occurring in the requested Party’s territory with regard to a textile or apparel good, including in free trade zones of the requested Party; and

(e) cooperating with another Party, on request, to establish facts regarding customs offences in the requested Party’s territory with regard to a textile or apparel good, including in free trade zones of the requested Party.

4. A Party may request information from another Party where it has relevant facts indicating a customs offence is occurring or is likely to occur, such as historical evidence.

5. Any request under paragraph 4 shall be made in writing, by electronic means or any other method that acknowledges receipt, and shall include a brief statement of the matter at issue, the cooperation requested, the relevant facts indicating a customs offence, and sufficient information for the requested Party to respond in accordance with its laws and regulations.

6. To enhance cooperative efforts under this Article between Parties to prevent and address customs offences, a Party that receives a request under paragraph 4 shall, subject to its laws, regulations, and procedures, including those related to confidentiality referred to in Article 9.4 provide to the requesting Party, upon receipt of a request in accordance with paragraph 5, available information on the existence of an importer, exporter, or producer, goods of an importer, exporter, or producer, or other matters related to this Chapter. The information may include any available correspondence, reports, bills of lading, invoices, order contracts, or other information regarding enforcement of laws or regulations related to the request.

7. A Party may provide information requested in this article on paper or in electronic form.

8. Each Party shall establish or maintain contact points for cooperation under this Chapter. Each Party shall notify the other Parties of its contact points upon entry into force of this Agreement and shall notify the other Parties promptly of any subsequent changes.

Article 4.5: Monitoring
1. Each Party shall establish or maintain programs or practices to identify and address textiles and apparel customs offences. This may include programs or practices to ensure the accuracy of claims for preferential tariff treatment for textile and apparel goods under this Agreement.

2. Through such programs or practices, the Party may collect or share information related to textiles or apparel goods for use for risk management purposes.

3. In addition to paragraphs 1 and 2, some Parties have bilateral agreements that apply between those Parties.

Article 4.6: Verification

1. An importing Party may conduct a verification with respect to a textile or apparel good pursuant to Article 3.27.1(a), 3.27.1(b), or 3.27.1(e) (Verification) 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. ²

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 offences are occurring or have occurred.

3. During a site visit under this article, 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. Where an importing Party seeks to conduct a site visit under paragraph 2, it shall notify the host Party, no later than 20 days before the visit, regarding:

   (a) the proposed dates;

   (b) the number of exporters and producers to be visited in appropriate detail to facilitate the provision of any assistance, but need not specify the names of the exporters or producers to be visited;

² 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.
(c) whether assistance by the host Party will be requested and what type;

(d) where relevant, the customs offences being verified under paragraph 2(b), including relevant factual information available at the time of the notification related to the specific offences, which may include historical information; and

(e) whether the importer claimed preferential tariff treatment.

5. Upon receipt of information on a proposed visit under paragraph 2, the host Party may request information from the importing Party to facilitate planning of the visit, such as logistical arrangements or provision of requested assistance.

6. Where an importing Party seeks to conduct a site visit under paragraph 2, it shall provide the host Party, as soon as practicable and prior to the date of the first visit to an exporter or producer under this article, with a list of the names and addresses of the exporters or producers it proposes to visit.

7. Where an importing Party seeks to conduct a site visit under paragraph 2:

(a) Officials of the host Party may accompany the importing Party during the site visit.

(b) Officials 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 importing Party during the site visit and provide, to the extent available, information relevant to conduct the site visit.

(c) The importing and host Parties shall limit communication regarding the site visit to relevant government officials and shall not inform the exporter or producer outside the government of the host Party in advance of a visit or provide any other verification or enforcement information not publicly available whose disclosure could undermine the effectiveness of the action.

(d) The importing Party shall request permission from the exporter, or producer for access to the relevant records or facilities, no later than the time of the visit. Unless advance notice would undermine the effectiveness of the site visit, the importing Party shall request permission with appropriate advance notice.

(e) Where the exporter or producer of textile or apparel goods denies such permission or access, the visit will not occur. The importing Party shall give

4 The importing Party shall request permission from a person who has the capacity to consent to the visit at the facilities to be visited.
consideration to any reasonable alternative dates proposed, taking into account the availability of relevant employees or facilities of the person visited.

8. Upon completion of a site visit under paragraph 2, the importing Party shall:

(a) upon request of the host Party, inform the host Party of its preliminary findings.

(b) upon receiving a written request from the host Party, provide to the host Party, no later than 90 days from the date of the request, a written report of the results of the visit, including any findings. If the report is not in English, the importing Party shall provide a translation of it in English upon request of the host Party.

(c) on written request of the exporter or producer, provide that person, no later than 90 days of the date of the request, with a written report of the results of the 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. If the report is not in English, the importing Party shall provide a translation of it in English upon request of that exporter or producer.

9. Where an importing Party conducts a site visit under paragraph 2 and as a result intends to deny preferential tariff treatment to a good, it shall, before denying preferential tariff treatment, provide to the importer and any exporter or producer that provided information directly to the importing Party 30 days to submit additional information to support the claim. In cases where advance notice was not given under paragraph 7(d), such importer, exporter, or producer may request an additional 30 days.

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.

12. While a verification is being conducted under Article 6, the importing Party may take appropriate measures under procedures established in its laws and regulations, including suspending or denying the application of preferential tariff treatment to textile or apparel goods of the exporter or producer subject to a verification.

13. Where verifications of identical goods by a Party indicate a pattern of conduct by an exporter or producer of false or unsupported representations that a good imported into its territory qualifies for preferential tariff treatment, the Party may withhold preferential tariff treatment for identical textile or apparel goods imported, exported or produced by such a person until it is demonstrated to the importing Party that the identical goods qualify for preferential tariff treatment. For the purpose of this paragraph, identical goods means goods that are the same in all respects relevant to the particular rule of origin that qualifies the goods as originating.
Article 4.7: Determinations

The importing Party may deny a claim for preferential tariff treatment for a textile or apparel good:

(a) for a reason listed in Article 3.28.2 (Determination on Claims for Preferential Tariff Treatment);

(b) if, pursuant to a verification under this Chapter, it has not received sufficient information to determine that the good qualifies as originating; or

(c) if, pursuant to a verification under this Chapter, access or permission for the visit is denied, the importing Party is prevented from completing the visit on the proposed date and the exporter or producer does not provide an alternative date acceptable to the importing Party, or the exporter or producer does not provide access to the relevant records or facilities during a visit.

Article 4.8: Committee on Textile and Apparel Trade Matters

1. The Parties hereby establish a Committee on Textile and Apparel Trade Matters, comprised of representatives of each Party.

2. The Committee on Textile and Apparel Trade Matters will meet at least once within one year of entry into force of the 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 may be decided by the Parties. Meetings may be conducted in person, or by any other means as decided by the Parties.

3. The Committee may consider any matter arising under this Chapter, and its functions will 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. In addition to discussions under the Committee, a Party may request discussions with any other Party or Parties regarding matters under this Chapter concerning those Parties, with a view to resolution of the issue, where it believes difficulties are occurring with respect to implementation of this Chapter.

5. Unless the Parties amongst whom a discussion is requested agree otherwise, they shall hold the consultations pursuant to paragraph 4 within 30 days of receipt of a written request by a Party and endeavour to conclude within 90 days of receipt of the written request.

6. Discussions under this Article shall be confidential and without prejudice to the rights of any Party in any further proceeding.
Article 4.9: Confidentiality

1. Each Party shall maintain the confidentiality of the information collected in accordance with this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. Where a Party providing information to another Party in accordance with this Chapter designates the information as confidential, the other Party shall keep the information confidential.

3. The Party providing the information may require the other Party to furnish written assurance that the information will be held in confidence, will be used only for the purposes specified in the other Party’s request for information, and will not be disclosed without the specific permission of the Party that provided the information or the person that provided the information to that Party.

4. A Party may decline to provide information requested by another Party where that Party has failed to act in conformity with paragraphs 1 through 3.

5. Each Party shall adopt or maintain procedures for protecting from unauthorized disclosure confidential information submitted in accordance with the administration of the Party’s customs or other laws related to this Chapter, or collected in accordance with this Chapter, including information the disclosure of which could prejudice the competitive position of the person providing the information.
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

ANNEX 4-A

TEXTILES AND APPAREL PRODUCT - SPECIFIC RULES OF ORIGIN

Part I – General Interpretative Notes

1. For the purposes of interpreting the product-specific rules of origin set forth in this Annex, the following definitions apply:

section means a section of the Harmonized System;

chapter means a chapter of the Harmonized System;

heading means the first four digits of the tariff classification number of the Harmonized System; and

subheading means the first six digits of the tariff classification number of the Harmonized System.

2. Under this Annex, a good is an originating good if it is produced entirely in the territory of one or more of the Parties by one or more producers using non-originating materials, and:

(a) each of the non-originating materials used in the production of the good satisfies any production process requirement, any applicable change in tariff classification requirement or any other requirement specified in this Annex; and

(b) the good satisfies all other applicable requirements of Chapter 4 (Textiles and Apparel) or 3 (Rules of Origin and Origin Procedures).

3. For the purpose of interpreting the product-specific rules of origin set forth in this Annex:

(a) the specific rule, or specific set of rules, that applies to a particular heading, subheading or group of headings or subheadings is set out immediately adjacent to the heading, subheading or group of headings or subheadings;

(b) chapter or heading notes, where applicable, are found at the beginning of each chapter, and are read in conjunction with the product-specific rules of origin and
The product-specific rules of origin (PSR) Annex and its Appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

may impose further conditions on, or provide an alternative to the product-specific rules of origin;

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

(d) if a product-specific rule of origin excludes certain materials of the Harmonized System, it shall be construed to mean that the product-specific rule of origin requires that the excluded materials be originating for the good to be originating;

(e) if a good is subject to a product-specific rule of origin that includes multiple requirements, the good shall be originating only if it satisfies all of the requirements;

(h) if a single product-specific rule of origin applies to a group of headings or subheadings and that rule of origin specifies a change of heading or subheading, it shall be understood that the change in heading or subheading may occur from any other heading or subheading, as the case may be, including from any other heading or subheading within the group; and

(f) the Short Supply List of Product, set out as Appendix 1 to this Annex, is read in conjunction with the product-specific rules of origin set out in this Annex.

Part II – Product-Specific Rules of Origin

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<th>HS Classification (HS 2007)</th>
<th>Product - Specific Rule of Origin</th>
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<td>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)</td>
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<td></td>
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<tr>
<td>ARTICLES OF LEATHER; SADDLERY AND HARNESS; TRAVEL GOODS, HANDBAGS AND SIMILAR CONTAINERS; ARTICLES OF ANIMAL GUT (OTHER THAN SILK-WORM GUT)</td>
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<tr>
<td>4202.12</td>
<td>A change to a good of subheading 4202.12 from any other chapter, provided that 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.</td>
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</table>
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<table>
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<tr>
<th>Section</th>
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<td>4202.22</td>
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<td>4202.32</td>
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<td>4202.92</td>
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### SECTION XI

**TEXTILES AND TEXTILE ARTICLES**

**CHAPTER 50**

**SILK**

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<th>Heading</th>
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<td>50.01 - 50.02</td>
<td>A change to a good of heading 50.01 through 50.02 from any other chapter.</td>
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<td>A change to a good of heading 50.03 through 50.05 from any other heading.</td>
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<td>50.06</td>
<td>A change to a good of heading 50.06 from any other heading, except from heading 50.04 through 50.05.</td>
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<td>50.07</td>
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**CHAPTER 51**

**WOOL, FINE OR COARSE ANIMAL HAIR; HORSEHAIR YARN AND WOVEN FABRIC**

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<td>A change to a good of heading 51.10 from any other heading, except from heading 51.06 through 51.09.</td>
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<td>51.11</td>
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<tr>
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<td>5301.30</td>
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<td>53.02 - 53.05</td>
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<th>5512.99, or heading 55.13 through 55.16.</th>
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<td>5512.29</td>
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<td>5512.91 - 5512.99</td>
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**CHAPTER 56**

**WADDING, FELT AND NONWOVENS; SPECIAL YARNS; TWINE, CORDAGE, ROPES AND CABLES AND ARTICLES THEREOF**

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A change to a good of heading 56.06 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, or chapter 55.

A change to a good of subheading 5607.21 through 5607.29 from any other chapter.

A change to a good of subheading 5607.41 through 5607.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, or chapter 55.

A change to a good of heading 56.08 from any other chapter, except from heading 51.06 through 51.13, 52.05 through 52.12, 53.06 through 53.08, or 53.10 through 53.11, subheading 5402.31 through 5402.69, heading 54.04 or 54.06 through 54.08, subheading 5501.20 through 5501.90 or 5503.20 through 5503.40, heading 55.05, subheading 5506.20 through 5506.90, or heading 55.09 through 55.16.

A change to a good of heading 56.09 from any other chapter, except from heading 51.06 through 51.10, 52.04 through 52.07, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5406.00, or heading 55.01 through 55.11.

A change to a good of heading 57.01 through 57.05 from any other chapter.

A change to a good of heading 58.01 through 58.03 from any other chapter, except from heading 51.11 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, or chapter 55.

A change to a good of subheading 5804.10 from any other chapter, except from heading 51.11 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, or chapter 55.

A change to a good of subheading 5804.21 through 5804.30 from any other chapter.

A change to a good of heading 58.05 through 58.11 from any other chapter, except from heading 51.11 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94,
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<tr>
<td>59.03 - 59.08</td>
<td>A change to a good of heading 59.03 through 59.08 from any other chapter, except from heading 52.08 through 52.12, 54.07 through 54.08, or 55.12 through 55.16.</td>
</tr>
<tr>
<td>59.09</td>
<td>A change to a good of heading 59.09 from any other chapter, except from heading 52.08 through 52.12 or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08 or 55.12 through 55.16.</td>
</tr>
<tr>
<td>59.10</td>
<td>A change to a good of heading 59.10 from any other heading, except from heading 52.04 through 52.12 or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, or chapter 55.</td>
</tr>
<tr>
<td>59.11</td>
<td>A change to a good of heading 59.11 from any other chapter, except from heading 51.11 through 51.13, 52.08 through 52.12, 54.07 through 54.08, or 55.12 through 55.16.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 60</th>
<th>KNITTED OR CROCHETED FABRICS</th>
</tr>
</thead>
<tbody>
<tr>
<td>6001.10</td>
<td>A change to a good of subheading 6001.10 from any other chapter, except from heading 51.06 through 51.13, chapter 52, heading 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, or chapter 55.</td>
</tr>
<tr>
<td>6001.21 - 6001.99</td>
<td>A change to a good of subheading 6001.21 through 6001.99 from any other chapter, except from heading 51.06 through 51.13, chapter 52, heading 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, Chapter 55, or heading 56.06.</td>
</tr>
<tr>
<td>60.02 - 60.06</td>
<td>A change to a good of heading 60.02 through 60.06 from any other chapter, except from heading 51.06 through 51.13, chapter 52, heading 54.01 through 54.02, subheading 5403.33 through 5403.39, or 5403.42 through 5407.94, heading 54.08 or 56.06, or chapter 55.</td>
</tr>
</tbody>
</table>
**CHAPTER 61**
**ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, KNITTED OR CROCHETED**

Chapter Note 1: For the purposes of determining whether a good of this chapter is originating, the rule applicable to that good shall apply only to the component that determines the tariff classification of the good and such component must satisfy the requirements of the change in tariff classification set out in the rule for that good.

Chapter Note 2: Notwithstanding Chapter Note 1, a good of this chapter containing fabrics of heading 60.02 or subheading 5806.20 is originating only if such fabrics are both formed and finished from yarn that is formed and finished in the territory of one or more of the Parties.

Chapter Note 3: 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 is originating only if such sewing thread is both formed and finished in the territory of one or more of the Parties.

| 61.01 - 61.09 | A change to a good of heading 61.01 through 61.09 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, 55.08 through 55.16, 56.06, or 60.01 through 60.06, 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. |
| 6110.11 | A change to a good of subheading 6110.11 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08, 55.08 through 55.16, or 60.01 through 60.06, 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. |
| 6110.12 - 6110.19 | A change to a good of subheading 6110.12 through 6110.19 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08, 55.08 through 55.16, 56.06, or 60.01 through 60.06, 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. |
| 6110.20 | A change to a good of subheading 6110.20 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08, 55.08 through 55.16, or 60.01 through 60.06, 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. |
| 6110.30 | A change to a good of subheading 6110.30 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, heading 54.08 or 55.03, subheading 5506.30, or heading 55.08 through 55.16 or 60.01 through 4330 |
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<table>
<thead>
<tr>
<th>60.06, 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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>6110.90</td>
</tr>
<tr>
<td>6111.20</td>
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<tr>
<td>6111.30</td>
</tr>
<tr>
<td>6111.90</td>
</tr>
<tr>
<td>61.12 - 61.14</td>
</tr>
<tr>
<td>61.15</td>
</tr>
</tbody>
</table>
| 61.16 - 61.17 | A change to a good of heading 61.16 through 61.17 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or 
<table>
<thead>
<tr>
<th>CHAPTER 62</th>
<th>ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, NOT KNITTED OR CROCHETED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chapter Note 1:</strong> For the purposes of determining whether a good of this chapter is originating, 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 requirements of the change in tariff classification set out in the rule for that good.</td>
<td></td>
</tr>
<tr>
<td><strong>Chapter Note 2:</strong> Notwithstanding Chapter Note 1, a good of this chapter, other than a good of subheading 6212.10, containing fabrics of heading 60.02 or subheading 5806.20 is originating only if such fabrics are both formed and finished from yarn that is formed and finished in the territory of one or more of the Parties.</td>
<td></td>
</tr>
<tr>
<td><strong>Chapter Note 3:</strong> 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 is originating only if such sewing thread is both formed and finished in the territory of one or more of the Parties.</td>
<td></td>
</tr>
<tr>
<td><strong>Chapter Note 4:</strong> Notwithstanding the textile and apparel specific rules of origin set out in this Annex, the traditional Japanese garment, Kimono, or garment accessory, Obi, satisfying the following requirements, is an originating good, provided that the good is made with fabrics produced in the territory of one or more of the Parties, and is both cut and sewn or otherwise assembled in the territory of one or more of the Parties.</td>
<td></td>
</tr>
</tbody>
</table>

**Women’s or Girls’ Kimonos:**
- For the purposes of this chapter a kimono for women or girls is a garment worn by being wrapped around the body, is usually secured with a sash called an obi, and is:
  - (a) classified in subheading 6211.49 for an outer garment, or 6208.99 for an undergarment;
  - (b) made by cutting a 100% silk woven fabric in five or more panels and by assembling and sewing them;
  - (c) of 60 centimetres or more but not exceeding 75 centimetres in width between spine and wrist; and
  - (d) with sleeves not fully attached to the body side and not sewn shut on the body side.

**Men’s or Boy’s Kimono:**
- For the purposes of this chapter, a kimono for men or boys is a garment worn by being wrapped around the body, is usually secured with a sash called an obi, and is:
  - (a) classified in subheading 6211.39 for an outer garment, or 6207.99 for an undergarment;
  - (b) made by cutting a 100% silk woven fabric in five or more panels and by assembling and sewing them;
  - (c) of 60 centimetres or more but not exceeding 75 centimetres in width between spine and wrist; and
  - (d) with sleeves almost fully attached to the body side and sewn shut on the body side.

**Obi (heading 62.17):**
- For the purposes of this chapter, an obi is a garment accessory used as a sash that is wrapped and tied over a kimono, and is:
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(a) classified in subheading 6217.10 or 6217.90;
(b) of a length of three through five meters and a width of 15 through 70 centimetres;
(c) made by assembling and sewing two different woven silk fabrics into a bag-shaped form, or by folding in half and sewing one woven silk fabric into a bag-shaped form;
(d) rectangular; and
(e) used only with kimonos.

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<tbody>
<tr>
<td>62.01 - 62.08</td>
<td>A change to a good of heading 62.01 through 62.08 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08, 55.08 through 55.16, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>6209.20</td>
<td>A change to a good of subheading 6209.20 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08, 55.08 through 55.16, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>6209.30</td>
<td>A change to a good of subheading 6209.30 from any other chapter, 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.</td>
</tr>
<tr>
<td>6209.90</td>
<td>A change to a good of subheading 6209.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08, 55.08 through 55.16, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>62.10 - 62.11</td>
<td>A change to a good of heading 62.10 through 62.11 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, or 54.01 through 54.02, subheading 5403.33 through 5403.39 or 5403.42 through 5407.94, or heading 54.08, 55.08 through 55.16, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>6212.10</td>
<td>A change to a good of subheading 6212.10 from any other chapter, 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.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Subheading</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6212.20 - 6212.90</td>
<td>A change to a good of subheading 6212.20 through 6212.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 54.01 through 54.02, subheading 5403.33 through 5403.39, or 5403.42 through 5407.94, 54.08, or heading 55.08 through 55.16, 56.06, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>62.13 - 62.17</td>
<td>A change to a good of heading 62.13 through 62.17 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 54.01 through 54.02, subheading 5403.33 through 5403.39, or 5403.42 through 5407.94, heading 54.08, 55.08 through 55.16, 56.06, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
</tbody>
</table>

**CHAPTER 63**

**OTHER MADE UP TEXTILE ARTICLES; SETS; WORN CLOTHING AND WORN TEXTILE ARTICLES; RAGS**

**Chapter Note 1:** For the purposes of determining whether a good of this chapter is originating, 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 requirements of the change in tariff classification set out in the rule for that good.

**Chapter Note 2:** 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 is originating only if such sewing thread is wholly formed in the territory of one or more of the Parties.

<table>
<thead>
<tr>
<th>Subheading</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>63.01 - 63.04</td>
<td>A change to a good of heading 63.01 through 63.04 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 54.01 through 54.02, subheading 5403.33 through 5403.39, or 5403.42 through 5407.94, heading 54.08, 55.03, subheading 5506.30, or heading 55.08 through 55.16, 58.01 through 58.02, 59.03, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>63.05</td>
<td>A change to a good of heading 63.05 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 54.01 through 54.02, subheading 5403.33 through 5403.39, or 5403.42 through 5407.94, heading 54.08, 55.08 through 55.16, 58.01 through 58.02, or 60.01 through 60.06, 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.</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>63.06 - 63.10</td>
<td>A change to a good of heading 63.06 through 63.10 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 54.01 through 54.02, subheading 5403.33 through 5403.39, or 5403.42 through 5407.94, heading 54.08, 55.08 through 55.16, 58.01 through 58.02, 59.03, or 60.01 through 60.06, 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.</td>
</tr>
<tr>
<td>66.01</td>
<td>A change to a good of heading 66.01 from any other heading.</td>
</tr>
<tr>
<td>70.19</td>
<td>A change to a good of heading 70.19 from any other heading.</td>
</tr>
<tr>
<td>9404.90</td>
<td>A change to a good of subheading 9404.90 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 54.01 through 54.02, subheading 5403.33 through 5403.39, 5403.42 through 5407.94, heading 54.08, 55.08 through 55.16, 58.01 through 58.02, or 60.01 through 60.06, 63.01 through 63.04, or subheading 6307.90, 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.</td>
</tr>
</tbody>
</table>
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

The product-specific rules of origin (PSR) Annex and its appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

Appendix 1 to Annex 4-A: Short Supply List of Products

Temporary: Products will be removed from the Short Supply List 5 years after EIF of the Agreement.

<table>
<thead>
<tr>
<th>Product</th>
<th>Short Supply Item Description</th>
<th>End Use Requirement(If Applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>58</td>
<td>100% polyester crushed panne velour fabric of circular knit construction classified in subheading 6001.92, weighing 271 grams per square meter (g/m²) or less</td>
<td></td>
</tr>
<tr>
<td>67</td>
<td>100% polyester microfiber twill, weighing 170 - 237 g/m², chemically peached, classified in subheadings 5407.52 or 5407.61</td>
<td>Woven trousers, shorts, and skirts classified in headings 6203 or 6204</td>
</tr>
<tr>
<td>90</td>
<td>100% nylon woven twill fabric, classified in heading 5407, 70denier x 160denier, 155x90 yarns per square inch, weighing 115 g/m²</td>
<td>Men's trousers, other than water resistant, classified in 6203.43</td>
</tr>
<tr>
<td>92</td>
<td>Bonded fabric, classified in heading 6001; consisting of a plain woven face of 82- 88% nylon, 12-18% elastomeric, and a brushed fleece back fabric of 100% polyester; weighing 254 - 326 g/m², treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with American Association of Textile Chemists and Colorists (AATCC) Test Method 35</td>
<td>Men's and women's water-resistant garments classified in chapter 61</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Product</th>
<th>Short Supply Item Description</th>
<th>End Use Requirement(If Applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>99</td>
<td>100% polyester, dobbi weave or poplin fabric, classified in heading 5407; weighing 67-78 g/m², treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Women's and girls' water-resistant insulated outerwear classified in subheadings 6202.13 or 6202.93</td>
</tr>
<tr>
<td>102</td>
<td>Yarns of cotton fibers, not put up for retail sale, of heading 5206, containing over 50% by weight of cotton fibers and containing at least 35% by weight of acrylic fibers, not to include yarn count 67 metric number (nm) or finer for single yarn or of count 135nm or finer per ply for multiple yarns,</td>
<td>Garments and accessories of chapter 61, except for, babies' socks and booties of heading 6111 and hosiery of heading 6115</td>
</tr>
<tr>
<td>103</td>
<td>Polyester woven fabrics of staple or filament yarns classified in chapters 54 and 55, containing between 3% and 21% elastomeric yarns, in which the elastomeric yarns were engineered for chlorine resistance</td>
<td>Woven swimwear of subheadings 6211.11 and 6211.12</td>
</tr>
<tr>
<td>108</td>
<td>Polyester fabrics of staple or filament yarns of chapters 54 and 55, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Woven swimwear of subheadings 6211.11, 6211.12</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th></th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Yarn of combed Kashmir (cashmere) goats, not put up for retail sale, classified in subheading 5108.20</td>
</tr>
<tr>
<td>2</td>
<td>Yarn of combed camel hair, not put up for retail sale, classified in subheading 5108.20</td>
</tr>
<tr>
<td>3</td>
<td>Yarn of carded Kashmir (cashmere) goats, not put up for retail sale, classified in subheading 5108.10</td>
</tr>
<tr>
<td>4</td>
<td>Yarn of carded Kashmir (cashmere) goats, not put up for retail sale, classified in subheading 5108.10 (Combined with 3)</td>
</tr>
<tr>
<td>5</td>
<td>Yarn of carded camel hair, not put up for retail sale, classified in subheading 5108.10</td>
</tr>
<tr>
<td>6</td>
<td>Velveteen fabrics classified in subheading 5801.23</td>
</tr>
<tr>
<td>7</td>
<td>Cut pile corduroy fabrics classified in subheading 5801.22, containing 85 percent or more by weight of cotton.</td>
</tr>
<tr>
<td>8</td>
<td>Fabrics classified in subheading 5111.11 or 5111.19, hand-woven, 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</td>
</tr>
<tr>
<td>9</td>
<td>Fabrics classified in chapter 55, weighing not more than 340 grams per square meter, containing not more than 15% by weight of wool, mohair, cashmere or camel hair and not less than 15% by weight of man-made staple fibers</td>
</tr>
<tr>
<td>10</td>
<td>Woven fabrics classified in subheading 5112.90, of combed wool, mohair, Kashmir (cashmere) goats or camel hair containing 30% or more by weight of silk</td>
</tr>
<tr>
<td>11</td>
<td>Woven fabrics, not including denim, classified in subheading 5209.41, of 85% or more by weight of cotton, weighing more than 240 g/m², of yarns of different colors, (shall not include fabrics containing yarns of count 67 metric number (nm) or finer for single yarn, or of yarn count 135 metric number (nm) or finer per ply for multiple yarns)</td>
</tr>
</tbody>
</table>
The product-specific rules of origin (PSR) Annex and its appendix are subject to transposition and legal verification by the Parties. The only authentic PSR are those that are set out in the PSR Annex and Appendix that accompany the final, signed Agreement.

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</thead>
<tbody>
<tr>
<td>12</td>
<td>Dyed or white woven fabric of artificial filament yarn classified in subheadings 5408.21, 5408.22, 5408.31 or 5408.32,</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>13</td>
<td>Chenille fabrics classified in subheadings 5801.26 and 5801.36,</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>14</td>
<td>100% man-made fiber woven fabric, coating polyurethane (PU) 600-1500mm, weighing 92-475 g/m², classified in subheading 5903.20,</td>
<td>Textile bags classified in subheading 4202.12, 4202.22, 4202.32, and 4202.92</td>
</tr>
<tr>
<td>15</td>
<td>100% man-made fiber knit fabric, other than velour, classified in subheading 6001.92, weighing 107-375 g/m²</td>
<td>Textile bags classified in subheadings 4202.12, 4202.22, 4202.32, and 4202.92</td>
</tr>
<tr>
<td>16 (Combined with 15)</td>
<td>100% polyester knit fabric, not velour, classified in subheading 6001.92, weighing 107-357 g/m², for use in textile bags classified in subheading 4202.12, 4202.22, 4202.32, and 4202.92.</td>
<td>4202.12, 4202.22, 4202.32, and 4202.92.</td>
</tr>
<tr>
<td>17 (Combined with 15)</td>
<td>100% polyester knit fabric, not velour, classified in subheading 6001.92, laminated or coated with PU, weighing 310-344 g/m², for use in textile bags classified in subheading 4202.12, 4202.22, 4202.32, and 4202.92.</td>
<td>4202.12, 4202.22, 4202.32, and 4202.92.</td>
</tr>
<tr>
<td>18 (combined with 15)</td>
<td>MMF Knit fabric of 63-69% nylon/30-36% non-covering, not velour, classified in subheading 6001.92, weighing 266-294 g/m², for use in textile bags classified in subheading 4202.12, 4202.22, 4202.32, and 4202.92</td>
<td>4202.12, 4202.22, 4202.32, and 4202.92.</td>
</tr>
<tr>
<td>19</td>
<td>100% dyed man-made fiber knit fabric, other than of double knit or interlock construction, classified in subheading 6006.32, weighing 107-375 g/m²</td>
<td>Textile bags classified in subheadings 4202.12, 4202.22, 4202.32, and 4202.92</td>
</tr>
</tbody>
</table>
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<tr>
<th></th>
<th>Description</th>
<th>Subheadings</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>100% polyester dyed knit, not of double knit or interlock construction, fabric classified in subheading 6006.32, weighing 107-357 g/m², for used in textile bags classified in subheading 4202.12, 4202.22, 4202.32, and 4202.92.</td>
<td>4202.12, 4202.22, 4202.32, and 4202.92</td>
</tr>
<tr>
<td>21</td>
<td>100% dyed man-made fiber knit fabric, other than of double knit or interlock construction, classified in subheading 6006.32, laminated or coated with polyurethane (PU), weighing 107-375 g/m²</td>
<td>Textile bags classified in subheadings 4202.12, 4202.22, 4202.32, and 4202.92</td>
</tr>
<tr>
<td>22</td>
<td>Dyed knit fabric of 63-69% nylon/30-36% non-covering, not of double knit or interlock construction, classified in subheading 6006.32, weighing 266-294 g/m², for use in textile bags classified in subheading 4202.12, 4202.22, 4202.32, and 4202.92.</td>
<td>4202.12, 4202.22, 4202.32, and 4202.92</td>
</tr>
<tr>
<td>23</td>
<td>100% rayon challis fabric classified in heading 5408, weighing 68-153 g/m²Challis is a very soft, lightweight, plain-weave fabric.</td>
<td>Garments and accessories classified in chapter 62</td>
</tr>
<tr>
<td>24</td>
<td>Velour fabric classified in subheading 6001.91, of 70-83% cotton and 17-30% polyester, weighing 200-275 g/m²</td>
<td>Garments and accessories classified in chapter 61</td>
</tr>
<tr>
<td>25</td>
<td>Yarn of nylon staple fiber, not put up for retail sale, classified in subheading 5509.99, of 51% - 68% nylon fibers, 33% - 47% rayon fibers, and 2% - 10% elastomeric fibers</td>
<td>Garments and accessories of chapter 61, except for, babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
</tr>
<tr>
<td>26</td>
<td>Woven fabric classified in subheading 5515.99 made of yarn of nylon staple fiber, not put up for retail sale, of 51% - 68% nylon fibers, 33 - 47% rayon fibers, and 2% - 10% elastomeric fibers</td>
<td>Gents and accessories classified in chapter 62</td>
</tr>
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<tbody>
<tr>
<td>27</td>
<td>Yarn of nylon staple fiber, not put up for retail sale, classified in subheading 5509.99, of 51% - 65% nylon fibers, 35% - 49% rayon fibers</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
</tr>
<tr>
<td>28</td>
<td>Fabric classified in subheading 5515.99 made of yarn of nylon staple fiber, not put up for retail sale, of 51% - 65% nylon fibers, 35% - 49% rayon fibers</td>
<td>Garments and accessories in chapter 62</td>
</tr>
<tr>
<td>29</td>
<td>Yarn of man-made staple fiber classified in subheading 5509.69, not put for retail sale, of 38-42% rayon fibers, 38-42% acrylic fibers, and 16-24% polyester fibers</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
</tr>
<tr>
<td>30</td>
<td>Fabric classified in subheading 5515.99 of yarn of man-made staple fiber, of 38-42% rayon fibers, 38-42% acrylic fibers, and 16-24% polyester fibers</td>
<td>Garments and accessories in chapter 62</td>
</tr>
<tr>
<td>31</td>
<td>Woven jacquard fabrics of rayon staple fibers, classified in 5516.13 or 5516.23, weighing 375 g/m2 or less</td>
<td>Garments and accessories of chapter 62</td>
</tr>
<tr>
<td>32</td>
<td>Carded wool blend fabrics of at least 50% polyester staple fibers, containing no less than 20% carded wool, and no more than 49% carded wool, and containing up to 8% of other fibers, classified in subheadings 5515.13, weighing between 200 and 400 g/m2</td>
<td>Men's, women's, and children's outerwear of 6201 and 6202, and babies’ garments of 6209.30, similar to garments of heading 6201 and 6202</td>
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| 33 | Carded wool blend fabrics of no more than 50% by weight carded wool fibers, no less than 35% man-made fibers, and the remainder of any other fibers, classified in heading 5111, weighing between 200 and 400 g/m² | Men's, women's, and children's outerwear of 6201 and 6202, and babies’ garments of 6209.90, similar to garments of heading 6201 and 6202 |
| 34 | Carded wool blend fabrics containing no less than 50% nylon staple fibers, containing between 20% carded wool and 49% carded wool by weight, and containing up to 8% of other fibers, classified in subheading 5515.99, weighing between 200 and 400 g/m² | Men's, women's and children’s outerwear of heading 6201 and 6202, and babies’ garments of 6209.30, similar to garments of heading 6201 and 6202 |
| 35 | Carded wool blend fabrics containing at least 50% acrylic or modacrylic staple fibers, containing no less than 20% by weight carded wool, but no more than 49% by weight carded wool and containing up to 8% by weight of other fibers, classified in subheading 5515.22, weighing between 200 and 400 g/m² | Men's, women's, and children's outerwear of headings 6201 and 6202, and babies’ garments of 6209.30, similar to garments of heading 6201 and 6202 |
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<tr>
<td>36</td>
<td>100% polyester chiffon fabrics classified in heading 5407, weighing not more than 170 g/m². Chiffon fabric is a plain weave, lightweight, sheer, transparent fabric made from fine, highly twisted yarns; usually a square fabric with approximately the same number of ends and picks and the same count in both warp and filling.</td>
<td>Products classified in chapters 61, 62, and 63</td>
</tr>
<tr>
<td>37</td>
<td>Knit artificial furs (long pile fabrics) classified in subheading 6001.10 in which the pile fabric is composed of 50% or more by weight acrylic or modacrylic fibers, containing up to 35% polyester fibers, regardless of fiber content of ground fabric.</td>
<td>Products classified in chapters 61, 62, and 63</td>
</tr>
<tr>
<td>38</td>
<td>Knit artificial furs (long pile fabrics) classified in subheading 6001.10 in which the pile fabric is composed of 50% or more by weight acetate fibers and containing up to 35% polyester fibers, regardless of fiber content of ground fabric.</td>
<td>Products classified in chapters 61, 62, and 63</td>
</tr>
<tr>
<td>39</td>
<td>Woven fabrics of cotton, containing between 35% and 49% by weight of vegetable fibers of chapter 53, classified in headings 5212</td>
<td>Garments classified in chapters 61, 62</td>
</tr>
<tr>
<td>40</td>
<td>Woven fabrics of man-made staple fibers, containing between 35% and 49% by weight of vegetable fibers of chapter 53, classified in headings 5515, and 5516</td>
<td>Garments classified in chapters 61, 62</td>
</tr>
<tr>
<td>41</td>
<td>Woven fabrics of cotton, containing no less than 30% by weight of vegetable fibers of chapter 53 and containing no less than 5% by weight of elastomeric fibers, classified in heading 5212</td>
<td>Garments classified in chapters 61, 62</td>
</tr>
<tr>
<td>42</td>
<td>Woven fabrics of man-made staple fibers, containing no less than 30% by weight of vegetable fibers of chapter 53 and containing no less than 5% by weight of elastomeric fibers, classified in headings 5515, and 5516</td>
<td>Garments classified in chapters 61, 62</td>
</tr>
<tr>
<td>43</td>
<td>Knit fabrics classified in headings 6004-6006, of 51-65% by weight of man-made staple fibers, 35%-49% by weight of vegetable fibers of chapter 53, and may contain 5% or more by weight of elastomeric yarn or rubber thread</td>
<td>Garments of chapter 61</td>
</tr>
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<tr>
<td>44</td>
<td>Knit fabrics classified in headings 6004-6006, of 51-65% by weight of cotton fibers, 35%-49% by weight of vegetable fibers of chapter 53, and may contain 5% or more by weight elastomeric yarn or rubber thread</td>
<td>Garments of chapter 61</td>
</tr>
<tr>
<td>45</td>
<td>Knit fabrics classified in heading 6004, of at least 30% by weight of vegetable fibers of chapter 53, containing up to 65% by weight of polyester, and 5% or more by weight of elastomeric yarn or rubber thread</td>
<td>Garments and accessories of chapter 61</td>
</tr>
<tr>
<td>46</td>
<td>Knit fabrics classified in heading 6004, of at least 30% by weight of vegetable fibers of chapter 53, containing up to 65% by weight of cotton, and 5% or more by weight of elastomeric yarn or rubber thread</td>
<td>Garments and accessories of chapter 61</td>
</tr>
<tr>
<td>47</td>
<td>Chenille yarns classified in subheading 5606.00</td>
<td>Women’s and girls’ upper body garments classified in headings 6106, 6109, and 6110</td>
</tr>
<tr>
<td>48</td>
<td>Stretch woven fabric classified in heading 5515, of 51-65% polyester/ 34-49% rayon/ 1-6% elastomeric yarns, weighing 180-300 g/m2</td>
<td>Trousers, bib and brace overalls, shorts, skirts and divided skirts classified in headings 6203, 6204, 6209</td>
</tr>
<tr>
<td>49</td>
<td>Stretch denim fabric of 55-61% ramie/ 23-29% cotton/ 16-22% polyester/ 1-3% elastomeric, classified in heading 5311, weighing 272-400 g/m2 before wash or 222-400 g/m2 after wash</td>
<td>Trousers, bib and brace overalls, shorts, skirts and divided skirts classified in headings 6203, 6204, 6209</td>
</tr>
<tr>
<td>50</td>
<td>100% polyester microfiber satin fabric classified in heading 5407, chemically peached, with Ultraviolet Protection Factor (UPF) treatment, weighing 135-220 g/m2</td>
<td>Shorts classified in headings 6203, 6204, 6209</td>
</tr>
<tr>
<td>51</td>
<td>Cotton flannel fabrics of headings 5208 and 5210, either wholly of cotton or containing at least 60% cotton and containing up to 40% by weight of polyester, weighing not</td>
<td></td>
</tr>
</tbody>
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<tbody>
<tr>
<td>more than 200 g/m²</td>
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<tr>
<td>52</td>
<td>Artificial filament yarn (other than sewing thread), not put up for retail sale, of viscose rayon, classified in 5403.10, 5403.31, 5403.32, and 5403.41</td>
</tr>
<tr>
<td>53</td>
<td>Viscose rayon filament tow classified in heading 5502</td>
</tr>
<tr>
<td>54</td>
<td>Acrylic or modacrylic staple fibers; not carded, combed or otherwise processed for spinning; classified in subheading 5503.30 and 5501.30; excluding greige or bleached fibers, polyacrylonitrile (PAN) precursor for carbon fiber production, and undyed fiber or gel dyed fibers for use in acrylic yarns put up for retail sale</td>
</tr>
<tr>
<td>55</td>
<td>Viscose rayon staple fibers, not carded, combed, or otherwise processed for spinning, classified in subheading 5504.10</td>
</tr>
<tr>
<td>56</td>
<td>Acrylic or modacrylic staple fibers, carded, combed or otherwise processed for spinning, classified in 5506.30 and 5501.30, excluding greige or bleached fibers, polyacrylonitrile (PAN) precursor for carbon fiber production, and undyed fiber or gel dyed fibers for use in acrylic yarns put up for retail sale</td>
</tr>
<tr>
<td>57</td>
<td>Flannel fabrics classified in subheadings 5208.41 and 5208.42, or 5208.43, of 85% or more by weight of cotton, of yarns of different colors, weighing less than 200 g/m²</td>
</tr>
<tr>
<td>59</td>
<td>Yarns of cotton fibers, not put up for retail sale, of heading 5206, containing between 51% and 65% cotton fibers and between 35% and 49% rayon fibers</td>
</tr>
</tbody>
</table>
| 60 | Breathable waterproof laminated 100% synthetic fiber woven fabric, with durable water repellant (DWR) finish, classified in subheadings 5407, 5512, 5903.20 and 5903.90; performing to 5,000 mm hydrostatic pressure test (International Men's or boys', women's or girls' coats anoraks (including ski-
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<tbody>
<tr>
<td>Organization for Standardization –ISO- 811) + Moisture vapor transfer result of max 60 resistance evaporation transmission (RET) (ISO11092); Fabric laminated to a breathable waterproof membrane of either Hydrophilic Monolithic or Hydrophobic Polyurethane membrane or polytetrafluoroethylene (PTFE); treated with a DWR finish. Product may contain a third layer as a lining laminated to waterproof membrane.</td>
<td>jackets) windbreakers and similar articles, Men's or boys', women's or girls pants, Non-padded or insulated vests, classified in headings 6201, 6202, 6203, 6204, 6210</td>
</tr>
<tr>
<td>61 Breathable waterproof laminated 100% synthetic fiber woven fabric, classified in subheadings 5407, 5512, 5903.20 or 5903.90, with DWR finish; performing to 5,000 mm hydrostatic pressure test (ISO 811) + Moisture vapor transfer result of max 60RET (ISO11092) Fabric laminated to a breathable waterproof membrane of either Hydrophilic Monolithic or Hydrophobic Polyurethane membrane or PTFE; treated with a DWR finish. Product may contain a third layer as a lining laminated to waterproof membrane.</td>
<td>Sport gloves classified in subheadings 6216, excluding ice hockey and field hockey gloves</td>
</tr>
<tr>
<td>62 Breathable waterproof laminated 100% synthetic fiber knit fabric with DWR finish; performing to 5,000 mm hydrostatic pressure test (ISO 811) + Moisture vapor transfer result of max 60RET (ISO11092); classified in subheadings 5903.20, 5903.90, 6005, 6006. Fabric laminated to a breathable waterproof membrane of either Hydrophilic Monolithic or Hydrophobic Polyurethane membrane or PTFE; treated with a DWR finish. Product may contain a third layer as a lining laminated to waterproof membrane.</td>
<td>Men's, boys', women's, girls coats anoraks windbreakers and similar articles, men's, boys', women's, girls pants classified in headings 6101, 6102, 6103, 6104, 6113</td>
</tr>
<tr>
<td>63 Breathable waterproof laminated 100% synthetic fiber knit fabric with DWR finish; performing to 5,000 mm hydrostatic pressure test (ISO 811) + moisture vapor transfer result of max 60RET (ISO11092); classified in subheadings 5903.20 or 5903.90, 6005, 6006. Fabric laminated to a breathable waterproof membrane of either Hydrophilic Monolithic or Hydrophobic Polyurethane membrane or PTFE; treated with a DWR finish. Product may contain a third layer as a lining laminated to waterproof membrane.</td>
<td>Gloves classified in heading 6116</td>
</tr>
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<tbody>
<tr>
<td>64</td>
<td>Plain weave 4 way stretch fabric, weighing 135-200 g/m2, of 85-98% polyester, 2-15% elastomeric yarn, classified in subheading 5512.19</td>
<td>Garments classified in chapter 62</td>
</tr>
<tr>
<td>65</td>
<td>Cotton woven fabric, classified in subheading 5208.21, 5208.22, 5208.23, 5208.29, 5208.31, 5208.32, 5208.33, 5208.39, 5208.41, 5208.42, 5208.43, 5208.49, 5210.21, 5210.29, 5210.31, 5210.32, 5210.39, 5210.41, or 5210.49; bleached, dyed, or of yarns of different colors; weighing not more than 200 g/m2; of yarn count 67 nm or finer for single yarn, or of yarn count 135 nm or finer per ply for multiple yarns (with the exception of interlining materials). The fabric for the collar, cuffs and chest pocket may be of &quot;like&quot; fabric. For purposes of this provision, &quot;like&quot; fabric is fabric which also meets the above criteria for construction and fiber content but differs in its color or color pattern from the fabric of the outershell. Shirts and blouses means those that have a top-stitched collar (whether or not button down) and a full front, button opening. If long sleeves, shall have either button cuff or fold-over cuffs that would require cuff-links or other closure device. Men's or boys' shirts shall be either long or short-sleeved, women's or girls' shirts or blouses shall be either long or short sleeved or sleeveless. Shirts or blouses may have one chest pocket, no other pockets are allowed. The garment shall not have knit collars, knit cuffs, knit waistbands, or any means of tightening at the bottom. No lining shall be present. The term lining does not include interlining or double layers of fabric required for cuffs, collars, plackets, yokes, pockets or embroidery. Shirts and blouses may have a back yoke, but no front yoke. Shirts and blouses shall be appropriate for wearing under a suit, suit-type jacket or blazer. Embroidered logo or initials are permitted on the chest, chest pocket, collar, or cuffs.</td>
<td>Men's and boys' dress shirts classified in subheading 6205.20 and women's and girls' blouses classified in 6206.30</td>
</tr>
<tr>
<td>66</td>
<td>100% rayon woven fabric, weighing more than 200 g/m2, printed, classified in subheading 5516.14</td>
<td>Sweaters, pullovers, sweatshirts and waistcoats and similar articles</td>
</tr>
<tr>
<td>68</td>
<td>Knit fleece fabric classified in subheading 6001.22, of 67-73% acrylic and 27-33% viscose, weighing 200-280 g/m2</td>
<td>Sweaters, pullovers, sweatshirts and waistcoats and similar articles</td>
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<tbody>
<tr>
<td>69</td>
<td>Jersey knit fabric classified in heading 6004, of 31-37% acrylic/15-21% viscose/35-41% polyester/7-13% elastomeric, weighing 125-180 g/m²</td>
<td>classified in subheading 6110.30</td>
</tr>
<tr>
<td>70</td>
<td>Dyed knit fabric classified in subheading 6006.32, of 52-58% nylon/27-33% wool/12-18% acrylic</td>
<td>Garments classified in chapter 61</td>
</tr>
<tr>
<td>71</td>
<td>Dyed knit fabric classified in subheading 6006.32, of 42-48% nylon/37-43% viscose/12-18% wool</td>
<td>Sweaters, pullovers, sweatshirts, vests and similar articles classified in subheading 6110.30</td>
</tr>
<tr>
<td>72</td>
<td>Dyed knit fabric classified in subheading 6006.32, of 41-47% nylon/18-24% wool/18-24% acrylic/11-17% mohair</td>
<td>Sweaters, pullovers, sweatshirts, vests and similar articles classified in subheading 6110.30</td>
</tr>
<tr>
<td>73</td>
<td>Dyed knit fabric classified in subheadings 6006.22 or 6006.32, of 50-56% cotton/34-40% acrylic/7-13% polyester</td>
<td>Sweaters, pullovers, sweatshirts, vests and similar articles classified in subheading 6110.30</td>
</tr>
<tr>
<td>74</td>
<td>Knit fabric of 35-41% polyester, 32-38% acrylic, 15-21% viscose and 6-11% elastomeric, classified in heading 6004</td>
<td>Garments classified in chapter 61</td>
</tr>
<tr>
<td>75</td>
<td>Woven Jacquard fabric classified in subheadings 5208.49, 5209.49, 5210.49 or 5211.49, of yarns of different colors, of chief weight cotton</td>
<td>Apparel of chapter 62</td>
</tr>
<tr>
<td>76</td>
<td>Dyed knit fabric classified in subheading 6006.22, of 51-60% cotton/30-40% rayon/4-10% nylon</td>
<td>Garments classified in chapter 61</td>
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<td>77</td>
<td>Rayon jersey fabric, not containing any flame-retardant rayon fibers, classified in subheading 6006.42, weighing 140-220 g/m²</td>
<td>Men's, boys', women's, girls' tops, trousers and shorts classified in chapter 61. “Tops” in this provision includes: shirts and blouses of headings 6105 and 6106, T-shirts, singlets, tank tops and similar garments of heading 6109, pullovers and similar garments of heading 6110, tops of heading 6114, and other garments of heading 6114 similar to the garments listed herein.</td>
</tr>
<tr>
<td>78</td>
<td>Rayon knit fabric, not containing any flame-retardant rayon fibers, classified in subheading 6006.42, weighing 125-225 g/m²</td>
<td></td>
</tr>
<tr>
<td>79</td>
<td>Raschel warp knit fabric, of micro-fiber (&lt;1.0 dpf) man-made fiber yarns, classified in subheading 6005.32, weighing 90-240 g/m², with ‘zoned G’ venting. ‘Zoned G’ venting means engineered patterns with areas of open holes (could vary in size) as well as solid areas with no visible open holes. The areas of open holes should NOT be linear stripes.</td>
<td></td>
</tr>
<tr>
<td>80</td>
<td>Circular knit fabric classified in subheadings 6006.22, 6006.23, 6006.24, 6006.32, 6006.33, and 6006.34, made with tri-blend yarn (polyester (5-60%)/cotton(5-60%)/rayon (35-90%), weighing up to 250 g/m²</td>
<td>Men's, boys', women's, girls' tops, trousers and shorts classified in chapter 61. “Tops” in this provision includes: shirts and blouses of headings 6105 and 6106, T-shirts, singlets, tank tops and similar</td>
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<tr>
<td><strong>81</strong></td>
<td>Double weave fabric classified in subheading 5407.10, of 66-72% nylon, 19-25% polyester, 6-12% elastomeric, weighing 200-250 g/m2, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Men's water-resistant jackets classified in subheading 6201.93</td>
</tr>
<tr>
<td><strong>82</strong></td>
<td>Woven synthetic fiber fabric with breathable, waterproof coating, with DWR finish, classified in headings 5903, 5407, 5512; performing to 5,000 mm hydrostatic pressure test (ISO 811) + Moisture vapor transfer result of max 60RET (ISO11092); with critical seams sealed., Fabric coated with waterproof and breathable coating, treated with a DWR finish. Product may contain a third layer as a lining bonded to coating. Product seams are 'seam sealed'. Garments are highly constructed.</td>
<td>Men's, boys', women's, or girls outerwear including jackets and trousers, and similar articles, classified in chapter 62</td>
</tr>
<tr>
<td><strong>83</strong></td>
<td>100% woven wool fabric, classified in subheading 5111.11 and 5111.19, weighing 285 -315 g/m2, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Women's water-resistant anoraks, ski-jackets and similar articles classified in subheading 6202.91</td>
</tr>
</tbody>
</table>
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| 84 | White or dyed body sized tubular man-made fibre fabric; classified in subheadings 6004.10, 6005.31, 6005.32, 6005.41, 6005.42, 6006.31, 6006.32, 6006.41, or 6006.42, of laid-in elastomeric yarns inserted in the weft bands and areas, having engineered shaping/compression/ or patterns and used to create apparel garments with limited finished seams and no side seams, weighing up to 250 g/m² | Seamless circular knit garments classified in chapter 61, which may have minimal seams but no side seams |

| 85 | White or dyed double needle bar jacquard raschel warp knit fabric, of man-made fibre micro-denier yarns (<1 dpf), classified in subheadings 6004.10, 6005.31, 6005.32, 6005.41, or 6005.42Warp knit body fabric made with man-made fibre micro denier nylon or polyester (< 1.0 dpf) used to create apparel sportswear garments with engineered shaping/compression/ or patterns. Newly emerging technology not readily available and limited access globally. Requires skilled labor during textile manufacturing and garment construction. | Body sized seamless garments with engineered shaping/compression/patterns, classified in chapter 61, which may have minimal seams but no side seams |

| 86 | Combination performance composite man-made fiber fabric, classified in subheadings 5903, 6001.10, 6001.22, 6001.92, 6004.10, 6005.32, and 6006.32, consisting of 1 or 2 layers of knit, bonded with interior membrane of breathable or water proof material, performing to 5,000 mm hydrostatic pressure test (ISO 811) + Moisture vapor transfer result of max 60RET (ISO11092); with DWR finish, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35; The membrane can be sandwiched between 2 layers of knit fabric or bonded to single layer of knit Men’s, women’s, kids’ outerwear jackets or pants utilizing man-made fibre composite fabric comprised of 1 or 2 layers of knit fabric with a windproof/breathable/water resistant membrane sandwiched between the 2 layers or bonded to back of single layer, treated with a DWR finish. Often referred to as ‘softshell’ garment, including headgear | Men's or boys', women's, or girls outerwear (including jackets and pants), wind breaker jackets, and similar articles classified in chapter 61 |

| 87 | Dyed woven or knit fabrics with not less than 5% by weight of retro-reflective yarns not to exceed 5 mm in width (made from slit reflective film), woven or knit into the fabric, weighing up to 300 g/m², classified in headings 5407, 6001, 6004, 6005, and 6006 | |
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| 88  | Knit fabric classified in subheadings 6004.10, 6006.21, 6006.22, or 6006.24, of 51-70% cotton/33 - 49% rayon/ 2-7% elastomeric yarns , weighing up to 275 g/m2 | Upper body garments classified in headings 6105, 6106, 6109, 6110 |
| 89  | 100% man-made fiber woven fabric, classified in subheading 5903.20, coating polyurethane (PU) 500-1500mm, weighing 92-475 g/m2 | Backpacks classified in subheading 4202.92 |
| 91  | Plain weave synthetic fabric of 90-96% nylon and 10-4% elastomeric, classified in heading 5407, weighing 125-135 g/m2 treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35 | Men's, boys', women's, and girls' water-resistant trousers, other than ski or snowboard pants, classified in subheadings 6203.43 and 6204.63 |
| 93  | Double weave fabric classified in heading 5407, of 47-53% nylon, 40-46% polyester, and 4-10% elastomeric, weighing 270-280 g/m2, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35 | Men's and boys' water-resistant trousers, other than ski or snowboard pants, classified in subheading 6203.43 |
| 94  | Double weave fabric classified in 5407, of 90-99% polyester and 10-1% elastomeric, weighing 229-241 g/m2, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35 | Men's, boys', women's, and girls' articles other than sweaters, vests, sweatshirts, classified in subheading 6110.30, and men's and boys' water-resistant anoraks and similar articles classified in subheading 6201.93 |
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<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>95</td>
<td>Double weave fabric classified in heading 5407.10, of 51-57% polyester, 37-43% nylon, and 3-9% elastomeric, weighing 215-225 g/m², treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Men's and boys' water-resistant trousers, other than ski or snowboard pants, classified in subheading 6203.43</td>
</tr>
<tr>
<td>96</td>
<td>100% nylon woven ripstop fabric, classified in heading 5407, weighing 37-47 g/m², treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Men's and women's water-resistant insulated apparel classified in subheadings 6201.13 and 6202.13</td>
</tr>
<tr>
<td>97</td>
<td>100% polyester plain weave taffeta, classified in heading 5407, weighing 53-63 g/m², treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35</td>
<td>Men's and boys' water-resistant synthetic insulated trousers, other than ski or snowboard pants, classified in subheading 6203.43</td>
</tr>
<tr>
<td>98</td>
<td>Printed warp knit fabrics of polyester or nylon fibers classified in subheadings 6004.10, 6004.90, and 6005.34, containing between 3% and 21% elastomeric yarns, in which the elastomeric yarns were engineered for chlorine resistance</td>
<td>Women's or girls swimwear classified in subheading 6112.41 and babies’ swimwear and rash guards classified in subheading 6111.30</td>
</tr>
<tr>
<td>100</td>
<td>Acrylic and modacrylic staple fiber yarns, not put up for retail sale, of subheadings 5509.31, 5509.32, 5509.61, 5509.62, and 5509.69</td>
<td>Upper body garments classified in headings 6105, 6106, 6109, 6110, 6111 and 6114 and excluding babies’ socks and booties</td>
</tr>
</tbody>
</table>
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| 101 | Woven fabrics of acrylic and modacrylic staple fibers, classified in subheading 5512.29 | Men's, boys', women's, girl's and babies' outerwear garments of headings 6201 and 6202 and babies’ garments of 6209.30 similar to garments of 6201 and 6202 |
| 104 | Bleached or dyed satin weave or twill weave fabric, of at least 60% lyocell, and up to 40% nylon, polyester, or elastomeric, classified in subheading 5516, for use in woven apparel of chapter 62, and does not meet the NFPA 2112 or ASTM 1506 protective standards | Woven apparel of chapter 62 |
| 105 | Dyed knit fabric of 57-63% polyester/ 27-33% wool/ 7-13% nylon, classified in subheading 6006.32., | Sweaters, pullovers, sweatshirts, vests and similar articles classified in subheading 6110.30 |
| 106 | Bleached or dyed twill fabric, classified in subheading 5212.22 or 5212.23, of 52-58% cotton and 42-48% flax, weighing 230-285 g/m2 | |
| 107 | Manmade fiber velvet, cut warp pile fabrics, classified in subheading 5801.37 | |
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<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>109</td>
<td>Woven seersucker fabrics of cotton, classified in subheadings 5208.42 and 5208.52, weighing 200 g/m2 or less, produced by weaving two warp yarns in differing tensions to create an alternating puckering effect which results in a striped pattern on the fabric, whether yarn-dyed, printed or monochromatic. (Shall not include fabrics containing yarns of count 67 nm or finer for single yarn, or of yarn count 135 nm or finer per ply for multiple yarns.)</td>
</tr>
<tr>
<td>110</td>
<td>Cotton fabrics classified in headings 5210 and 5211, containing 51% to 70% cotton and 30% to 49% nylon, treated for water resistance such that, under a head pressure of 600 millimeters, not more than 1.0 gram of water penetrates after two minutes when tested in accordance with AATCC Test Method 35,</td>
</tr>
<tr>
<td>111</td>
<td>Woven seersucker fabrics of polyester staple fibers, classified in subheading 5512.19, weighing 200 g/m2 or less, produced by weaving two warp yarns in differing tensions to create an alternating puckering effect which results in a striped pattern on the fabric, whether yarn-dyed, printed or monochromatic.</td>
</tr>
<tr>
<td>112</td>
<td>Cotton fabric; bleached, dyed, of yarns of different colors, or printed; classified in subheadings 5209.21, 5209.31, 5209.39, 5209.41, 5209.51, and 5209.59; weighing more than 200 g/m2;</td>
</tr>
<tr>
<td>113</td>
<td>Brushed microfiber fabrics of polyester fibers classified in subheadings 5512</td>
</tr>
<tr>
<td>114</td>
<td>Textile fabrics impregnated, coated, covered or laminated with poly vinyl chloride (PVC), classified in subheading 5903.10, weighing more than 200 g/m2</td>
</tr>
</tbody>
</table>

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| 115 | Cotton fabrics impregnated, coated, covered, or laminated with polyurethane, classified in subheading 5903.20, weighing more than 200 g/m² | Textile travel goods, handbags, and similar containers of chapter 42 |
| 116 | Polyester Viscose elastomeric warp knit fabric, classified in heading 6004, 6005 of 38%-40% polyester, 30%-40% acrylic, 16%-35% viscose, and 3%-9% elastomeric | Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115 |
| 117 | Fabrics of man-made fibers of chapters 54 and 55 | Outer surface of insulated food or beverage bags classified in subheading 4202.92 |
| 118 | Woven fabrics of 60-75% rayon, 30-35% nylon, and 1-5% elastomeric; classified in subheadings 5516.91, 5516.92, 5516.93, or 5516.94; bleached, dyed, printed or of yarns of different colors; weighing 200-350 g/m² | Garments of chapter 62 |
| 119 | Woven fabric classified in subheading 5513.31, of 62-68% polyester and 32-38% cotton, of yarns of different colors, of yarn sizes up to 47/1 metric, weighing 125-140 g/m² | Men's micro-check non-dress shirts classified in subheading 6205.30 |
| 120 | Man-made fiber/carded wool blend fabrics, classified in subheadings 5515.13, 5515.22, 5515.99, 5516.32, and 5516.33, of 51-64% man-made staple fibers and 36-49% percent of wool, cashmere or camelhair fiber (or any combination thereof), weighing 357 to 485 g/m² | Men’s, boys', women's, girls' overcoats, carcoats, capes, cloaks and similar coats of headings 6201 and 6202 |
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<thead>
<tr>
<th>PSR</th>
<th>Description</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>121</td>
<td>Woven fabric classified in chapter 55, of up to 85% by weight man-made fibers and not to exceed 15% or more by weight of combed wool, mohair, cashmere or camelhair, weighing 200 g/m² or less</td>
<td>Men's, boys', women's, girls' woven suit-type jackets and trousers, classified in headings 6203 and 6204</td>
</tr>
<tr>
<td>122</td>
<td>Carded wool woven fabric of no more than 51% carded wool and of 20-49% man-made staple fiber woven fabric, classified in subheading 5111.30, weighing up to 400 g/m²</td>
<td>Men's, boys', women's, girls' woven overcoats, carcoats, capes, cloaks and similar articles classified in headings 6201 or 6202</td>
</tr>
<tr>
<td>123</td>
<td>Man-made staple fiber and carded wool woven fabric of 51-55% polyester staple / 45-49% carded wool woven fabric, classified in subheading 5515.13</td>
<td>Men's, boys', women's, girls' woven overcoats, carcoats, capes, cloaks and similar articles classified in headings 6201 or 6202</td>
</tr>
<tr>
<td>124</td>
<td>Woven fabric of no more than 90% carded wool / 10% cashmere woven fabric, not hand-woven, classified in subheading 5111.19, weighing more than 340 g/m²</td>
<td>Men's, boys', women's, girls' woven overcoats, carcoats, capes, cloaks and similar articles classified in headings 6201 or 6202</td>
</tr>
<tr>
<td>125</td>
<td>Knit fabric of 50-84% rayon, 14-49% polyester, and 1-10% elastomeric, classified in subheadings 6004.10, 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, or 6006.44</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Product Description</th>
<th>Garments and accessories</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Knit fabric of 50-65% polyester, 30-49% rayon, and 1-10% elastomeric, classified in subheadings 6004.10, 6005.31, 6005.32, 6005.33, 6005.34, 6006.31, 6006.32, 6006.33, and 6006.34</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
<td>126</td>
</tr>
<tr>
<td>Knit fabric of 90-99% rayon and 1-10% elastomeric, classified in subheadings 6004.10, 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, and 6006.44</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
<td>127</td>
</tr>
<tr>
<td>Knit fabric of 51-84% rayon and 16-49% polyester, classified in subheadings 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, or 6006.44</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
<td>128</td>
</tr>
<tr>
<td>Knit fabric of 51-65% polyester and 35-49% rayon, classified in subheadings 6005.31, 6005.32, 6005.33, 6005.34, 6006.31, 6006.32, 6006.33, or 6006.34</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
<td>129</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</th>
</tr>
</thead>
<tbody>
<tr>
<td>130</td>
<td>100% rayon knit fabric, classified in subheadings 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, and 6006.44</td>
<td>Garments and accessories of chapter 61, except for babies’ socks and booties of heading 6111 and hosiery of heading 6115</td>
</tr>
<tr>
<td>131</td>
<td>Woven fabric of 50-84% rayon, 49-6% polyester, and 1-10% elastomeric, classified in headings 5408 or 5516, weighing less than 225 g/m²</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>132</td>
<td>Woven fabric of 50-65% polyester, 34-49% rayon, and 1-10% elastomeric, classified in headings 5407, 5512, or 5515, weighing less than 225 g/m²</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>133</td>
<td>Woven fabric of 90-99% rayon and 1-10% elastomeric, classified in headings 5408 or 5516</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>134</td>
<td>Woven fabric of 51-85% rayon and 49-15% polyester, classified in headings 5408 or 5516, weighing less than 225 g/m²</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>135</td>
<td>Woven fabric of 51-65% polyester and 49-35% rayon, classified in headings 5407, 5512, or 5515, weighing less than 225 g/m²</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>136</td>
<td>100% rayon woven fabric, classified in headings 5408 or 5516</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>137</td>
<td>Knit jersey fabric, other than warp knit, classified in subheadings 6004.10 or 6006.32, of 43-46% polyester/43-45% rayon/5-9% flax/4-5% elastomeric, weighing 125-250 g/m²</td>
<td>Upper body garments classified in headings 6105, 6106, 6109, or 6114</td>
</tr>
<tr>
<td>138</td>
<td>Knit jersey fabric, other than warp knit, classified in subheadings 6004.10 or 6006.32, of 30-36% rayon/19-35% acrylic/27-33% polyester/3-8% elastomeric, weighing 125-250 g/m²</td>
<td>Upper body garments classified in headings 6105, 6106, 6109, 6110, or 6114</td>
</tr>
</tbody>
</table>
### 139 Knit jersey fabric, other than warp knit, classified in subheadings 6004.10 or 6006.42, of 46-52% rayon/23-29% lyocell/6-12% cotton/3-8% elastomeric, weighing 125-250 g/m²

| 140 | Slub jersey fabric, other than warp knit, classified in subheadings 6004.10 or 6006.42, of 92-98% rayon/2-3% polyester/2-5% elastomeric, weighing 150-200 g/m² | Upper body garments classified in headings 6105, 6106, 6109, 6110, 6114, Knit shirts, blouses, singlets, tank tops and similar garments, pullovers, sweatshirts, waistcoats (vests) and similar articles, tops, dresses, skirts, and divided skirts classified in headings 6104, 6105, 6106, 6109, 6110, or 6114 |

| 141 | Knit jersey fabric, other than warp knit, classified in subheadings 6004.10 or 6006.42, of 44-50% lyocell/44-50% rayon/3-9% elastomeric, weighing 150-220 g/m² | Upper body garments classified in headings 6105, 6106, 6109, 6110, 6114 |

| 142 | Slub jersey fabric classified in subheading 6006.22, of 51-65% cotton/35-49% rayon, weighing 120-225 g/m² | Upper body garments classified in headings 6105, 6106, 6109, 6110, 6114 |

| 143 | Polyester micro-fiber suede, classified in heading 5603, chemically peached and bonded, weighing 125-250 g/m² | |

| 144 | Woven fabric, classified in subheading 5309.29, of 51-55% flax/45-49% cotton, weighing 120-225 g/m² | Garments of chapter 62 |

| 145 | Bonded knit sherpa fabric, classified in subheadings 6001.10 or 6001.22, of 100%, weighing 250-275 g/m² | |
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<tr>
<th>#</th>
<th>Description</th>
<th>Category and Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>146</td>
<td>Stretch wool fabric, classified in subheading 5112.19, of 95-98% combed and dyed wool and 2-5% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 225-300 g/m²</td>
<td>Garments classified in chapter 62</td>
</tr>
<tr>
<td>147</td>
<td>Stretch wool fabric, classified in headings 5112 or 5515, of 15-50% combed and dyed wool, 15-50% polyester, and 2-5% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 225-300 g/m²</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>148</td>
<td>Stretch wool fabric, classified in headings 5112 or 5515, of 15-85% combed and dyed wool, 15-85% polyester, and 2-5% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 225-300 g/m²</td>
<td>Women's and girls' suits, suit-type jackets, blazers, dresses, skirts, and trousers classified in heading 6204</td>
</tr>
<tr>
<td>149</td>
<td>Stretch wool fabric, classified in subheading 5112.11 or 5112.19, of 92-98% combed and dyed wool and 2-6% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-225 g/m²</td>
<td>Garments classified in chapter 62</td>
</tr>
<tr>
<td>150</td>
<td>Stretch wool fabric, classified in heading 5112 or 5515, of 15-50% combed and dyed wool, 15-50% polyester, and 2-6% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-225 g/m²</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>151</td>
<td>Stretch wool fabric, classified in headings 5112 or 5515, of 15-85% combed and dyed wool, 15-85% polyester, and 2-6% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-225 g/m²</td>
<td>Women's and girls’ garments of heading 6204</td>
</tr>
</tbody>
</table>
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| 152 | Stretch wool fabric classified in subheading 5112.11 or 5112.19, of 94-98% combed and dyed wool, 2-6% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-225 g/m² | Garments classified in chapter 62 |
| 153 | Stretch wool fabric classified in headings 5112 or 5515, of 15-50% combed and dyed wool, 15-50% polyester, 2-6% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-225 g/m² | Garments of chapter 62 |
| 154 | Stretch wool fabric classified in heading 5112 or 5515, of 15-85% combed and dyed wool, 15-85% polyester, 2-6% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-225 g/m² | Garments for Women’s and girls’ of heading 6204 |
| 155 | Combed and yarn-dyed woven fabric, containing not more than 97% by weight of wool, mohair, cashmere or camel hair and not less than 3% elastomeric, classified in subheading 5112.11 or 5112.19, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-275 g/²m² | Garments classified in chapter 62 |
| 156 | Combed and yarn-dyed woven fabric classified in headings 5112 or 5515, of 15-85% by weight wool, mohair, cashmere or camel hair, 15-85% polyester, and 2-5% elastomeric, with a minimum of 15% stretch in the warp or a minimum of 15% stretch in the filling, weighing 175-275 g/²m² | Women's and girls' suits, suit-type jackets, blazers, dresses, skirts, trousers classified in heading 6204 |
| 157 | Woven cotton flannel fabric, napped on one or both sides, classified in heading 5208, of 85% or more by weight of cotton, weighing less than 200 g/m² | Garments of chapter 62 |
| 158 | Dyed woven fabrics classified in subheading 5516.92; of 60-75% rayon, 30-35% nylon, 1-5% elastomeric; weighing 200-350 g/m² | Garments of chapter 62 |
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<table>
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<tr>
<th>Code</th>
<th>Description</th>
<th>Garments of</th>
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<tbody>
<tr>
<td>159</td>
<td>Printed woven fabrics classified in subheading 5516.94; of 60-75% rayon, 30-35% nylon, 1-5% elastomeric; weighing 200-350 g/m²</td>
<td></td>
</tr>
<tr>
<td>160</td>
<td>Woven fabrics of yarns of different colors; classified in subheading 5516.93, of 60-75% rayon, 30-35% nylon, 1-5% elastomeric; weighing 200-350 g/m²</td>
<td></td>
</tr>
<tr>
<td>161</td>
<td>Woven fabrics classified in subheading 5515.11; of 53-65% polyester, 25-35% viscose rayon, 15-20% wool; weighing 150-300 g/m²</td>
<td></td>
</tr>
<tr>
<td>162</td>
<td>Fibers, yarns, and fabrics of silk, classified in chapter 50, except for fabric used for the production of kimono or obi described in the chapter note of chapter 62</td>
<td></td>
</tr>
<tr>
<td>163</td>
<td>Fibers, yarns, and fabrics of vegetable textile fibers, other than cotton, classified in chapter 53</td>
<td></td>
</tr>
<tr>
<td>164</td>
<td>Knit fabric classified in headings 6004-6006, containing 51% or more by weight of silk</td>
<td>Garments of chapter 61</td>
</tr>
<tr>
<td>165</td>
<td>Knit fabric classified in headings 6004-6006, containing 51% or more by weight of flax</td>
<td>Garments of chapter 61</td>
</tr>
<tr>
<td>166</td>
<td>Woven fabrics of chapter 50 containing 51% or more by weight of silk</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>167</td>
<td>Woven fabrics of chapter 53 containing 51% or more by weight of flax</td>
<td>Garments of chapter 62</td>
</tr>
<tr>
<td>168</td>
<td>Nylon Type 6, and Nylon Type 6.6 Yarn, classified in subheadings 5402.31, 5402.51, 5402.61, finer than 11 denier</td>
<td></td>
</tr>
<tr>
<td>169</td>
<td>Thermally bonded nonwoven fabrics, classified in subheadings 5603.11 or 5603.12, weighing more than 20 g/m² but not more than 40 g/m²</td>
<td></td>
</tr>
<tr>
<td>170</td>
<td>Spunbond nonwovens, classified in subheading 5603.12, weighing more than 30 g/m² but not more than 55 g/m²</td>
<td></td>
</tr>
</tbody>
</table>
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<th>Chapter(s)</th>
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<tbody>
<tr>
<td>171</td>
<td>Spunlace nonwoven fabrics classified in subheadings 5603.11 and 5603.12, weighing more than 20 g/m² but not more than 50 g/m²</td>
<td>61</td>
</tr>
<tr>
<td>172</td>
<td>Spunbonded nonwoven fabrics, of olefin, classified in subheadings 5603.13 or 5603.14, weighing more than 140 g/m² but not more than 165 g/m²</td>
<td>61</td>
</tr>
<tr>
<td>173</td>
<td>Knit fabric of 64% lyocell/33% polyester/3% elastomeric, classified in heading 6006, weighing not more than 210 g/m²</td>
<td>61</td>
</tr>
<tr>
<td>174</td>
<td>100% lyocell single or double knitted fabric, classified in heading 6006, weighing not more than 250 g/m², dyed or printed,</td>
<td>61</td>
</tr>
<tr>
<td>175</td>
<td>80%-95% lyocell/5-20% elastomeric single or double knitted fabric classified in heading 6004, weighing not more than 300 g/m², dyed or printed</td>
<td>61</td>
</tr>
<tr>
<td>176</td>
<td>Machine and hand-made lace, classified in subheadings 5804.21, 5804.29, and 5804.30</td>
<td>61, 62</td>
</tr>
<tr>
<td>177</td>
<td>Woven fabric of 100 percent acrylic fiber, of average yarn number exceeding 55 metric, classified in subheadings 5512.21, 5512.29</td>
<td>62</td>
</tr>
<tr>
<td>178</td>
<td>Batiste fabric of square construction, of single yarns exceeding 76 metric count, of a weight not exceeding 100 g/m², classified in subheadings 5513.11 and 5513.21</td>
<td>62</td>
</tr>
<tr>
<td>179</td>
<td>Yarn, not put up for retail sale, containing by weight 50 - 85% rayon and 15 - 50% cotton, classified in subheadings 5510.11, 5510.12, 5510.30</td>
<td>62</td>
</tr>
<tr>
<td>180</td>
<td>Artificial filament yarn (other than sewing thread), not put up for retail sale, single, of cellulose acetate, classified in subheading 5403.33</td>
<td>62</td>
</tr>
<tr>
<td>181</td>
<td>Yarn of artificial staple fiber classified in subheading 5510.90 of 65% or more viscose rayon and up to 35% nylon</td>
<td>61.10.11</td>
</tr>
<tr>
<td>182</td>
<td>Woven fabric, manufactured from wool yarns, containing not less than 51% combed wool, containing not less than 30% flax, classified in subheading 5112.90</td>
<td>62</td>
</tr>
</tbody>
</table>
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</tr>
</thead>
<tbody>
<tr>
<td>183</td>
<td>Woven fabric, manufactured from yarns containing not less than 51 percent combed wool, containing not less than 35 percent viscose rayon classified in subheading 5112.30</td>
<td>Garments classified in chapter 62</td>
</tr>
<tr>
<td>184</td>
<td>Woven fabric manufactured from yarns containing not less than 51 percent viscose rayon, containing not less than 30 percent combed wool, classified in heading 5408</td>
<td>Garments classified in chapter 62</td>
</tr>
<tr>
<td>185</td>
<td>100% carded or combed wool yarn, classified in subheading 5106.10, 5107.10</td>
<td>Woven woolen gloves and mittens, classified in heading 6216, not impregnated, coated or covered with plastics or rubber</td>
</tr>
<tr>
<td>186</td>
<td>Knit fabrics classified in subheadings 6002-6006 of 30-40% polyester, 25-35% acrylic, 30-40% rayon and 2-9% polyurethane</td>
<td>Undergarments classified in subheading 6109.90</td>
</tr>
<tr>
<td>187</td>
<td>Yarn of Mohair or Angora rabbit hair of subheading 5108.10 and 5108.20</td>
<td></td>
</tr>
<tr>
<td>188</td>
<td>Woven fabrics of 60-84% by weight rayon and 16-40% by weight silk, classified in subheading 5516.92 or 5516.94</td>
<td></td>
</tr>
<tr>
<td>189</td>
<td>Yarn (other than sewing thread), not put up for retail sale, containing more than 51% by weight of acrylic, excluding greige or bleached fibers, classified in subheading 5509.69</td>
<td>Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles classified in subheading 6110.30</td>
</tr>
<tr>
<td>190</td>
<td>Multiple folded or cabled yarn (other than sewing thread), not put up for retail sale, containing by weight 86% - 96% rayon and 4 - 10% silk, classified in subheading 5510.12</td>
<td>Women's sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles classified in subheading 6110.30</td>
</tr>
</tbody>
</table>
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

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<th>Specific Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>191</td>
<td>Knit fabric, classified in chapter 60, of 100% polypropylene</td>
<td>Sweaters, pullovers, sweatshirts, vests and similar articles classified in subheading 6110.30</td>
</tr>
<tr>
<td>192</td>
<td>Synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm; strip and the like (for example, artificial straw) of synthetic textile materials of an apparent width not exceeding 5 mm: monofilament, other of polypropylene classified in subheading 5404.12</td>
<td>Embroidery for apparel</td>
</tr>
<tr>
<td>193</td>
<td>Yarn (other than sewing thread) of artificial staple fibers, not put up for retail sale, multiple (folded) or cabled yarn, classified in subheadings 5510.12, 5510.20, 5510.30, 5510.90</td>
<td>Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles classified in subheading 6110.11</td>
</tr>
<tr>
<td>194</td>
<td>Yarn of between 95 and 100 per cent by weight of combed wool classified in 5107.10 with an average fiber diameter of 19 microns or less, containing up to five per cent by weight of Kashmir, angora (including rabbit), camel, mohair or fibers classified in chapter 53</td>
<td></td>
</tr>
</tbody>
</table>
CHAPTER 5

CUSTOMS ADMINISTRATION AND TRADE FACILITATION

Article 5.1: Customs Procedures and Facilitation of Trade

Each Party shall ensure that its customs procedures are applied in a manner that is predictable, consistent and transparent.

Article 5.2: Customs Cooperation

1. With a view to facilitating the effective operation of this Agreement, each Party shall:
   (a) encourage cooperation with other Parties regarding significant 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 similar measure related to its laws or regulations that governs importations or exportations, that is likely to substantially affect the operation of this Agreement.

2. Each Party shall, in accordance with its law, cooperate with the other Parties through information sharing and other activities as appropriate, to achieve compliance with their respective laws and regulations that pertain to:
   (a) the implementation and operation of the provisions of this Agreement governing importations or exportations, including claims for preferential tariff treatment, procedures for making claims for preferential tariff treatment and verification procedures;
   (b) the implementation, application and operation of the Customs Valuation Agreement;
   (c) restrictions or prohibitions on imports or exports;
   (d) investigation and prevention of customs offences, including duty evasion and smuggling; and
   (e) other customs matters as the Parties may decide.

3. If a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importations, it may request that another Party provide specific confidential information that is normally collected in connection with the importation of
goods.

4. If a Party makes a request under paragraph 3, it shall:
   (a) be in writing;
   (b) specify the purpose for which the information is sought; and
   (c) identify the requested information with sufficient specificity for the other Party to locate and provide the information.

5. The Party from which the information is requested under paragraph 3 shall, subject to its law and any relevant international agreements to which it is a party, provide a written response containing the requested information.

6. For the purposes of paragraph 3, “a reasonable suspicion of unlawful activity” means a suspicion based on relevant factual information obtained from public or private sources comprising one or more of the following:
   (a) historical evidence of non-compliance with laws or regulations that govern importations by an importer or exporter;
   (b) historical evidence of non-compliance with laws or regulations that govern importations by a manufacturer, producer or other person involved in the movement of goods from the territory of one Party to the territory of another Party;
   (c) historical evidence of non-compliance with laws or regulations that govern importations by some or all of the persons involved in the movement of goods within a specific product sector from the territory of one Party to the territory of another Party; or
   (d) other information that the requesting Party and the Party from which the information is requested agree is sufficient in the context of a particular request.

7. Each Party shall endeavour to provide another Party with any other information that would assist that Party to determine whether imports from, or exports to, that Party are in compliance with the receiving Party’s laws or regulations that govern importations, in particular those related to unlawful activities, including smuggling and similar infractions.

8. In order to facilitate trade between the Parties, a Party receiving a request shall endeavour to provide the Party that made the request with technical advice and assistance for the purpose of:
   (a) developing and implementing improved best practices and risk management techniques;
(b) facilitating the implementation of international supply chain standards;

(c) simplifying and enhancing procedures for clearing goods through customs in a timely and efficient manner;

(d) developing the technical skill of customs personnel; and

(e) enhancing the use of technologies that can lead to improved compliance with the requesting Party’s laws or regulations that govern importations.

9. The Parties shall endeavour to establish or maintain channels of communication for customs cooperation, including by establishing contact points in order to facilitate the rapid and secure exchange of information and improve coordination on importation issues.

Article 5.3: Advance Rulings

1. Each Party shall issue, prior to the importation of a good of a Party into its territory, a written advance ruling at the written request of an importer in its territory, or an exporter or producer in the territory of another Party, 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) whether a good is originating in accordance with Chapter 3 (Rules of Origin and Origin Procedures); and

(d) such other matters as the Parties may decide.

2. Each Party shall issue an advance ruling as expeditiously as possible and in no case later than 150 days after it receives a request, provided that the requester has submitted all the information that the receiving Party requires to make the advance ruling. This includes a sample of the good for which the requester is seeking an advance ruling if requested by the receiving Party. In issuing an advance ruling, the Party shall take into account the facts and circumstances that the requester has provided. For greater certainty, 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 administrative or judicial review. A Party that declines to issue an advance ruling shall promptly notify the requester in writing, setting out the relevant facts and circumstances and the basis for its decision to decline to issue the advance ruling.

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

2 For greater certainty, a Party is not required to provide an advance ruling when it does not maintain measures of the type subject to the ruling request.
3. Each Party shall provide that its advance rulings shall take effect on the date that they are issued or on another date specified in the ruling, and remain in effect for at least three years, provided that the law, facts and circumstances on which the ruling is based remain unchanged. If a Party’s law provides that an advance ruling becomes ineffective after a fixed period of time, that Party shall endeavour to provide procedures that allow the requester to renew the ruling expeditiously before it becomes ineffective, in situations in which the law, facts and circumstances on which the ruling was based remain unchanged.

4. 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, if the ruling was based on inaccurate or false information, or if the ruling was in error.

5. A Party may apply a modification or revocation in accordance with paragraph 4 after it provides notice of the modification or revocation and the reasons for it.

6. No Party shall apply a revocation or modification retroactively to the detriment of the requester unless the ruling was based on inaccurate or false information provided by the requester.

7. Each Party shall ensure that requesters have access to administrative review of advance rulings.

8. Subject to any confidentiality requirements in its law, each Party shall endeavour to make its advance rulings publicly available including online.

Article 5.4: Response to Requests for Advice or Information

On request from an importer in its territory, or an exporter or producer in the territory of another Party, a Party shall expeditiously provide advice or information relevant to the facts contained in the request on:

(a) the requirements for qualifying for quotas, such as tariff rate quotas;

(b) the application of duty drawback, deferral or other types of relief that reduce, refund or waive customs duties;

(c) the eligibility requirements for goods under Article 2.6 (Goods Re-entered after Repair and Alteration);

(d) country of origin marking, if it is a prerequisite for importation; and

(e) other matters as the Parties may decide.
Article 5.5: Review and Appeal

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

   (a) administrative review of the determination, independent of the employee or office that issued the determination; and

   (b) judicial review of the determination.

2. Each Party shall ensure that an authority that conducts a review under paragraph 1 notifies the parties to the matter in writing of its decision, and the reasons for the decision. A Party may require a request as a condition for providing the reasons for a decision in the review.

Article 5.6: Automation

1. Each Party shall:

   (a) endeavour to use international standards with respect to procedures for the release of goods;

   (b) make electronic systems accessible to customs users;

   (c) employ electronic or automated systems for risk analysis and targeting;

   (d) endeavour to implement common standards and elements for import and export data in accordance with the World Customs Organization (WCO) Data Model;

   (e) take into account, as appropriate, WCO standards, recommendations, models and methods developed through the WCO or APEC; and

   (f) work toward developing a set of common data elements that are drawn from the WCO Data Model and related WCO recommendations as well as guidelines to facilitate government to government electronic sharing of data for purposes of analysing trade flows.

2. Each Party shall endeavour to provide a facility that allows importers and exporters to electronically complete standardised import and export requirements at a single entry point.

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3 For the purposes of this Article, a determination, if made by Peru, means an administrative act.

4 The level of administrative review may include any authority supervising the customs administration.

5 Brunei Darussalam may comply with this paragraph by establishing or maintaining an independent body to provide impartial review of the determination.
Article 5.7: Express Shipments

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

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

   (b) allow a single submission of information covering all goods contained in an express shipment, such as a manifest, through, if possible, electronic means;\(^6\)

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

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

   (e) apply to shipments of any weight or value recognising 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 will be assessed on express shipments valued at or below a fixed amount set under the Party’s law.\(^7\) Each Party shall review the amount periodically taking into account factors that it may consider relevant such as rates of inflation, effect on trade facilitation, impact on risk management, administrative cost of collecting duties compared to the amount of duties, cost of cross-border trade transactions, impact on SMEs or other factors related to the collection of customs duties.

2. If a Party does not provide the treatment in paragraph 1(a) through (f) to all shipments, that Party shall provide a separate\(^8\) and expedited customs procedure that provides that treatment for express shipments.

\(^6\) For greater certainty, additional documents may be required as a condition for release.

\(^7\) Notwithstanding this Article, a Party may assess customs duties, or may require formal entry documents, for restricted or controlled goods such as goods subject to import licensing or similar requirements.

\(^8\) For greater certainty, “separate” does not mean a specific facility or lane.
Article 5.8: Penalties

1. Each Party shall adopt or maintain measures that allow for the imposition of a penalty by a Party’s customs administration for a breach of its customs laws, regulations or procedural requirements, including those governing tariff classification, customs valuation, country of origin and claims for preferential treatment under this Agreement.

2. Each Party shall ensure that a penalty imposed by its customs administration for a breach of a customs law, regulation or procedural requirement is imposed only on the person legally responsible for the breach.

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

4. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties. No portion of the remuneration of a government official shall be calculated as a fixed portion or percentage of any penalties or duties assessed or collected.

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

6. If a person voluntarily discloses to a Party’s customs administration the circumstances of a breach of a customs law, regulation or procedural requirement prior to the discovery of the breach by the customs administration, the Party’s customs administration shall, if appropriate, consider this fact as a potential mitigating factor when a penalty is established for that person.

7. Each Party shall provide in its laws, regulations or procedures, or otherwise give effect to, a fixed and finite period within which its customs administration may initiate proceedings to impose a penalty relating to a breach of a customs law, regulation or procedural requirement.

8. Notwithstanding paragraph 7, a customs administration may impose, outside of the fixed and finite period, a penalty where this is in lieu of judicial or administrative tribunal proceedings.

Article 5.9: Risk Management

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9 Facts and circumstances shall be established objectively according to each Party’s law.

10 For greater certainty, “proceedings” means administrative measures by the customs administration and does not include judicial proceedings.
1. Each Party shall adopt or maintain a risk management system for assessment and targeting that enables its customs administration to focus its inspection activities on high-risk goods and that simplifies the clearance and movement of low-risk goods.

2. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management system specified in paragraph 1.

Article 5.10: 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. This paragraph shall not require a Party to release a good if its requirements for release have not been met.

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

   (a) provide for the release of goods within a period no longer than that required to ensure compliance with its customs laws and, to the extent possible, within 48 hours of the arrival of the goods;

   (b) provide for the electronic submission and processing of customs information 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 temporary transfer to warehouses or other facilities; and

   (d) allow an importer to obtain the release of goods prior to the final determination of customs duties, taxes and fees by the importing Party's customs administration when these are not determined prior to or promptly upon arrival, provided that the good is otherwise eligible for release and any security required by the importing Party has been provided or payment under protest, if required by a Party, has been made. Payment under protest refers to payment of duties, taxes and fees if the amount is in dispute and procedures are available to resolve the dispute.

3. 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; and

   (c) allow importers to provide security using non-cash financial instruments, and
including, in appropriate cases where an importer frequently enters goods, instruments covering multiple entries.

Article 5.11: Publication

1. Each Party shall make publicly available including online its customs laws, regulations, and general administrative procedures and guidelines, to the extent possible in the English language.

2. Each Party shall designate or maintain one or more enquiry points to address enquiries from interested persons concerning customs matters and shall make information concerning the procedures for making such enquiries publicly available online.

3. To the extent possible, each Party shall publish in advance regulations of general application governing customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before the Party adopts the regulation.

Article 5.12: Confidentiality

1. If a Party provides information to another Party in accordance with this Chapter and designates the information as confidential, the other Party shall keep the information confidential. The Party that provides the information may require the other Party to furnish written assurance that the information will be held in confidence, used only for the purposes specified in the other Party’s request for information, and not disclosed without the specific permission of the Party that provided the information or the person that provided the information to that Party.

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. Each Party shall adopt or maintain procedures for protecting from unauthorised disclosure confidential information submitted in accordance with the administration of the Party’s customs laws, including information the disclosure of which could prejudice the competitive position of the person providing the information.
CHAPTER 6

TRADE REMEDIES

Section A: Safeguard Measures

Article 6.1: Definitions

For the purposes of this Section:

domestic industry means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating within the territory of a Party, or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;

serious injury means a significant overall impairment in the position of a domestic industry;

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

transition period means, in relation to a particular good, the three-year period beginning on the date of entry into force of this Agreement, except where the tariff elimination for the good occurs over a longer period of time, in which case the transition period shall be the period of the staged tariff elimination for that good; and

transitional safeguard measure means a measure described in Article 6.3.2 (Imposition of a Transitional Safeguard Measure).

Article 6.2: Global Safeguards

1. Nothing in this Agreement affects the rights and obligations of the Parties under Article XIX of GATT 1994 and the Safeguards Agreement.

2. Except as provided in paragraph 3, nothing in this Agreement shall confer any rights or impose any obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.

3. A Party that initiates a safeguard investigatory process shall provide to the other Parties an electronic copy of the notification given to the WTO Committee on Safeguards under Article 12.1(a) of the Safeguards Agreement.
4. No Party shall apply or maintain a safeguard measure under this Chapter, to any product imported under a tariff rate quota (TRQ) established by the Party under this Agreement. A Party taking a safeguard measure under Article XIX of GATT 1994 and the Safeguards Agreement may exclude from the safeguard measure imports of originating goods under a TRQ established by the Party under this Agreement and set out in Appendix A to the Party’s schedule to Annex 2-D (Tariff Elimination), if such imports are not a cause of serious injury or threat thereof.

5. No Party shall apply or maintain two or more of the following measures, with respect to the same good, at the same time:

(a) a transitional safeguard measure under this Chapter;

(b) a safeguard measure under Article XIX of GATT 1994 and the Safeguards Agreement;

(c) a safeguard measure set out in Appendix B to its Schedule to Annex 2-D (Tariff Elimination); or

(d) an emergency action under Chapter 4 (Textiles and Apparel).

Article 6.3: Imposition of a Transitional Safeguard Measure

1. A Party may apply a transitional safeguard measure described in paragraph 2, during the transition period only, if as a result of the reduction or elimination of a customs duty pursuant to this Agreement:

(a) an originating good of another Party, individually, is being imported into the Party’s territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions, as to cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good; or

(b) an originating good of two or more Parties, collectively, is being imported into the Party’s territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions, as to cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good, provided that the Party applying the transitional safeguard measure demonstrates, with respect to the imports from each such Party against which the transitional safeguard measure is applied, that imports of the originating good from each of those Parties have increased, in absolute terms or relative to domestic production, since the date of entry into force of this Agreement for those Parties.
2. If the conditions in paragraph 1 are met, the Party may, to the extent necessary to prevent or remedy serious injury and to facilitate adjustment:

(a) suspend the further reduction of any rate of customs duty provided for under this Agreement on the good; or

(b) increase the rate of customs duty on the good to a level not to exceed the lesser of:

(i) the most-favoured-nation applied rate of customs duty in effect at the time the measure is applied; and

(ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement for that Party.

The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of transitional safeguard measure.

**Article 6.4: Standards for a Transitional Safeguard Measure**

1. A Party shall maintain a transitional safeguard measure only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment.

2. That period shall not exceed two years, except that the period may be extended by up to one year if the competent authority of the Party that applies the measure determines, in conformity with the procedures set out in Article 6.5 (Investigation Procedures and Transparency Requirements), that the transitional safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment.

3. No Party shall maintain a transitional safeguard measure beyond the expiration of the transition period.

4. In order to facilitate adjustment in a situation where the expected duration of a transitional safeguard measure is over one year, the Party that applies the measure shall progressively liberalise it at regular intervals during the period of application.

5. On the termination of a transitional safeguard measure, the Party that applied the measure shall apply the rate of customs duty set out in the Party’s Schedule to Annex 2-D (Tariff Elimination) as if that Party had never applied the transitional safeguard measure.

6. No Party shall apply a transitional safeguard measure more than once on the same good.

**Article 6.5: Investigation Procedures and Transparency Requirements**
1. A Party shall apply a transitional safeguard measure only following an investigation by the Party’s competent authorities in accordance with Article 3 and Article 4.2(c) of the Safeguards Agreement; to this end, Article 3 and Article 4.2(c) of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis.

2. In the investigation described in paragraph 1, the Party shall comply with the requirements of Article 4.2(a) and Article 4.2(b) of the Safeguards Agreement; to this end, Article 4.2(a) and Article 4.2(b) of the Safeguards Agreement are incorporated into and made part of this Agreement, mutatis mutandis.

Article 6.6: Notification and Consultation

1. A Party shall promptly notify the other Parties, in writing, if it:

   (a) initiates a transitional safeguard investigation under this Chapter;

   (b) makes a finding of serious injury, or threat of serious injury, caused by increased imports, as set out in Article 6.3 (Imposition of a Transitional Safeguard Measure);

   (c) takes a decision to apply or extend a transitional safeguard measure; and

   (d) takes a decision to modify a transitional safeguard measure previously undertaken.

2. A Party shall provide to the other Parties a copy of the public version of the report of its competent authorities that is required under Article 6.5.1 (Investigation Procedures and Transparency Requirements).

3. When a Party makes a notification pursuant to paragraph 1(c) that it is applying or extending a transitional safeguard measure, that Party shall include in that notification:

   (a) evidence of serious injury, or threat of serious injury, caused by increased imports of an originating good of another Party or Parties as a result of the reduction or elimination of a customs duty pursuant to this Agreement;

   (b) a precise description of the originating good subject to the transitional safeguard measure including its heading or subheading under the HS Code, on which the schedules of tariff commitments in Annex 2-D (Tariff Elimination) are based;

   (c) a precise description of the transitional safeguard measure;
(d) the date of the transitional safeguard measure’s introduction, its expected duration and, if applicable, a timetable for progressive liberalisation of the measure.; and

(e) in the case of an extension of the transitional safeguard measure, evidence that the domestic industry concerned is adjusting.

4. On request of a Party whose good is subject to a transitional safeguard proceeding under this Chapter, the Party that conducts that proceeding shall enter into consultations with the requesting Party to review a notification under paragraph 1 or any public notice or report that the competent investigating authority issued in connection with the proceeding.

Article 6.7 Compensation

1. A Party applying a transitional safeguard measure shall, after consultations with each Party against whose good the transitional safeguard measure is applied, provide mutually agreed trade liberalising compensation in the form of concessions that have substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the transitional safeguard measure. The Party shall provide an opportunity for those consultations no later than 30 days after the application of the transitional safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days, any Party against whose good the transitional safeguard measure is applied may suspend the application of substantially equivalent concessions to the trade of the Party applying the transitional safeguard measure.

3. A Party against whose good the transitional safeguard measure is applied shall notify the Party applying the transitional safeguard measure in writing at least 30 days before it suspends concessions in accordance with paragraph 2.

4. The obligation to provide compensation under paragraph 1 and the right to suspend concessions under paragraph 2 terminates on the termination of the transitional safeguard measure.

Section B: Antidumping and Countervailing Duties

Article 6.8: Antidumping and Countervailing Duties

1. Each Party retains its rights and obligations under Article VI of GATT 1994, the AD Agreement and the SCM Agreement.
2. Nothing in this Agreement shall confer any rights or impose any obligations on the Parties with regard to 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 Chapter 28 (Dispute Settlement) for any matter arising under this Section or Annex 6-A (Practices Relating to Antidumping and Countervailing Duty Proceedings).

The Parties recognise, in Article 6.8 (Antidumping and Countervailing Duties), the right of the Parties to apply trade remedy measures consistent with Article VI of GATT 1994, the AD Agreement and the SCM Agreement, the Parties recognise the following practices as promoting the goals of transparency and due process in trade remedy proceedings:

(a) Upon receipt by a Party’s investigating authorities of a properly documented antidumping or countervailing duty application with respect to imports from another Party, and no later than seven days before initiating an investigation, the Party provides written notification of its receipt of the application to the other Party.

(b) In any proceeding in which the investigating authorities determine to conduct an in-person verification of information that is provided by a respondent, and that is pertinent to the calculation of antidumping duty margins or the level of a countervailable subsidy, the investigating authorities promptly notify each respondent of their intent, and:

(i) provide to each respondent at least 10 working days advance notice of the dates on which the authorities intend to conduct an in-person verification of the information;

(ii) at least five working days prior to an in-person verification, provide to the respondent a document that sets out the topics the respondent should be prepared to address during the verification and that describes the types of supporting documentation to be made available for review; and

(iii) after an in-person verification is completed, and subject to the protection of confidential information, issue a written report that describes the methods and procedures followed in carrying out the verification and the extent to which the information provided by the respondent was supported by the documents reviewed during the verification. The report is made

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1 The practices included in this Annex do not constitute a comprehensive list of practices relating to antidumping and countervailing duty proceedings. No inference shall be drawn from the inclusion or exclusion of a particular aspect of such proceedings in this list.

2 For the purposes of this paragraph, “respondent” means a producer, manufacturer, exporter, importer, and, where appropriate, a government or government entity, that is required by a Party’s investigating authorities to respond to an antidumping or countervailing duty questionnaire.

3 For the purposes of this Annex, “confidential information” includes information which is provided on a confidential basis and which 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.
available to all interested parties in sufficient time for the parties to defend their interests.

(c) A Party’s investigating authorities maintain a public file for each investigation and review that contains:

(i) all non-confidential documents that are part of the record of the investigation or review; and

(ii) to the extent feasible without revealing confidential information, non-confidential summaries of confidential information that is contained in the record of each investigation or review. To the extent that individual information is not susceptible of summarisation, it may be aggregated by the investigating authority.

The public file and a list of all documents that are contained in the record of the investigation or review are physically available for inspection and copying during the investigating authorities’ normal business hours or electronically available for download.\(^4\)

(d) If, in an antidumping or countervailing duty action that involves imports from another Party, a Party’s investigating authorities determine that a timely response to a request for information does not comply with the request, the investigating authorities inform the interested party that submitted the response of the nature of the deficiency and, to the extent practicable in light of time limits established to complete the antidumping or countervailing duty action, provide that interested party with an opportunity to remedy or explain the deficiency. If that interested party submits further information in response to that deficiency and the investigating authorities find that the response is not satisfactory, or that the response is not submitted within the applicable time limits, and if the investigating authorities disregard all or part of the original and subsequent responses, the investigating authorities explain in the determination or other written document the reasons for disregarding the information.

(e) Before a final determination is made, the investigating authorities inform all interested parties of the essential facts that form the basis of the decision whether to apply definitive measures. Subject to the protection of confidential information, the investigating authorities may use any reasonable means to disclose the essential facts, which includes a report summarising the data in the record, a draft or preliminary determination or some combination of those reports or determinations, to provide interested parties an opportunity to respond to the disclosure of essential facts.

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\(^4\) Charges for the copies, if any, are limited in amount to the approximate cost of the services rendered.
CHAPTER 7
SANITARY AND PHYTOSANITARY MEASURES

Article 7.1: 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.

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

   competent authority means a government body of each Party responsible for measures and matters referred to in this Chapter;

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

   import check means an inspection, examination, sampling, review of documentation, test or procedure, including laboratory, organoleptic or identity, conducted at the border by an importing Party or its representative to determine if a consignment complies\(^1\) with the sanitary and phytosanitary requirements of the importing Party;

   import programme means mandatory sanitary or phytosanitary policies, procedures or requirements of an importing Party that govern the importation of goods;

   primary representative means the government body of a Party that is responsible for the implementation of this Chapter and the coordination of that Party’s participation in Committee activities under Article 7.5 (Committee on Sanitary and Phytosanitary Measures);

   risk analysis means the process that consists of three components: risk assessment; risk management; and risk communication;

   risk communication means the exchange of information and opinions concerning risk and risk-related factors between risk assessors, risk managers, consumers and other interested parties; and

   risk management means the weighing of policy alternatives in light of the results of risk assessment and, if required, selecting and implementing appropriate control options, including regulatory measures.

\(^1\) For greater certainty, the Parties recognise that import checks are one of many tools available to assess compliance with an importing Party’s sanitary and phytosanitary measures.
Article 7.2: Objectives

The objectives of this Chapter are to:

(a) protect human, animal or plant life or health in the territories of the Parties while facilitating and expanding trade by utilising a variety of means to address and seek to resolve sanitary and phytosanitary issues;

(b) reinforce and build on the SPS Agreement;

(c) strengthen communication, consultation and cooperation between the Parties, and particularly between the Parties’ competent authorities and primary representatives;

(d) ensure that sanitary or phytosanitary measures implemented by a Party do not create unjustified obstacles to trade;

(e) enhance transparency in and understanding of the application of each Party’s sanitary and phytosanitary measures; and

(f) encourage the development and adoption of international standards, guidelines and recommendations, and promote their implementation by the Parties.

Article 7.3: Scope

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

2. Nothing in this Chapter prevents a Party from adopting or maintaining halal requirements for food and food products in accordance with Islamic law.

Article 7.4: General Provisions

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

2. Nothing in this Agreement shall limit the rights and obligations that each Party has under the SPS Agreement.

Article 7.5: 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 objectives of the Committee are to:
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subject to authentication of English, Spanish and French versions

(a) enhance each Party’s implementation of this Chapter;
(b) consider sanitary and phytosanitary matters of mutual interest; and
(c) enhance communication and cooperation on sanitary and phytosanitary matters.

3. The Committee:

(a) shall provide a forum to improve the Parties’ understanding of sanitary and phytosanitary issues that relate to the implementation of the SPS Agreement and this Chapter;
(b) shall provide a forum to enhance mutual understanding of each Party’s sanitary and phytosanitary measures and the regulatory processes that relate to those measures;
(c) shall exchange information on the implementation of this Chapter;
(d) shall determine the appropriate means, which may include ad hoc working groups, to undertake specific tasks related to the functions of the Committee;
(e) may identify and develop technical assistance and cooperation projects between the Parties on sanitary and phytosanitary measures;
(f) may serve as a forum for a Party to share information on a sanitary or phytosanitary issue that has arisen between it and another Party or Parties, provided that the Parties between which the issue has arisen have first attempted to address the issue through discussions between themselves; and
(g) may consult on matters and positions for the meetings of the Committee on Sanitary and Phytosanitary Measures established under Article 12 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.

4. The Committee shall establish its terms of reference at its first meeting and may revise those terms 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 Parties agree otherwise.

Article 7.6: Competent Authorities and Contact Points

Each Party shall provide the other Parties with a written description of the sanitary and phytosanitary responsibilities of its competent authorities and contact points within each
of these authorities and identify its primary representative within 60 days of the date of entry into force of this Agreement for that Party. Each Party shall keep this information up to date.

**Article 7.7: Adaptation to Regional Conditions, Including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence**

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

2. The Parties shall take into account the relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations.

3. The Parties may 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.

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

5. When an importing Party commences an assessment of a request for a determination of regional conditions under paragraph 4, that Party shall promptly, on request of the exporting Party, explain its process for making the determination of regional conditions.

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

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

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

9. The Parties involved in a determination recognising regional conditions are encouraged, if mutually agreed, to report the outcome to the Committee.

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

11. If there is an incident that results in the importing Party modifying or revoking the determination recognising regional conditions, on request of the exporting Party, the Parties involved shall cooperate to assess whether the determination can be reinstated.
Article 7.8: Equivalence

1. The Parties acknowledge that recognition of the equivalence of sanitary and phytosanitary measures is an important means to facilitate trade. Further to Article 4 of the SPS Agreement, the Parties shall apply equivalence to a group of measures or on a systems-wide basis, to the extent feasible and appropriate. In determining the equivalence of a specific sanitary or phytosanitary measure, group of measures or on a systems-wide basis, each Party shall take into account the relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations.

2. On request of the exporting Party, the importing Party shall explain the objective and rationale of its sanitary or phytosanitary measure and clearly identify the risk the sanitary or phytosanitary measure is intended to address.

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

4. When an importing Party commences an equivalence assessment, that Party shall promptly, on request of the exporting Party, explain its equivalence process and plan for making the equivalence determination and, if the determination results in recognition, for enabling trade.

5. In determining the equivalence of a sanitary or phytosanitary measure, an importing Party shall take into account available knowledge, information and relevant experience, as well as the regulatory competence of the exporting Party.

6. The importing Party shall recognise the equivalence of a sanitary or phytosanitary measure if the exporting Party objectively demonstrates to the importing Party that the exporting Party’s measure:

   (a) achieves the same level of protection as the importing Party’s measure; or

   (b) has the same effect in achieving the objective as the importing Party’s measure.²

7. When an importing Party adopts a measure that recognises 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 the measure it has adopted to the exporting Party in writing and implement the measure within a reasonable period of time.

8. The Parties involved in an equivalence determination that results in recognition are encouraged, if mutually agreed, to report the outcome to the Committee.

² No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for this subparagraph.
9. If an equivalence determination does not result in recognition by the importing Party, the importing Party shall provide the exporting Party with the rationale for its decision.

Article 7.9: Science and Risk Analysis

1. The Parties recognise the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific principles.

2. Each Party shall ensure that its sanitary and phytosanitary measures either conform to the relevant international standards, guidelines or recommendations or, if its sanitary and phytosanitary measures do not conform to international standards, guidelines or recommendations, that they are based on documented and objective scientific evidence that is rationally related to the measures, while recognising the Parties’ obligations regarding assessment of risk under Article 5 of the SPS Agreement.³

3. Recognising 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 analysis 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.

4. Each Party shall:

   (a) ensure that its sanitary and phytosanitary measures 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

   (b) conduct its risk analysis in a manner that is documented and that provides interested persons and other Parties an opportunity to comment, in a manner to be determined by that Party.⁴

5. Each Party shall ensure that each risk assessment it conducts is appropriate to the circumstances of the risk at issue and takes into account reasonably available and relevant scientific data, including qualitative and quantitative information.

6. When conducting its risk analysis, each Party shall:

³ No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for this paragraph.
⁴ For greater certainty, paragraph 4(b) applies only to a risk analysis for a sanitary or phytosanitary measure that constitutes a sanitary or phytosanitary regulation for the purposes of Annex B of the SPS Agreement.
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(a) take into account relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations;

(b) consider risk management options that are not more trade restrictive than required, including the facilitation of trade by not taking any measure, to achieve the level of protection that the Party has determined to be appropriate; and

(c) select a risk management option that is not more trade restrictive than required to achieve the sanitary or phytosanitary objective, taking into account technical and economic feasibility.

7. If an importing Party requires a risk analysis to evaluate a request from an exporting Party to authorise 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 required information from the exporting Party, the importing Party shall endeavour to facilitate the evaluation of the request for authorisation by scheduling work on this request in accordance with the procedures, policies, resources, and laws and regulations of the importing Party.

8. On request of the exporting Party, the importing Party shall inform the exporting Party of the progress of a specific risk analysis request, and of any delay that may occur during the process.

9. If the importing Party, as a result of a risk analysis, adopts a sanitary or phytosanitary measure that allows trade to commence or resume, the importing Party shall implement the measure within a reasonable period of time.

10. Without prejudice to Article 7.14 (Emergency Measures), no Party shall stop the importation of a good of another Party solely 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.

Article 7.10: Audits

1. To determine an exporting Party’s ability to provide required assurances and meet the sanitary and phytosanitary measures of the importing Party, each importing Party shall have the right, subject to this Article, to audit the exporting Party’s competent authorities and associated or designated inspection systems. That audit may include an assessment of the

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5 For the purposes of paragraphs 6(b) and 6(c), a risk management option is not more trade-restrictive than required unless there is another option 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.

6 For greater certainty, nothing in this Article prevents an importing Party from performing an inspection of a facility for the purposes of determining if the facility conforms with the importing Party’s sanitary or phytosanitary requirements or conforms with sanitary or phytosanitary requirements that the importing Party has determined to be equivalent to its sanitary or phytosanitary requirements.
competent authorities’ control programmes, including: if appropriate, reviews of the inspection and audit programmes; and on-site inspections of facilities.

2. An audit shall be systems-based and designed to check the effectiveness of the regulatory controls of the exporting Party.

3. In undertaking an audit, a Party shall take into account relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations.

4. Prior to the commencement of an audit, the importing Party and exporting Party involved shall discuss the rationale and decide: the objectives and scope of the audit; the criteria or requirements against which the exporting Party will be assessed; and the itinerary and procedures for conducting the audit.

5. The auditing Party shall provide the audited Party the opportunity to comment on the findings of the audit and take any such comments into account before the auditing Party makes its conclusions and takes any action. The auditing Party shall provide a report setting out its conclusions in writing to the audited Party within a reasonable period of time.

6. 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. This objective evidence and data shall be provided to the audited Party on request.

7. The costs incurred by the auditing Party shall be borne by the auditing Party, unless both Parties decide otherwise.

8. 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.

**Article 7.11: Import Checks**

1. Each Party shall ensure that its import programmes are based on the risks associated with importations, and the import checks are carried out without undue delay.\(^7\)

2. 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.

3. 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.

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\(^7\) For greater certainty, nothing in this Article prohibits a Party from performing import checks to obtain information to assess risk or to determine the need for, develop or periodically review a risk-based import programme.
4. 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 in a facility that operates under a quality assurance programme 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.

5. 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, and is rationally related to the available science.

6. 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 about the adverse result to at least one of the following: the importer or its agent; the exporter; the manufacturer; or the exporting Party.

7. When the importing Party provides a notification pursuant to paragraph 6, it shall:

   (a) include:

       (i) the reason for the prohibition or restriction;

       (ii) the legal basis or authorisation for the action; and

       (iii) information on the status of the affected goods and, if appropriate, on their disposition;

   (b) do so in a manner consistent with its laws, regulations and requirements as soon as possible and no later than seven days\(^8\) after the date of the decision to prohibit or restrict, unless the good is seized by a customs administration; and

   (c) if the notification has not already been provided through another channel, transmit the notification by electronic means, if practicable.

8. 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.\(^9\)

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\(^8\) For the purposes of this paragraph, the term “days” does not include national holidays of the importing Party.

\(^9\) For greater certainty, nothing in this Article prevents 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.
9. 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 non-conformity.

10. 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 an sanitary or phytosanitary measure of the importing Party.

Article 7.12: Certification

1. The Parties recognise that assurances with respect to sanitary or phytosanitary requirements may be provided through means other than certificates and that different systems may be capable of meeting the same sanitary or phytosanitary objective.

2. If an importing Party requires certification for trade in a good, the Party shall ensure that the certification requirement is applied, in meeting the Party’s sanitary or phytosanitary objectives, only to the extent necessary to protect human, animal or plant life or health.

3. In applying certification requirements, an importing Party shall take into account relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations.

4. An importing Party shall limit attestations and information it requires on the certificates to essential information that is related to the sanitary or phytosanitary objectives of the importing Party.

5. An importing Party should provide to another Party, on request, the rationale for any attestations or information that the importing Party requires to be included on a certificate.

6. 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 international standards, guidelines and recommendations.

7. The Parties shall promote the implementation of electronic certification and other technologies to facilitate trade.

Article 7.13: Transparency

1. The Parties recognise the value of sharing information about their sanitary and phytosanitary measures on an ongoing basis, and of providing interested persons and other Parties with the opportunity to comment on their proposed sanitary and phytosanitary measures.

10 For greater certainty, this Article applies only to a sanitary or phytosanitary measure that constitutes a sanitary or phytosanitary regulation for the purposes of Annex B of the SPS Agreement.
2. In implementing this Article, each Party shall take into account relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations.

3. 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.

4. Unless urgent problems of human, animal or plant life or health protection arise or threaten to arise, or the measure is of a trade-facilitating nature, a Party shall normally allow at least 60 days for interested persons and other Parties to provide written comments on the proposed measure after it makes the notification under paragraph 3. If feasible and appropriate, the Party should allow more than 60 days. The Party shall consider any reasonable request from an interested person or another Party 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.

5. 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.

6. If a Party proposes a sanitary or phytosanitary measure which does not conform to an international standard, guideline or recommendation, the Party shall provide to another Party, on request, and to the extent permitted by the confidentiality and privacy requirements of the Party’s law, the relevant documentation that the Party considered in developing the proposed measure, including documented and objective scientific evidence that is rationally related to the measure, such as risk assessments, relevant studies and expert opinions.

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

8. Each Party shall publish, preferably by electronic means, notices of final sanitary or phytosanitary measures in an official journal or website.

9. 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.

10. 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.

11. An exporting Party shall notify the importing Party through the contact points referred to in Article 7.6 (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 regionalised 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 current trade.

12. If feasible and appropriate, a Party should provide an interval of more 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.

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

**Article 7.14: Emergency Measures**

1. If a Party adopts an emergency measure that is necessary for the protection of human, animal or plant life or health, the Party shall promptly notify the other Parties of that measure through the primary representative and the relevant contact point referred to in Article 7.6 (Competent Authorities and Contact Points). The Party that adopts the emergency measure shall take into consideration any information provided by other Parties in response to the notification.

2. If a Party adopts an emergency measure, 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 7.15: 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 jointly identify work on sanitary and phytosanitary matters with the goal of eliminating unnecessary obstacles to trade between the Parties.

Article 7.16: 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 endeavour to provide available information to the requesting Party within a reasonable period of time, and if possible, by electronic means.

Article 7.17: Cooperative Technical Consultations

1. If a Party has concerns regarding any matter arising under this Chapter with another Party, it shall endeavour to resolve the matter by using the administrative procedures that the other Party’s competent authority has available. If the relevant Parties have bilateral or other mechanisms available to address the matter, the Party raising the matter shall endeavour to resolve the matter through those mechanisms, if it considers that it is appropriate to do so. A Party may have recourse to the Cooperative Technical Consultations (CTC) set out in paragraph 2 at any time it considers that the continued use of the administrative procedures or bilateral or other mechanisms would not resolve the matter.

2. One or more Parties (requesting Party) may initiate CTC with another Party (responding Party) to discuss any matter arising under this Chapter that the requesting Party considers may adversely affect its trade by delivering a request to the primary representative of the responding Party. The request shall be in writing and identify the reason for the request, including a description of the requesting Party’s concerns about the matter, and set out the provisions of this Chapter that relate to the matter.

3. Unless the requesting Party and the responding Party (the consulting Parties) agree otherwise, the responding Party shall acknowledge the request in writing within seven days of the date of its receipt.

4. Unless the consulting Parties agree otherwise, the consulting Parties shall meet within 30 days of the responding Party’s acknowledgement of the request to discuss the matter identified in the request, with the aim of resolving the matter within 180 days of the request if possible. The meeting shall be in person or by electronic means.

5. The consulting Parties shall ensure the appropriate involvement of relevant trade and regulatory agencies in meetings held pursuant to this Article.
6. All communications between the consulting Parties in the course of CTC, as well as all documents generated for CTC, shall be kept confidential unless the consulting Parties agree otherwise and without prejudice to the rights and obligations of any Party under this Agreement, the WTO Agreement or any other international agreement to which it is a party.

7. The requesting Party may cease CTC proceedings under this Article and have recourse to dispute settlement under Chapter 28 (Dispute Settlement) if:

   (a) the meeting referred to in paragraph 4 does not take place within 37 days of the date of the request, or such other timeframe as the consulting Parties may agree under paragraphs 3 and 4; or

   (b) the meeting referred to in paragraph 4 has been held.

8. No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter through CTC in accordance with this Article.

Article 7.18: Dispute Settlement

1. Unless otherwise provided in this Chapter, Chapter 28 (Dispute Settlement) shall apply to this Chapter, subject to the following:

   (a) with respect to Article 7.8 (Equivalence), Article 7.10 (Audits) and Article 7.11 (Import Checks), Chapter 28 (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; and

   (b) with respect to Article 7.9 (Science and Risk Analysis), Chapter 28 (Dispute Settlement) shall apply with respect to a responding Party as of two years after the date of entry into force of this Agreement for that Party.

2. 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 8

TECHNICAL BARRIERS TO TRADE

Article 8.1: Definitions

1. For the purposes of this Chapter:

The definitions of the terms used in this Chapter contained in Annex 1 of the TBT Agreement, including the chapeau and explanatory notes of Annex 1, are incorporated into this Chapter and shall form part of this Chapter mutatis mutandis.

consular transactions means requirements that products 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 for the purpose of obtaining consular invoices or consular visas for conformity assessment documentation;

marketing authorisation means the process or processes by which a Party approves or registers a product in order to authorize its marketing, distribution or sale in the Party’s territory. The process or processes may be described in a Party’s domestic law or regulations in various ways, including “marketing authorisation”, “authorisation”, “approval”, “registration”, “sanitary authorisation”, “sanitary registration” and “sanitary approval” for a product. Marketing authorisation does not include notification procedures;

mutual recognition agreement means a binding government to government agreement for recognition of the results of conformity assessment conducted against the appropriate technical regulations or standards in one or more sectors, including government to government agreements to implement the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment and the Electrical and Electronic Equipment Mutual Recognition Arrangement and other agreements that may be entitled “mutual recognition arrangements” but nonetheless provide for the recognition of conformity assessment conducted against appropriate technical regulations or standards in one or more sectors;

mutual recognition arrangement means an international or regional arrangement (including a multilateral recognition arrangement) between accreditation bodies recognising the equivalence of accreditation systems (based on peer review) or between conformity assessment bodies recognising the results of conformity assessment;

post-market surveillance means procedures taken by a Party after a product has been placed on its market to enable the Party to monitor or address compliance with the Party’s domestic requirements for products;
TBT Agreement means the WTO Agreement on Technical Barriers to Trade; and

verify means action to confirm the veracity of individual conformity assessment results, such as requesting information from the conformity assessment body or the body that accredited, approved, licensed or otherwise recognised the conformity assessment body, but does not include requirements that subject a product to conformity assessment in the territory of the importing Party that duplicate the conformity assessment procedures already conducted with respect to the product in the territory of the exporting Party or a third party, except on a random or infrequent basis for the purpose of surveillance, or in response to information indicating non-compliance.

Article 8.2: Objective

The objective of this Chapter, including its Annexes, is to facilitate trade, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting greater regulatory cooperation and good regulatory practice.

Article 8.3: Scope

1. This Chapter applies to the preparation, adoption and application of all technical regulations, standards and conformity assessment procedures of central government bodies (and, where explicitly provided for technical regulations, standards and conformity assessment procedures of governments on the level directly below that of the central government) that may affect trade in goods between the Parties, except as provided in paragraphs 3 and 4.

1bis. Each Party shall take such reasonable measures, within its authority, to encourage observance by local government bodies on the level directly below that of the central government within its territory which are responsible for the preparation, adoption and application of technical regulations, standards and conformity assessment procedures with Articles 8.5 (International Standards, Guides and Recommendations), 8.6 (Conformity Assessment Procedures), 8.7 (Compliance Period for Technical Regulations and Conformity Assessment Procedures), and each of the Annexes to this Chapter.

2. All references in this Chapter to technical regulations, standards and conformity assessment procedures shall be construed to include any amendments thereto and any addition to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

3. This Chapter does not apply to technical specifications prepared by governmental entities for production or consumption requirements of such entities but such specifications are covered by Chapter 15 (Government Procurement).

4. This Chapter does not apply to sanitary and phytosanitary measures but such measures are covered by Chapter 7 (Sanitary and Phytosanitary Measures).
5. For greater certainty, nothing in this Chapter shall prevent a Party from adopting or maintaining technical regulations or standards, in accordance with its rights and obligations under this Agreement, the TBT Agreement and any other relevant international obligations.

Article 8.4: Incorporation of Certain Provisions of the TBT Agreement

1. The following provisions of the TBT Agreement are hereby incorporated into and made part of this Agreement, mutatis mutandis:

   (a) Articles 2.1, 2.2, 2.4, 2.5, 2.9, 2.10, 2.11, 2.12;

   (b) Articles 5.1, 5.2, 5.3, 5.4, 5.6, 5.7, 5.8, 5.9; and

   (c) Paragraphs D, E and F of Annex 3.

2. No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for a dispute that exclusively alleges violation of the provisions of the TBT Agreement incorporated into paragraph 1 of this Article.

Article 8.5: International Standards, Guides and Recommendations

1. The Parties acknowledge the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment, good regulatory practice and reducing unnecessary barriers to trade.

2. In this respect, and further to Articles 2.4 and 5.4 and Annex 3 of the TBT Agreement, in determining whether an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall apply the Decision of the TBT Committee on Principles for the Development of International Standards, Guides and Recommendations With Relation to Articles 2, 5 and Annex 3 of the TBT Agreement (G/TBT/1/Rev.10), issued by the WTO Committee on Technical Barriers to Trade.

3. The Parties shall cooperate with each other, where feasible and appropriate, 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.

Article 8.6: Conformity Assessment

1. Further 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
favourable than that it accords to conformity assessment bodies located in its own territory or in the territory of any other Party. In order to ensure that it accords such treatment, each Party shall apply to conformity assessment bodies located in the territory of another Party the same or equivalent procedures, criteria and other conditions that it may apply where it accredits, approves, licenses or otherwise recognises conformity assessment bodies in its own territory.

2. Paragraphs 1 and 4 shall not preclude a Party from undertaking solely within specified government bodies located in its own territory or in another Party’s territory, conformity assessment in relation to specific products, subject to its obligations under the TBT Agreement.

3. Where a Party undertakes conformity assessment pursuant to paragraph 2, and further to Article 5.2 and Article 5.4 of the TBT Agreement concerning limitation on information requirements, the protection of legitimate commercial interests and the adequacy of review procedures, the Party shall, upon the request of another Party explain:

(a) how the information required is necessary to assess conformity and determine fees;

(b) how the Party ensures that the confidentiality of the information is respected in a manner that ensures legitimate commercial interests are protected; and

(c) the procedure to review complaints concerning the operation of the conformity assessment procedure and to take corrective action when a complaint is justified.

4. Further to Article 6.4 of the TBT Agreement, where a Party maintains procedures, criteria and other conditions as set out in paragraph 1 and requires test results, certifications, and/or inspections as positive assurance that a product conforms to a standard or technical regulation, it:

(a) shall not require the conformity assessment body testing or certifying the product, or the conformity assessment body conducting an inspection, to be located within its territory;

(b) shall not impose requirements on conformity assessment bodies located outside its territory that would effectively require such conformity assessment bodies to operate an office in that Party’s territory; and

(c) shall permit conformity assessment bodies in other Parties’ territories to apply to the Party for a determination that they comply with any procedures, criteria and other conditions the Party requires to deem them competent or otherwise approve them to test or certify the product or conduct an inspection.
5. Paragraphs 1 and 4(c) shall not preclude a Party from using mutual recognition agreements to accredit, approve, license or otherwise recognise conformity assessment bodies located outside its territory, subject to its obligations under the TBT Agreement.

6. Nothing in paragraphs 1, 4 and 5 precludes a Party from verifying the results of conformity assessment procedures undertaken by conformity assessment bodies located outside its territory.

7. Further to paragraph 6, in order to enhance confidence in the continued reliability of conformity assessment results from each other’s territories, the Parties may request information on matters pertaining to conformity assessment bodies located outside its territory.

8. Further to Article 9.1 of the TBT Agreement, a Party shall consider adopting provisions to approve conformity assessment bodies that hold accreditation for the technical regulations or standards of the importing Party with an accreditation body that is a signatory to an international or regional mutual recognition arrangement. Parties recognise that such arrangements can address the key considerations in approving conformity assessment bodies, including technical competence, independence, and the avoidance of conflicts of interest.

9. Further to Article 9.2 of the TBT Agreement, a Party shall not refuse to accept, or take actions which have the effect of, directly or indirectly, requiring or encouraging the refusal of acceptance by other Parties or persons of conformity assessment results from a conformity assessment body 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 recognising accreditation bodies;
   (d) does not operate an office in the Party’s territory; or
   (e) is a for-profit entity.

10. For greater clarity, nothing in paragraph 9 prohibits a Party from refusing to accept conformity assessment results from a conformity assessment body where it can

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1 The Committee on Technical Barriers to Trade shall be responsible for developing and maintaining a list of such arrangements.

2 Provided that the accreditation body is recognised internationally, consistent with the provisions in paragraph 8.
substantiate such refusal, provided that such actions are not inconsistent with the *TBT Agreement* and this Chapter.

11. A Party shall publish, preferably by electronic means, any procedures, criteria and other conditions that it may use as the basis for determining whether conformity assessment bodies are competent to receive accreditation, approval, licensing, or other recognition including where such recognition is granted pursuant to mutual recognition agreements.

12. Where a Party accredits, approves, licenses or otherwise recognises bodies assessing conformity to a particular technical regulation or standard in its territory, and refuses to accredit, approve, license, or otherwise recognise a body assessing conformity with that technical regulation or standard in the territory of another Party, or declines to use a mutual recognition arrangement, it shall, on request of the other Party, explain the reasons for its refusal.

13. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of another Party, it shall, on the request of the other Party, explain the reasons for its decision.

14. Further to Article 6.3 of the TBT Agreement, where a Party declines a request of another Party to enter into negotiations for the conclusion of an agreement for mutual recognition of results of each other’s conformity assessment procedures, it shall on the request of that other Party, explain the reasons for its decision.

15. Further to Article 5.2.5 of the TBT Agreement, any conformity assessment fees imposed by a Party shall be limited in amount to the approximate cost of services rendered.

16. No Party shall require consular transactions, including related fees and charges, in connection with conformity assessment.

**Article 8.7 Transparency**

1. Each Party shall allow persons of the other Parties to participate in the development of technical regulations, standards and conformity assessment procedures by its central government bodies. Each Party shall allow persons of the other Parties to participate in the development of these measures on terms no less favourable than those it accords to its own persons.

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3 For greater certainty, this paragraph shall not apply to a Party verifying conformity assessment documents during a marketing authorisation or reauthorisation process.

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.
2. Each Party is encouraged to consider methods to provide additional transparency in the development of technical regulations, standards and conformity assessment procedures, including through the use of electronic tools and public outreach or consultations.

3. Where appropriate, each Party shall encourage non-governmental bodies in its territory to observe the requirements in paragraphs 1 and 2.

4. Each Party shall publish all proposals for new technical regulations and conformity assessment procedures and proposals for amendments to existing technical regulations and conformity assessment procedures, and all final technical regulations and conformity assessment procedures and final amendments to existing technical regulations and conformity assessment procedures, of central government bodies.

4bis. For greater certainty, proposals for technical regulations and conformity assessment procedures may take the form, as determined by the Party, of, but are not limited to: policy proposals; discussion documents; summaries of proposed technical regulations and conformity assessment procedures; or the draft text of proposed technical regulations and conformity assessment procedures. Each Party shall ensure such proposals contain sufficient detail about the likely content of the proposed technical regulations and conformity assessment procedures so as to adequately inform interested persons and other Parties about whether and how their trade interests might be affected.

4ter. Each Party shall publish, preferably by electronic means, in a single official journal or website all proposals for new technical regulations and conformity assessment procedures and proposals for amendments to existing technical regulations and conformity assessment procedures, and all new final technical regulations and conformity assessment procedures and final amendments to existing technical regulations and conformity assessment procedures, of central government bodies, that a Party is required to notify or publish under the TBT Agreement or this Chapter, and that may have a significant effect on trade.  

5. Each Party shall take such reasonable measures as may be available to it to ensure that all proposals for new technical regulations and conformity assessment procedures and proposals for amendments to existing technical regulations and conformity assessment procedures, and all final technical regulations and conformity assessment procedures and final amendments to existing technical regulations and conformity assessment procedures, of local governments on the level directly below that of the central government are published.

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5 For greater certainty, a Party may comply with this obligation by ensuring that all proposals for new technical regulations and conformity assessment procedures and proposals for amendments to existing technical regulations and conformity assessment procedures, and all new final technical regulations and conformity assessment procedures and final amendments to existing technical regulations and conformity assessment procedures, that a Party is required to notify or publish under the TBT Agreement or this Chapter, and that may have a significant effect on trade, are published on, or otherwise accessible through, the WTO’s official website.
Each Party shall ensure that all final technical regulations and conformity assessment procedures and final amendments to existing technical regulations and conformity assessment procedures, and to the extent practicable all proposals for new technical regulations and conformity assessment procedures and proposals for amendments to existing technical regulations and conformity assessment procedures, of local governments on the level directly below that of the central government are accessible through official websites or journals, preferably consolidated into a single website.

6. Each Party shall notify WTO Members according to the procedures established under Article 2.9 and Article 5.6 of the TBT Agreement, of proposals for new technical regulations and conformity assessment procedures that are in accordance with the technical content of relevant international standards, guides or recommendations, if any, and that may have a significant effect on trade.

6bis. Notwithstanding paragraph 6, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may notify WTO Members of a new technical regulation or conformity assessment procedure that is in accordance with the technical content of relevant international standards, guides or recommendations, if any, upon the adoption of the regulation or procedure according to the procedures established under Article 2.10 or Article 5.7 of the TBT Agreement.

7. Each Party shall endeavour to notify WTO Members of proposals for new technical regulations and conformity assessment procedures that are in accordance with the technical content of relevant international standards, guides and recommendations, if any, and that may have a significant effect on trade, of its local governments on the level directly below that of the central government.

8. For the purposes of determining whether a proposed technical regulation or conformity assessment procedure may have a “significant effect on trade of other Members” and should be notified pursuant to Article 2.9, Article 2.10, Article 3.2, Article 5.6, Article 5.7 or Article 7.2 of the TBT Agreement or this Chapter, a Party shall consider, inter alia, the relevant Decisions and Recommendations Adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995 (G/TBT/1/Rev. 10).

9. Any Party publishing a notice and filing a notification in accordance with Article 2.9, Article 3.2, Article 5.6 or Article 7.2 of the TBT Agreement or this Chapter shall:

(a) include in the notification an explanation of the objectives of the proposal and how it would address those objectives; and

(b) transmit the notification and the proposal electronically to the other Parties through their enquiry points established in accordance with Article 10 of the TBT Agreement, at the same time as it notifies WTO Members.
10. Each Party shall normally allow 60 days after it transmits a proposal under paragraph 9 for another Party or an interested person of another Party to provide comments in writing on the proposal. A Party shall consider any reasonable request from another Party or an interested person of another Party for extending the comment period. A Party that is able to provide a time limit beyond 60 days, such as 90 days, is encouraged to do so.

11. Each Party is encouraged to provide sufficient time between the end of the comment period and the adoption of the notified technical regulation or conformity assessment procedure for its consideration of, and preparation of responses to, the comments received.

12. Each Party shall endeavour to notify WTO Members of the final text of a technical regulation or conformity assessment procedure at the time the text is adopted or published, as an addendum to the original notification of the proposed measure filed under Article 2.9, Article 3.2, Article 5.6 or Article 7.2 of the TBT Agreement or this Chapter.

13. A Party filing a notification in accordance with Articles 2.10 or 5.7 of the TBT Agreement and this Chapter, shall at the same time transmit the notification and text of the technical regulation or conformity assessment procedure electronically to the other Parties through the enquiry points referenced in paragraph 9(b) above.

14. No later than the date of publication of a final technical regulation or conformity assessment procedures that may have a significant effect on trade each Party shall, preferably by electronic means:  

   (a) make publically available an explanation of the objectives and how the final technical regulation or conformity assessment procedure achieves them;

   (b) provide as soon as possible but no later than 60 days after receiving a request from another Party a description of alternative approaches that the Party considered in developing the final technical regulation or conformity assessment procedure, if any, and the merits of the approach that the Party selected;

   (c) make publicly available the Party’s responses to significant or substantive issues presented in comments received on the proposal for the technical regulation or conformity assessment procedure; and

   (d) provide as soon as possible but no later than 60 days after receiving a request from another Party, a description of significant revisions, if any,

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6 For greater certainty, no Party shall be required to provide a description of alternative approaches or significant revisions under subparagraphs (b) or (d) prior to the date of publication of the final technical regulation or conformity assessment procedure.
that the Party made to the proposal for the technical regulation or conformity assessment procedure, including those made in response to comments.

15. Further to Annex 3(J) of the TBT Agreement, each Party shall ensure that the publication of its central government standardizing body’s work programme containing the standards it is currently preparing and the standards it has adopted is available through the central government standardizing body’s website or the website referenced in paragraph 4ter of this Article.

Article 8.8: Compliance Period for Technical Regulations and Conformity Assessment Procedures

1. For the purposes of applying Article 2.12 and Article 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.

2. When feasible and appropriate, each Party shall endeavour 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.

3. Further to paragraphs 1 and 2 and for greater clarity, 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 amount of time under the circumstances, to be able to demonstrate the conformity of their goods with the relevant requirements of the technical regulation or standard by the date of entry into force of the technical regulation or conformity assessment procedure. In doing so, each Party shall endeavour to take into account the resources available to suppliers.

Article 8.9: Cooperation and Trade Facilitation

1. Further to Article 5, Article 6 and Article 9 of the TBT Agreement, the Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of conformity assessment results. In this regard, a Party may:

(a) implement mutual recognition of the results of conformity assessment procedures performed by bodies located in each other’s territory with respect to specific technical regulations;

(b) recognise existing regional and international mutual recognition arrangements between or among accreditation bodies or conformity assessment bodies;

(c) use accreditation to qualify conformity assessment bodies, particularly international systems of accreditation;
(d) designate conformity assessment bodies or recognise the other Party’s designation of conformity assessment bodies;

(e) unilaterally recognise the results of conformity assessment procedures performed in the other Party’s territory; and

(f) accept a supplier’s declaration of conformity.

2. The Parties recognise that a wide 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, inter alia:

(i) exchange information on regulatory approaches and practices;

(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) greater alignment of national standards with relevant international standards, except where inappropriate or ineffective;

(c) facilitation of the greater use of relevant international standards, guides and recommendations as the basis for technical regulations and conformity assessment procedures; and

(d) promotion of the acceptance as equivalent technical regulations of another Party.

3. With respect to the mechanisms listed in paragraphs 1 and 2, the Parties recognise that the choice of the appropriate mechanism in a given regulatory context will depend 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.
4. The Parties shall intensify 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.

5. A Party shall, upon request of another Party, give due consideration to any sector specific proposal for cooperation under this Chapter.

6. Further to Article 2.7 of the TBT Agreement, a Party shall, upon the request of another Party, explain the reasons why it has not accepted a technical regulation of that Party as equivalent.

7. The Parties shall encourage cooperation between their respective organisations responsible for standardisation, conformity assessment, accreditation and metrology, whether they be public or private, with a view to addressing issues covered by this Chapter.

**Article 8.10: Information Exchange and Technical Discussions**

1. A Party may request another Party to provide information on any matter arising under this Chapter. A Party so requested shall provide such information within a reasonable period of time, and where possible, by electronic means.

2. A Party may request technical discussions with another Party with the aim of resolving any matter arising under this Chapter.

2bis. With respect to technical regulations or conformity assessment procedures of local governments on the level directly below that of the central government that may have a significant effect on trade, a Party may request technical discussions with another Party regarding such matters.

3. The relevant Parties shall discuss the matter raised within 60 days of the request. If a requesting Party believes that the matter is urgent, it may request that any discussions take place within a shorter time frame. In such cases, the responding Party shall give positive consideration to such a request.

4. The Parties shall endeavour to resolve the matter as expeditiously as possible, recognising that the time required to resolve a matter will depend on a variety of factors, and that it may not be possible to resolve every matter through technical discussions.

5. Unless the Parties participating in the technical discussions otherwise agree, the discussions and any information exchanged in the course of the discussions, shall be confidential and without prejudice to the rights and obligations of the participating Parties under this Agreement, the WTO Agreement, or any other agreement to which both Parties are a party.
6. Requests for information or technical discussions and communications shall be conveyed through the respective Chapter Coordinators.

Article 8.11: Committee on Technical Barriers to Trade

1. The Parties hereby establish the Committee on Technical Barriers to Trade (the Committee), which shall comprise representatives of each Party.

2. Through the Committee, the Parties shall intensify their joint work in the fields of technical regulations, conformity assessment procedures and standards with a view to facilitating trade between and among the Parties.

3. The Committee’s functions may include:

   (a) monitoring the implementation and operation of this Chapter, including its Annexes and any other commitments agreed under this Chapter, and identifying any potential amendments to or interpretations of such commitments pursuant to the Chapter 27 (Administrative and Institutional Provisions);

   (b) monitoring any technical discussions on matters arising under the Chapter requested pursuant to paragraphs 2 or 2bis of Article 8.10 (Information Exchange and Technical Discussions);

   (c) agreeing to priority areas of mutual interest for future work under this Chapter and considering proposals for new sector specific or other initiatives;

   (d) encouraging cooperation between and among the Parties in matters pertaining to this Chapter, including the development, review, or modification of technical regulations, standards and conformity assessment procedures;

   (e) encouraging cooperation between and among non-governmental bodies in the Parties’ territories, as well as cooperation between governmental and non-governmental bodies in the Parties’ territories in matters pertaining to this Chapter;

   (f) facilitating the identification of technical capacity needs;

   (g) encouraging the exchange of information between and among Parties and their relevant non-governmental bodies, where appropriate, on the development of common approaches regarding matters under discussion in non-governmental, regional, plurilateral and multilateral bodies or systems that develop standards, guides, recommendations, policies or other procedures relevant to this Chapter;
(h) at a Party’s request, encouraging the exchange of information among 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;

(i) taking any other steps the Parties consider will assist them in implementing this Chapter and the TBT Agreement;

(j) 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; and

(k) reporting to the TPP Commission on the implementation and operation of this Chapter.

4. The Committee may establish working groups to carry out these functions.

5. Each Party shall designate a Chapter Coordinator, and shall provide the other Parties with the name of its designated Chapter Coordinator, the contact details of the relevant officials in that organisation, including telephone, fax, email and other relevant details.

6. A Party shall notify the other Parties promptly of any change of its Chapter Coordinator or any amendments to the details of the relevant officials.

7. The responsibilities of each Chapter Coordinator shall include:

   (a) communicating with the other Parties’ Chapter Coordinators, 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 territories on relevant matters pertaining to this Chapter;

   (c) consulting and, where appropriate, coordinating with interested persons in its territory on relevant matters pertaining to this Chapter; and

   (d) additional responsibilities as the Committee may specify.

8. The Committee shall meet within one year of the date of entry into force of this Agreement and thereafter as agreed by the Parties. The Committee shall carry out its work through communication means agreed by the Parties, which may include e-mail, teleconference, video-conference, meetings at the margins of other regional or international fora, or other means.
9. Decisions of the Committee shall be taken by consensus.

10. In determining what activities the Committee shall undertake, the Parties 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 8.12: Annexes

1. Except for the Annexes on Proprietary Formulas for Prepackaged Foods and Food Additives, Cosmetics Products, Medical Devices and Pharmaceutical Products, where scope is defined in each respective Annex, the Annexes shall have the same scope as set out in Article 8.2: Scope as germane to the product specified within each relevant Annex.

2. The rights and obligations set out in each Annex to this chapter apply only to the sector specified in the applicable Annex, and shall not affect any Party’s rights and obligations under any other Annex.

3. Unless the Parties otherwise agree, no later than five years after the date of entry into force of this Agreement, and thereafter at least once every five years, unless the Parties otherwise agree, the Committee shall:

   (a) review implementation of the Annexes, with a view to strengthen or improve them and, where appropriate, make recommendations to enhance alignment of the Parties’ respective standards, technical regulations and conformity assessment procedures in the sectors covered by the Annexes; and

   (b) consider whether the development of annexes concerning other sectors would further the objectives of this Chapter or the Agreement and decide whether to recommend to the Commission that the Parties initiate negotiations to conclude annexes covering such sectors.
ANNEX 8-A: WINE AND DISTILLED SPIRITS

Scope

1. This Annex applies to wine and distilled spirits.

2. For the purposes of this Annex:

- **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 sale of wine or distilled spirits at retail;

- **distilled spirits** means a potable alcoholic distillate, including spirits of wine, whiskey, rum, brandy, gin, tequila, mezcal and all dilutions or mixtures thereof for consumption;

- **label** means any brand, mark, pictorial or other descriptive matter that is written, printed, stencilled, marked, embossed or impressed on, or firmly affixed to the primary container of wine or distilled spirits;

- **oenological practices** means winemaking materials, processes, treatments, and techniques, but does not include labelling, 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;

- **supplier** means a producer, importer, exporter, bottler or wholesaler;

- **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 in accordance with oenological practices that the country in which the wine was produced authorises under its domestic laws and regulations.\(^7\)

3. Each Party shall make information about its domestic laws and regulations concerning wine and distilled spirits publicly available.

4. A Party may require that suppliers ensure that any statements that the Party requires to be placed on wine and distilled spirits labels are:

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

   (b) legible to the consumer; and that such labels be firmly affixed.

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\(^7\) For the United States, 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 in accordance with oenological practices that the country in which the wine was produced authorises under its domestic laws and regulations, and that contains an alcohol content of not less than 7 percent and not more than 24 percent.
5. For greater certainty, with respect to paragraphs 4, 6 and 11, where 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 the other label.

6. Where a Party requires a supplier to indicate information on a distilled spirits label, the Party shall permit the supplier to indicate such information on a supplementary label affixed to the distilled spirits container. Each Party shall permit a supplier to affix the supplementary label on the container of the imported distilled spirits after importation but prior to offering the product for sale in the Party’s territory, and may require that the supplier affix the supplementary label prior to release from customs. For greater certainty, a Party may require that information indicated on a supplementary label be clear, specific, truthful, accurate, legible, not misleading to the consumer, and firmly affixed to the container, as provided in paragraph 4.

7. Each Party shall permit the alcoholic content by volume to be indicated on a wine or distilled spirits label to be expressed by alc/vol (e.g., 12% alc/vol or alc12%vol), and to be indicated in percentage terms to a maximum of one decimal point (e.g., 12%, 12.0%, 12.1%, 12.2%).

8. Each Party shall permit suppliers to use the term “wine” as a product name. Each Party may require suppliers to indicate further information on wine labels concerning 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) to (d) below to be presented in a single field of vision for containers of wine. If these items are presented in a single field of vision, then the Party’s requirements with respect to placement of these four items shall have been met. Each Party shall accept any of these items that appear outside a single field of vision provided its laws, regulations and requirements have been satisfied.

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 domestic laws or regulation.

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

   (a) the product name;
   (b) country of origin;
   (c) net contents; or
   (d) alcohol content,

it shall permit the supplier to indicate the information on a supplementary label affixed to the wine container. Each Party shall permit the supplier to affix the supplementary label
on the container of the imported wine after importation but prior to offering the product for sale in the Party’s territory, and may require that the supplier affix the supplementary label prior to release from customs. For greater certainty, a Party may require that information indicated on a supplementary label be clear, specific, truthful, accurate, legible, not misleading to the consumer, and firmly affixed to the container, as provided in paragraph 4.

12. Where 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.

13. Each Party shall permit suppliers to place lot identification codes on wine and distilled spirits containers, provided that they are clear, specific, truthful, accurate and not misleading. Each Party may impose penalties for the removal or deliberate defacement of any lot identification code provided by the supplier and placed on the container. In doing so, each Party shall permit suppliers to determine:

   (a) where to place the lot identification codes on the containers, provided that such codes do not cover up other essential information printed on the label; and

   (b) the specific font size, readable phrasing, and formatting for the codes provided that lot identification codes are legible by either physical or electronic means.

14. No Party shall require a supplier to indicate any of the following information on wine or distilled spirits containers, labels or packaging:

   (a) date of production or manufacture;

   (b) date of expiration;

   (c) date of minimum durability; or

   (d) sell by date,

except that a Party may require suppliers to indicate a date of minimum durability or date of expiration on products8 that on account of their packaging or container (such as bag-in-box wines or individual serving size wines), or the addition of perishable ingredients, could have a shorter date of minimum durability than would normally be expected by the consumer.

15. No Party shall require a supplier to place a translation of a trademark or trade name on a wine or distilled spirits container, label or packaging.

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8 For Peru, all distilled spirits with less than 10% alc/vol must have a date of minimum durability.
16. Each Party shall not prevent imports of wine from other Parties solely on the basis that the wine labels include the following descriptors or adjectives describing the wine or relating to wine-making: chateau, classic, clos, cream, crusted/crusting, fine, late bottled vintage, noble, reserve, ruby, special reserve, solera, superior, sur lie, tawny, vintage, and vintage character.\(^9\)\(^{10}\)\(^{11}\)

17. No Party shall require a supplier to disclose an oenological practice on a wine label or container except to meet a legitimate human health or safety objective with respect to the relevant oenological practice.

18. Each Party shall permit wine to be labelled 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.\(^{12}\)\(^{13}\)

19. Each Party shall endeavour to base its quality and identity requirements for any specific type, category, class, or classification of distilled spirits solely on minimum ethyl alcohol content and the raw materials, added ingredients, and production procedures used to produce that specific type, category, class or classification of distilled spirits.

20. A Party shall not require imported wine or distilled spirits to be certified by an official certification body of the Party in whose territory the wine or distilled spirits were produced or by a certification body recognised by the Party in whose territory the wine or distilled spirits were produced regarding:

(a) vintage, varietal, and regional claims for wine; or

(b) raw materials and production processes for distilled spirits,

except that the Party may require that wine or distilled spirits be certified regarding (a) or (b) if the Party in whose territory the wine or distilled spirits were produced requires such certification, that wine be certified regarding (a) if the Party has a reasonable and

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\(^9\) This paragraph shall not apply to a Party if the Party has entered into an agreement with another country or group of countries no later than February 2003 that requires the Party to restrict the use of such terms on labels of wine sold in its territory.

\(^{10}\) 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.

\(^{11}\) Nothing in this paragraph shall be construed to require Malaysia to apply this paragraph in a manner inconsistent with its Regulation 18(1A) of the Food Regulations 1985 under the Food Act 1983.

\(^{12}\) For Japan, this obligation will be met through implementation of “the standard on labelling of domestic wine” by its domestic producers, dated 23 December 1986, and any amendments thereto.

\(^{13}\) The obligation in this paragraph will become effective for New Zealand three years after the date on which this Agreement enters into force for New Zealand. Once effective, New Zealand shall implement the obligation by ensuring that wine exported from New Zealand is labelled as icewine, ice wine, ice-wine, or a similar variation of these terms, only if such wine is made exclusively from grapes naturally frozen on the vine.
legitimate concern about a vintage, varietal, or regional claim for wine, and that distilled spirits be certified regarding (b) if certification is necessary to verify claims such as age, origin or standards of identity.

21. Where certification of wine is deemed necessary by a Party to protect human health and safety or to achieve other legitimate objectives, that Party shall consider the Codex Alimentarius Guidelines for Design, Production, Issuance and Use of Generic Official Certificates (CAC/GL 38-2001), in particular the use of the generic model official certificate, as amended from time-to-time, concerning official and officially recognised certificates.

22. A Party shall normally permit a wine or distilled spirits supplier to submit any required certification, test result or sample solely with the initial shipment of a particular brand, producer and lot. If a Party requires a supplier to submit a sample of the product for the purpose of the Party’s procedure to assess conformity to its technical regulation or standard, it shall not require a sample quantity larger than is strictly 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, where a Party has information that a particular product may be non-compliant.

23. Except where problems of health and safety arise or threaten to arise for a Party, a Party shall not normally apply any final technical regulation, standard or conformity assessment procedure to wine or distilled spirits that have been placed on the market in the Party’s territory before the date on which the technical regulation, standard or conformity assessment procedure enters into force, provided that said products are sold within a period that has been stipulated by the relevant authority, after the technical regulation, standard or conformity assessment procedure enters into force.

24. Each Party shall endeavour to assess other Parties’ laws, regulations and requirements in respect of oenological practices, with the aim of reaching agreements providing for the mutual acceptance by the Parties of each other’s respective mechanisms for regulating oenological practices, where appropriate.
ANNEX 8-B: INFORMATION AND COMMUNICATIONS TECHNOLOGY PRODUCTS

Section A: Information and Communication Technology (ICT) Products that Use Cryptography

1. This section applies to information and communication technology (ICT) products that use cryptography. For greater certainty, for purposes of this section, a “product” is a good and does not include financial instruments.

2. For the purposes of this section:

- **cryptography** means the principles, means or methods for the transformation of data in order to hide its information content, prevent its undetected modification or prevent its unauthorized use; and is limited to the transformation of information using one or more secret parameters (e.g., crypto variables) or associated key management;

- **encryption** means the conversion of data (plaintext) into a form that cannot be easily understood without subsequent re-conversion (ciphertext) through the use of a cryptographic algorithm;

- **cryptographic algorithm** or **cipher** means a mathematical procedure or formula for combining a key with plaintext to create a ciphertext; and

- **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.

3. With respect to a product that uses cryptography and is designed for commercial applications, no Party may impose or maintain a technical regulation or conformity assessment procedure that requires a manufacturer or supplier of the product, as a condition of the manufacture, sale, distribution, import or use of the product, to:

   (a) transfer or provide access to a particular technology, production process, or other information (such as a private key or other secret parameter, algorithm specification or other design detail), that is proprietary to the manufacturer or supplier and relates to the cryptography in the product, to the Party or a person in the Party’s territory;

   (b) partner with a person in its territory; or

   (c) use or integrate a particular cryptographic algorithm or cipher,

other than where the manufacture, sale, distribution, import or use of the product is by or for the government of the Party.
4. Paragraph 3 shall not apply to: (a) requirements that a Party adopts or maintains relating to access to networks that are owned or controlled by the government, including those of central banks; or (b) measures taken pursuant to supervisory, investigatory or examination authority relating to financial institutions or markets. For greater certainty, nothing in this Section shall be construed to prevent law enforcement authorities from requiring service suppliers using encryption they control from providing, pursuant to legal procedures, unencrypted communications.

Section B: Electromagnetic Compatibility of Information Technology Equipment (ITE) Products

1. This section applies to the electromagnetic compatibility of information technology equipment (ITE) products.

2. For the purposes of this section:

ITE product means any device or system or component thereof that has a primary function of 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 and, for greater certainty, excludes any product or component thereof that has a primary function of radio transmission or reception;

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; and

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.

3. 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.¹⁴

4. The Parties recognise that a Party may require testing (e.g. by an independent accredited laboratory) in support of a supplier’s declaration of conformity, registration of the supplier’s declaration of conformity, or submission of evidence necessary to support the supplier’s declaration of conformity.

5. Nothing in paragraph 3 prevents a Party from verifying a supplier’s declaration of conformity.

¹⁴ Nothing in this paragraph shall be construed to require Mexico to apply this paragraph in a manner inconsistent with its Ley Federal Sobre Metrologia y Normalizacion.
6. Paragraph 3 shall not apply with respect to any product:

(a) that a Party regulates as a medical device, or 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.

Section C: Regional Cooperation Activities on Telecommunications Equipment

1. This section applies to telecommunications equipment.

2. The Parties are encouraged to implement the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (MRA-TEL) and the APEC Mutual Recognition Arrangement for Equivalence of Technical Requirements (MRA-ETR) with respect to each other or other arrangements to facilitate trade in telecommunications equipment.
ANNEX 8-C: PHARMACEUTICALS

1. This Annex applies to the preparation, adoption and application of technical regulations, standards, conformity assessment procedures, marketing authorisation and notification procedures of central government bodies, other than technical specifications prepared by governmental entities for production or consumption requirements of such entities and sanitary or phytosanitary measures, that may affect trade in pharmaceutical products between the Parties. A Party’s obligations under this Annex apply to any product that the Party defines as a pharmaceutical product pursuant to paragraph 2. For the purpose of this Annex, preparation of a standard, technical regulation, conformity assessment procedure or marketing authorisation includes, as appropriate, the evaluation of the risks involved, the need to adopt a measure to address those risks, review of relevant scientific or technical information, and consideration of the characteristics or design of possible alternative approaches.

1 bis. Recognising that each Party is required to define the scope of products covered by this Annex pursuant to paragraph 2, for purposes of this Annex, a pharmaceutical product may include a human drug or biologic that is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or condition in humans or intended to affect the structure or any function of the body of a human.

2. Each Party shall define the scope of the products subject to its statutes and regulations for pharmaceutical products in its territory and make such information publicly available. Recognising that each Party is required to define the scope of products covered by this Annex pursuant to paragraph 2, for purposes of this Annex, a pharmaceutical product may include a human drug or biologic that is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or condition in humans or intended to affect the structure or any function of the body of a human.

3. Each Party shall identify the agency or agencies that are authorised to regulate pharmaceutical products in its territory and make such information publicly available.

4. Where more than one agency is authorised to regulate pharmaceutical products within the territory of a Party, the Party shall examine whether there is overlap or duplication in scope of those authorities and take reasonable measures to eliminate unnecessary duplication of any regulatory requirements resulting for pharmaceutical products.

5. The Parties shall seek to collaborate through relevant international initiatives, such as those aimed at harmonization, as well as regional initiatives in support of such

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15 The application of this Annex to marketing authorisations is without prejudice to whether a marketing authorisation meets the definition of a standard, technical regulation or conformity assessment procedure.
international initiatives, as appropriate, to improve the alignment of their respective pharmaceutical products regulations and regulatory activities.

6. Each Party shall consider relevant scientific or technical guidance documents developed through international collaborative efforts with respect to pharmaceutical products when developing or implementing regulations for marketing authorisations of pharmaceutical products. Each Party is encouraged to consider regionally-developed scientific or technical guidance documents that are aligned with such efforts, as appropriate.

6bis. Each Party shall observe the obligations in Articles 2.1 and 5.1.1 of the TBT Agreement with respect to any marketing authorisation or notification procedure or element thereof that it prepares, adopts or applies for pharmaceutical products that do not fall within the definition of a technical regulation or conformity assessment procedure.

7. Each Party recognises that the responsibility of providing sufficient information on which a Party makes regulatory determinations on a pharmaceutical product rests with the applicant.

7bis. Each Party shall make its determination on whether to grant marketing authorisation for a specific pharmaceutical product on the basis of:

(a) information, including, where appropriate, pre-clinical and clinical data, on safety and efficacy;
(b) information on manufacturing quality of the product;
(c) labelling information related to safety, efficacy and use of the product; and
(d) other matters that may directly affect the health or safety of the user of the product.

To this end, no Party shall require sale or related financial data concerning the marketing of the product as part of such a determination. Further, each Party shall endeavour not to require pricing data as part of the determination.

8. Each Party shall administer any marketing authorisation process it maintains for pharmaceutical products in a timely, reasonable, objective, transparent, and impartial manner, and identify and manage any conflicts of interest so as to mitigate any associated risks.

(a) Each Party shall provide an applicant seeking marketing authorisation for a pharmaceutical product with its determination regarding marketing authorisation within a reasonable period of time. The Parties recognise that the reasonable period of time required to make a marketing authorisation determination may be affected by factors such as the novelty of a product or legitimate regulatory implications that may arise.
(b) If a Party determines that a marketing authorisation application for a pharmaceutical product under review in its jurisdiction has deficiencies that have led or will lead to a non-authorisation decision, that Party shall inform the applicant seeking marketing authorisation and provide reasons why the application is deficient.

(c) If a Party requires marketing authorisation for a pharmaceutical product, the Party shall ensure that any marketing authorisation determinations are subject to an appeal or review process that may be invoked at the request of the applicant seeking market authorisation. For greater certainty, the Party may maintain an appeal or review process that is either internal to the regulatory body responsible for the marketing authorisation determination, such as a dispute resolution or review process, or external to the regulatory body.

(d) Where a Party requires periodic reauthorisation for a pharmaceutical product that has previously received marketing authorisation by the Party, the Party shall allow the pharmaceutical product to remain on its market under the conditions of the previous marketing authorisation pending its decision on the periodic reauthorisation, except where a Party identifies a significant health or safety concern.16

For greater certainty, the Parties recognise that an application for reauthorisation that is not timely filed, that contains insufficient information, or that is otherwise inconsistent with a Party's requirements is deficient for purposes of the reauthorisation decision.

9. When developing regulatory requirements for pharmaceutical products, each Party shall consider its available resources and technical capacity so as to minimise the implementation of requirements that could:

(a) inhibit the effectiveness of the procedure for ensuring the safety, efficacy or manufacturing quality of pharmaceutical products; or

(b) lead to substantial delays in marketing authorisation regarding pharmaceutical products for sale on its market.

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16 Viet Nam may comply with its obligations under this paragraph by allowing for applications for reauthorisation to be filed within the 12 month period, prior to the expiry date of the marketing authorisation, or within a period prior to the expiry date of the marketing authorisation that is six months longer than the period provided for in Viet Nam’s Ministry of Health Circular on Registration of Drugs, or subsequent relevant instrument, for the Ministry to grant a reauthorisation or re-registration application for a previously registered pharmaceutical product, whichever is longer.
10. No Party shall require that a pharmaceutical product receive marketing authorisation from the country of manufacture as a condition for the product receiving marketing authorisation from the Party.17

11. With respect to applications for marketing authorisation for pharmaceutical products, each Party shall accept for review safety, efficacy, and manufacturing quality information submitted by a person seeking marketing authorisation in a format that is consistent with the principles found in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use Common Technical Document (CTD), including any amendments thereto, recognising that the CTD does not necessarily address all aspects relevant to a Party’s determination to approve marketing authorisation for a particular product.18

12. The Parties shall seek to improve their collaboration on pharmaceutical inspection, and to that end each Party shall, with respect to the inspection of pharmaceutical products within the territory of another Party:

(a) notify that Party prior to conducting an inspection, unless there are reasonable grounds to believe that doing so could prejudice the effectiveness of the inspection;

(b) where practicable, permit representatives of that Party’s competent authority to observe such inspection; and

(c) notify that Party of its findings as soon as possible following an inspection and, if the findings will be publicly released, no later than a reasonable time before any such release. However, the inspecting Party is not required to notify its findings if it considers that its findings are confidential and should not be disclosed.

12bis: The Parties shall seek to apply relevant scientific guidance documents developed through international collaborative efforts with respect to inspection of pharmaceuticals.

ANNEX 8-D: COSMETICS

1. This Annex applies to the preparation, adoption and application of technical regulations, standards, conformity assessment procedures, marketing authorisation and

17 For greater certainty, a Party may accept a prior marketing authorisation issued by another regulatory authority as evidence that a product may meet its own requirements, or, as a result of regulatory resource limitations, require marketing authorisation from one of a number of reference countries established and made public by that Party as a condition for the product receiving marketing authorisation from the Party.

18 For Viet Nam, this obligation shall not apply until January 1st, 2019.
notification procedures of central government bodies, other than technical specifications prepared by governmental entities for production or consumption requirements of such entities and sanitary or phytosanitary measures, that may affect trade in cosmetic products between the Parties. A Party’s obligations under this Annex apply to any product that the Party defines as a cosmetic product pursuant to paragraph 2. For the purpose of this Annex, preparation of a standard, technical regulation, conformity assessment procedure or marketing authorisation includes, as appropriate, the evaluation of the risks involved, the need to adopt a measure to address those risks, review of relevant scientific or technical information, and consideration of the characteristics or design of possible alternative approaches.

1bis. Recognising that each Party is required to define the scope of products covered by this Annex pursuant to paragraph 2, for purposes of this Annex, a cosmetic product may include a product intended to be rubbed, poured, sprinkled, or sprayed on, or otherwise applied to the human body including the mucus membrane of the oral cavity and teeth for cleansing, beautifying, protecting, promoting attractiveness, or altering the appearance.

2. Each Party shall define the scope of the products subject to its statutes and regulations for cosmetic products in its territory and make such information publicly available.

3. Each Party shall identify the agency or agencies that are authorised to regulate cosmetic products in its territory and make such information publicly available.

4. Where more than one agency is authorised to regulate cosmetic products within the territory of a Party, the Party shall examine whether there is overlap or duplication in scope of those authorities and eliminate unnecessary duplication of any regulatory requirements resulting for cosmetic products.

5. The Parties shall seek to collaborate through relevant international initiatives, such as those aimed at harmonization, as well as regional initiatives in support of such international initiatives, as appropriate, to improve the alignment of their respective cosmetic products regulations and regulatory activities.

6. Each Party shall consider relevant scientific or technical guidance documents developed through international collaborative efforts with respect to cosmetic products when developing or implementing regulations for cosmetic products. Each Party is encouraged to consider regionally-developed scientific or technical guidance documents that are aligned with such efforts, as appropriate.

19 The application of this Annex to marketing authorisations is without prejudice to whether a marketing authorisation meets the definition of a standard, technical regulation or conformity assessment procedure.
6bis. Each Party shall observe the obligations in Article 2.1 and Article 5.1.1 of the TBT Agreement with respect to any marketing authorisation or notification procedure or element thereof that it prepares, adopts or applies for cosmetic products that do not fall within the definition of a technical regulation or conformity assessment procedure.

7. Each Party shall ensure that when regulating cosmetic products it applies a risk-based approach.

7bis. Further to paragraph 7, each Party shall, when regulating cosmetic products, take into account that cosmetic products are generally expected to pose less potential risk to human health or safety than medical devices or pharmaceutical products.

7ter. No Party shall conduct separate marketing authorisation processes or subprocesses for cosmetic products that differ only with respect to shade extensions or fragrance variants, except where a Party identifies a significant health or safety concern.

8. Each Party shall administer any marketing authorisation process it maintains for cosmetics products in a timely, reasonable, objective, transparent, and impartial manner, and identify and manage any conflicts of interest so as to mitigate any associated risks.

(a) If a Party requires marketing authorisation for a cosmetic product, that Party shall provide the cosmetic product marketing authorisation applicant with its determination regarding marketing authorisation within a reasonable period of time.

(b) If a Party requires marketing authorisation for a cosmetic product and it determines that a marketing authorisation application for a cosmetic product under review in its jurisdiction has deficiencies that have led or will lead to a non-authorisation decision, that Party shall inform the applicant seeking marketing authorisation and provide reasons why the application is deficient.

(c) If a Party requires marketing authorisation for a cosmetic product, the Party shall ensure that any marketing authorisation determinations are subject to an appeal or review process that may be invoked at the request of the applicant seeking market authorisation. For greater certainty, the Party may maintain an appeal or review process that is either internal to the regulatory body responsible for the marketing authorisation determination, such as a dispute resolution or review process, or external to the regulatory body.
(d) When a Party has granted marketing authorisation for a cosmetic product in its territory, the Party shall not subject the product to periodic re-assessment procedures as a condition of retaining its marketing authorisation.

8bis. Where a Party maintains a marketing authorisation process for cosmetic products, that Party shall consider to replace this process with other mechanisms such as voluntary or mandatory notification and post-market surveillance.

9. When developing regulatory requirements for cosmetic products, each Party shall consider its available resources and technical capacity so as to minimise the implementation of requirements that could:

(a) inhibit the effectiveness of the procedure for ensuring the safety or manufacturing quality of cosmetic products; or

(b) lead to substantial delays in marketing authorisation regarding cosmetic products for sale on its market.

9bis. No Party shall require the submission of marketing information, including with respect to prices or cost, as a condition for the product receiving marketing authorisation.

9ter. A Party shall not require a cosmetic product to be labelled with a marketing authorisation or notification number.  

10. No Party shall require that a cosmetic product receive marketing authorisation from the country of manufacture, as a condition for the product receiving marketing authorisation from the Party. For greater certainty, this provision does not prohibit a Party from accepting a prior marketing authorisation issued by another regulatory authority as evidence that a product may meet its own requirements.

10bis. No Party shall require that a cosmetic product be accompanied by a certificate of free sale as a condition of marketing, distribution or sale in the Party’s territory.

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20 This paragraph does not apply to Chile and Peru. Within a period of no more than five years from the date of the entry into force of this Agreement, Chile and Peru shall each review their respective labelling requirements in order to examine whether other regulatory mechanisms can be implemented, in a manner consistent with their obligations under this Chapter and the TBT Agreement. Chile and Peru shall separately report to the Committee about their review upon request of another Party.
11. Where 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 supplementary labelling of the product in accordance with the Party’s domestic requirements after importation but prior to offering the product for sale or supply in the Party’s territory.

12. No Party shall require animal testing for determining the safety of cosmetic products, unless there is no validated alternative method available to otherwise assess safety. A Party may, however, consider the results of animal testing in determining the safety of a cosmetic product.

13. Where 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 except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued.

14. The Parties shall endeavour to share, subject to domestic laws and regulations, information resulting from post-market surveillance of cosmetic products.

15. Each Party shall endeavour to share information on its findings or the findings of its relevant institutions regarding cosmetics ingredients.

15bis. Each Party shall endeavour to avoid re-testing or re-evaluating cosmetic products that differ only with respect to shade extensions or fragrance variants, except when conducted for health or safety purposes.
ANNEX 8-E: MEDICAL DEVICES

1. This Annex applies to the preparation, adoption and application of technical regulations, standards, conformity assessment procedures, marketing authorisation and notification procedures of central government bodies, other than technical specifications prepared by governmental entities for production or consumption requirements of such entities and sanitary or phytosanitary measures, that may affect trade in medical devices products between the Parties. A Party’s obligations under this Annex apply to any product that the Party defines as a medical device pursuant to paragraph 2. For the purpose of this Annex, preparation of a standard, technical regulation, conformity assessment procedure or marketing authorisation includes, as appropriate, the evaluation of the risks involved, the need to adopt a measure to address those risks, review of relevant scientific or technical information, and consideration of the characteristics or design of possible alternative approaches.

1bis. Recognising that each Party is required to define the scope of products covered by this Annex pursuant to paragraph 2, each Party should define the scope of products subject to its statutes and regulations for medical devices in a manner that is consistent with the meaning assigned to the term “medical device” in the Global Harmonization Task Force Final Document entitled “Definition of the Terms ‘Medical Device’ and ‘In Vitro Diagnostic (IVD) Medical Device’”.

2. Each Party shall define the scope of the products subject to its statutes and regulations for medical devices in its territory and make such information publicly available.

3. Each Party shall identify the agency or agencies that are authorized to regulate medical devices in its territory and make such information publicly available.

4. Where more than one agency is authorised to regulate cosmetic products within the territory of a Party, the Party shall examine whether there is overlap or duplication in scope of those authorities and eliminate unnecessary duplication of any regulatory requirements resulting for cosmetic products.

5. The Parties shall seek to collaborate through relevant international initiatives, such as those aimed at harmonization, as well as regional initiatives in support of such international initiatives, as appropriate, to improve the alignment of their respective cosmetic products regulations and regulatory activities.

6. Each Party shall consider relevant scientific or technical guidance documents developed through international collaborative efforts with respect to medical devices when developing or implementing regulations for marketing authorisations of medical devices.

21 The application of this Annex to marketing authorisations is without prejudice to whether a marketing authorisation meets the definition of a standard, technical regulation or conformity assessment procedure.
devices. Each Party is encouraged to consider regionally-developed scientific or technical guidance documents that are aligned with such efforts, as appropriate.

6bis. Each Party shall observe the obligations in Article 2.1 and Article 5.1.1 of the TBT Agreement with respect to any marketing authorisation or notification procedure or element thereof that it prepares, adopts or applies for medical devices that do not fall within the definition of a technical regulation or conformity assessment procedure.

7. Recognising that different medical devices pose different levels of risk, each Party shall classify medical devices based on risk, taking into account scientifically relevant factors. Each Party shall ensure that, when it regulates a medical device, it regulates the device consistent with the classification the Party has assigned it.

7bis. Each Party recognises that the responsibility of providing sufficient information on which a Party makes regulatory determinations on a medical device rests with the applicant.

8. Each Party shall make its determination on whether to grant marketing authorisation for a specific medical device on the basis of:

(a) information, including, where appropriate, clinical data, on safety and efficacy;

(b) information on performance, design and manufacturing quality of the product;

(c) labelling information related to safety, efficacy, and use of the product; and

(d) other matters that may directly affect the health or safety of the user of the product.

To this end, no Party shall require sale, pricing, or related financial data concerning the marketing of the product as part of such a determination.

9. Each Party shall administer any marketing authorisation process it maintains for medical devices in a timely, reasonable, objective, transparent, and impartial manner, and identify and manage any conflicts of interest so as to mitigate any associated risks.

(a) Each Party shall provide an applicant seeking marketing authorisation for a medical device with its determination regarding marketing authorisation within a reasonable period of time. The Parties recognise that the reasonable period of time required to make a marketing authorisation determination may be affected by factors such as the novelty of a product or legitimate regulatory implications that may arise.
(b) If a Party determines that a marketing authorisation application for a medical device under review in its jurisdiction has deficiencies that have led or will lead to a non-authorisation decision, that Party shall inform the applicant seeking marketing authorisation and provide reasons why the application is deficient.

(c) If a Party requires marketing authorisation for a medical device, the Party shall ensure that any marketing authorisation determinations are subject to an appeal or review process that may be invoked at the request of the applicant seeking market authorisation. For greater certainty, the Party may maintain an appeal or review process that is either internal to the regulatory body responsible for the marketing authorisation determination, such as a dispute resolution or review process, or external to the regulatory body.

(d) Where a Party requires periodic re-authorisation for a medical device that has previously received marketing authorisation by the Party, the Party shall allow the medical device to remain on its market under the conditions of the previous marketing authorisation pending its decision on the periodic re-authorisation, except where a Party identifies a significant health or safety concern.

10. When developing regulatory requirements for medical devices, each Party shall consider its available resources and technical capacity so as to minimise the implementation of requirements that could:

(a) inhibit the effectiveness of the procedure for ensuring the safety, efficacy or manufacturing quality of medical devices; or

(b) lead to substantial delays in marketing authorisation regarding medical devices for sale on its market.

11. No Party shall require that a medical device receive marketing authorisation from country of manufacture as a condition for the medical device receiving marketing authorisation from the Party.  

12. Where a Party requires a manufacturer or supplier of a medical device to indicate information on the product’s label, the Party shall permit the manufacturer or supplier to indicate the required information by relabelling the product or supplementary labelling of

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22 For greater certainty, a Party may accept a prior marketing authorisation issued by another regulatory authority as evidence that a medical device may meet its own requirements, or, as a result of regulatory resource limitations, require marketing authorisation from one of a number of reference countries established and made public by that Party as a condition for the medical device receiving marketing authorisation from the Party.
the product in accordance with the Party's domestic requirements after importation but prior to offering the product for sale or supply in the Party’s territory.
ANNEX 8-F: 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 when sold as such, except that it does not apply to technical specifications prepared by governmental entities for production or consumption requirements of such entities or sanitary or phytosanitary measures.

2. The terms “food,” “food additive,” and “prepackaged” have the same meanings as set forth 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 amended from time-to-time.

3. Further to the TBT Agreement regarding the preparation, adoption and application of technical regulations and standards, when gathering information relating to proprietary formulas, each Party shall:

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

   (b) ensure that the confidentiality of information about products originating in the territory of another Party arising from or supplied in connection with the preparation, adoption, and application of technical regulations and standards is respected in the same way as for domestic products and in such manner that legitimate commercial interests are protected.

If a Party gathers confidential information relating to proprietary formulas, it may use such information in the course of administrative and judicial proceedings in accordance with its law, provided that the Party has procedures to maintain the confidentiality of the information in the course of such proceedings.

4. For greater certainty, 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 amended from time-to-time, except when those standards would be an ineffective or inappropriate means for the fulfilment of a legitimate objective.
ANNEX8-G: ORGANIC PRODUCTS

1. This Annex applies to a Party if that Party is developing or maintains standards, technical regulations, or conformity assessment procedures relating to the production, processing, or labeling of products as organic for sale or distribution within its territory.

2. Parties are encouraged to take steps to:

   (a) exchange information on matters relating to organic production, certification of organic products, and related control systems, as appropriate; and

   (b) cooperate with each other to develop, improve, and strengthen international guidelines, standards, and recommendations related to trade in organic products.

3. Where a Party maintains requirements relating to the production, processing, or labeling of products as organic, it shall enforce such requirements.

4. Each Party is encouraged to consider, as expeditiously as possible, a request for recognition or equivalence of the standards, technical regulations, or conformity assessment procedures relating to the production, processing, or labeling of products as organic of another Party. Each Party is encouraged to accept as equivalent or recognise the standards, technical regulations, or conformity assessment procedures relating to the production, processing, or labeling of products as organic of that other Party, provided the Party is satisfied that the standards, technical regulations, or conformity assessment procedures of the other Party adequately fulfill the objectives of the Party’s standards, technical regulations, or conformity assessment procedures. Where a Party does not accept as equivalent or recognise the standards, technical regulations, or conformity assessment procedures relating to the production, processing, or labeling of products as organic of another Party, it shall, on the request of that other Party, explain its reasons.

5. Parties are encouraged to participate in technical exchanges to support improvement and greater alignment of standards, technical regulations, or conformity assessment procedures relating to the production, processing, or labeling of products as organic.
CHAPTER 9
INVESTMENT
Section A

Article 9.1: Definitions

For the purposes of this Chapter:

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

claimant means an investor of a Party that is a party to an investment dispute with another Party. If that investor is a natural person, who is a permanent resident of a Party and a national of another Party, that natural person may not submit a claim to arbitration against that latter Party;

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 for those Parties or established, acquired, or expanded thereafter;

disputing parties means the claimant and the respondent;

disputing party means either the claimant or the respondent;

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 organised under the law of a Party, or a branch located in the territory of a Party and carrying out business activities there;¹

freely usable currency means “freely usable currency” as determined by the International Monetary Fund under its Articles of Agreement;

ICC Arbitration Rules means the arbitration rules of the International Chamber of Commerce;

¹ For greater certainty, the inclusion of a “branch” in the definitions of “enterprise” and “enterprise of a Party” is without prejudice to a Party’s ability to treat a branch under its laws as an entity that has no independent legal existence and is not separately organised.
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;

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. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stock and other forms of equity participation in an enterprise;

(c) bonds, debentures, other debt instruments and loans;\(^2\),\(^3\)

(d) futures, options and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing and other similar contracts;

(f) intellectual property rights;

(g) licences, authorisations, permits and similar rights conferred pursuant to the Party’s law;\(^4\) and

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\(^2\) Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

\(^3\) A loan issued by one Party to another Party is not an investment.

\(^4\) Whether a particular type of licence, authorisation, 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. 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.
(h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens and pledges,

but investment does not mean an order or judgment entered in a judicial or administrative action.

**investment agreement** means a written agreement\(^5\) that is concluded and takes effect after the date of entry into force of this Agreement\(^6\) between an authority at the central level of government\(^7\) of a Party and a covered investment or an investor of another Party and that creates an exchange of rights and obligations, binding on both parties under the law applicable under Article 9.24(2) (Governing Law), on which the covered investment or the investor relies in establishing or acquiring a covered investment other than the written agreement itself, and that grants rights to the covered investment or investor:

(a) with respect to natural resources that a national authority controls, such as oil, natural gas, rare earth minerals, timber, gold, iron ore and other similar resources,\(^8\) including for their exploration, extraction, refining, transportation, distribution or sale;

(b) to supply services on behalf of the Party for consumption by the general public for: power generation or distribution, water treatment or distribution,

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\(^5\) "Written agreement" refers to an agreement in writing, negotiated and executed by both parties, whether in a single instrument or in multiple instruments. For greater certainty:

(a) a unilateral act of an administrative or judicial authority, such as a permit, licence, authorisation, certificate, approval, or similar instrument issued by a 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.

\(^6\) For greater certainty, a written agreement that is concluded and takes effect after the entry into force of this Agreement does not include the renewal or extension of an agreement in accordance with the provisions of the original agreement, and on the same or substantially the same terms and conditions as the original agreement, which has been concluded and entered in force prior to the entry into force of this Agreement.

\(^7\) For the purposes of this definition, “authority at the central level of government” means, for unitary states, an authority at the ministerial level of government. Ministerial level of government means government departments, ministries or other similar authorities at the central level of government, but does not include: (a) a governmental agency or organ established by a Party’s constitution or a particular legislation that has a separate legal personality from government departments, ministries or other similar authorities under a Party’s law, unless the day to day operations of that agency or organ are directed or controlled by government departments, ministries or other similar authorities; or (b) a governmental agency or organ that acts exclusively with respect to a particular region or province.

\(^8\) For the avoidance of doubt, this subparagraph does not include an investment agreement with respect to land, water or radio spectrum.
telecommunications, or other similar services supplied on behalf of the Party for consumption by the general public;9 or

(c) to undertake infrastructure projects, such as the construction of roads, bridges, canals, dams or pipelines or other similar projects; provided, however, that the infrastructure is not for the exclusive or predominant use and benefit of the government;

**investment authorisation**10 means an authorisation that the foreign investment authority of a Party11 grants to a covered investment or an investor of another Party;

**investor of a non-Party** means, with respect to a Party, an investor that attempts to make,12 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;

**LCIA Arbitration Rules** means the arbitration rules of the London Court of International Arbitration;

**negotiated restructuring** means the restructuring or rescheduling of a debt instrument that has been effected through (a) a modification or amendment of that debt instrument, as provided for under its terms, or (b) a comprehensive debt exchange or other similar process in which the holders of no less than 75 per cent of the aggregate principal amount of the outstanding debt under that debt instrument have consented to the debt exchange or other process;

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9 For the avoidance of doubt, this subparagraph does not cover correctional services, healthcare services, education services, childcare services, welfare services or other similar social services.

10 For greater certainty, the following are not encompassed within this definition: (i) actions taken by a Party to enforce laws of general application, such as competition, environmental, health or other regulatory laws; (ii) non-discriminatory licensing regimes; and (iii) a Party’s decision to grant to a covered investment or an investor of another Party a particular investment incentive or other benefit, that is not provided by a foreign investment authority in an investment authorisation.

11 For the purposes of this definition, “foreign investment authority” means, as of the date of entry into force of this Agreement: (a) for Australia, the Treasurer of the Commonwealth of Australia under Australia’s foreign investment policy including the Foreign Acquisitions and Takeovers Act 1975; (b) for Canada, the Minister of Industry, but only when issuing a notice under Section 21 or 22 of the Investment Canada Act; (c) for Mexico, the National Commission of Foreign Investments (Comisión Nacional de Inversiones Extranjeras); and (d) for New Zealand, the Minister of Finance, the Minister of Fisheries or the Minister for Land Information, to the extent that they make a decision to grant consent under the Overseas Investment Act 2005.

12 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 licence.
New York Convention means the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done at New York, June 10, 1958;

non-disputing Party means a Party that is not a party to an 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;

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

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


**Article 9.2: Scope**

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
   
   (a) investors of another Party;
   
   (b) covered investments; and
   
   (c) with respect to Article 9.9 (Performance Requirements) and Article 9.15 (Investment and Environmental, Health and other Regulatory Objectives), 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; 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.¹³

¹³ For greater certainty, governmental authority is delegated under the Party’s law, including through a legislative grant or a government order, directive or other action transferring or authorising the exercise of governmental authority.
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 for that Party.

Article 9.3: 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. 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 such cross-border supply of the service. This Chapter shall apply 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.

3. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 11 (Financial Services).

Article 9.4: National Treatment

1. Each Party shall accord to investors of another Party treatment no less favourable 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 favourable 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. For greater certainty, the treatment to be accorded by a Party under paragraphs 1 and 2 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to investors, and to investments of investors, of the Party of which it forms a part.

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For greater certainty, whether treatment is accorded in “like circumstances” under Article 9.4 (National Treatment) or Article 9.5 (Most-Favoured-Nation Treatment) 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 9.5: Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of another Party treatment no less favourable than that 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 favourable 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. For greater certainty, the treatment referred to in this Article does not encompass international dispute resolution procedures or mechanisms, such as those included in Section B.

Article 9.6: Minimum Standard of Treatment

1. Each Party shall accord to covered investments treatment in accordance with applicable customary international law principles, 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.

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15 Article 9.6 (Minimum Standard of Treatment) shall be interpreted in accordance with Annex 9-A (Customary International Law).
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.

5. For greater certainty, the mere fact that a subsidy or grant has not been issued, renewed or maintained, or has been modified or reduced, by a Party, does not constitute a breach of this Article, even if there is loss or damage to the covered investment as a result.

**Article 9.6bis: Treatment in Case of Armed Conflict or Civil Strife**

1. Notwithstanding Article 9.11.6(b) (Non-Conforming Measures), each Party shall accord to investors of another Party and to covered investments non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

2. 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 9.4 (National Treatment) but for Article 9.11.6(b) (Non-Conforming Measures).

**Article 9.7: Expropriation and Compensation**

1. No Party shall expropriate or nationalise a covered investment either directly or indirectly through measures equivalent to expropriation or nationalisation (expropriation), except:

   (a) for a public purpose

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16 Article 9.7 (Expropriation and Compensation) shall be interpreted in accordance with Annex 9-B (Expropriation) and is subject to Annex 9-C (Expropriation Relating to Land).
(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

(d) be fully realisable 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, 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. This Article shall not apply to the issuance of compulsory licences 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 18 (Intellectual Property) and the TRIPS Agreement.¹⁹

6. For greater certainty, a Party’s decision not to issue, renew or maintain a subsidy or grant, or decision to modify or reduce a subsidy or grant,

   (a) in the absence of any specific commitment under law or contract to issue, renew or maintain that subsidy or grant; or

   (b) in accordance with any terms or conditions attached to the issuance, renewal, modification, reduction and maintenance of that subsidy or grant,

standing alone, does not constitute an expropriation.

Article 9.8: Transfers²⁰

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;²¹

   (b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance fees 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, including a loan agreement;

¹⁹ For greater certainty, the Parties recognise 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.

²⁰ For greater certainty, this Article is subject to Annex 9-E (Transfers).

²¹ For greater certainty, contributions to capital include the initial contribution.
(e) payments made pursuant to Article 9.6bis (Treatment in Case of Armed Conflict or Civil Strife) and Article 9.7 (Expropriation and Compensation); and

(f) payments arising out of a dispute.

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. Each Party shall permit returns in kind relating to a covered investment to be made as authorised or specified in a written agreement between the Party and a covered investment or an investor of another Party.

4. 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 relating to:

   (a) bankruptcy, insolvency or the protection of the rights of creditors;

   (b) issuing, trading or dealing in securities, futures, options or derivatives;

   (c) criminal or penal offences;

   (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.

5. Notwithstanding paragraph 3, 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 4.

**Article 9.9: 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:  

   22 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 programmes.

   23 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.
(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 goods produced in its territory, or to purchase goods from persons 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 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;
(f) to transfer a particular technology, a production process or other proprietary knowledge to a person in its territory;
(g) to supply exclusively from the territory of the Party the goods that the investment produces or the services 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\(^\text{24}\); or
(ii) that prevents the purchase or use of, or the according of a preference to, in its territory, a particular technology; or
(i) to adopt:
   (i) a given rate or amount of royalty under a licence contract; or
   (ii) a given duration of the term of a licence contract,
in regard to any licence contract in existence at the time the requirement is imposed or enforced, or any commitment or undertaking is enforced, or any future requirement.

\(^{24}\) 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 licence.
licensure contract\textsuperscript{25} 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 licence 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 goods produced in its territory, or to purchase goods from persons 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; or

(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.

3. (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 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) and 1(i) shall not apply:

(i) if a Party authorises use of an intellectual property right in accordance with Article 31\textsuperscript{26} 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

\textsuperscript{25} A “licensure contract” referred to in this subparagraph means any contract concerning the licensing of technology, a production process, or other proprietary knowledge.

\textsuperscript{26} 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).
(ii) if the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy a practice determined after judicial or administrative process to be anticompetitive under the Party’s competition laws.27, 28

(c) Paragraph 1(i) shall not apply if the requirement is imposed or the commitment or undertaking is enforced by a tribunal as equitable remuneration under the Party’s copyright laws.

(d) 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, including environmental 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.

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

(f) Paragraphs 1(b), 1(c), 1(f), 1(g), 1(h), 1(i), 2(a) and 2(b) shall not apply to government procurement.

(g) Paragraphs 2(a) and 2(b) shall not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

(h) Paragraphs (1)(h) and (1)(i) 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

27 The Parties recognise that a patent does not necessarily confer market power.

28 In the case of Brunei Darussalam, for a period of 10 years after the entry into force of this Agreement for it or until it establishes a competition authority or authorities, whichever occurs earlier, the reference to the Party’s competition laws includes competition regulations.
manner, or in a manner that constitutes a disguised restriction on international
trade or investment.

4. For greater certainty, nothing in paragraph 1 shall be construed to prevent a Party, in
connection with the establishment, acquisition, expansion, management, conduct, operation, or
sale or other disposition of an investment of an investor of a Party or of a non-Party in its
territory, from imposing or enforcing a requirement, or enforcing a commitment or undertaking,
to employ or train workers in its territory provided that the employment or training does not
require the transfer of a particular technology, production process or other proprietary knowledge
to a person in its territory.

5. For greater certainty, paragraphs 1 and 2 shall not apply to any commitment, undertaking
or requirement other than those set out in those paragraphs.

6. 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 9.10: Senior Management and Boards of Directors

1. No Party shall require that an enterprise of that Party that is a covered investment appoint
to a senior management position a natural person of any 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 9.11: Non-Conforming Measures

1. Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article
9.9 (Performance Requirements) and Article 9.10 (Senior Management and Board 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 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 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 9.9 (Performance Requirements) or Article 9.10 (Senior Management and Board of Directors).  

2. Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 9.9 (Performance Requirements) and Article 9.10 (Senior Management and Board of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors 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 paragraph 1(a)(ii), creates a material impediment to investment 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. No Party shall, under any measure adopted after the date of entry into force of this Agreement for that Party 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.

5. (a) Article 9.4 (National Treatment) shall not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by:

   (i) Article 18.A.9 (General Provisions National Treatment); or

   (ii) Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 18 (Intellectual Property).

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29 With respect to Viet Nam, Annex 9-I (Non-Conforming Measures Ratchet Mechanism) applies.

30 For greater certainty, any Party may request consultations with another Party regarding a non-conforming measure applied by a central level of government, as referred to in paragraph 1(a)(i).
(b) Article 9.5 (Most-Favoured-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 18.A.9 (General Provisions National Treatment); or

(ii) Article 4 of the TRIPS Agreement.

6. Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment) and Article 9.10 (Senior Management and Board of Directors) shall not apply to:

(a) government procurement; or

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

7. For greater certainty, any amendments or modifications to a Party’s Schedules to Annex I or Annex II, pursuant to this Article, shall be made in accordance with Article 30.2 (Amendments).

Article 9.12: Subrogation

If a Party, or any agency, institution, statutory body or corporation designated by the 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 recognise the subrogation or transfer of any rights the investor would have possessed under this Chapter 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.

Article 9.13: Special Formalities and Information Requirements

1. Nothing in Article 9.4 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with a covered investment, such as a residency requirement for registration or a requirement that a covered investment 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 9.4 (National Treatment) and Article 9.5 (Most-Favoured-Nation Treatment), 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 the 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 9.14: 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 9.15: Investment and Environmental, Health 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 or other regulatory objectives.

Article 9.16: 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 recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party.

Section B: Investor-State Dispute Settlement

Article 9.17: Consultation and Negotiation
1. In the event of an 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. The claimant shall deliver to the respondent a written request for consultations setting out a brief description of facts regarding the measure or measures at issue.

3. For greater certainty, the initiation of consultations and negotiations shall not be construed as recognition of the jurisdiction of the tribunal.

Article 9.18: Submission of a Claim to Arbitration

1. If an investment dispute has not been resolved within six months of the receipt by the respondent of a written request for consultations pursuant to Article 9.17.2 (Consultation and Negotiation):

(a) the claimant, on its own behalf, may submit to arbitration under this Section a claim:

(i) that the respondent has breached:

(A) an obligation under Section A;

(B) an investment authorisation;\(^{31}\) or

(C) an investment agreement; 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 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 Section a claim:

(i) that the respondent has breached:

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\(^{31}\) Without prejudice to a claimant’s right to submit to arbitration other claims under this Article, a claimant shall not submit to arbitration a claim under subparagraph (a)(i)(B) or subparagraph (b)(i)(B) that a Party covered by Annex 9-H has breached an investment authorisation by enforcing conditions or requirements under which the investment authorisation was granted.
(A) an obligation under Section A;
(B) an investment authorisation; or
(C) an investment agreement; and

(ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach,

provided that a claimant may submit pursuant to subparagraph (a)(i)(C) or (b)(i)(C) a claim for breach of an investment agreement only if the subject matter of the claim and the claimed damages directly relate to the covered investment that was established or acquired, or sought to be established or acquired, in reliance on the relevant investment agreement.

2. When the claimant submits a claim pursuant to paragraph 1(a)(i)(B), 1(a)(i)(C), 1(b)(i)(B) or 1(b)(i)(C), the respondent may make a counterclaim in connection with the factual and legal basis of the claim or rely on a claim for the purpose of a set off against the claimant.32

3. At least 90 days before submitting any claim to arbitration under this Section, 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, investment authorisation or investment agreement alleged to have been breached and any other relevant provisions;
(c) the legal and factual basis for each claim; and
(d) the relief sought and the approximate amount of damages claimed.

4. 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;

32 In the case of investment authorisations, this paragraph shall apply only to the extent that the investment authorisation, including instruments executed after the date the authorisation was granted, creates rights and obligations for the disputing parties.
(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

(d) if the claimant and respondent agree, any other arbitral institution or any other arbitration rules.

5. A claim shall be deemed submitted to arbitration under this Section 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 Section on the date of its receipt under the applicable arbitration rules.

6. The arbitration rules applicable under paragraph 4 that are in effect on the date the claim or claims were submitted to arbitration under this Section shall govern the arbitration except to the extent modified by this Agreement.

7. The claimant shall provide with the notice of arbitration:

(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 9.19: Consent of Each Party to Arbitration

1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with this Agreement.
2. The consent under paragraph 1 and the submission of a claim to arbitration under this Section shall 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 9.20: Conditions and Limitations on Consent of Each Party

1. No claim shall be submitted to arbitration under this Section if more than three years and six months have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under Article 9.18.1 (Submission of a Claim to Arbitration) and knowledge that the claimant (for claims brought under Article 9.18.1(a)) or the enterprise (for claims brought under Article 9.18.1(b)) has incurred loss or damage.

2. No claim shall be submitted to arbitration under this Section unless:

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

(b) the notice of arbitration is accompanied:

(i) for claims submitted to arbitration under Article 9.18.1(a) (Submission of a Claim to Arbitration), by the claimant’s written waiver; and

(ii) for claims submitted to arbitration under Article 9.18.1(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 a Party, or any other dispute settlement procedures, any proceeding with respect to any measure alleged to constitute a breach referred to in Article 9.18 (Submission of a Claim to Arbitration).

3. Notwithstanding paragraph 2(b), the claimant (for claims brought under Article 9.18.1(a) (Submission of a Claim to Arbitration)) and the claimant or the enterprise (for claims brought under Article 9.18.1(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 9.21: 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 Section.

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 Section, 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 9.18.1(a) (Submission of a Claim to Arbitration) may submit a claim to arbitration under this Section, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant agrees in writing to the appointment of each individual member of the tribunal; and

   (c) a claimant referred to in Article 9.18.1(b) (Submission of a Claim to Arbitration) may submit a claim to arbitration under this Section, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant and the enterprise agree in writing to the appointment of each individual member of the tribunal.

5. In the appointment of arbitrators to a tribunal for claims submitted under Article 9.18.1(a)(i)(B) (Submission of a Claim to Arbitration), Article 9.18.1(b)(i)(B), Article 9.18.1(a)(i)(C) or Article 9.18.1(b)(i)(C), each disputing party shall take into account the expertise or relevant experience of particular candidates with respect to the relevant governing law under Article 9.24.2 (Governing Law). If the parties fail to agree on the appointment of the presiding arbitrator, the Secretary-General shall also take into account the expertise or relevant experience of particular candidates with respect to the relevant governing law under Article 9.24.2.
6. The Parties shall, prior to the entry into force of this Agreement, provide guidance on the application of the Code of Conduct for Dispute Settlement Proceedings under Chapter 28 (Dispute Settlement) to arbitrators selected to serve on investor-State dispute settlement tribunals pursuant to this Article, including any necessary modifications to the Code of Conduct to conform to the context of investor-State dispute settlement. The Parties shall also provide guidance on the application of other relevant rules or guidelines on conflicts of interest in international arbitration. Arbitrators shall comply with that guidance in addition to the applicable arbitral rules regarding independence and impartiality of arbitrators.

Article 9.22: Conduct of the Arbitration

1. The disputing parties may agree on the legal place of any arbitration under the arbitration rules applicable under Article 9.18.4 (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 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 favour of the claimant may be made under Article 9.28 (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 favour of the claimant may be made under Article 9.28 (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 a Party submits a claim under this Section, including a claim alleging that a Party breached Article 9.6 (Minimum Standard of Treatment), 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 defence, 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 9.18 (Submission of a Claim to Arbitration). For the purposes of this paragraph, an order includes a recommendation.

10. In any arbitration conducted under this Section, 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.

11. In the event that an appellate mechanism for reviewing awards rendered by investor-State dispute settlement tribunals is developed in the future under other institutional arrangements, the Parties shall consider whether awards rendered under Article 9.28 (Awards) should be subject to that appellate mechanism. The Parties shall strive to ensure that any such appellate mechanism they consider adopting provides for transparency of proceedings similar to the transparency provisions established in Article 9.23 (Transparency of Arbitral Proceedings).

**Article 9.23: 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 Parties 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 9.22.2 (Conduct of the Arbitration) and Article 9.22.3 and Article 9.27 (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 Section, 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 29.2 (Security Exceptions) or Article 29.6 (Disclosure of Information).\(^{33}\)

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 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).

\(^{33}\) For greater certainty, when a respondent chooses to disclose to the tribunal information that may be withheld in accordance with Article 29.2 (Security Exceptions) or Article 29.6 (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 Section requires a respondent to withhold from the public information required to be disclosed by its laws. The respondent should endeavour to apply those laws in a manner sensitive to protecting from disclosure information that has been designated as protected information.

Article 9.24: Governing Law

1. Subject to paragraph 3, when a claim is submitted under Article 9.18.1(a)(i)(A) (Submission of a Claim to Arbitration) or Article 9.18.1(b)(i)(A), the tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.34

2. Subject to paragraph 3 and the other provisions of this Section, when a claim is submitted under Article 9.18.1(a)(i)(B) (Submission of a Claim to Arbitration), Article 9.18.1(a)(i)(C), Article 9.18.1(b)(i)(B) or Article 9.18.1(b)(i)(C), the tribunal shall apply:

   (a) the rules of law applicable to the pertinent investment authorisation or specified in the pertinent investment authorisation or investment agreement, or as the disputing parties may agree otherwise; or

   (b) if, in the pertinent investment agreement the rules of law have not been specified or otherwise agreed:

      (i) the law of the respondent, including its rules on the conflict of laws;35 and

      (ii) such rules of international law as may be applicable.

3. A decision of the Commission on the interpretation of a provision of this Agreement under Article 27.2.2(f) (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.

34 For greater certainty, this provision is without prejudice to any consideration of the domestic law of the respondent when it is relevant to the claim as a matter of fact.

35 The “law of the respondent” means the law that a domestic court or tribunal of proper jurisdiction would apply in the same case. For greater certainty, the law of the respondent includes the relevant law governing the investment agreement or investment authorisation, including law on damages, mitigation, interest and estoppel.
Article 9.25: Interpretation of Annexes

1. If a respondent asserts as a defence 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 27.2.2(f) (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 9.26: Expert Reports

Without prejudice to the appointment of other kinds of experts when authorised 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 9.27: Consolidation

1. If two or more claims have been submitted separately to arbitration under Article 9.18.1 (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 a Party of any claimant.

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 9.18.1 (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 9.21 (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 9.18.1 (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 Section.

9. A tribunal established under Article 9.21 (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 9.21 (Selection of Arbitrators) be stayed, unless the latter tribunal has already adjourned its proceedings.

**Article 9.28: 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.

2. For greater certainty, if an investor of a Party submits a claim to arbitration under Article 9.18.1(a) (Submission of a Claim to Arbitration), it may recover only for loss or damage that it has incurred in its capacity as an investor of a Party.

3. A tribunal may also award costs and attorney’s fees incurred by the disputing parties in connection with the arbitral proceeding, and shall determine how and by whom those costs and attorney’s fees shall be paid, in accordance with this Section and the applicable arbitration rules.
4. For greater certainty, for claims alleging the breach of an obligation under Section A with respect to an attempt to make an investment, when an award is made in favour of the claimant, the only damages that may be awarded are those that the claimant has proven were sustained in the attempt to make the investment, provided that the claimant also proves that the breach was the proximate cause of those damages. If the tribunal determines such claims to be frivolous, the tribunal may award to the respondent reasonable costs and attorney’s fees.

5. Subject to paragraph 1, if a claim is submitted to arbitration under Article 9.18.1(b) (Submission of a Claim to Arbitration) and an award is made in favour 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.

8. Subject to paragraph 8 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 9.18.4(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 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 28.7 (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 28.17 (Initial 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 Section 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 9.29: Service of Documents**

Delivery of notice and other documents to a Party shall be made to the place named for that Party in Annex 9-D (Service of Documents on a Party Under Section B). A Party shall promptly make publicly available and notify the other Parties of any change to the place referred to in that Annex.
Annex 9-A

Customary International Law

The Parties confirm their shared understanding that “customary international law” generally and as specifically referenced in Article 9.6 (Minimum Standard of Treatment) 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.
Annex 9-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 or property interest in an investment.

2. Article 9.7.1 (Expropriation and Compensation) addresses two situations. The first is direct expropriation, in which an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure.

3. The second situation addressed by Article 9.7.1 (Expropriation and Compensation) 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;\(^{36}\) and

(iii) the character of the government action.

(b) Non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health,\(^{37}\) safety and the environment, do not constitute indirect expropriations, except in rare circumstances.

36 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.

37 For greater certainty and without limiting the scope of this subparagraph, regulatory actions to protect public health include, among others, such measures with respect to the regulation, pricing and supply of, and reimbursement for, pharmaceuticals (including biological products), diagnostics, vaccines, medical devices, gene therapies and technologies, health-related aids and appliances and blood and blood-related products.
Annex 9-C

Expropriation Relating to Land

1. Notwithstanding the obligations under Article 9.7 (Expropriation and Compensation), where Singapore is the expropriating Party, any measure of direct expropriation relating to land shall be for a purpose and upon payment of compensation at market value, in accordance with the applicable domestic legislation and any subsequent amendments thereto relating to the amount of compensation where such amendments provide for the method of determination of the compensation which is no less favourable to the investor for its expropriated investment than such method of determination in the applicable domestic legislation as at the time of entry into force of this Agreement for Singapore.

2. Notwithstanding the obligations under Article 9.7 (Expropriation and Compensation), where Viet Nam is the expropriating Party, any measure of direct expropriation relating to land shall be: (i) for a purpose in accordance with the applicable domestic legislation; and (ii) upon payment of compensation equivalent to the market value, while recognising the applicable domestic legislation.

38 The applicable domestic legislation is the Land Acquisition Act (Cap. 152) as at the date of entry into force of this Agreement for Singapore.

39 The applicable domestic legislation is Viet Nam’s Land Law, Law No. 45/2013/QH13 and Decree 44/2014/ND-CP Regulating Land Prices, as at the date of entry into force of this Agreement for Viet Nam.
Annex 9-D

Service of Documents on a Party Under Section B (Investor-State Dispute Settlement)

Australia

Notices and other documents in disputes under Section B shall be served on Australia by delivery to:

Department of Foreign Affairs and Trade
R.G. Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Brunei Darussalam

Notices and other documents in disputes under Section B shall be served on Brunei Darussalam by delivery to:

The Permanent Secretary (Trade)
Ministry of Foreign Affairs and Trade
Jalan Subok
Bandar Seri Begawan, BD 2710
Brunei Darussalam

Canada

Notices and other documents in disputes under Section B shall be served on Canada by delivery to:

Office of the Deputy Attorney General of Canada
Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8
Canada
Chile

Notices and other documents in disputes under Section B shall be served on Chile by delivery to:

Dirección de Asuntos Jurídicos del Ministerio de Relaciones Exteriores de la República de Chile
Teatinos 180
Santiago
Chile

Japan

Notices and other documents in disputes under Section B shall be served on Japan by delivery to:

Economic Affairs Bureau
Ministry of Foreign Affairs
2-2-1 Kasumigaseki, Chiyoda-ku
Tokyo
Japan

Malaysia

Notices and other documents in disputes under Section B shall be served on Malaysia by delivery to:

Attorney General’s Chambers
Level 16, No. 45 Persiaran Perdana
Precint 4
Federal Government Administrative Centre
62100 Putrajaya
Malaysia

Mexico

Notices and other documents in disputes under Section B shall be served on Mexico by delivery to:

Dirección General de Consultoría Jurídica de Comercio Internacional
Alfonso Reyes #30, piso 17
Col. Hipódromo Condesa
Del. Cuauhtémoc
México D.F.
C.P. 06140

New Zealand

Notices and other documents in disputes under Section B shall be served on New Zealand by delivery to:

The Secretary  
Ministry of Foreign Affairs and Trade  
195 Lambton Quay  
Wellington 6011  
New Zealand

Peru

Notices and other documents in disputes under Section B shall be served on Peru by delivery to:

Dirección General de Asuntos de Economía Internacional,  
Competencia y Productividad  
Ministerio de Economía y Finanzas  
Jirón Lampa 277, piso 5  
Lima, Perú

Singapore

Notices and other documents in disputes under Section B shall be served on Singapore by delivery to:

Permanent Secretary  
Ministry of Trade & Industry  
100 High Street #09-01  
Singapore 179434  
Singapore

United States

Notices and other documents in disputes under Section B shall be served on the United States by delivery to:

Executive Director (L/EX)  
Office of the Legal Adviser  
Department of State  
Washington, D.C.20520
Viet Nam

Notices and other documents in disputes under Section B shall be served on Viet Nam by delivery to:

General Director
Department of International Law
Ministry of Justice
60 Tran Phu Street
Ba Dinh District
Ha Noi
Viet Nam
Annex 9-E

Transfers

Chile

1. Notwithstanding Article 9.8 (Transfers), Chile reserves the right of the Central Bank of Chile (Banco Central de Chile) to maintain or adopt measures in conformity with Law 18.840, Constitutional Organic Law of the Central Bank of Chile (Ley 18.840, Ley Orgánica Constitucional del Banco Central de Chile), and Decreto con Fuerza de Ley No 3 de 1997, Ley General de Bancos (General Banking Act) and Ley 18.045, Ley de Mercado de Valores (Securities Market Law), in order to ensure currency stability and the normal operation of domestic and foreign payments. Such measures include, *inter alia*, the establishment of restrictions or limitations on current payments and transfers (capital movements) to or from Chile, as well as transactions related to them, such as requiring that deposits, investments or credits from or to a foreign country, be subject to a reserve requirement (*encaje*).

2. Notwithstanding paragraph 1, the reserve requirements that the Central Bank of Chile can apply pursuant to Article 49 No. 2 of Law 18.840, shall not exceed 30 per cent of the amount transferred and shall not be imposed for a period which exceeds two years.

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40 For greater certainty, this Annex shall apply to transfers covered by Article 9.8 (Transfers) and payments and transfers covered by Article 10.12 (Payments and Transfers).
1. The obligations and commitments contained in this Chapter do not apply to Decree Law 600, Foreign Investment Statute (Decreto Ley 600, Estatuto de la Inversión Extranjera) (hereinafter referred to in this Annex as “DL 600”), or its successors, and to Law 18.657, Foreign Capital Investment Fund Law (Ley 18.657, Ley de Fondos de Inversión de Capital Extranjero), with respect to:

(a) The right of the Foreign Investment Committee of Chile (Comité de Inversiones Extranjeras) or its successor to accept or reject applications to invest through an investment contract under DL 600 and the right to regulate the terms and conditions of foreign investment under DL 600 and Law 18.657.

(b) The right to maintain existing requirements that transfers from Chile of proceeds from the sale of all or any part of an investment of an investor of a Party or from the partial or complete liquidation of the investment which may not take place until a period not to exceed:

(i) in the case of an investment made pursuant to DL 600, one year from the date of transfer to Chile; or

(ii) in the case of an investment made pursuant to Law 18.657, five years from the date of transfers to Chile.

(c) The right to adopt measures, consistent with this Annex, establishing future special voluntary investment programs in addition to the general regime for foreign investment in Chile, except that any such measures may restrict transfers from Chile of proceeds from the sale of all or any part of an investment of an investor of another Party or from the partial or complete liquidation of the investment for a period not to exceed five years from the date of transfer to Chile.

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41 The authorisation and execution of an investment contract under DL 600 by an investor of a Party or a covered investment does not create any right on the part of the investor or the covered investment to engage in particular activities in Chile.

42 Law 18.657 was derogated on May 1, 2014 by law 20.712. The transfer requirement established under subparagraph (b)(ii) will only be applicable to investments made pursuant to Law 18.657 prior to May 1, 2014 and not to investments made pursuant to Law 20.712.
2. For greater certainty, except to the extent that paragraph 1(b) or (c) provides an exception to Article 9.8 (Transfers), the investment entered through an investment contract under DL 600, through Law 18.657 or through any future special voluntary investment program, will be subject to the obligations and commitments of this Chapter, to the extent that the investment is a covered investment under Chapter 9 (Investment).
Annex 9-G

Public Debt

1. The Parties recognize that the purchase of debt issued by a Party entails commercial risk. For greater certainty, no award shall be made in favour of a claimant for a claim under Article 9.18.1(a)(i)(A) (Submission of a Claim to Arbitration) or Article 9.18.1(b)(i)(A) with respect to default or non-payment of debt issued by a Party unless the claimant meets its burden of proving that such default or non-payment constitutes a breach of an obligation under Section A, including an uncompensated expropriation pursuant to Article 9.7 (Expropriation and Compensation).

2. No claim that a restructuring of debt issued by a Party breaches an obligation under Section A shall be submitted to, or if already submitted continue in, arbitration under Section B if the restructuring is a negotiated restructuring at the time of submission, or becomes a negotiated restructuring after that submission, except for a claim that the restructuring violates Article 9.4 (National Treatment) or Article 9.5 (Most-Favoured-Nation Treatment).

3. Notwithstanding Article 9.18.4 (Submission of a Claim to Arbitration), and subject to paragraph 2, an investor of another Party shall not submit a claim under Section B that a restructuring of debt issued by a Party breaches an obligation under Section A, other than Article 9.4 (National Treatment) or Article 9.5 (Most-Favoured-Nation Treatment), unless 270 days have elapsed from the date of receipt by the respondent of the written request for consultations pursuant to Article 9.17.2 (Consultation and Negotiation).43

43 Paragraphs 2 and 3 of this Annex do not apply to any claim under Section B against Singapore or the United States.
1. A decision under Australia’s foreign investment policy, which consists of the *Foreign Acquisitions and Takeovers Act 1975*, *Foreign Acquisitions and Takeovers Regulations 1989*, *Financial Sector (Shareholdings) Act 1998* and associated Ministerial Statements by the Treasurer of the Commonwealth of Australia or a minister acting on his or her behalf, on whether or not to approve a foreign investment proposal, shall not be subject to the dispute settlement provisions under Section B (Investor-State Dispute Settlement) or Chapter 28 (Dispute Settlement).

2. A decision by Canada following a review under the *Investment Canada Act* (R.S.C. 1985, c.28 (1st Supp.)), with respect to whether or not to permit an investment that is subject to review, shall not be subject to the dispute settlement provisions under Section B (Investor-State Dispute Settlement) or Chapter 28 (Dispute Settlement).

3. A decision by the National Commission on Foreign Investment (Comisión Nacional de Inversiones Extranjeras) following a review pursuant to Annex I, Mexico (Existing Measures), number 3, page 7 with respect to whether or not to permit an acquisition that is subject to review, shall not be subject to the dispute settlement provisions of Section B (Investor-State Dispute Settlement) or Chapter 28 (Dispute Settlement).

4. A decision under New Zealand’s *Overseas Investment Act* 2005 to grant consent, or to decline to grant consent, to an overseas investment transaction that requires prior consent under that Act shall not be subject to the dispute settlement provisions under Section B (Investor-State Dispute Settlement) or Chapter 28 (Dispute Settlement).
Annex 9-I

Non-Conforming Measures Ratchet Mechanism

Notwithstanding Article 9.11.1(c) (Non-Conforming Measures), for Viet Nam for three years after the date of entry into force of this Agreement for it:

(a) Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 9.9 (Performance Requirements) and Article 9.10 (Senior Management and Board of Directors) shall not apply to an amendment to any non-conforming measure referred to in Article 9.11.1(a) (Non-Conforming Measures) to the extent that the amendment does not decrease the conformity of the measure, as it existed at the date of entry into force of this Agreement for Viet Nam, with Articles 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 9.9 (Performance Requirements) or Article 9.10 (Senior Management and Board of Directors);

(b) Viet Nam shall not withdraw a right or benefit from an investor or covered investment of another Party, in reliance on which the investor or covered investment has taken any concrete action,\(^{44}\) through an amendment to any non-conforming measure referred to in Article 9.11.1(a) (Non-Conforming Measures) that decreases the conformity of the measure as it existed immediately before the amendment; and

(c) Viet Nam shall provide to the other Parties the details of any amendment to a non-conforming measure referred to in Article 9.11.1(a) (Non-Conforming Measures) that would decrease the conformity of the measure, as it existed immediately before the amendment, at least 90 days before making the amendment.

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\(^{44}\) Concrete action includes the channelling of resources or capital in order to establish or expand a business and applying for permits and licences.
Annex 9-J

Submission of a Claim to Arbitration

1. An investor of a Party may not submit to arbitration under Section B a claim that Chile, Peru, Mexico or Viet Nam has breached an obligation under Section A either:
   
   (a) on its own behalf under Article 9.18.1(a) (Submission of a Claim to Arbitration); or
   
   (b) on behalf of an enterprise of Chile, Peru, Mexico or Viet Nam, that is a juridical person that the investor owns or controls directly or indirectly under 9.18.1(b) (Submission of a Claim to Arbitration),

   if the investor or the enterprise, respectively, has alleged that breach of an obligation under Section A in proceedings before a court or administrative tribunal of Chile, Peru, Mexico or Viet Nam.

2. For greater certainty, if an investor of a Party elects to submit a claim of the type described in paragraph 1 to a court or administrative tribunal of Chile, Peru, Mexico or Viet Nam, that election shall be definitive and exclusive, and the investor may not thereafter submit the claim to arbitration under Section B.
Annex 9-K

Submission of Certain Claims for Three Years After Entry into Force

Malaysia

Without prejudice to a claimant’s right to submit other claims to arbitration pursuant to Article 9.18 (Submission of a Claim to Arbitration), Malaysia does not consent to the submission of a claim that Malaysia has breached a government procurement contract with a covered investment, below the specified contract value, for a period of three years after the date of entry into force of this Agreement for Malaysia. The specified contract values are: (a) for goods, SDR 1,500,000; (b) for services, SDR 2,000,000; and (c) for construction, SDR 63,000,000.
Annex 9-L

Investment Agreements

A. Agreements with selected international arbitration clauses

1. An investor of a Party may not submit to arbitration a claim for breach of an investment agreement under Article 9.18.1(a)(i)(C) (Submission of a Claim to Arbitration) or Article 9.18.1(b)(i)(C) if the investment agreement provides the respondent’s consent for the investor to arbitrate the alleged breach of the investment agreement and further provides that:

   (a) a claim may be submitted for breach of the investment agreement under at least one of the following alternatives:

      (i) the ICSID Convention and the ICSID Rules of Procedure for Arbitration Proceedings, provided that both the respondent and the Party of the investor are parties to the ICSID Convention;

      (ii) the ICSID Additional Facility Rules, provided that either the respondent or the Party of the investor is a party to the ICSID Convention;

      (iii) the UNCITRAL Arbitration Rules;

      (iv) the ICC Arbitration Rules; or

      (v) the LCIA Arbitration Rules; and

   (b) in the case of arbitration not under the ICSID Convention, the legal place of the arbitration shall be:

      (i) in the territory of a State that is party to the New York Convention; and

      (ii) outside the territory of the respondent.

2. Notwithstanding Article 9.20.2(b) (Conditions and Limitations on Consent of Each Party), if a claimant submits to arbitration a claim that the respondent has breached:

   (a) an obligation under Section A pursuant to Article 9.18.1(a)(i)(A) (Submission of a Claim to Arbitration) or Article 9.18.1(b)(i)(A); or
(b) an investment authorisation pursuant to Article 9.18.1(a)(i)(B) or Article 9.18.1(b)(i)(B),

the claimant’s submission of a written waiver shall not preclude its right to initiate or continue an arbitration under an investment agreement, if that investment agreement meets the criteria in paragraph 1, with respect to any measure alleged to constitute a breach referred to in Article 9.18.

3. If a claimant:

   (a) submits to arbitration a claim that the respondent has breached an obligation under Section A pursuant to Article 9.18.1(a)(i)(A) (Submission of a Claim to Arbitration) or Article 9.18.1(b)(i)(A) or an investment authorisation pursuant to Article 9.18.1(a)(i)(B) or Article 9.18.1(b)(i)(B); and

   (b) submits a claim to arbitration under an investment agreement that meets the criteria in paragraph 1, 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 of Article 9.27 (Consolidation).

B. Certain agreements between Peru and covered investments or investors

1. Pursuant to Legislative Decrees 662 and 757, Peru may enter into agreements known as “stability agreements” with covered investments or investors of another Party.

2. As part of a stability agreement referred to in paragraph 1, Peru accords certain benefits to the covered investment or the investor that is a party to the agreement. These benefits typically include a commitment to maintain the existing income tax regime applicable to such covered investment or investor during a specified period of time.

3. A stability agreement referred to in paragraph 1 may constitute one of multiple written instruments that make up an “investment agreement”, as defined in Article 9.1 (Definitions). If that is the case, a breach of such a stability agreement by Peru may constitute a breach of the investment agreement of which it is a part.

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45 The fact that this Annex addresses only agreements entered into by Peru shall not prejudice the determination by a tribunal established under Section B regarding whether an agreement entered into by the government of another Party meets the definition of “investment agreement” in Article 9.1 (Definitions).

46 For greater certainty, for multiple written instruments to make up an “investment agreement”, as defined in Article 9.1 (Definition), one or more of those instruments must grant rights to the covered investment or the investor as defined in subparagraph (a), (b) or (c) of that definition. A stability agreement may constitute one of multiple written instruments that make up an “investment agreement” even if the stability agreement is not itself the instrument in which such rights are granted.
4. If a stability agreement does not constitute one of multiple instruments that make up an “investment agreement”, as defined in Article 9.1 (Definitions), a breach of such a stability agreement by Peru shall not constitute a breach of an investment agreement.

C. Limitation of Mexico’s consent to arbitration

1. Without prejudice to a claimant’s right to submit other claims pursuant to Article 9.18 (Submission of a Claim to Arbitration), Mexico does not consent to the submission of any claim to arbitration under Article 9.18.1(a)(i)(C) or 9.18.1(b)(i)(C) if the submission to arbitration of that claim would be inconsistent with the following laws with respect to the relevant acts of authority:

   (a) Hydrocarbons Law, Articles 20 and 21;

   (b) Law on Public Works and Related Services, Article 98, paragraph 2;

   (c) Public Private Partnerships Law, Article 139, paragraph 3;

   (d) Law on Roads, Bridges, and Federal Motor Carriers, Article 80;

   (e) Ports Law, Article 3, paragraph 2;

   (f) Airports Law, Article 3, paragraph 2;

   (g) Regulatory Law of the Railway Service, Article 4, paragraph 2;

   (h) Commercial and Navigation Maritimes Law, Article 264, paragraph 2;

   (i) Civil Aviation Law, Article 3, paragraph 2; and

   (j) Political Constitution of the United Mexican States, Article 28, paragraph 20, Section VII, and Federal Telecommunications and Broadcasting Law, Article 312,

provided, however, that the application of the provisions referred to in subparagraphs (a) through (i) shall not be used as a disguised means to repudiate or breach the investment agreement.

47 For greater certainty, the term “act of authority” includes omissions.
2. If any law referred to in paragraph 1 is amended to permit the submission to arbitration of such a claim after the entry into force of this Agreement for Mexico, paragraph 1 shall not apply.⁴⁸

D. Specific Canadian entities under subpart (c) of definition

For Canada, authority at the central level of government includes entities listed under Schedule III of the Financial Administration Act (R.S.C. 1985, c. F-11), and port or bridge authorities, that have concluded an investment agreement under subpart (c) of the definition of “investment agreement” only if the government directs or controls the day to day operations or activities of the entity or authority in carrying out its obligations under the investment agreement.

⁴⁸ For greater certainty, when any law referred to in paragraph 1 is amended consistent with paragraph 2, any subsequent amendment of that law may not re-establish the applicability of paragraph 1.
CHAPTER 10

CROSS-BORDER TRADE IN SERVICES

Article 10.1: Definitions

For the purposes of this Chapter:

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

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

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 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 1.3 (General Definitions), and a branch of an enterprise;

enterprise of a Party means an enterprise constituted or organised under the laws of a Party, or a branch located in the territory of a Party and carrying out business activities there;

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

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

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

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services or the applicable conditions;

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

service supplier of a Party means a person of a Party that seeks to supply or supplies a service; and

specialty air services means any specialised 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 10.2: Scope

1. This Chapter shall apply to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of another Party. Such measures include measures affecting:

(a) the production, distribution, marketing, sale or delivery of a service;

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

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

(d) the presence in the Party’s territory of a service supplier of another Party; and

(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 10.5 (Market Access), Article 10.8 (Domestic Regulation) and Article 10.11 (Transparency) shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment; and

(b) Annex 10-B (Express Delivery Services) shall also apply to measures adopted or maintained by a Party affecting the supply of express delivery services, including by a covered investment.

3. This Chapter shall not apply to:

(a) financial services as defined in Article 11.1 (Definitions), except that paragraph 2(a) shall apply if the financial service is supplied by a covered investment that is not a covered investment in a financial institution as defined in Article 11.1 (Definitions) in the Party’s territory;

(b) government procurement;

(c) services supplied in the exercise of governmental authority; or

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

4. This Chapter does not impose any 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.

5. This Chapter shall 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 and maintenance services during which an aircraft is withdrawn from service, excluding so-called line maintenance;

(b) selling and marketing of air transport services;

(c) computer reservation system services;

(d) specialty air services;

(e) airport operation services; and

1 For greater certainty, nothing in this Chapter, including Annexes 10-A (Professional Services), 10-B (Express Delivery Services), and 10-C (Non-Conforming Measures Ratchet Mechanism), is subject to investor-State dispute settlement pursuant to Section B of Chapter 9 (Investment).
6. In the event of any inconsistency between this Chapter and a bilateral, plurilateral or multilateral air services agreement to which two or more Parties are party, the air services agreement shall prevail in determining the rights and obligations of those Parties that are party to that air services agreement.

7. If two or more Parties have the same obligations under this Agreement and a bilateral, plurilateral or multilateral air services agreement, those Parties may invoke the dispute settlement procedures of this Agreement only after any dispute settlement procedures in the other agreement have been exhausted.

8. If the *Annex on Air Transport Services* of GATS is amended, the Parties shall jointly review any new definitions with a view to aligning the definitions in this Agreement with those definitions, as appropriate.

**Article 10.3: National Treatment**

1. Each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers.

2. For greater certainty, the treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to service suppliers of the Party of which it forms a part.

**Article 10.4: Most-Favoured-Nation Treatment**

Each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords, in like circumstances, to services and service suppliers of any other Party or a non-Party.

**Article 10.5: Market Access**

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

(a) impose limitations on:

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2 For greater certainty, whether treatment is accorded in “like circumstances” under Article 10.3 (National Treatment) or Article 10.4 (Most-Favoured-Nation Treatment) 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.
(i) the number of 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 service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

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

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

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

Article 10.6: Local Presence

No Party shall require a service supplier of another Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 10.7: Non-Conforming Measures

1. Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.5 (Market Access) and Article 10.6 (Local Presence) 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 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;

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3 Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of services.
(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 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.5 (Market Access) or Article 10.6 (Local Presence).  

2. Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.5 (Market Access) and Article 10.6 (Local Presence) shall 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 subparagraph 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.  

Article 10.8: Domestic Regulation

1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, while recognising the right to regulate and to introduce new regulations on the supply of services in order to meet its policy objectives, each Party shall endeavour to ensure that any such measures that it adopts or maintains are:

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

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

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4 With respect to Viet Nam, Annex 10-C applies.
5 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).
3. In determining whether a Party is in conformity with its obligations under paragraph 2, account shall be taken of international standards of relevant international organisations applied by that Party.\(^6\)

4. If a Party requires authorisation for the supply of a service, it shall ensure that its competent authorities:

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

   (b) to the extent practicable, establish an indicative timeframe for the processing of an application;

   (c) if an application is rejected, to the extent practicable, inform the applicant of the reasons for the rejection, either directly or on request, as appropriate;

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

   (e) to the extent practicable, provide the applicant with the opportunity to correct minor errors and omissions in the application and endeavour to provide guidance on the additional information required; and

   (f) if they deem appropriate, accept copies of documents that are authenticated in accordance with the Party’s laws in place of original documents.

5. Each Party shall ensure that any authorisation fee charged by any of its competent authorities is reasonable, transparent and does not, in itself, restrict the supply of the relevant service.\(^7\)

6. If licensing or qualification requirements include the completion of an examination, each Party shall ensure that:

   (a) the examination is scheduled at reasonable intervals; and

   (b) a reasonable period of time is provided to enable interested persons to submit an application.

7. Each Party shall ensure that there are procedures in place domestically to assess the competency of professionals of another Party.

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\(^6\) “Relevant international organisations” refers to international bodies whose membership is open to the relevant bodies of at least all Parties to the Agreement.

\(^7\) For the purposes of this paragraph, authorisation fees 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.
8. Paragraphs 1 through 7 shall not apply to the non-conforming aspects of measures that are not subject to the obligations under Article 10.3 (National Treatment) or Article 10.5 (Market Access) by reason of an entry in a Party’s Schedule to Annex I, or to measures that are not subject to the obligations under Article 10.3 (National Treatment) or Article 10.5 (Market Access) by reason of an entry in a Party’s Schedule to Annex II.

9. If the results of the negotiations related to paragraph 4 of Article VI of GATS, or the results of any similar negotiations undertaken in other multilateral fora in which the Parties participate, enter into effect, the Parties shall jointly review these results with a view to bringing them into effect, as appropriate, under this Agreement.

**Article 10.9: Recognition**

1. For the purposes of the fulfilment, in whole or in part, of a Party’s standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, it may recognise the education or experience obtained, requirements met, or licences or certifications granted, in the territory of another Party or a non-Party. That recognition, which may be achieved through harmonisation 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 recognises, 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, nothing in Article 10.4 (Most-Favoured-Nation Treatment) shall be construed to 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. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, 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 autonomously, it 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 recognised.

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

5. As set out in Annex 10-A (Professional Services), the Parties shall endeavour to facilitate trade in professional services, including through the establishment of a Professional Services Working Group.
Article 10.10: 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 persons of a non-Party, 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.

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 persons of a non-Party or by persons of the denying Party that has no substantial business activities in the territory of any Party other than the denying Party.

Article 10.11: Transparency

1. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding its regulations that relate to the subject matter of this Chapter.  

2. If a Party does not provide advance notice and opportunity for comment pursuant to Article 26.2.2 (Publication) with respect to regulations that relate to the subject matter in this Chapter, it shall, to the extent practicable, provide in writing or otherwise notify interested persons of the reasons for not doing so.

3. To the extent possible, each Party shall allow reasonable time between publication of final regulations and the date when they enter into effect.

Article 10.12: 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:

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8 The implementation of the obligation to maintain or establish appropriate mechanisms may need to take into account the resource and budget constraints of small administrative agencies.

9 For greater certainty, this Article is subject to Annex 9-E (Transfers).
(a) bankruptcy, insolvency or the protection of the rights of creditors;
(b) issuing, trading or dealing in securities, futures, options or derivatives;
(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
(d) criminal or penal offences; or
(e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

Article 10.13: Other Matters

The Parties recognise the importance of air services in facilitating the expansion of trade and enhancing economic growth. Each Party may consider working with other Parties in appropriate fora toward liberalising air services, such as through agreements allowing air carriers to have flexibility to decide on their routing and frequencies.

10 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 programmes.
Professional Services

**General Provisions**

1. Each Party shall consult with relevant bodies in its territory to seek to identify professional services when two or more Parties are mutually interested in establishing dialogue on issues that relate to the recognition of professional qualifications, licensing or registration.

2. Each Party shall encourage its relevant bodies to establish dialogues with the relevant bodies of other Parties, with a view to recognising professional qualifications, and facilitating licensing or registration procedures.

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. A Party may consider, if feasible, taking steps to implement a temporary or project specific licensing or registration regime based on a foreign supplier’s home licence or recognised professional body membership, without the need for further written examination. That temporary or limited licence regime should not operate to prevent a foreign supplier from gaining a local licence once that supplier satisfies the applicable local licensing requirements.

**Engineering and Architectural Services**

5. Further to paragraph 3, the Parties recognise the work in APEC to promote the mutual recognition of professional competence in engineering and architecture, and the professional mobility of these professions, under the APEC Engineer and APEC Architect frameworks.

6. Each Party shall encourage its relevant bodies to work towards becoming authorised to operate APEC Engineer and APEC Architect Registers.

7. A Party shall encourage its relevant bodies operating APEC Engineer or APEC Architect Registers to enter into mutual recognition arrangements with the relevant bodies of other Parties operating those registers.

**Temporary Licensing or Registration of Engineers**

8. Further to paragraph 4, in taking steps to implement a temporary or project-specific licensing or registration regime for engineers, a Party shall consult with its relevant professional bodies with respect to any recommendations for:
(a) the development of procedures for the temporary licensing or registration of engineers of another Party to permit them to practise their engineering specialties in its territory;

(b) the development of model procedures for adoption by the competent authorities throughout its territory to facilitate the temporary licensing or registration of those engineers;

(c) the engineering specialties to which priority should be given in developing temporary licensing or registration procedures; and

(d) other matters relating to the temporary licensing or registration of engineers identified in the consultations.

**Legal Services**

9. The Parties recognise that transnational legal services that cover the laws of multiple jurisdictions play an essential role in facilitating trade and investment and in promoting economic growth and business confidence.

10. If a Party regulates or seeks to regulate foreign lawyers and transnational legal practice, the Party shall encourage its relevant bodies to consider, subject to its laws and regulations, whether or in what manner:

   (a) foreign lawyers may practise foreign law on the basis of their right to practise that law in their home jurisdiction;

   (b) foreign lawyers may prepare for and appear in commercial arbitration, conciliation and mediation proceedings;

   (c) local ethical, conduct and disciplinary standards are applied to foreign lawyers in a manner that is no more burdensome for foreign lawyers than the requirements imposed on domestic (host country) lawyers;

   (d) alternatives for minimum residency requirements are provided for foreign lawyers, such as requirements that foreign lawyers disclose to clients their status as a foreign lawyer, or maintain professional indemnity insurance or alternatively disclose to clients that they lack that insurance;

   (e) the following modes of providing transnational legal services are accommodated:

      (i) on a temporary fly-in, fly-out basis;

      (ii) through the use of web-based or telecommunications technology;

      (iii) by establishing a commercial presence; and
(iv) through a combination of fly-in, fly-out and one or both of the other modes listed in subparagraphs (ii) and (iii);

(f) foreign lawyers and domestic (host country) lawyers may work together in the delivery of fully integrated transnational legal services; and

(g) a foreign law firm may use the firm name of its choice.

**Professional Services Working Group**

11. The Parties hereby establish a Professional Services Working Group (Working Group), composed of representatives of each Party, to facilitate the activities listed in paragraphs 1 through 4.

12. The Working Group shall liaise, as appropriate, to support the Parties’ relevant professional and regulatory bodies in pursuing the activities listed in paragraphs 1 through 4. This support may include providing points of contact, facilitating meetings and providing information regarding regulation of professional services in the Parties’ territories.

13. The Working Group shall meet annually, or as agreed by the Parties, to discuss progress towards the objectives in paragraphs 1 through 4. For a meeting to be held, at least two Parties must participate. It is not necessary for representatives of all Parties to participate in order to hold a meeting of the Working Group.

14. The Working Group shall report to the Commission on its progress and on the future direction of its work, within two years of the date of entry into force of this Agreement.

15. Decisions of the Working Group shall have effect only in relation to those Parties that participated in the meeting at which the decision was taken, except if:

(a) otherwise agreed by all Parties; or

(b) a Party that did not participate in the meeting requests to be covered by the decision and all Parties originally covered by the decision agree.
Express Delivery Services

1. For the purposes of this Annex, **express delivery services** means the collection, transport and delivery of documents, printed matter, parcels, goods or other items, on an expedited basis, while tracking and maintaining control of these items throughout the supply of the service. Express delivery services do not include air transport services, services supplied in the exercise of governmental authority, or maritime transport services.11

2. For the purposes of this Annex, **postal monopoly** means a measure maintained by a Party making a postal operator within the Party’s territory the exclusive supplier of specified collection, transport and delivery services.

3. 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.12

4. The Parties confirm their desire to maintain at least the level of market openness for express delivery services that each provides on the date of its signature of this Agreement. If a Party considers that another Party is not maintaining that level of market openness, it may request consultations. The other Party shall afford adequate opportunity for consultations and, to the extent possible, provide information in response to inquiries regarding the level of market openness and any related matter.

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11 For greater certainty, express delivery services does not include: (a) for Australia, services reserved for exclusive supply by Australia Post as set out in the Australian Postal Corporation Act 1989 and its subordinate legislation and regulations; (b) for Brunei Darussalam, reserved exclusive rights for collection and delivery of letters by the Postal Services Department as set out in the Post Office Act (Chapter 52 of the Laws of Brunei), the Guidelines to Application of License for the Provision of Local Express Letter Service (2000) and the Guidelines to Application of License for the Provision of International Express Letter Service (2000); (c) for Canada, services reserved for exclusive supply by Canada Post Corporation as set out in the Canada Post Corporation Act and its regulations; (d) for Japan, correspondence delivery services within the meaning of the Law Concerning Correspondence Delivery Provided by Private Operators (Law No. 99, 2002) other than special correspondence delivery services as set out in Article 2, paragraph 7 of the law; (e) for Malaysia, reserved exclusive rights for collection and delivery of letters by Pos Malaysia as provided for under the Postal Services Act 2012; (f) for Mexico, mail services reserved for exclusive supply by the Mexican Postal Service as set out in the Mexican Postal laws and regulations, as well as motor carrier freight transportation services, as set forth in Title III of the Roads, Bridges, and Federal Motor Carrier Transportation Law and its regulations; (g) for New Zealand, the fastpost service and equivalent priority domestic mail services; (h) for Singapore, postal services as set out in the Postal Services Act (Cap 237A) 2000 and certain express letter services which are administered under the Postal Services (Class License) Regulations 2005; (i) for the United States, delivery of letters over post routes subject to 18 U.S.C. 1693–1699 and 39 U.S.C. 601–606, but does include delivery of letters subject to the exceptions therein; and (j) for Viet Nam, reserved services as set out in Viet Nam Postal Law and relevant legal documents.

12 For greater certainty, the Parties understand that the scope of Chile’s postal monopoly is defined on the basis of objective criteria by Decree 5037 (1960) and the ability of suppliers to supply delivery services in Chile is not limited by this Decree.
5. No Party shall allow a supplier of services covered by a postal monopoly to cross-subsidise its own or any other competitive supplier’s express delivery services with revenues derived from monopoly postal services.\textsuperscript{13}

6. 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 9.4 (National Treatment), Article 10.3 (National Treatment) or Article 10.5 (Market Access) with respect to the supply of express delivery services.\textsuperscript{14}

7. No Party shall:

   (a) require an express delivery service supplier of another Party, as a condition of authorisation or licensing, to supply a basic universal postal service; or

   (b) assess fees or other charges exclusively on express delivery service suppliers for the purpose of funding the supply of another delivery service.\textsuperscript{15}

8. Each Party shall ensure that any authority responsible for regulating express delivery services is not accountable to any supplier of express delivery services, and that the decisions and procedures that the authority adopts are impartial, non-discriminatory and transparent with respect to all express delivery service suppliers in its territory.

\textsuperscript{13} In the case of Viet Nam, this obligation shall not apply until three years after the date of entry into force of this Agreement for it. During this period, if a Party considers that Viet Nam is allowing such cross-subsidisation, it may request consultations. Viet Nam shall afford adequate opportunity for consultations and, to the extent possible, shall provide information in response to inquiries regarding the cross-subsidisation.

\textsuperscript{14} For greater certainty, a supplier of services covered by a postal monopoly that exercises a right or privilege incidental to or associated with its monopoly position in a manner that is consistent with the Party’s commitments listed in this paragraph with respect to express delivery services is not acting in a manner inconsistent with this paragraph.

\textsuperscript{15} This paragraph shall not be construed to prevent a Party from imposing non-discriminatory fees on delivery service suppliers on the basis of objective and reasonable criteria, or from assessing fees or other charges on the express delivery services of its own supplier of services covered by a postal monopoly.
Annex 10-C

Non-Conforming Measures Ratchet Mechanism

Notwithstanding Article 10.7.1(c) (Non-Conforming Measures), for Viet Nam for three years after the date of entry into force of this Agreement for it:

(a) Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.5 (Market Access) and Article 10.6 (Local Presence) shall not apply to an amendment to any non-conforming measure referred to in Article 10.7.1(a) (Non-Conforming Measures) to the extent that the amendment does not decrease the conformity of the measure, as it existed at the date of entry into force of this Agreement for Viet Nam, with Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 10.5 (Market Access) or Article 10.6 (Local Presence);

(b) Viet Nam shall not withdraw a right or benefit from a service supplier of another Party, in reliance on which the service supplier has taken any concrete action,16 through an amendment to any non-conforming measure referred to in Article 10.7.1(a) (Non-Conforming Measures) that decreases the conformity of the measure as it existed immediately before the amendment; and

(c) Viet Nam shall provide to the other Parties the details of any amendment to any non-conforming measure referred to in Article 10.7.1(a) (Non-Conforming Measures) that would decrease the conformity of the measure, as it existed immediately before the amendment, at least 90 days before making the amendment.

16 Concrete action includes the channeling of resources or capital in order to establish or expand a business and applying for permits and licenses.
CHAPTER 11
FINANCIAL SERVICES

Article 11.1: Definitions

For the purposes of this Chapter:

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;

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 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 an investment in that territory;

financial institution means any financial intermediary or other enterprise that is authorised 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 service means any 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, travellers cheques and bankers drafts;

(i) guarantees and commitments;

(j) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

   (i) money market instruments (including cheques, bills, certificates of 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;
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

(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 9.1 (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 9 (Investment), if such loan or debt instrument meets the criteria for investments set out in Article 9.1 (Definitions);

investor of a Party means a Party, or a person of a Party, that attempts to make¹, 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;

¹ 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 channelling resources or capital in order to set up a business, or applying for permits or licenses.
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

self-regulatory organisation means any non-governmental body, including any securities or futures exchange or market, clearing agency, or other organisation 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 11.2: Scope

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:

   (a) financial institutions of another Party;

   (b) investors of another Party, and investments of those investors, in financial institutions in the Party’s territory; and

   (c) cross-border trade in financial services.

2. Chapter 9 (Investment) and Chapter 10 (Cross-Border Trade in Services) shall apply to measures described in paragraph 1 only to the extent that those Chapters or Articles of those Chapters are incorporated into this Chapter.

   (a) Article 9.6 (Minimum Standard of Treatment), Article 9.7 (Treatment in the Case of Armed Conflict or Civil Strife), Article 9.8 (Expropriation and Compensation), Article 9.9 (Transfers), Article 9.13 (Special Formalities and Information Requirements), Article 9.14 (Denial of Benefits), Article 9.15 (Investment and Environmental, Health and other Regulatory Objectives) and Article 10.10 (Denial of Benefits) are hereby incorporated into and made a part of this Chapter.

   (b) Section B of Chapter 9 (Investment) is hereby incorporated into and made a part of this Chapter\(^2\) solely for claims that a Party has breached Article 9.6 (Minimum Standard of Treatment)\(^3\), Article 9.7 (Treatment

\(^2\) For greater certainty, Section B of Chapter 9 (Investment) shall not apply to cross-border trade in financial services.

\(^3\) With respect to Brunei Darussalam, Chile, Mexico and Peru, Annex 11-E applies.
in the Case of Armed Conflict or Civil Strife), Article 9.8 (Expropriation and Compensation), Article 9.9 (Transfers), Article 9.13 (Special Formalities and Information Requirements) and Article 9.14 (Denial of Benefits) incorporated into this Chapter under subparagraph (a).4

(c) Article 10.12 (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 11.6 (Cross-Border Trade).

3. This Chapter shall not apply to measures adopted or maintained by a Party relating to:

(a) activities or services forming part of a public retirement plan or statutory system of social security; or

(b) activities or services 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 shall not apply to government procurement of financial services.

5. This Chapter shall not apply to subsidies or grants with respect to the cross-border supply of financial services, including government-supported loans, guarantees and insurance.

4 For greater certainty, if an investor of a Party submits a claim to arbitration under Section B of Chapter 9 (Investment): (1) as referenced in Article 9.23.7 (Conduct of the Arbitration), the investor has the burden of proving all elements of its claims, consistent with general principles of international law applicable to international investment arbitration; (2) pursuant to Article 9.23.4, 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 favour of the claimant may be made under Article 9.29 (Awards); and (3) pursuant to Article 9.23.6, the tribunal may, if warranted, award to the prevailing disputing party reasonable costs and attorney’s fees incurred in submitting or opposing the objection and, 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.
Article 11.3: National Treatment

1. Each Party shall accord to investors of another Party treatment no less favourable 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 financial institutions of another Party, and to investments of investors of another Party in financial institutions, treatment no less favourable 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. For greater certainty, the treatment to be accorded by a Party under paragraphs 1 and 2 means, with respect to a regional level of government, treatment no less favourable than the most favourable treatment accorded, in like circumstances, by that regional level of government to investors, financial institutions and investments of investors in financial institutions, of the Party of which it forms a part.

4. For the purposes of the national treatment obligations in Article 11.6.1 (Cross-Border Trade), a Party shall accord to cross-border financial service suppliers of another Party treatment no less favourable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

Article 11.4: Most-Favoured-Nation Treatment

1. Each Party shall accord to:

   (a) investors of another Party, treatment no less favourable than that it accords to investors of any other Party or of a non-Party, in like circumstances;

   (b) financial institutions of another Party, treatment no less favourable than that it accords to financial institutions of any other Party or of a non-Party, in like circumstances;

For greater certainty, whether treatment is accorded in “like circumstances” under Article 11.3 (National Treatment) or Article 11.4 (Most-Favoured-Nation Treatment) depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors, investments, financial institutions or financial service suppliers on the basis of legitimate public welfare objectives.
(c) investments of investors of another Party in financial institutions, treatment no less favourable 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) cross-border financial service suppliers of another Party, treatment no less favourable than that it accords to cross-border financial service suppliers of any other Party or of a non-Party, in like circumstances.

2. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute resolution procedures or mechanisms such as those included in Article 11.2.2(b) (Scope).

Article 11.5: Market Access for Financial Institutions

No Party shall adopt or maintain with respect to financial institutions of another Party or investors of another Party seeking to establish those institutions, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(a) impose limitations on:

(i) the number of financial institutions 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; or

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

6 Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of financial services.
(b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

Article 11.6: Cross-Border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of another Party to supply the financial services specified in Annex 11-A (Cross-Border Trade).

2. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of another Party located in the territory of a Party other than the permitting Party. This obligation does not require a Party to permit those suppliers to do business or solicit in its territory. A Party may define “doing business” and “solicitation” for the purposes of this obligation provided that those definitions are not inconsistent with paragraph 1.

3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration or authorisation of cross-border financial service suppliers of another Party and of financial instruments.

Article 11.7: New Financial Services

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. Notwithstanding Article 11.5(b) (Market Access for Financial Institutions), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. If a Party requires a financial institution to obtain authorisation to supply a new financial service, the Party shall decide within a reasonable period of time whether to issue the authorisation and may refuse the authorisation only for prudential reasons.

Article 11.8: Treatment of Certain Information

Nothing in this Chapter shall require a Party to furnish or allow access to:

7 The Parties understand that nothing in this Article prevents a financial institution of a Party from applying to another Party to request that it authorise 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.

8 For greater certainty, a Party may issue a new regulation or other subordinate measure in permitting the supply of the new financial service.
(a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or

(b) any confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

Article 11.9: Senior Management and Boards of Directors

1. No Party shall require financial institutions of another Party to engage natural persons of any particular nationality as senior managerial or other essential personnel.

2. No Party shall require that more than a minority 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 11.10: Non-Conforming Measures

1. Article 11.3 (National Treatment) through Article 11.6 (Cross-Border Trade) and Article 11.9 (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; 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: 9

      (i) immediately before the amendment, with Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment),

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9 With respect to Viet Nam, Annex 11-C applies.
Article 11.5 (Market Access for Financial Institutions) or Article 11.9 (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 11.6 (Cross-Border Trade).

2. Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment), Article 11.5 (Market Access for Financial Institutions), Article 11.6 (Cross-Border Trade) and Article 11.9 (Senior Management and Boards of Directors) shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, 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 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 9.11 (Senior Management and Boards of Directors), Article 10.3 (National Treatment) or Article 10.4 (Most-Favoured-Nation Treatment), shall be treated as a non-conforming measure not subject to Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment) or Article 11.9 (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 entry is covered by this Chapter.

4. (a) Article 11.3 (National Treatment) shall not apply to any measure that falls within an exception to, or derogation from, the obligations which are imposed by:

(i) Article 18.8 (National Treatment); or

(ii) Article 3 of the TRIPS Agreement, if the exception or derogation relates to matters not addressed by Chapter 18 (Intellectual Property).

(b) Article 11.4 (Most-Favoured-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 18.8 (National Treatment); or

(ii) Article 4 of the TRIPS Agreement.

Article 11.11: Exceptions

1. Notwithstanding any other provisions of this Chapter and Agreement except for Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Textiles and Apparel), Chapter 5 (Customs
Administration and Trade Facilitation), Chapter 6 (Trade Remedies), Chapter 7 (Sanitary and Phytosanitary Measures) and Chapter 8 (Technical Barriers to Trade), a Party shall not be prevented from adopting or maintaining measures for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. If these measures do 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 9 (Investment), Chapter 10 (Cross-Border Trade in Services), Chapter 13 (Telecommunications) including specifically Article 13.24 (Relation to Other Chapters), or Chapter 14 (Electronic Commerce), shall apply to non-discriminatory measures of general application taken by any 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 9.10 (Performance Requirements) with respect to measures covered by Chapter 9 (Investment), under Article 9.9 (Transfers) or Article 10.12 (Payments and Transfers).

3. Notwithstanding Article 9.9 (Transfers) and Article 10.12 (Payments and Transfers), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or 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 measures 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 enforcing measures 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 such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Parties or between Parties and non-Parties where

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10 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.

11 For greater certainty, if a measure challenged under Section B of Chapter 9 (Investment) is determined to have been adopted or maintained by a Party for prudential reasons in accordance with procedures in Article 11.22 (Investment Disputes in Financial Services), a tribunal shall find that the measure is not inconsistent with the Party’s obligations in the Agreement and accordingly shall not award any damages with respect to that measure.
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 11.12: Recognition**

1. A Party may recognise prudential measures of another Party or a non-Party in the application of measures covered by this Chapter.\(^{12}\) That recognition may be:

   (a) accorded autonomously;

   (b) achieved through harmonisation 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.

**Article 11.13: Transparency and Administration of Certain Measures**

1. The Parties recognise that transparent regulations and policies governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating their ability to gain access to and operate in each other’s markets. Each Party commits to promote regulatory transparency in financial services.

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. Paragraphs 2, 3 and 4 of Article 26.2 (Publication), shall not apply to regulations of general application relating to the subject matter of this Chapter. Each Party shall, to the extent practicable:

\(^{12}\) For greater certainty, nothing in Article 11.4 (Most-Favoured-Nation Treatment) shall be construed to require a Party to accord recognition to prudential measures of any other Party.
(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 with respect to the proposed regulation.13

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 ensure that the rules of general application adopted or maintained by a self-regulatory organisation of the Party are promptly published or otherwise made available in a manner that enables interested persons to become acquainted with them.

7. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this Chapter.

8. Each Party’s regulatory authorities shall make publicly available the requirements, including any documentation required, for completing an application relating to the supply of financial services.

9. On request of an applicant, a Party’s regulatory authority shall inform the applicant of the status of its application. If the authority requires additional information from the applicant, it shall notify the applicant without undue delay.

10. A Party’s regulatory authority shall make an administrative decision on a complete application of an investor in a financial institution, a financial institution or a cross-border financial service supplier of another Party relating to the supply of a financial service, within 120 days and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings have been held and all necessary information has been received. If it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable period of time thereafter.

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13 For greater certainty, a Party may address those comments collectively on an official government website.
11. On request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for denial of the application.

**Article 11.14: Self-Regulatory Organisations**

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 organisation in order to provide a financial service in or into its territory, it shall ensure that the self-regulatory organisation observes the obligations contained in Article 11.3 (National Treatment) and Article 11.4 (Most-Favoured-Nation Treatment).

**Article 11.15: 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 is not intended to confer access to the Party’s lender of last resort facilities.

**Article 11.16: Expedited Availability of Insurance Services**

The Parties recognise 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 authorisation 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 endeavour to maintain or improve those procedures.

**Article 11.17: Performance of Back-Office Functions**

1. The Parties recognise that the performance of the back-office functions of a financial institution in its territory by the head office or an affiliate of the financial institution, or by an unrelated service supplier, either inside or outside its territory, is important to the effective management and efficient operation of that financial institution. While a Party may require financial institutions to ensure compliance with any domestic requirements applicable to those functions, they recognise the importance of avoiding the imposition of arbitrary requirements on the performance of those functions.
2. For greater certainty, nothing in paragraph 1 prevents a Party from requiring a financial institution in its territory to retain certain functions.

Article 11.18: Specific Commitments

Annex 11-B (Specific Commitments) sets out certain specific commitments by each Party.

Article 11.19: 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 11-D (Authorities Responsible for Financial Services).

2. The Committee shall:

   (a) supervise the implementation of this Chapter and its further elaboration;

   (b) consider issues regarding financial services that are referred to it by a Party; and

   (c) participate in the dispute settlement procedures in accordance with Article 11.22 (Investment Disputes in Financial Services).

3. The Committee shall meet annually, or as it decides otherwise, 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.

Article 11.20: 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. With regard to matters relating to existing non-conforming measures maintained by a Party at a regional level of government as referred to in Article 11.10.1(a)(ii) (Non-Conforming Measures):

   (a) A Party may request information on any non-conforming measure at the regional level of government of another Party. Each Party shall establish a contact point to respond to those requests and to facilitate
the exchange of information regarding the operation of measures covered by those requests.

(b) If a Party considers that a non-conforming measure applied by a regional level of government of another Party creates a material impediment to trade or investment by a financial institution, an investor, investments in a financial institution or a cross-border financial service supplier, the Party 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.

3. Consultations under this Article shall include officials of the authorities specified in Annex 11-D (Authorities Responsible for Financial Services).

4. 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 11.21: Dispute Settlement

1. Chapter 28 (Dispute Settlement) shall apply as modified by this Article to the settlement of disputes arising under this Chapter.

2. If a Party claims that a dispute arises under this Chapter, Article 28.9 (Composition of Panels) shall apply, except that:

   (a) if the disputing Parties agree, each panellist shall meet the qualifications in paragraph 3; and

   (b) in any other case:

       (i) each disputing Party shall select panellists that meet the qualifications set out in either paragraph 3 or Article 28.10.1 (Qualifications of Panellists); and

       (ii) if the responding Party invokes Article 11.11 (Exceptions), the chair of the panel shall meet the qualifications set out in paragraph 3, unless the disputing Parties otherwise agree.

3. In addition to the requirements set out in Article 28.10.1(b) to (d) (Qualifications of Panellists), panellists in disputes arising under this Chapter shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.
4. A Party may request the establishment of a panel pursuant to Article 11.22.2(c) (Investment Disputes in Financial Services) to consider whether and to what extent Article 11.11 (Exceptions) is a valid defence to a claim without having to request consultations under Article 28.5 (Consultations). The panel shall endeavour to present its initial report pursuant to Article 28.17 (Initial Report) within 150 days after the last panellist is appointed.

5. 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 28.20.6 (Non-Implementation – Compensation and Suspension of Benefits), shall seek the views of financial services experts, as necessary.

**Article 11.22: Investment Disputes in Financial Services**

1. If an investor of a Party submits a claim to arbitration under Section B of Chapter 9 (Investment) challenging a measure relating to regulation or supervision of financial institutions, markets or instruments, the expertise or experience of any particular candidate with respect to financial services law or practice shall be taken into account in the appointment of arbitrators to the tribunal.

2. If an investor of a Party submits a claim to arbitration under Section B of Chapter 9 (Investment), and the respondent invokes Article 11.11 (Exceptions) as a defence, 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 Party of the claimant, as set out in Annex 11-D (Authorities Responsible for Financial Services), a request for a joint determination by the authorities of the respondent and the Party of the claimant on the issue of whether and to what extent Article 11.11 (Exceptions) is a valid defence to the claim. The respondent shall promptly provide the tribunal, if constituted, and the non-disputing Parties a copy of the request. The arbitration may proceed with respect to the claim only as provided in paragraph 4.14

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14 For the purposes of this Article, “joint determination” means a determination by the authorities responsible for financial services of the respondent and of the Party of the claimant, as set out in Annex 11-D (Authorities Responsible for Financial Services). If, within 14 days of the date of the receipt of a request for a joint determination, another Party provides a written notice to the respondent and the Party of the claimant indicating its substantial interest in the matter subject to the request, that other Party’s authorities responsible for financial services may participate in discussions regarding the
(b) The authorities of the respondent and the Party of the claimant shall attempt in good faith to make a determination as described in subparagraph (a). Any such determination shall be transmitted promptly to the disputing parties, the Committee and, if constituted, to the tribunal. The determination shall be binding on the tribunal and any decision or award issued by the tribunal must be consistent with that determination.

(c) If the authorities referred to in subparagraphs (a) and (b) have not made a determination within 120 days of the date of receipt of the respondent’s written request for a determination under subparagraph (a), the respondent or the Party of the claimant may request the establishment of a panel under Chapter 28 (Dispute Settlement) to consider whether and to what extent Article 11.11 (Exceptions) is a valid defence to the claim. The panel established under Article 28.7 (Establishment of a Panel) shall be constituted in accordance with Article 11.21 (Dispute Settlement). Further to Article 28.18 (Final Report), the panel shall transmit its final report to the disputing Parties and to the tribunal.

3. The final report of a panel referred to in paragraph 2(c) shall be binding on the tribunal, and any decision or award issued by the tribunal must be consistent with the final report.

4. If no request for the establishment of a panel pursuant to paragraph 2(c) has been made within 10 days of the expiration of the 120 day period referred to in paragraph 2(c), the tribunal established under Article 9.19 (Submission of a Claim to Arbitration) may proceed with respect to the claim.

(a) The tribunal shall draw no inference regarding the application of Article 11.11 (Exceptions) from the fact that the authorities have not made a determination as described in paragraphs 2(a), (b) and (c).

(b) The Party of the claimant may make oral and written submissions to the tribunal regarding the issue of whether and to what extent Article 11.11 (Exceptions) is a valid defence to the claim. Unless it makes such a submission, the Party of the claimant shall be presumed, for the purposes of the arbitration, to take a position on Article 11.11 that is not inconsistent with that of the respondent.

matter. The joint determination shall be made by the authorities responsible for financial services of the respondent and the Party of the claimant.
5. For the purposes of this Article, the definitions of the following terms set out in Article 9.1 (Definitions) are incorporated, *mutatis mutandis*: “claimant”, “disputing parties”, “disputing party”, “non-disputing Party” and “respondent”.
Annex 11-A

Cross-Border Trade

Australia

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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;

(b) reinsurance and retrocession;

(c) services auxiliary to insurance, such as consultancy, risk assessment, actuarial and claim settlement services; and

(d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 11.1 (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. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

(a) provision and transfer of financial information, and financial data processing and related software relating to banking and other financial services, as referred to in subparagraph (o) of the definition of “financial service” in Article 11.1 (Definitions); and
(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 11.1 (Definitions).
Brunei Darussalam

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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;

(b) reinsurance and retrocession; and

(c) services auxiliary to insurance, such as consultancy, risk assessment, actuarial and claim settlement services.

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) shall apply only with respect to:

(a) provision and transfer of financial information; and

(b) provision and transfer of financial data processing and related software relating to banking and other financial services, as referred to in subparagraph (o) of the definition of “financial service” in Article 11.1 (Definitions).
Canada\textsuperscript{15}

\textit{Insurance and insurance-related services}

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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 11.1 (Definitions); and

(d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 11.1 (Definitions), of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.

\textit{Banking and other financial services (excluding insurance)}

2. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Cross-Border Trade), with respect to:

(a) provision and transfer of financial information, and financial data processing, as referred to in subparagraph (o) of the definition of “financial service” in Article 11.1 (Definitions); and

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other

\textsuperscript{15} For greater certainty, Canada requires that a cross-border financial services supplier maintain a local agent and records in Canada.
financial services, as referred to in subparagraph (p) of the definition of “financial service” in Article 11.1 (Definitions).
Chile

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

(a) insurance of risks relating to:

(i) international maritime shipping and international 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 there from; and

(ii) goods in international transit;

(b) brokerage of insurance of risks relating to subparagraphs (a)(i) and (a)(ii); and

(c) reinsurance and retrocession; reinsurance brokerage; and consultancy, actuarial and risk assessment services.

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) shall apply with respect to:

(a) provision and transfer of financial information, as referred to in subparagraph (o) of the definition of “financial service” in Article 11.1 (Definitions);

(b) financial data processing, as referred to in subparagraph (o) of the definition of “financial service” in Article 11.1 (Definitions), subject to prior authorisation from the relevant regulator, as required; and

(c) advisory and other auxiliary financial services, 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 11.1 (Definitions).

16 The Parties understand that if the financial information or financial data processing referred to in subparagraphs (a) and (b) involve personal data, the treatment of such personal data shall be in accordance with Chilean law regulating the protection of such data.
3. It is understood that a Party’s commitments on cross-border investment advisory services shall not, in and of themselves, be construed to require the Party to permit the public offering of securities (as defined under its relevant law) in the territory of the Party by cross-border suppliers of the other Party who supply or seek to supply such investment advisory services. A Party may subject the cross-border suppliers of investment advisory services to regulatory and registration requirements.
Japan

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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;

   (b) reinsurance, retrocession, and services auxiliary to insurance as referred to in subparagraph (d) of the definition of “financial service” in Article 11.1 (Definitions); and

   (c) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 11.1 (Definitions), of insurance of risks related to services listed in subparagraphs (a) and (b) of this paragraph.17

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

   (a) securities-related transactions with financial institutions and other entities in Japan as prescribed by the relevant laws and regulations of Japan;

17 Insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan.
(b) sales of a beneficiary certificate of an investment trust and an investment security, through securities firms in Japan;\textsuperscript{18}

(c) 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 11.1 (Definitions); and

(d) 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 11.1 (Definitions).

\textsuperscript{18} Solicitation must be conducted by securities firms in Japan.
Malaysia

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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 comprising consultancy services, actuarial, risk assessment, risk management and maritime loss adjusting; and brokerage services for risks relating to subparagraph (a) of this paragraph.

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to the 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 11.1 (Definitions).

3. The commitment made by Malaysia under paragraph 2 does not extend to the supply of electronic payment services for payment card transactions.\footnote{For greater certainty, the electronic payment services for payment card transactions referred to in this commitment fall within subcategory 71593 of the United Nations Central Product Classification, Version 2.0, and include only the processing of financial transactions such as verification of financial balances, authorisation of transactions, notification of banks (or credit card issuers) of individual transactions and the provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorised transactions.}
Mexico

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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;

   (b) reinsurance and retrocession;

   (c) consultancy, actuarial services and risk assessment in connection with subparagraphs (a) and (b); and

   (d) brokerage of insurance of risks relating to subparagraphs (a) and (b).

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) shall apply only 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 11.1 (Definitions), subject to prior authorisation from the relevant regulator, as required; and

   (b) advisory and other auxiliary financial services, excluding intermediation, and credit reference and analysis, relating to banking

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20 The Parties understand that if the financial information or financial data processing referred to in subparagraphs (a) and (b) involve personal data, the treatment of such personal data shall be in accordance with Mexican law regulating the protection of such data.

21 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 11.1 (Definitions).
and other financial services as referred to in subparagraph (p) of the definition of “financial service” in Article 11.1 (Definitions).
New Zealand

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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;

   (b) reinsurance and retrocession, as referred to in subparagraph (b) of the definition of “financial service” in Article 11.1 (Definitions);

   (c) services auxiliary to insurance, as referred to in subparagraph (d) of the definition of “financial service” in Article 11.1 (Definitions); and

   (d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 11.1 (Definitions), of insurance risks relating to services listed in subparagraphs (a) and (b) of this paragraph.

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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 11.1 (Definitions); and

   (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 11.1 (Definitions).
Peru

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

(a) insurance of risks related 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 there from; and

(ii) goods in international transit;

(b) reinsurance and retrocession;

(c) consultancy, actuarial, risk assessment and claim settlement services; and

(d) insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 11.1 (Definitions), of insurance of risks relating to services listed in subparagraphs (a) and (b) in this paragraph.

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) shall apply only with respect to the 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 11.1 (Definitions), subject to prior authorisation from the relevant regulator, as required, and advisory and other auxiliary financial services.

Peru reserves the right to apply this Annex under conditions of reciprocity.

The Parties understand that, if the financial information or financial data processing referred to in paragraph 2 of this Annex involves personal data, the treatment of such personal data shall be in accordance with Peru’s law regulating the protection of such data and Section B of Annex 11-B (Specific Commitments).

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 11.1 (Definitions).
excluding intermediation, relating to banking and other financial services as referred to in subparagraph (p) of the definition of “financial service” in Article 11.1 (Definitions). 25

25 The Parties understand that a trading platform, whether electronic or physical, does not fall within the range of services specified in this paragraph.
Singapore

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

   (a) insurance of “MAT” 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 there from; and

   (ii) goods in international transit;

   (b) reinsurance and retrocession;

   (c) services auxiliary to insurance comprising actuarial, loss adjustors, average adjustors and consultancy services;

   (d) reinsurance intermediation by brokerages; and

   (e) MAT intermediation by brokerages.

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

   (a) provision and transfer of financial information, as described in subparagraph (o) of the definition of “financial service” in Article 11.1 (Definitions); and

   (b) financial data processing and related software, as described in subparagraph (o) of the definition of “financial service” in Article 11.1
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

(Definitions), subject to prior authorisation from the relevant regulator, as required.26

26 For greater certainty, if the financial information or financial data processing referred to in subparagraphs (a) and (b) pertain to outsourcing arrangements or involves personal data, the outsourcing arrangements and treatment of personal data shall be in accordance with the Monetary Authority of Singapore’s regulatory requirements and guidelines on outsourcing and Singapore’s law regulating the protection of such data, respectively. These regulatory requirements and guidelines shall not derogate from the commitments undertaken by Singapore in paragraph 2 and Section B of Annex 11-B (Specific Commitments).
United States

Insurance and insurance-related services

1. Article 11.6.1 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 11.1 (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 11.1 (Definitions); and insurance intermediation, such as brokerage and agency, as referred to in subparagraph (c) of the definition of “financial service” in Article 11.1 (Definitions).

2. Article 11.6.1 (Cross-Border Trade) shall apply to the cross-border supply of or trade in financial services, as defined in subparagraph (c) of the definition of “cross-border supply of financial services” in Article 11.1 (Definitions), with respect to insurance services.

Banking and other financial services (excluding insurance)

3. Article 11.6.1 shall apply only 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 11.1 (Definitions); and

   (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 11.1 (Definitions).
Viet Nam

Insurance and insurance-related services

1. Article 11.6.1 (Cross-Border Trade) 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 11.1 (Definitions), with respect to:

   (a) insurance of risks relating to:

      (i) international maritime shipping and international commercial aviation 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;

   (b) reinsurance and retrocession; and

   (c) brokerage services, and services auxiliary to insurance, as referred to in subparagraph (d) of the definition of “financial service” in Article 11.1 (Definitions).

Banking and other financial services (excluding insurance)

2. Article 11.6.1 (Cross-Border Trade) 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 11.1 (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 11.1 (Definitions), subject to prior authorisation from the relevant regulator, as required; and

   (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 11.1

27 The Parties understand that if the financial information or financial data processing referred to in subparagraph (a) involve personal data, the treatment of such personal data shall be in accordance with Vietnamese laws regulating the protection of such data.
(Definitions), to the extent that such services are permitted in the future by Viet Nam.
Annex 11-B

Specific Commitments

SECTION A: PORTFOLIO MANAGEMENT

1. A Party shall allow a financial institution organised in the territory of another Party to provide the following services to a collective investment scheme located in its territory:\n
   (a) investment advice; and
   (b) portfolio management services, excluding:
      (i) trustee services; and
      (ii) custodial services and execution services that are not related to managing a collective investment scheme.

2. Paragraph 1 is subject to Article 11.6.3 (Cross-Border Trade).

3. For the purposes of paragraph 1, collective investment scheme means:

   (a) For Australia, a “managed investment scheme” as defined under section 9 of the Corporations Act 2001 (Cth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the Corporations Act 2001 (Cth), or an entity that:
       (i) carries on a business of investment in securities, interests in land, or other investments; and
       (ii) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within the meaning of section 82 of the Corporations Act 2001 (Cth)) made on terms that the funds subscribed would be invested.

   (b) For Brunei Darussalam:

28 For greater certainty, a Party may require a collective investment scheme or a person of a Party involved in the operation of the scheme located in the Party’s territory to retain ultimate responsibility for the management of the collective investment scheme.
(i) A “collective investment scheme”, defined under Section 203, of the Securities Market Order, 2013 as any investment arrangements with respect to assets of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income.

(ii) The arrangements must be such that:

(A) the persons who are to participate (participants) do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions;

(B) the arrangements must also have either or both of the following characteristics:

(1) the contributions of the participants and the profits or income out of which payments are to be made to them are pooled; and

(2) the property is managed as a whole, by or on behalf of the operator of the collective investment scheme; and

(C) the arrangements must satisfy the condition set out in subparagraph (iii).

(iii) The condition referred to in subparagraph (ii)(B) is that the property belongs beneficially to, and is managed by or on behalf of, a company, the trustee of a trust or some other entity or arrangement having as its purpose the investment of its funds with the aim of spreading the investment risk and giving its members the benefit of the results of the management of those funds for or on behalf of that company, trust, entity or arrangement.

(c) For Canada, an “investment fund” as defined under the relevant Securities Act.29

29 In Canada, a financial institution organised 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 CAD $100 million.
(d) For Chile, a “General Management Fund” (Administradora General de Fondos) as defined in Law 20.712 which is subject to supervision by the Superintendency of Securities and Insurance (Superintendencia de Valores y Seguros), excluding the provision of custodial services that are related to managing a collective investment scheme.

(e) For Japan, a “financial instruments business operator” engaged in investment management business under the Financial Instruments and Exchange Law (Law No. 25 of 1948).

(f) For Malaysia, any arrangement where:

(i) the investment is made for the purpose, or having the effect, of providing facilities for persons to participate in or receive profits or income arising from the acquisition, holding, management or disposal of securities, futures contracts or any other property (referred to as “scheme’s assets”) or sums paid out of such profits or income;

(ii) the persons who participate in the arrangements do not have day-to-day control over the management of the scheme’s assets; and

(iii) the scheme’s assets are managed by an entity that is responsible for the management of the scheme’s assets and is approved, authorised or licensed by a relevant regulator to conduct fund management activities,

and includes, among others, unit trust funds, real estate investment trusts, exchange-traded funds, restricted investment schemes and closed-end funds.

(g) For Mexico, the “Managing Companies of Investment Funds” established under the Investment Funds Law (Ley de Fondos de Inversión). A financial institution organised in the territory of another Party will only be authorised 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.

(h) For New Zealand, a “registered scheme” as defined under the Financial Markets Conduct Act 2013.30

30 Custodial services are included in the scope of the specific commitment made by New Zealand under this Annex only with respect to investments for which the primary market is outside the territory of the Party.
(i) For Peru:

(i) mutual funds for investments and securities, pursuant to Single Ordered Text approved by Supreme Decree N° 093-2002-EF (*Texto Único Ordenado de la Ley de Mercado de Valores aprobado mediante Decreto Supremo N° 093-2002-EF*); or

(ii) investment funds, pursuant to Legislative Decree N° 862 (*Decreto Legislativo N° 862, Ley de Fondos de Inversión y sus Sociedades Administradoras*).

(j) For Singapore, a “collective investment scheme” as defined under the *Securities and Futures Act* (Cap. 289), and includes the manager of the scheme, provided that the financial institution in paragraph 1 is authorised or regulated as a fund manager in the territory of the Party it is organised in and is not a trust company.

(k) For the United States, an investment company registered with the Securities and Exchange Commission under the *Investment Company Act of 1940*.31

(l) For Viet Nam, a fund management company established and operated under the *Securities Law of Viet Nam*, and subject to regulation and supervision by the State Securities Commission of Viet Nam, in case the services in paragraph 1 are provided to manage an investment fund which invests in the assets located outside Viet Nam.

**SECTION B: TRANSFER OF INFORMATION**

Each Party shall allow a financial institution of another Party to transfer information in electronic or other form, into and out of its territory, for data processing if such processing is required in the institution’s ordinary course of business. Nothing in this Section restricts the right of a Party to adopt or maintain measures to:

(a) protect personal data, personal privacy and the confidentiality of individual records and accounts; or

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31 Custodial services are included in the scope of the specific 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.
(b) require a financial institution to obtain prior authorisation from the relevant regulator to designate a particular enterprise as a recipient of such information, based on prudential considerations.\(^{32}\) provided that this right is not used as a means of avoiding the Party’s commitments or obligations under this Section.

SECTION C: SUPPLY OF INSURANCE BY POSTAL INSURANCE ENTITIES

1. This Section sets out additional disciplines that apply if a Party allows its postal insurance entity to underwrite and supply direct insurance services to the general public. The services covered by this paragraph do not include the supply of insurance related to the collection, transport and delivery of letters or packages by a Party’s postal insurance entity.

2. No Party shall adopt or maintain a measure that creates conditions of competition that are more favourable to a postal insurance entity with respect to the supply of insurance services described in paragraph 1 as compared to a private supplier of like insurance services in its market, including by:

   (a) imposing more onerous conditions on a private supplier’s licence to supply insurance services than the conditions the Party imposes on a postal insurance entity to supply like services; or

   (b) making a distribution channel for the sale of insurance services available to a postal insurance entity under terms and conditions more favourable than those it applies to private suppliers of like services.

3. With respect to the supply of insurance services described in paragraph 1 by a postal insurance entity, a Party shall apply the same regulations and enforcement activities that it applies to the supply of like insurance services by private suppliers.

4. In implementing its obligations under paragraph 3, a Party shall require a postal insurance entity that supplies insurance services described in paragraph 1 to publish an annual financial statement with respect to the supply of those services. The statement shall provide the level of detail and meet the auditing standards required under the generally accepted accounting and auditing principles, or equivalent rules, applied in the Party’s territory with respect to publicly traded private enterprises that supply like services.

5. If a panel under Chapter 28 (Dispute Settlement) finds that a Party is maintaining a measure that is inconsistent with any of the commitments in paragraphs

\(^{32}\) For greater certainty, this requirement is without prejudice to other means of prudential regulation.
2, 3 and 4, the Party shall notify the complaining Party and provide an opportunity for consultations prior to allowing the postal insurance entity to:

(a) issue a new insurance product, or modify an existing product in a manner equivalent to the creation of a new product, in competition with like insurance products supplied by a private supplier in the Party’s market; or

(b) increase any limitation on the value of insurance, either in total or with regard to any type of insurance product, that the entity may sell to a single policyholder.

6. This Section shall not apply to a postal insurance entity in the territory of a Party:

(a) that the Party neither owns nor controls, directly or indirectly, as long as the Party does not maintain any advantages that modify the conditions of competition in favour of the postal insurance entity in the supply of insurance services as compared to a private supplier of like insurance services in its market; or

(b) if sales of direct life and non-life insurance underwritten by the postal insurance entity each account for no more than 10 per cent, respectively, of total annual premium income from direct life and non-life insurance in the Party’s market as of January 1, 2013.

7. If a postal insurance entity in the territory of a Party exceeds the percentage threshold referred to in paragraph 6(b) after the date of signature of this Agreement by the Party, the Party shall ensure that the postal insurance entity is:

(a) regulated and subject to enforcement by the same authorities that regulate and conduct enforcement activities with respect to the supply of insurance services by private suppliers; and

(b) subject to the financial reporting requirements that apply to financial institutions supplying insurance services.

8. For the purposes of this Section, postal insurance entity means an entity that underwrites and sells insurance to the general public and that is owned or controlled, directly or indirectly, by a postal entity of the Party.

SECTION D: ELECTRONIC PAYMENT CARD SERVICES
1. A Party shall allow the supply of electronic payment services for payment card transactions into its territory from the territory of another Party by a person of that other Party. A Party may condition the cross-border supply of such electronic payment services on one or more of these requirements that a services supplier of another Party:

   (a) register with or be authorised by relevant authorities;

   (b) be a supplier who supplies such services in the territory of the other Party; or

   (c) designate an agent office or maintain a representative or sales office in the Party’s territory,

provided that such requirements are not used as a means to avoid a Party’s obligation under this Section.

2. For the purposes of this Section, electronic payment services for payment card transactions does not include the transfer of funds to and from transactors’ accounts. Furthermore, electronic payment services for payment card transactions include only those payment network services that use proprietary networks to process payment transactions. These services are provided on a business to business basis.

3. Nothing in this Section shall be construed to prevent a Party from adopting or maintaining measures for public policy purposes, provided that these measures are not used as a means to avoid the Party’s obligation under this Section. For greater certainty, such measures may include:

   (a) measures to protect personal data, personal privacy and the confidentiality of individual records, transactions and accounts, such as restricting the collection by, or transfer to, the cross-border services supplier of another Party, of information concerning cardholder names;

   (b) the regulation of fees, such as interchange or switching fees; and

33 For greater certainty, the electronic payment services for payment card transactions referred to in this commitment fall within subparagraph (h) of the definition of “financial service” in Article 11.1 (Definitions), and within subcategory 71593 of the United Nations Central Product Classification, Version 2.0, and include only the processing of financial transactions such as verification of financial balances, authorisation of transactions, notification of banks (or credit card issuers) of individual transactions and the provision of daily summaries and instructions regarding the net financial position of relevant institutions for authorised transactions.

34 Such registration, authorisation and continued operation, for new and existing suppliers can be conditioned, for example: (i) on supervisory cooperation with the home country supervisor; and (ii) the supplier in a timely manner providing a Party’s relevant financial regulators with the ability to examine, including onsite, the systems, hardware, software and records specifically related to that supplier’s cross-border supply of electronic payment services into the Party.
the imposition of fees as may be determined by a Party’s authority, such as those to cover the costs associated with supervision or regulation or to facilitate the development of the Party’s payment system infrastructure.

4. For the purposes of this Section, payment card means:

(a) For Australia, a credit card, charge card, debit card, cheque card, automated teller machine (ATM) card, prepaid card, and other physical or electronic products or services for performing a similar function as such cards, and the unique account number associated with that card, product or service.

(b) For Brunei Darussalam, in accordance with its laws and regulations, a payment instrument, whether in physical or electronic format, that enables a person to obtain money, goods or services, or to otherwise make payment, including credit card, charge card, debit card, cheque, automated teller machine (ATM) card, prepaid card or other instruments widely used for performing a similar function.

(c) For Canada, a “payment card” as defined under the Payment Card Networks Act as of January 1, 2015. For greater certainty, both the physical and electronic forms of credit and debit cards are included in the definition. For greater certainty, credit cards include pre-paid cards.

(d) For Chile, a credit card, a debit card and a prepaid card in physical form or electronic format, as defined under Chilean law.

(i) In respect of such payment cards, in lieu of the scope of the cross-border electronic payment services referred to in this commitment, only the following cross-border financial services may be supplied:

(A) receiving and sending messages among acquirers and issuers or their agents and representatives through electronic or informatic channels for: authorisation requests, authorisation responses (approvals or declines), stand-in authorisations, adjustments, refunds, returns, retrievals, charge backs and related administrative messages;

(B) calculation of fees and balances derived from transactions of acquirers and issuers by means of automated or computerised systems, and receiving and sending messages related to this process to acquirers and issuers, and their agents and representatives, provided that those calculations are subject to approval,
recognition or confirmation by the acquiring and issuing parties involved;

(C) 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; and

(D) value-added services related to the main processing activities in subparagraphs (d)(i)(A), (d)(i)(B) and (d)(i)(C), such as fraud prevention and mitigation activities, and administration of loyalty programmes.

Such cross-border financial services may only be supplied by a service supplier of another Party into the territory of Chile pursuant to this commitment, provided that such services are supplied to entities that are regulated by Chile in connection with their participation in card payment networks and that are contractually responsible for such services.

(ii) Nothing in this commitment restricts the right of Chile to adopt or maintain measures, in addition to all other measures set forth in Section D, that condition the cross-border supply of such electronic payment services into Chile by a service supplier of another Party on a contractual relationship between that supplier and an affiliate of the supplier established, authorised and regulated as a payments network participant under Chilean law in the territory of Chile, provided that such right is not used as a means of avoiding Chile’s commitments or obligations under Section D.

(e) For Japan:

(i) a credit card and a prepaid card in physical or electronic form as defined under the laws and regulations of Japan; and

(ii) a debit card in physical or electronic form, provided that such a card is allowed within the framework of the laws and regulations of Japan.

(f) For Malaysia, a credit card, a debit card and a prepaid card as defined under Malaysian law.

(g) For Mexico, a credit card and a debit card in physical form or electronic format, as defined under Mexican law.
(i) In respect of such payment cards, in lieu of the scope of the cross-border electronic payment services set forth in paragraph 1, only the following cross-border services may be supplied:

(A) receiving and sending messages for: authorisation requests, authorisation responses (approvals or declines), stand-in authorisations, adjustments, refunds, returns, retrievals, charge backs and related administrative messages;

(B) 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;

(C) 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; and

(D) value-added services related to the main processing activities in subparagraphs (g)(i)(A), (g)(i)(B) and (g)(i)(C), such as fraud prevention and mitigation activities, and administration of loyalty programmes.

(ii) Such cross-border services may only be supplied by a service provider of another Party into the territory of Mexico pursuant to this commitment, provided that the services are supplied to entities that are regulated by Mexico in connection with their participation in card payment networks and that are responsible for such services.

(iii) Nothing in this commitment restricts the right of Mexico to adopt or maintain measures, in addition to all other measures set forth in Section D, that condition the cross-border supply of such electronic payment services into Mexico by a service supplier of another Party on a contractual relationship between that supplier and an affiliate of the supplier established and authorised as a payments network participant under Mexican law in the territory of Mexico, provided that such right is not used as a means of avoiding Mexico’s commitments or obligations under Section D.

(h) For New Zealand, a credit or debit card in physical or electronic form.

(i) For Peru:
(i) credit and debit cards as defined under Peruvian laws and regulations; and

(ii) prepaid cards, as defined under Peruvian laws and regulations, that are issued by financial institutions.

(j) For Singapore:

(i) a credit card as defined in the Banking Act (Cap. 19), a charge card as defined in the Banking Act and a stored value facility as defined in the Payment Systems (Oversight) Act (Cap. 222A); and

(ii) a debit card and an automated teller machine (ATM) card.

For greater certainty, both the physical and electronic forms of the cards or facility as listed in subparagraphs (j)(i) and (j)(ii) above would be included as a payment card.

(k) For the United States, a credit card, charge card, debit card, cheque card, automated teller machine (ATM) card, prepaid card, and other physical or electronic products or services for performing a similar function as such cards, and the unique account number associated with that card, product or service.

(l) For Viet Nam, a credit card, debit card or prepaid card, in physical form or electronic format, as defined under the laws and regulations of Viet Nam for cards issued inside or outside the territory of Viet Nam using an international Issuer Identification Number or Bank Identification Number (international IIN or BIN).³⁵

(i) Viet Nam shall allow the issuance of such cards using international IIN or BIN subject to conditions that are no more restrictive than the conditions applied to the issuance of such cards not using international IIN or BIN.

(ii) For greater certainty, nothing in this commitment restricts the right of Viet Nam to adopt or maintain measures, in addition to the measures set out in Section D, that condition the cross-border supply of such electronic payment services into Viet Nam by a service supplier of another Party on the provision of

³⁵ For the purposes of this subparagraph, “international Issuer Identification Number or Bank Identification Number” and “international IIN or BIN” mean a number that is assigned to a service supplier of another Party pursuant to the relevant standards adopted by the International Standards Organization.
information and data to the Government of Viet Nam, for public policy purposes, regarding transactions that the supplier processes, provided that such measures are not used as a means of avoiding Viet Nam’s obligation under Section D.

SECTION E: TRANSPARENCY CONSIDERATIONS

In developing a new regulation of general application to which this Chapter applies, a Party may consider, in a manner consistent with its laws and regulations, comments regarding how the proposed regulation may affect the operations of financial institutions, including financial institutions of the Party or other Parties. These comments may include:

(a) submissions to a Party by another Party regarding its regulatory measures that are related to the objectives of the proposed regulation; or

(b) submissions to a Party by interested persons, including other Parties or financial institutions of other Parties, with regard to the potential effects of the proposed regulation.
Annex 11-C

Non-Conforming Measures Ratchet Mechanism

1. Notwithstanding Article 11.10.1(c) (Non-Conforming Measures), for Viet Nam for three years after the date of entry into force of this Agreement for it:

   (a) Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment), Article 11.5 (Market Access for Financial Institutions) and Article 11.9 (Senior Management and Boards of Directors) shall not apply to an amendment to any non-conforming measure referred to in Article 11.10.1(a) (Non-Conforming Measures) to the extent that the amendment does not decrease the conformity of the measure, as it existed at the time of entry into force of this Agreement for Viet Nam, with Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment), Article 11.5 (Market Access for Financial Institutions) and Article 11.9 (Senior Management and Boards of Directors);

   (b) Viet Nam shall not withdraw a right or benefit from:

      (i) a financial institution of another Party;

      (ii) investors of another Party, and investments of such investors, in financial institutions in Viet Nam’s territory; or

      (iii) cross-border financial service suppliers of another Party,

   in reliance on which the investor or covered investment has taken any concrete action,36 through an amendment to any non-conforming measure referred to in Article 11.10.1(a) (Non-Conforming Measures) that decreases the conformity of the measure as it existed immediately before the amendment; and

   (c) Viet Nam shall provide to the other Parties the details of any amendment to any non-conforming measure referred to in Article 11.10.1(a) (Non-Conforming Measures) that would decrease the conformity of the measure, as it existed immediately before the amendment, at least 90 days before making the amendment.

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36 Concrete action includes the channelling of resources or capital in order to establish or expand a business and applying for permits and licences.
Annex 11-D

Authorities Responsible for Financial Services

The authorities for each Party responsible for financial services are:

(a) for Australia, the Treasury and the Department of Foreign Affairs and Trade;

(b) for Brunei Darussalam, the Monetary Authority of Brunei Darussalam (Autoriti Monetari Brunei Darussalam);

(c) for Canada, the Department of Finance of Canada;

(d) for Chile, the Ministry of Finance (Ministerio de Hacienda);

(e) for Japan, the Ministry of Foreign Affairs and the Financial Services Agency, or their successors;

(f) for Malaysia, Bank Negara Malaysia and the Securities Commission Malaysia;

(g) for Mexico, the Ministry of Finance and Public Credit (Secretaría de Hacienda y Crédito Público);

(h) for New Zealand, the Ministry of Foreign Affairs and Trade, in coordination with financial services regulators;

(i) for Peru, the Ministry of Economy and Finance (Ministerio de Economía y Finanzas), in coordination with financial regulators;

(j) for Singapore, the Monetary Authority of Singapore;

(k) for United States, the Department of the Treasury for purposes of Article 11.22 (Investment Disputes in Financial Services) and for all matters involving banking, securities, and financial services other than insurance, the Department of the Treasury, in cooperation with the Office of the U.S. Trade Representative, for insurance matters; and

(l) for Viet Nam, the State Bank of Viet Nam and the Ministry of Finance.
Annex 11-E

1. Brunei Darussalam, Chile, Mexico and Peru do not consent to the submission of a claim to arbitration under Section B of Chapter 9 (Investment) for a breach of Article 9.6 (Minimum Standard of Treatment), as incorporated into this Chapter, in relation to any act or fact that took place or any situation that ceased to exist before:

   (a) the fifth anniversary of the date of entry into force of this Agreement for Brunei Darussalam, Chile and Peru, respectively; and

   (b) the seventh anniversary of the date of entry into force of this Agreement for Mexico.

2. If an investor of a Party submits a claim to arbitration under Section B of Chapter 9 (Investment) that Brunei Darussalam, Chile, Mexico or Peru has breached Article 9.6 (Minimum Standard of Treatment), as incorporated into this Chapter, it may not recover for loss or damage that it incurred before:

   (a) the fifth anniversary of the date of entry into force of this Agreement for Brunei Darussalam, Chile and Peru, respectively; and

   (b) the seventh anniversary of the date of entry into force of this Agreement for Mexico.
CHAPTER 12

TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 12.1: Definitions

For the purposes of this Chapter:

business person means:

(a) a natural person who has the nationality of a Party according to Annex 1-A (Party-Specific Definitions), or

(b) a permanent resident of a Party that, prior to the date of entry into force of this Agreement, has made a notification consistent with Article XXVIII(k)(ii)(2) of GATS that that Party accords substantially the same treatment to its permanent residents as it does to its nationals,\(^1\)

who is engaged in trade in goods, the supply of services or the conduct of investment activities;

immigration formality means a visa, permit, pass or other document or electronic authority granting temporary entry;

immigration measure means any measure affecting the entry and stay of foreign nationals; and

temporary entry means entry into the territory of a Party by a business person of another Party who does not intend to establish permanent residence.

Article 12.2: Scope

1. This Chapter shall apply to measures that affect the temporary entry of business persons of a Party into the territory of another Party.

2. This Chapter shall 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.

\(^1\) For the purposes of subparagraph (b), “nationals” has the meaning it bears in Article XXVIII(k)(ii)(2) of GATS.
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.

4. The sole fact that a Party requires business persons of another Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to any Party under this Chapter.

Article 12.3: Application Procedures

1. As expeditiously as possible after receipt of a completed application for an immigration formality, each Party shall make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.

2. At the request of an applicant, a Party that has received a completed application for an immigration formality shall endeavour to promptly provide information concerning the status of the application.

3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable, in that they do not unduly impair or delay trade in goods or services or conduct of investment activities under this Agreement.

Article 12.4: Grant of Temporary Entry

1. Each Party shall set out in Annex 12-A the commitments it makes with regard to temporary entry of business persons, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of business persons specified by that Party.

2. A Party shall grant temporary entry or extension of temporary stay to business persons of another Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those business persons:

   (a) follow the granting Party’s prescribed application procedures for the relevant immigration formality; and

   (b) meet all relevant eligibility requirements for temporary entry or extension of temporary stay.
3. 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 practise a profession or otherwise engage in business activities.

4. A Party may refuse to issue an immigration formality to a business person of another Party if the temporary entry of that person might affect adversely:

   (a) the settlement of any labour dispute that is in progress at the place or intended place of employment; or

   (b) the employment of any natural person who is involved in such dispute.

5. When a Party refuses pursuant to paragraph 4 to issue an immigration formality, it shall inform the applicant accordingly.

Article 12.5: Business Travel

The Parties affirm their commitments to each other in the context of APEC to enhance the mobility of business persons, including through exploration and voluntary development of trusted traveller programmes, and their support for efforts to enhance the APEC Business Travel Card programme.

Article 12.6: Provision of Information

Further to Article 26.2 (Publication) and Article 26.5 (Provision of Information), each Party shall:

(a) promptly publish online if possible or otherwise make publicly available, information on:

   (i) current requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable interested persons of the other Parties to become acquainted with those requirements; and

   (ii) the typical timeframe within which an application for an immigration formality is processed; and

(b) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter.
Article 12.7: Committee on Temporary Entry for Business Persons

1. The Parties hereby establish a Committee on Temporary Entry for Business Persons (Committee), composed of government representatives of each Party.

2. The Committee shall meet once every three years, unless otherwise agreed by the Parties, to:
   
   (a) review the implementation and operation of this Chapter;
   
   (b) consider opportunities for the Parties to further facilitate temporary entry of business persons, including through the development of activities undertaken pursuant to Article 12.8 (Cooperation); and
   
   (c) consider any other matter arising under this Chapter.

3. A Party may request discussions with one or more other Parties with a view to advancing the objectives set out in paragraph 2. Those discussions may take place at a time and location agreed by the Parties involved in those discussions.

Article 12.8: Cooperation

Recognising that the Parties can benefit from sharing their diverse experience in developing and applying procedures related to visa processing and border security, the Parties shall consider undertaking mutually agreed cooperation activities, subject to available resources, including by:

(a) providing advice on the development and implementation of electronic processing systems for visas;

(b) sharing experiences with regulations, and the implementation of programmes and technology related to:

   (i) border security, including those related to the use of biometric technology, advanced passenger information systems, frequent passenger programmes and security in travel documents; and

   (ii) the expediting of certain categories of applicants in order to reduce facility and workload constraints; and
(c) cooperating in multilateral fora to promote processing enhancements, such as those listed in subparagraphs (a) and (b).

Article 12.9: Relation to Other Chapters

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 27 (Administrative and Institutional Provisions), Chapter 28 (Dispute Settlement), Chapter 30 (Final Provisions), Article 26.2 (Publication) and Article 26.5 (Provision of Information), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 12.10: Dispute Settlement

1. No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) regarding a refusal to grant temporary entry unless:

   (a) the matter involves a pattern of practice; and

   (b) the business persons affected have exhausted all 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 other Party within a reasonable period of time after the date of the institution of proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the business persons concerned.
AUSTRALIA’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

1. The following sets out Australia’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of the temporary entry of business persons.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Business Visitors</strong></td>
<td></td>
</tr>
<tr>
<td>Australia extends its commitments under this category to each Party that has made commitments under any of the following headings:</td>
<td></td>
</tr>
<tr>
<td>• “Business Visitors”</td>
<td></td>
</tr>
<tr>
<td>• “Short term Business Visitors”</td>
<td></td>
</tr>
<tr>
<td>• “Service Sales Persons”.</td>
<td></td>
</tr>
</tbody>
</table>

**Definition:**
Business visitors comprise:
(a) Business persons seeking to travel to Australia for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia and who must not engage in making direct sales to the general public or in supplying goods or services themselves; and

(b) Service sellers, being business persons who are not based in Australia and whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who are sales representatives of a service supplier, seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier.

(a) Entry is for periods of stay up to a maximum of three months.

(b) Entry is for an initial stay of six months and up to a maximum of 12 months.
<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
</table>
| **B. Installers and servicers** | Australia extends its commitments under this category to each Party that has either made commitments: (a) under any of the following headings:  
- “Installers/servicers”  
- “Installers and servicers”, or;  
(b) elsewhere in its schedule of specific commitments on the temporary entry of business persons to install and service machinery or equipment as a condition of purchase under contract of the said machinery or equipment. |
| **Definition:**  
A business person who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying enterprise is a condition of purchase under contract of the said machinery or equipment, and who must not perform services which are not related to the service activity which is the subject of the contract. | Entry is for periods of stay up to a maximum of three months. |
C. Contractual Service Suppliers
(Including independent professionals and specialists)

Australia extends its commitments under this category to each Party that has made commitments under any of the following headings:

- “Contractual Service Suppliers”
- “Independent Professionals”
- “Professionals”
- “Professionals and technicians”
- “Professionals and technician-professionals”.

In accordance with, and subject to, Australia’s laws and regulations, Australia shall, upon application, grant the right of entry and temporary stay, movement and work to the accompanying spouse and/or dependants of a business person that is granted temporary entry or an extension of temporary stay under these commitments.

### Definition:

Business persons with trade, technical or professional skills and experience who are assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in Australia for their nominated occupation, and who are:

(a) employees of an enterprise of a Party that has concluded a contract for the supply of a service within Australia and that does not have a commercial presence within Australia; or

(b) engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia.

### Entry and temporary stay of business persons

Entry and temporary stay of business persons is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters (as at entry into force, the address of that website was [www.border.gov.au](http://www.border.gov.au)). Sponsorship requirements, including eligible occupations, may change from time to time.

Entry of business persons is for periods of stay up to 12 months, with the possibility of further stay.

Entry and temporary stay of spouses and dependants is for the same period as the business persons concerned.
D. Independent Executives

Australia extends its commitments under this category to each Party that has made commitments for the entry and temporary stay of a business person for at least up to a maximum of twelve months under any of the following headings:

- “Independent Executives”
- “Other Personnel”
- “Persons Responsible for Setting Up a Commercial Presence”
- “Investors”.

In accordance with, and subject to, Australia’s laws and regulations, Australia shall, upon application, grant the right of entry and temporary stay, movement and work to the accompanying spouse and/or dependants of a business person that is granted temporary entry or an extension of temporary stay under these commitments.

**Definition:**

Business persons whose work responsibilities match the description set out below and who intend, or are responsible for, the establishment in Australia of a new branch or subsidiary of an enterprise which has its head of operations in the territory of another Party and which has no other representative, branch or subsidiary in Australia. Independent executives will be responsible for the entire or a substantial part of the enterprise’s operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise.

**Entry and temporary stay of business persons is subject to employer sponsorship.** Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters (as at entry into force, the address of that website was [www.border.gov.au](http://www.border.gov.au)). Sponsorship requirements, including eligible occupations, may change from time to time.

Entry of business persons is for periods of stay up to a maximum of two years.

Entry and temporary stay of spouses and dependants is for the same period as the business persons concerned.
E. Intra-Corporate Transferees

Australia extends its commitments under this category to each Party that has made commitments under the heading of “Intra-Corporate Transferees”.

In accordance with, and subject to, Australia’s laws and regulations, Australia shall, upon application, grant the right of entry and temporary stay, movement and work to the accompanying spouse and/or dependants of a business person that is granted temporary entry or an extension of temporary stay under these commitments.

<table>
<thead>
<tr>
<th>Definition:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person employed by an enterprise of another Party established and lawfully and actively operating in Australia, who is transferred to fill a position in the parent, branch, subsidiary or affiliate of that enterprise in Australia, and who is:</td>
</tr>
<tr>
<td>(a) an executive or a senior manager, who is a business person responsible for the entire or a substantial part of the operations of the enterprise in Australia, receiving general supervision or direction principally from higher-level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise; or</td>
</tr>
<tr>
<td>(b) a specialist, who is a business person with advanced trade, technical or professional skills and experience who is assessed as having the necessary qualifications, or alternative</td>
</tr>
</tbody>
</table>

| Entry and temporary stay of business persons is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters (as at entry into force, the address of that website was [www.border.gov.au](http://www.border.gov.au)). Sponsorship requirements, including eligible occupations, may change from time to time. |
| (a) Entry for executives and senior managers is for a period of stay up to four years, with the possibility of further stay. |
| (b) Entry for specialists is for a period of stay up to two years, with the possibility of further stay. |

Entry and temporary stay of spouses and dependants is for the same period as the business persons concerned.
credentials accepted as meeting Australia’s domestic standards for the relevant occupation, and who must have been employed by the employer for not less than two years immediately preceding the date of the application for temporary entry.
AUSTRALIA’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

1. The following sets out Australia’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of the temporary entry of business persons.

<table>
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<tr>
<th>Description of Category</th>
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<tbody>
<tr>
<td><strong>A. Business Visitors</strong></td>
<td>Australia extends its commitments under this category to each Party that has made commitments under any of the following headings:</td>
</tr>
<tr>
<td></td>
<td>- “Business Visitors”</td>
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<td></td>
<td>- “Short term Business Visitors”</td>
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<td></td>
<td>- “Service Sales Persons”.</td>
</tr>
<tr>
<td><strong>Definition:</strong></td>
<td>(a) Entry is for periods of stay up to a maximum of three months.</td>
</tr>
<tr>
<td><strong>Business visitors comprise:</strong></td>
<td>(b) Entry is for an initial stay of six months and up to a maximum of 12 months.</td>
</tr>
<tr>
<td>(a) Business persons seeking to travel to Australia for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia and who must not engage in making direct sales to the general public or in supplying goods or services themselves; and</td>
<td></td>
</tr>
<tr>
<td>(b) Service sellers, being business persons who are not based in Australia and whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who are sales representatives of a service supplier, seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier.</td>
<td></td>
</tr>
</tbody>
</table>
### Description of Category

**B. Installers and servicers**

Australia extends its commitments under this category to each Party that has either made commitments:

(a) under any of the following headings:
   - “Installers/servicers”
   - “Installers and servicers”, or;

(b) elsewhere in its schedule of specific commitments on the temporary entry of business persons to install and service machinery or equipment as a condition of purchase under contract of the said machinery or equipment.

### Conditions and Limitations (including length of stay)

<table>
<thead>
<tr>
<th>Definition:</th>
<th>Entry is for periods of stay up to a maximum of three months.</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying enterprise is a condition of purchase under contract of the said machinery or equipment, and who must not perform services which are not related to the service activity which is the subject of the contract.</td>
<td></td>
</tr>
</tbody>
</table>

Entry is for periods of stay up to a maximum of three months.
C. Contractual Service Suppliers
(Including independent professionals and specialists)

Australia extends its commitments under this category to each Party that has made commitments under any of the following headings:

- “Contractual Service Suppliers”
- “Independent Professionals”
- “Professionals”
- “Professionals and technicians”
- “Professionals and technician-professionals”.

In accordance with, and subject to, Australia’s laws and regulations, Australia shall, upon application, grant the right of entry and temporary stay, movement and work to the accompanying spouse and/or dependants of a business person that is granted temporary entry or an extension of temporary stay under these commitments.

Definition:

Business persons with trade, technical or professional skills and experience who are assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in Australia for their nominated occupation, and who are:

(a) employees of an enterprise of a Party that has concluded a contract for the supply of a service within Australia and that does not have a commercial presence within Australia; or

(b) engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia.

Entry and temporary stay of business persons is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters (as at entry into force, the address of that website was www.border.gov.au). Sponsorship requirements, including eligible occupations, may change from time to time.

Entry of business persons is for periods of stay up to 12 months, with the possibility of further stay.

Entry and temporary stay of spouses and dependants is for the same period as the business persons concerned.
D. Independent Executives

Australia extends its commitments under this category to each Party that has made commitments for the entry and temporary stay of a business person for at least up to a maximum of twelve months under any of the following headings:

- “Independent Executives”
- “Other Personnel”
- “Persons Responsible for Setting Up a Commercial Presence”
- “Investors”.

In accordance with, and subject to, Australia’s laws and regulations, Australia shall, upon application, grant the right of entry and temporary stay, movement and work to the accompanying spouse and/or dependants of a business person that is granted temporary entry or an extension of temporary stay under these commitments.

<table>
<thead>
<tr>
<th>Definition:</th>
<th>Entry and temporary stay of business persons is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters (as at entry into force, the address of that website was <a href="http://www.border.gov.au">www.border.gov.au</a>). Sponsorship requirements, including eligible occupations, may change from time to time.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business persons whose work responsibilities match the description set out below and who intend, or are responsible for, the establishment in Australia of a new branch or subsidiary of an enterprise which has its head of operations in the territory of another Party and which has no other representative, branch or subsidiary in Australia. Independent executives will be responsible for the entire or a substantial part of the enterprise’s operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise.</td>
<td>Entry of business persons is for periods of stay up to a maximum of two years.</td>
</tr>
<tr>
<td></td>
<td>Entry and temporary stay of spouses and dependants is for the same period as the business persons concerned.</td>
</tr>
</tbody>
</table>
E. Intra-Corporate Transferees

Australia extends its commitments under this category to each Party that has made commitments under the heading of “Intra-Corporate Transferees”.

In accordance with, and subject to, Australia’s laws and regulations, Australia shall, upon application, grant the right of entry and temporary stay, movement and work to the accompanying spouse and/or dependants of a business person that is granted temporary entry or an extension of temporary stay under these commitments.

### Definition:

A business person employed by an enterprise of another Party established and lawfully and actively operating in Australia, who is transferred to fill a position in the parent, branch, subsidiary or affiliate of that enterprise in Australia, and who is:

(a) an executive or a senior manager, who is a business person responsible for the entire or a substantial part of the operations of the enterprise in Australia, receiving general supervision or direction principally from higher-level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise; or

(b) a specialist, who is a business person with advanced trade, technical or professional skills and experience who is assessed as having the necessary qualifications, or alternative

### Entry and temporary stay:

Entry and temporary stay of business persons is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters (as at entry into force, the address of that website was [www.border.gov.au](http://www.border.gov.au)). Sponsorship requirements, including eligible occupations, may change from time to time.

(a) Entry for executives and senior managers is for a period of stay up to four years, with the possibility of further stay.

(b) Entry for specialists is for a period of stay up to two years, with the possibility of further stay.

Entry and temporary stay of spouses and dependants is for the same period as the business persons concerned.
| credentials accepted as meeting Australia's domestic standards for the relevant occupation, and who must have been employed by the employer for not less than two years immediately preceding the date of the application for temporary entry. |   |
The following sets out Brunei Darussalam’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of the temporary entry of business persons.

A. Intra-corporate Transferees

Brunei Darussalam shall, upon application, grant the right of entry and temporary stay to the accompanying spouse and/or dependents of a business person of another Party.

Subject to laws, regulations and policies, Brunei shall grant accompanying spouses of another Party with the right to work, as defined as in the Professional category in this Schedule of Specific Commitments, where that Party has also made a commitment in its schedule for spouses of Professionals or an equivalent category.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intra Corporate Transferees</td>
<td></td>
</tr>
<tr>
<td><strong>Definition:</strong></td>
<td>Entry and temporary stay is limited to a three year period that may be extended for up to two additional years for a total term not to exceed 5 years.</td>
</tr>
<tr>
<td>(a) who is an employee of a firm through a branch, subsidiary or affiliate established in Brunei Darussalam and</td>
<td>Entry and temporary stay of spouses and dependents of ICTs is for the same period as the business persons concerned.</td>
</tr>
<tr>
<td>(b) who have been in the prior employ of their enterprise outside Brunei Darussalam for a period of not less than one year immediately preceding the date of their application for admission.</td>
<td>Subject to laws, regulations and policies for spouses and/or dependents working as professionals supplying highly specialised services and core services in the energy sector the right to work is up to 2 years. Extensions are possible but maybe</td>
</tr>
</tbody>
</table>

(1) Managers:
**Definition:** A business person within an organisation who primarily direct the organisation, or a department or sub-division of the organisation, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or commend hiring, firing or other personnel actions (such as promotion or leave authorisation), and exercise discretionary authority over day-to-day operations. This does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily form tasks necessary for the provision of the service.

(2) **Executives:**

**Definition:** A business person within an organisation who primarily direct the management of the organisation, exercise wide latitude in decision-making and receive only general supervision or direction from higher-level executives, the board of directors or stockholders of the business. Executives would not directly perform tasks related to the actual provision of the service or services of the organisation.

(3) **Specialists:**

**Definition:** A business person within an organisation who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organisation’s service, research equipment, techniques or management. (Specialists may include, but is not limited to, professionals).

For spouses and/or dependents working as other types of professionals the right to work is for a total period up to 12 months or for the duration of the contract, whichever is shorter. The initial right to work is for 3 months and may be extended in increments of up to 3 months. Extensions beyond the 12 months period are possible but maybe subject to economic needs test.
B. Business Visitors

<table>
<thead>
<tr>
<th>Business Visitors</th>
<th>Entry and temporary stay is up to three (3) months and can be extended for up to twelve (12) months.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition: 1) A business person who:</td>
<td></td>
</tr>
<tr>
<td>a) is a goods seller and is seeking temporary entry into Brunei, for the purpose of the sale of goods or to enter into a distribution or retailing arrangement where such negotiations do not involve direct sales to the general public;</td>
<td></td>
</tr>
<tr>
<td>b) is service seller or representative of a services supplier and is seeking temporary entry into Brunei Darussalam for the purpose of negotiating the sale of services for that service supplier and will not be engaged in direct sales to the general public or in supplying services directly.</td>
<td></td>
</tr>
<tr>
<td>c) attends meetings or conferences or engages in consultations with business associates.</td>
<td></td>
</tr>
<tr>
<td>d) is a goods seller seeking temporary entry into Brunei Darussalam for the purpose of attending and/or participating in trade conventions and trade fairs</td>
<td></td>
</tr>
</tbody>
</table>
C. **Professional**

<table>
<thead>
<tr>
<th>Professional</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional means a business person who seeks to travel to Brunei Darussalam temporarily for the purpose of carrying out professional activities.</td>
<td>Entry and temporary stay for professionals that fall under the highly specialised services and core services categories in the energy sector is for up to 2 years or for the duration of the contract, whichever is shorter.</td>
</tr>
<tr>
<td>The professional must possess appropriate educational and other qualifications relevant to the service to be provided.</td>
<td>Entry and temporary stay for other professionals is up for a period of 12 months or for the duration of the contract whichever is shorter. The initial entry period is for 3 months and may be extended in increments of up to 3 months.</td>
</tr>
<tr>
<td></td>
<td>Entry and temporary stay of spouses and dependents of professionals is for the same period as the business persons concerned.</td>
</tr>
</tbody>
</table>

Brunei Darussalam shall, upon application, grant the right of entry and temporary stay to the accompanying spouse and/or dependents of a business person of another Party.

Subject to laws, regulations and policies, Brunei Darussalam shall grant accompanying spouses and/or dependents of a business person of another Party with the right to work as a ‘professional’, as defined as in this Category, where that Party has also made a commitment in its schedule for spouses of Professionals or an equivalent category.
D. **Investors**

<table>
<thead>
<tr>
<th>Investors</th>
<th>Entry and temporary stay is up to three (3) months and can be extended for up to twelve (12) months.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investors means a business person who seeks to make an investment or has made investments in Brunei Darussalam and seeking temporary entry for the purpose of dealing with any matters concerning to that investment.</td>
<td></td>
</tr>
</tbody>
</table>
### E. Installers and Servicers

<table>
<thead>
<tr>
<th>Installers and Servicers</th>
<th>Entry and temporary stay is up to three (3) months and can be extended for up to twelve (12) months.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Installers and Servicers means persons who are installer or servicer of machinery and/or equipment who are employed or appointed by supplying company where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery and/or equipment, and are not performing activities which are not related to the installing or servicing activities which is the subject of the contract, and receives his/her remuneration from the supplying company.</td>
<td>Entry and temporary stay is up to three (3) months and can be extended for up to twelve (12) months.</td>
</tr>
</tbody>
</table>
CANADA’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

1. The following sets out Canada’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of the temporary entry of business persons.

2. Canada may adopt or maintain any measure that is not specifically prohibited in this schedule.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Business Visitors</strong></td>
<td></td>
</tr>
<tr>
<td>1. Canada extends its commitments for “after-sales or after-lease service” to business persons of another Party, if that Party has made a commitment in its Schedule for after-sales and after-lease related activities (e.g. installation, maintenance or repair) without reserving the right to impose or maintain an economic needs test or numerical restriction for those activities.</td>
<td></td>
</tr>
<tr>
<td>2. Canada extends all other commitments under this category to business persons of another Party, if that Party has made a commitment in its Schedule without reserving the right to impose or maintain an economic needs test or numerical restriction for any of the following headings:</td>
<td></td>
</tr>
<tr>
<td>• Business Visitors</td>
<td></td>
</tr>
<tr>
<td>• Short Term Business Visitors</td>
<td></td>
</tr>
<tr>
<td>• Service Sales Persons</td>
<td></td>
</tr>
<tr>
<td>2. Canada shall grant temporary entry to Business Visitors, without requiring that person to obtain a work permit or an equivalent requirement prior to entry as a condition for temporary entry.</td>
<td></td>
</tr>
<tr>
<td>3. Canada will not impose or maintain any numerical restriction relating to temporary entry of Business Visitors.</td>
<td></td>
</tr>
</tbody>
</table>

**Definition:**
Business visitors comprise business persons for whom:

Length of stay is up to six months.
Extensions are possible.
(a) the primary source of remuneration for the proposed business activity is outside Canada; and

(b) the principal place of business and the predominant place of accrual of profits remain outside Canada,

who are seeking to engage in one of the following business activities:

**Meetings and Consultations**

Business persons attending meetings, seminars or conferences, or engaged in consultations with business associates.

**Research and Design**

Technical, scientific and statistical researchers conducting independent research or research for an enterprise in a Party other than Canada.

**Manufacture and Production**

Purchasing and production management personnel conducting commercial transactions for an enterprise in a Party other than Canada.

**Marketing**

Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise in a Party other than Canada.

Trade-fair and promotional personnel attending a trade convention.
<table>
<thead>
<tr>
<th>Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise in a Party other than Canada but not delivering goods or providing services.</td>
</tr>
<tr>
<td>Buyers purchasing for an enterprise in a Party other than Canada.</td>
</tr>
<tr>
<td>Distribution</td>
</tr>
<tr>
<td>Transportation operators transporting goods or passengers from the territory of a Party to Canada or loading and transporting goods or passengers from Canada, with no unloading in Canada, to the territory of another Party.</td>
</tr>
<tr>
<td>After-Sales or After-Lease Service</td>
</tr>
<tr>
<td>Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller’s or lessor’s contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from an enterprise located in a Party other than Canada, during the life of the warranty or service agreement.</td>
</tr>
<tr>
<td>General Service</td>
</tr>
<tr>
<td>Professionals engaging in a business activity at a professional or technical level as set out in Section D (Professionals and Technicians)</td>
</tr>
<tr>
<td>Management and supervisory</td>
</tr>
<tr>
<td>Personnel Activities</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>Personnel engaging in a commercial transaction for an enterprise in a Party other than Canada.</td>
</tr>
<tr>
<td>Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise in a Party other than Canada.</td>
</tr>
<tr>
<td>Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in a Party other than Canada.</td>
</tr>
<tr>
<td>Translators or interpreters performing services as employees of an enterprise in a Party other than Canada.</td>
</tr>
</tbody>
</table>
B. Intra-Corporate Transferees

1. Canada extends its commitments for “management trainee on professional development” to business persons of another Party, if that Party has made a commitment in its Schedule for management or graduate trainees without reserving the right to impose or maintain an economic needs test or numerical restriction for those business persons.

2. Canada extends its commitments for “specialists” to the following TPP Parties: Australia, Brunei, Chile, Japan, Mexico, New Zealand, and Peru.

3. Canada extends all other commitments under this category to business persons of another Party, if that Party has made a commitment in its Schedule without reserving the right to impose or maintain an economic needs test or numerical restriction for Intra-Corporate Transferees.

4. Canada shall grant temporary entry and provide a work permit or work authorization to Intra-Corporate Transferees, and will not:

   (a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or

   (b) impose or maintain any numerical restriction relating to temporary entry.

5. Canada shall grant temporary entry and provide a work permit or work authorization to spouses of Intra-Corporate Transferees of another Party where that Party has also made a commitment in its schedule for spouses of Intra-Corporate Transferees, and will not:

   (a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or

   (b) impose or maintain any numerical restriction relating to temporary entry.

Definition:
Intra-Corporate Transferees comprise business persons employed by an enterprise in the territory of a Party who seek to render services to that enterprise’s parent entity, subsidiary or affiliate, in its territory as an executive. Length of stay is up to three years. Extensions are possible. The length of stay for spouses, including extensions, shall be the same as that of the business person they are accompanying who has
or manager, a specialist, or a management trainee on professional development.

Canada 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.

For the purpose of this definition, **specialist** means an employee possessing specialized knowledge of the company’s products or services and their application in international markets, or an advanced level of expertise or knowledge of the company’s processes and procedures.

For the purpose of this definition, **management trainee on professional development** means an employee with a post-secondary degree who is on a temporary work assignment intended to broaden that employee’s knowledge of and experience in a company in preparation for a senior leadership position within the company.

For the purpose of this definition, **executive** means a business person within an organization who:

(a) primarily directs the management of the organization or a major component or function of the organization;

(b) establishes the goals and policies of the organization, or of a component or function of the organization; and

obtained temporary entry under this Section B.
(c) exercises wide latitude in decision-making and receives only general supervision or direction from higher-level executives, the board of directors or stockholders of the business organization.

For the purpose of this definition, **manager** means a business person within an organization who:

(a) primarily directs the organization or a department or sub-division of the organization;

(b) supervises and controls the work of other supervisory, professional or managerial employees;

(c) has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization); and

(d) exercises discretionary authority over day-to-day operations.
C. Investors

1. Canada extends its commitments under this category to business persons of another Party, if that Party has made a commitment in its Schedule without reserving the right to impose or maintain an economic needs test or numerical restriction for any of the following headings:
   - Investors
   - Independent Executives
   - Persons Responsible for Setting up a Commercial Presence

2. Canada shall grant temporary entry and provide a work permit or work authorization to Investors and will not:
   a) require labour certification tests or other procedures of similar intent as a condition of temporary entry; or
   b) impose or maintain any numerical restriction relating to temporary entry.

3. Canada shall grant temporary entry and provide a work permit or work authorization to spouses of Investors of another Party where that Party has also made a commitment in its schedule for spouses of Investors, and will not:
   a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or
   b) impose or maintain any numerical restriction relating to temporary entry.

<table>
<thead>
<tr>
<th>Definition:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investors comprise business persons seeking to establish, develop or administer 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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Length of stay is up to one year. Extensions are possible.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The length of stay for spouses, including extensions, shall be the same as that of the business person they are accompanying who has obtained temporary entry under this Section C.</td>
</tr>
</tbody>
</table>
D. Professionals and Technicians

1. Canada extends each occupational commitment under this category to business persons of another Party, if that Party has made a commitment in its Schedule covering that same occupation without reserving the right to impose or maintain an economic needs test or numerical restriction on those business persons.

2. Canada shall grant temporary entry and provide a work permit or work authorization to Professionals and Technicians and will not:
   (a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or
   (b) impose or maintain any numerical restriction relating to temporary entry.

3. Canada shall grant temporary entry and provide a work permit or work authorization to spouses of Professionals and Technicians of another Party where that Party has also made a commitment in its schedule for spouses of Professionals and Technicians, and will not:
   (a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or
   (b) impose or maintain any numerical restriction relating to temporary entry.

### Definition:

**professionals** means business persons engaged in a specialty occupation requiring:

(a) theoretical and practical application of a body of specialized knowledge; and

(b) a post-secondary degree of four or more years of study, unless otherwise provided in this schedule, and any additional requirement defined in the

The length of stay is up to one year. Extensions are possible.

The length of stay for spouses, including extensions, shall be the same as that of the business person they are accompanying who has obtained temporary entry under this Section D.
National Occupation Classification, and

c) two years of paid work experience in the sector of activity of the contract, and

d) remuneration at a level commensurate with other similarly-qualified professionals within the industry in the region where the work is performed. Such remuneration shall be deemed to not include non-monetary elements such as, inter alia, housing costs and travel expenses.

**technician** means a national engaged in a specialty occupation requiring:

a) theoretical and practical application of a body of specialized knowledge, and

b) a post-secondary or technical degree requiring two or more years of study as a minimum for entry into the occupation, unless otherwise provided in this Schedule, as well as any other minimum requirements for entry defined in the National Occupation Classification, and

c) four years of paid work experience in the sector of activity of the contract, and

d) remuneration at a level commensurate with other similarly-qualified technicians within the industry in the region where the work is performed. Such remuneration shall be deemed to not include non-
monetary elements such as, inter alia, housing costs and travel expenses.

For the purpose of this definition, **specialty occupation** means, for Canada, an occupation that falls within the National Occupation Classification levels O, A, and B.

The following specialty occupations will be granted Temporary Entry for nationals of the Party indicated:

**Australia**

**Professionals:**

Canadian educational requirements for professionals shall be deemed to be met for the purpose of entry whenever an Australian professional has met Australian educational requirements and the Canadian client or employer has provided a letter indicating that the Australian professional’s qualifications are satisfactory, provided that Australia maintains similar treatment for Canadians seeking entry under the category of Contractual Service Suppliers in Australia’s schedule of specific commitments.

All occupations listed in the National Occupational Classification (NOC) levels 0 (Managers) and A (Professionals), except for:

- All health, education, and social services occupations and related occupations
- All professional occupations related to Cultural Industries
- Recreation, Sports and Fitness Program and Service Directors
- Managers in Telecommunications Carriers
- Managers in Postal and Courier Services
- Judges and Notaries

**Technicians:**

The following occupations listed in the NOC level B (Technician) unless otherwise indicated:

- Civil Engineering Technologists and Technicians
- Mechanical Engineering Technologists and Technicians
- Industrial Engineering Technologists and Technicians
Construction Inspectors and Estimators
Engineering Inspectors, Testers and Regulatory Officers
Supervisors in the following:

- Machinists and Related Occupations
- Printing and Related Occupations
- Mining and Quarrying
- Oil and Gas Drilling and Service
- Mineral and Metal Processing
- Petroleum, Gas, and Chemical Processing and Utilities
- Food, Beverage, and Tobacco Processing
- Plastic and Rubber Products Manufacturing
- Forest Products Processing
- Textile Processing

Contractors and Supervisors in the following:

- Electrical Trades and Telecommunications Occupations
- Pipefitting Trades
- Metal Forming
- Shaping and Erecting Trades
- Carpentry Trades
- Mechanic Trades
- Heavy Construction Equipment Crews
- Other Construction Trades
- Installers, repairers, and servicers

Electrical and Electronics Engineering Technologists and Technicians
Electricians
Plumbers
Industrial Instrument Technicians and Mechanics
Aircraft Instrument, Electrical, and Avionics Mechanics, Technicians, and Inspectors
Oil and gas well Drillers, Services, and Testers
Graphic Designers and Illustrators
Interior Designers
Computer and Information Systems Technicians*
International Purchasing and Selling Agents
Architectural Technologists and Technicians
Industrial Designers
Drafting Technologists and Technicians
Land Survey Technologists and Technicians
Technical occupations in Geomatics and Meteorology

* includes elements of NOC level A
Brunei

Professionals

The following occupations listed in the National Occupational Classification levels 0 (Managers) and A (Professionals):

*Petroleum Engineers*

Chile

Professionals:

All occupations listed in the National Occupational Classification (NOC) levels 0 (Managers) and A (Professionals), except for:

*All health, education, and social services occupations and related occupations*
*All professional occupations related to Cultural Industries*
*Recreation, Sports and Fitness Program and Service Directors*
*Managers in Telecommunications Carriers*
*Managers in Postal and Courier Services*
*Judges, Lawyers and Notaries except for Foreign Legal Consultants*

Technicians:

The following occupations listed in the NOC level B (Technician) unless otherwise indicated:

*Civil Engineering Technologists and Technicians*
*Mechanical Engineering Technologists and Technicians*
*Industrial Engineering Technologists and Technicians*
*Construction Inspectors and Estimators*
*Engineering Inspectors, Testers and Regulatory Officers*

Supervisors in the following:

- Machinists and Related Occupations
- Printing and Related Occupations
- Mining and Quarrying
- Oil and Gas Drilling and Service
- Mineral and Metal Processing
- Petroleum, Gas, and Chemical Processing and Utilities
- Food, Beverage, and Tobacco Processing
- Plastic and Rubber Products Manufacturing
• Forest Products Processing  
• Textile Processing

Contracts and Supervisors in the following:
• Electrical Trades and Telecommunications Occupations  
• Pipelining Trades  
• Metal Forming  
• Shaping and Erecting Trades  
• Carpentry Trades  
• Mechanic Trades  
• Heavy Construction Equipment crews  
• Other Construction Trades  
• Installers, repairers, and servicers

Electrical and Electronics Engineering Technologists and Technicians  
• Electricians  
• Plumbers  
• Industrial Instrument Technicians and Mechanics  
• Aircraft Instrument, Electrical, and Avionics Mechanics, Technicians, and Inspectors  
• Oil and gas well Drillers, Services, and Testers  
• Graphic Designers and Illustrators  
• Interior Designers  
• Computer and Information Systems Technicians*  
• International Purchasing and Selling Agents

* includes elements of NOC level A

Japan

Professionals:

All occupations listed in the National Occupational Classification (NOC) levels 0 (Managers) and A (Professionals), except for:

All health, education, and social services occupations and related occupations  
All professional occupations related to Cultural Industries  
Recreation, Sports and Fitness Program and Service Directors  
Managers in Telecommunications Carriers  
Managers in Postal and Courier Services  
Judges, Lawyers and Notaries except for Foreign Legal Consultants  
Researchers, except for those working in an academic entity

Technicians:
A Japanese associate's degree, or the equivalent of such a degree, or higher is required.

Canada reserves the right to refuse temporary entry to a Technician seeking to fulfill a contract which does not require significant application of theoretical knowledge in physical sciences, engineering or other natural sciences, or human sciences, such as economics.

The following occupations listed in the NOC level B (Technician) unless otherwise indicated:

Civil Engineering Technologists and Technicians
Mechanical Engineering Technologists and Technicians
Industrial Engineering Technologists and Technicians
Construction Inspectors and Estimators
Engineering Inspectors, Testers and Regulatory Officers
Supervisors in the following:

- Machinists and Related Occupations
- Printing and Related Occupations
- Mining and Quarrying
- Oil and Gas Drilling and Service
- Mineral and Metal Processing
- Petroleum, Gas, and Chemical Processing and Utilities
- Food, Beverage, and Tobacco Processing
- Plastic and Rubber Products Manufacturing
- Forest Products Processing
- Textile Processing
- Electrical Trades and Telecommunications Occupations
- Pipefitting Trades
- Metal Forming
- Shaping and Erecting Trades
- Carpentry Trades
- Mechanic Trades
- Heavy Construction Equipment Crews
- Other Construction Trades
- Installers, repairers, and servicers

Electrical and Electronics Engineering Technologists and Technicians
Industrial Instrument Technicians and Mechanics
Aircraft Instrument, Electrical, and Avionics Mechanics, Technicians, and Inspectors
Oil and gas well Drillers, Servicers, and Testers (excluding operators)
Graphic Designers and Illustrators
Interior Designers
Computer and Information Systems Technicians*
International Purchasing and Selling Agents
Architectural Technologists and Technicians
Industrial Designers
Drafting Technologists and Technicians
Land Survey Technologists and Technicians
Technical occupations in Geomatics and Meteorology

* includes elements of NOC level A

Malaysia

Professionals:

The following occupations listed in the National Occupational Classification levels 0 (Managers) and A (Professionals):

Financial Auditors and Accountants
Financial Analyst
Architecture Managers
Architects
Landscape Architects
Mechanical Engineers
Civil Engineers
Electrical and Electronics Engineers
Chemical Engineers
Industrial and Manufacturing Engineers
Metallurgical and Materials Engineers
Mining Engineers
Geological Engineers
Petroleum Engineers
Aerospace Engineers
Computer Engineers
Other Professional Engineers
Urban and Land Use Planners
Veterinarians
Computer and Information Systems Managers
Information Systems Analysts and Consultants
Database Analysts and Data Administrators
Software Engineers
Computer Programmers and Interactive Media Developers
Web Designers and Developers
Actuaries

Mexico

Professionals:

All occupations listed in the National Occupational Classification (NOC) levels 0 (Managers) and A (Professionals), except for:

All health, education, and social services occupations and related occupations
All professional occupations related to Cultural Industries
Recreation, Sports and Fitness Program and Service Directors
Managers in Telecommunications Carriers
Managers in Postal and Courier Services
Judges, Lawyers and Notaries except for Foreign Legal Consultants

Technicians:

The following occupations listed in the NOC level B (Technician) unless otherwise indicated:

Civil Engineering Technologists and Technicians
Mechanical Engineering Technologists and Technicians
Industrial Engineering Technologists and Technicians
Construction Inspectors and Estimators
Engineering Inspectors, Testers and Regulatory Officers

Contractors and Supervisors in the following:
- Electrical Trades and Telecommunications Occupations
- Heavy Construction Equipment Crews
- Other Construction Trades
- Installers, repairers, and servicers

Electrical and Electronics Engineering Technologists and Technicians
Electricians

Industrial Instrument Technicians and Mechanics

Graphic Designers and Illustrators
Interior Designers
Computer and Information Systems Technicians*
* includes elements of NOC level A
Peru

Professionals:

All occupations listed in the National Occupational Classification (NOC) levels 0 (Managers) and A (Professionals), except for:

All health, education, and social services occupations and related occupations
All professional occupations related to Cultural Industries
Recreation, Sports and Fitness Program and Service Directors
Managers in Telecommunications Carriers
Managers in Postal and Courier Services
Judges, Lawyers and Notaries except for Foreign Legal Consultants

Technicians:

The following occupations listed in the NOC level B (Technician) unless otherwise indicated:

Civil Engineering Technologists and Technicians
Mechanical Engineering Technologists and Technicians
Industrial Engineering Technologists and Technicians
Construction Inspectors and Estimators
Engineering Inspectors, Testers and Regulatory Officers
Supervisors in the following:

- Machinists and Related Occupations
- Printing and Related Occupations
- Mining and Quarrying
- Oil and Gas Drilling and Service
- Mineral and Metal Processing
- Petroleum, Gas, and Chemical Processing and Utilities
- Food, Beverage, and Tobacco Processing
- Plastic and Rubber Products Manufacturing
- Forest Products Processing
- Textile Processing

Contractors and Supervisors in the following:

- Electrical Trades and Telecommunications Occupations
- Pipefitting Trades
- Metal Forming
- Shaping and Erecting Trades
• Carpentry Trades
• Mechanic Trades
• Heavy Construction Equipment Crews
• Other Construction Trades
• Installers, repairers, and servicers

Electrical and Electronics Engineering Technologists and Technicians
Electricians
Plumbers
Industrial Instrument Technicians and Mechanics
Aircraft Instrument, Electrical, and Avionics Mechanics, Technicians, and Inspectors
Oil and gas well Drillers, Services, and Testers
Graphic Designers and Illustrators
Interior Designers
Computer and Information Systems Technicians*
International Purchasing and Selling Agents
Architectural Technologists and Technicians
Industrial Designers
Drafting Technologists and Technicians
Land Survey Technologists and Technicians
Technical occupations in Geomatics and Meteorology

* includes elements of NOC level A
CHILE’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

The following sets out Chile’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of the temporary entry for business persons.

A. Business Visitors

Chile extends its commitments under this category to all Parties that have made commitments under the heading “Business Visitors” or “Service Sales Persons” or “Short term Business Visitors”.

Chile extends its commitments under paragraph 1 (iv) to all Parties that have made commitments in its Schedule for the same subcategory.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business visitor means a business person who:</td>
<td>Length of Stay:</td>
</tr>
<tr>
<td>(1) is seeking temporary entry to the territory of Chile for the purpose of:</td>
<td>For a period of up to 90 days, which may be extended.</td>
</tr>
<tr>
<td>(i) attending meetings or conferences, or engaging in consultations with business colleagues;</td>
<td></td>
</tr>
<tr>
<td>(ii) taking orders or negotiating contracts for an enterprise located in the territory of another Party, but not selling goods or providing services to the general public;</td>
<td></td>
</tr>
<tr>
<td>(iii) undertaking business consultations concerning the establishment, expansion or winding up of an enterprise or investment in Chile; or</td>
<td></td>
</tr>
<tr>
<td>(iv) installing, repairing or maintaining equipment or machinery, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale or lease of such equipment or machinery, during the life of the warranty or service agreement¹; and</td>
<td></td>
</tr>
</tbody>
</table>

¹ A business person seeking temporary entry to Chile under subparagraph (iv) must possess specialized knowledge
(2) whose principal place of business, actual place of remuneration and predominant place of accrual of profits remain outside Chile.

### B. Intra Corporate Transferees

Chile extends its commitments under this category to all Parties that have made commitments under the heading “Intra Corporate Transferees” or “Intra Company Transferees”.

Chile extends its commitments for “management trainee on professional development” to all Parties that have made commitments in its Schedule for the same subcategory.

A family dependent (spouse, parent or offspring) of an intra-corporate transferee will be granted a visa as a dependent, but will not be allowed to develop remunerated activities. Nevertheless, a family dependent may be permitted to perform a remunerated activity in Chile, upon a separate application under this Agreement or the general immigration rules, for its own visa as non-dependent. The application can be submitted and processed in Chile.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
</table>
| Intra-corporate transferee means a business person employed by an enterprise who seeks to render services to that enterprise’s parent entity or a subsidiary or affiliate thereof, as an executive, manager, specialist or management trainee on professional development. | **Length of Stay**

For a period of up to 1 year which may be extended, provided the conditions on which it is based remain in effect, without requiring that business person to apply for permanent residence.

The length of stay for family dependents, including extensions, shall be the same as that of the business person they are accompanying.

Intra-corporate transferees and its family dependents may freely enter and leave Chile without having to apply for separate re-entry permissions for the duration of their visas, on the basis of reciprocity. |

A confirmation can be required that the business person had been employed by the enterprise uninterruptedly for one year, within the three years immediately before the date on which the application was filed.

**executive** means a business person within an organization who primarily directs the management of the organization, exercises wide latitude in decision-making, and receives only general supervision or direction from higher level executives, the board of directors, and/or stockholders of the business;

**manager** means a business person within an organization who primarily directs the organization or a department or sub-division of essential to a seller's or lessor’s contractual obligation.
the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to recruit and dismiss or take other personnel actions such as promotion or leave authorization, and exercises discretionary authority over day-to-day operations;

**specialist** means a business person who possesses specialized knowledge of the company’s products or services and its application in international markets, or an advanced level of expertise or knowledge of the company’s processes and procedures. A specialist may include, but is not limited to, professionals.

**management trainee on professional development** means an employee with a post-secondary degree who is on a temporary work assignment intended to broaden that employee’s knowledge of and experience in a company in preparation for a senior leadership position within the company.

Intra-corporate transferees who enter Chile shall be deemed to be engaged in activities which are in Chile’s interest.

---

**C. Independent Professionals and Technicians**

Chile extends its commitments under this category to all Parties that have made commitments under the heading “Independent Professionals” or “Professionals and Technicians” or “Professionals and Technician-professionals” or “Technicians” or “Contractual Service Suppliers (Including independent professionals and specialists)”, limited to the same occupations, activities, professions or sectors committed by the other Party.

A family dependent (spouse, parent or offspring) of an independent professional/technician will be granted a visa as a dependent, but will not be allowed to develop remunerated activities. Nevertheless, a family dependent may be permitted to perform a remunerated activity in Chile, upon a separate application under this Agreement or the general immigration rules, for its own visa as non-dependent. The application can be submitted and processed in Chile.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Independent professional and technician</strong> means a business person engaged in a specialty</td>
<td><strong>Length of Stay</strong></td>
</tr>
</tbody>
</table>
occupation who:
(a) has theoretical and practical application of a body of specialized knowledge;
(b) has attainment of a post-secondary degree, requiring four or more years of study for professionals and two or more years of study for technicians, or the equivalent of such a degree or technical qualification, as a minimum for entry into the occupation;
(c) is a self-employed service supplier who is engaged in the supply of a contracted service, where the professional or technician has a service contract from a juridical person located in Chile;
(d) receives remuneration from a person of Chile;

For a period up to 1 year which may be extended for subsequent periods, provided the conditions on which it is based remain in effect, without requiring that business person to apply for permanent residence.

Independent Professionals and technicians and its family dependents may freely enter and leave Chile without having to apply for separate re-entry permissions for the duration of their visas, on the basis of reciprocity.

The length of stay for family dependents, including extensions, shall be the same as that of the business person they are accompanying.

D. Contractual Service Suppliers

Chile extends its commitments under this category to all Parties that have made commitments under the heading “Contractual Service Suppliers” or “Professionals and Technicians” or “Technicians”, limited to the same occupations, activities, professions or sectors committed by the other Party.

A family dependent (spouse, parent or offspring) of a contractual service supplier will be granted a visa as a dependent, but will not be allowed to develop remunerated activities. Nevertheless, a family dependent may be permitted to perform a remunerated activity in Chile, upon a separate application under this Agreement or the general immigration rules, for its own visa as non-dependent. The application can be submitted and processed in Chile.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractual service supplier</td>
<td>Length of Stay</td>
</tr>
<tr>
<td>means a business person engaged in a specialty occupation who:</td>
<td></td>
</tr>
<tr>
<td>(a) has theoretical and practical application of a body of specialized knowledge;</td>
<td></td>
</tr>
<tr>
<td>(b) has attainment of a post-secondary degree, requiring four or more years of study for professionals and two or more years of study for technicians, or the equivalent of such a degree or technical qualification, as a minimum for entry into the occupation;</td>
<td></td>
</tr>
<tr>
<td>(c) is engaged in the supply of a contracted service</td>
<td></td>
</tr>
<tr>
<td>(d) receives remuneration from a person of Chile;</td>
<td></td>
</tr>
<tr>
<td>For a period of up to 1 year which may be extended for subsequent periods, provided the conditions on which it is based remain in effect, without requiring that business person to apply for permanent residence.</td>
<td></td>
</tr>
<tr>
<td>The length of stay for family members, including extensions, shall be the same as that of the business person they are accompanying.</td>
<td></td>
</tr>
</tbody>
</table>

Contractual service suppliers and its family
as an employee of a juridical person that has no commercial presence in Chile, where the juridical person obtains a service contract from a juridical person located in Chile;
(d) is required to receive no remuneration from a juridical person located in Chile;
Contractual service suppliers who enter Chile shall be deemed to be engaged in activities which are in Chile’s interest.

members may freely enter and leave Chile without having to apply for separate re-entry permissions for the duration of their visas, on the basis of reciprocity.

E. Investors

Chile extends its commitments under this category to all Parties that have made commitments under the heading “Investors” or “Independent Executives” or “Persons Responsible for Setting up a Commercial Presence”.

A family dependent (spouse, parent or offspring) of an investor will be granted a visa as a dependent, but will not be allowed to develop remunerated activities. Nevertheless, a family dependent may be permitted to perform a remunerated activity in Chile, upon a separate application under this Agreement or the general immigration rules, for its own visa as non-dependent. The application can be submitted and processed in Chile.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Investor</strong> means a business person seeking to establish, develop or administer an investment in Chile, 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.</td>
<td></td>
</tr>
<tr>
<td>Investors who enter Chile shall be deemed to be engaged in activities which are in Chile’s interest.</td>
<td></td>
</tr>
<tr>
<td><strong>Length of Stay</strong></td>
<td></td>
</tr>
<tr>
<td>For a period of up to 1 year which may be extended for subsequent periods, provided the conditions on which it is based remain in effect, without requiring that business person to apply for permanent residence.</td>
<td></td>
</tr>
<tr>
<td>The length of stay for family dependents, including extensions, shall be the same as that of the business person they are accompanying. Investors and its family dependents may freely enter and leave Chile without having to apply for separate re-entry permissions for the duration of their visas, on the basis of reciprocity.</td>
<td></td>
</tr>
</tbody>
</table>
JAPAN’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

The following sets out Japan’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of entry and temporary stay of business persons. Japan extends its commitments under this Annex to all Parties regardless of the categories offered by the other Parties.

Section A  Short-Term Business Visitors

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who stays in Japan without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying goods or services himself or herself, for the purposes of participating in business contacts including negotiations for the sale of goods or services, or other similar activities including those to prepare for establishing commercial presence in Japan.</td>
<td>Entry and temporary stay for a period not exceeding 90 days, which may be extended, shall be granted.</td>
</tr>
</tbody>
</table>

Section B  Intra-Corporate Transferees

1. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category provided that such spouse and children are recognised as such in accordance with the laws and regulations of Japan, obtain maintenance from the business person and engage in daily activities recognised under the status of residence of “Dependent” provided for in the Immigration Control and Refugee Recognition Act (Cabinet Order No.319 of 1951, as amended).

2. A spouse who has been granted entry and temporary stay in accordance with paragraph 1 may, upon application while residing in Japan, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with the Immigration Control and Refugee Recognition Act.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who has been employed by an enterprise that supplies goods or services in Japan or by an enterprise that invests in Japan, for a period of not less than one year immediately preceding the date of his or her application for the entry into and temporary stay in Japan, who is being transferred to its branch office or its representative office in Japan, or an</td>
<td>Entry and temporary stay for a period not exceeding five years, which may be extended, shall be granted. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category, in principle for the same period as the period</td>
</tr>
</tbody>
</table>
enterprise constituted or organised in Japan owned or controlled by or affiliated with the aforementioned enterprise, and who will engage in one of the following activities during his or her temporary stay in Japan:

(a) activities to direct a branch office or a representative office as its head;

(b) activities to direct an enterprise as its board member or auditor;

(c) activities to direct one or more departments of an enterprise; or

(d) activities which require technology or knowledge at an advanced level pertinent to natural sciences, including physical sciences and engineering, or to human sciences, including jurisprudence, economics, business management and accounting, or activities which require ideas and sensitivity based on culture of a country other than Japan, recognised under the status of “Engineer/Specialist in Humanities/International Services” provided for in the Immigration Control and Refugee Recognition Act.

Note 1: For the purposes of this Section, an enterprise is “affiliated” with another enterprise when the latter can significantly affect the decision-making of the former on finance and business policy.

Note 2: The activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraph (d) mean the activities in which the business person may not be able to engage without the application of specialised technology or knowledge of natural or human sciences acquired by him or her, in principle, by completing college education (i.e. bachelor’s degree, associate’s degree awarded through graduating from a junior college, or their equivalents) or higher education.

Section C  Investors
1. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category provided that such spouse and children are recognised as such in accordance with the laws and regulations of Japan, obtain maintenance from the business person and engage in daily activities recognised under the status of residence of “Dependent” provided for in the Immigration Control and Refugee Recognition Act.

2. A spouse who has been granted entry and temporary stay in accordance with paragraph 1 may, upon application while residing in Japan, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with the Immigration Control and Refugee Recognition Act.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who will engage in one of the following activities during his or her temporary stay in Japan:</td>
<td>Entry and temporary stay for a period not exceeding five years, which may be extended, shall be granted. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category, in principle for the same period as the period of temporary stay granted to the business person.</td>
</tr>
<tr>
<td>(a) activities to invest in business in Japan and manage such business;</td>
<td></td>
</tr>
<tr>
<td>(b) activities to manage business in Japan on behalf of a person other than that of Japan who has invested in such business; or</td>
<td></td>
</tr>
<tr>
<td>(c) conduct of business in Japan in which a person other than that of Japan has invested.</td>
<td></td>
</tr>
</tbody>
</table>

Section D Qualified Professionals

1. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category provided that such spouse and children are recognised as such in accordance with the laws and regulations of Japan, obtain maintenance from the business person and engage in daily activities recognised under the status of residence of “Dependent” provided for in the Immigration Control and Refugee Recognition Act.

2. A spouse who has been granted entry and temporary stay in accordance with paragraph 1 may, upon application while residing in Japan, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with the Immigration Control and Refugee Recognition Act.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who is a legal, accounting or taxation service supplier qualified under the laws and regulations of Japan (as specified in the subparagraphs below) and who will engage in the corresponding activity specified therein during his or her temporary stay in Japan:</td>
<td>Entry and temporary stay for a period not exceeding five years, which may be extended, shall be granted. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category, in principle for the same period as the period of temporary stay granted to the business person.</td>
</tr>
<tr>
<td>(a) legal services supplied by a lawyer</td>
<td></td>
</tr>
</tbody>
</table>

4608
qualified as “Bengoshi” under the laws and regulations of Japan;

(b) legal advisory services on law of jurisdiction where the service supplier is a qualified lawyer on condition that the service supplier is qualified as “Gaikoku-Ho-Jimu-Bengoshi” under the laws and regulations of Japan;

(c) legal services supplied by a patent attorney qualified as “Benrishi” under the laws and regulations of Japan;

(d) legal services supplied by a maritime procedure agent qualified as “Kaijidairishi” under the laws and regulations of Japan;

(e) accounting, auditing and bookkeeping services supplied by an accountant qualified as “Koninkaikeishi” under the laws and regulations of Japan;

(f) taxation services supplied by a tax accountant qualified as “Zeirishi” under the laws and regulations of Japan;

(g) legal services supplied by a judicial scrivener qualified as “Shiho-Shoshi” under the laws and regulations of Japan;

(h) legal services supplied by an administrative scrivener qualified as “Gyosei-Shoshi” under the laws and regulations of Japan;

(i) legal services supplied by a certified social insurance and labour consultant qualified as “Shakai-Hoken-Romushi” under the laws and regulations of Japan; or

(j) legal services supplied by a land and house surveyor qualified as “Tochi-Kaoku-Chosashi” under the laws and regulations of Japan.

temporary stay granted to the business person.

Section E Independent Professionals

1. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category provided that such spouse and children are recognised as such in accordance with the laws and
regulations of Japan, obtain maintenance from the business person and engage in daily activities recognised under the status of residence of “Dependent” provided for in the Immigration Control and Refugee Recognition Act.

2. A spouse who has been granted entry and temporary stay in accordance with paragraph 1 may, upon application while residing in Japan, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with Immigration Control and Refugee Recognition Act.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who will engage in one of the following activities during his or her temporary stay in Japan on the basis of a personal contract with a public or private organisation in Japan:</td>
<td>Entry and temporary stay for a period not exceeding five years, which may be extended, shall be granted.</td>
</tr>
<tr>
<td>(a) activities which require technology or knowledge at an advanced level pertinent to natural sciences, including physical sciences and engineering, or to human sciences, including jurisprudence, economics, business management and accounting, or activities which require ideas and sensitivity based on culture of a country other than Japan, recognised under the status of residence of “Engineer/Specialist in Humanities/International Services” provided for in the Immigration Control and Refugee Recognition Act; or</td>
<td>Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category, in principle for the same period as the period of temporary stay granted to the business person.</td>
</tr>
<tr>
<td>(b) activities for research, guidance of research, or education at a university in Japan, an equivalent educational institution in Japan, or a college of technology in Japan, recognised under the status of residence of “Professor” provided for in the Immigration Control and Refugee Recognition Act.</td>
<td></td>
</tr>
</tbody>
</table>

Note 1: The activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraph (a) mean the activities in which the business person may not be able to engage without the application of specialised technology or knowledge of natural or human sciences acquired by him or her, in principle, by completing college education (i.e. bachelor’s degree, associate’s degree awarded
through graduating from a junior college, or their equivalents) or higher education.

Note 2: The activities that meet the requirement specified in subparagraph (a) include those related to architectural services, civil engineering services, urban planning and landscape architectural services, accounting, auditing and bookkeeping services, specialty design services, trade fair and exhibition organisation services, travel agencies and tour operator services and tourist guide services.

### Section F  Contractual Service Suppliers

1. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category provided that such spouse and children are recognised as such in accordance with the laws and regulations of Japan, obtain maintenance from the business person and engage in daily activities recognised under the status of residence of “Dependent” provided for in the Immigration Control and Refugee Recognition Act.

2. A spouse who has been granted entry and temporary stay in accordance with paragraph 1 may, upon application while residing in Japan, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with the Immigration Control and Refugee Recognition Act.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A business person who is an employee of a public or private organisation in another Party having no commercial presence in Japan (hereinafter referred to in this Section as “the other organisation”) and who will engage in one of the following activities during his or her temporary stay in Japan: (a) activities which require technology or knowledge at an advanced level pertinent to natural sciences, including physical sciences and engineering, or to human sciences, including jurisprudence, economics, business management and accounting, or activities which require ideas and sensitivity based on culture of a country other than Japan, recognised under the status of residence of “Engineer/Specialist in Humanities/International Services” provided for in the Immigration Control and Refugee Recognition Act; or</td>
<td>Entry and temporary stay for a period not exceeding five years, which may be extended, shall be granted. Entry and temporary stay shall be granted to a spouse and children accompanying a business person who has been granted entry and temporary stay under this category, in principle for the same period as the period of temporary stay granted to the business person.</td>
</tr>
</tbody>
</table>
(b) activities for research, guidance of research, or education at a university in Japan, an equivalent educational institution in Japan, or a college of technology in Japan, recognised under the status of residence of “Professor” provided for in the Immigration Control and Refugee Recognition Act.

Note 1: The activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraph (a) mean the activities in which the business person may not be able to engage without the application of specialised technology or knowledge of natural or human sciences acquired by him or her, in principle, by completing college education (i.e. bachelor’s degree, associate’s degree awarded through graduating from a junior college, or their equivalents) or higher education.

Note 2: The activities that meet the requirement specified in subparagraph (a) include those related to architectural services, civil engineering services, urban planning and landscape architectural services, accounting, auditing and bookkeeping services, specialty design services, trade fair and exhibition organisation services, travel agencies and tour operator services and tourist guide services.

2. Entry and temporary stay referred to in this Section shall be granted, provided that:

(a) a service contract between a public or private organisation in Japan (hereinafter referred to in this Section as “the Japanese organisation”) and the other organisation has been concluded; and

(b) it is recognised, in the context of the service contract referred to in subparagraph (a), that a labour contract between the business person and the Japanese organisation has been concluded.

Note 1: The service contract for the placement and supply services of personnel (CPC872)
shall be excluded from the service contract referred to in subparagraph (a).

Note 2: Such a labour contract as referred to in subparagraph (b) shall comply with the relevant laws and regulations of Japan.
1. The following sets out Malaysia’s commitments in accordance with Article 12.4 (Temporary Entry for Business Persons) in respect of the temporary entry of business persons.

A. Business Visitors

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business visitors means:</td>
<td></td>
</tr>
<tr>
<td>(i) a service seller or representative of a service supplier and is seeking temporary entry into Malaysia, for the purpose of negotiating the sale of services for that service supplier and will not be engaged in direct sales to the general public or in supplying services directly.</td>
<td>Entry and temporary stay is for a period of up to ninety days. Does not receive any remuneration from a source located within Malaysia.</td>
</tr>
<tr>
<td>(ii) a goods seller, who is seeking temporary entry into Malaysia for the sale of goods, or to enter into a distribution or retailing arrangement that does not involve direct sales to the general public.</td>
<td></td>
</tr>
<tr>
<td>(iii) a person who attends meetings or conferences or engages in consultations with business associates.</td>
<td></td>
</tr>
<tr>
<td>(iv) an investor of a Party, as defined in Chapter 9.</td>
<td></td>
</tr>
<tr>
<td>(v) Installer and servicer means persons who are installer or servicer of machinery and/or equipment who are employed or appointed by a supplying company, where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery and/or equipment, and are not performing activities which are not related to the installing or servicing activities which is the subject of the contract, and receives his or her remuneration from the supplying company.</td>
<td>Entry and temporary stay shall not exceed a total of six (6) months.</td>
</tr>
</tbody>
</table>
MALAYSIA’S SCHEDULE OF COMMITMENT FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

B. Intra-Corporate Transferees

<table>
<thead>
<tr>
<th><strong>Intra-Corporate Transferees</strong></th>
<th><strong>Dependants</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>A business person who is:</td>
<td>means a wife or husband, who is</td>
</tr>
<tr>
<td>(A) senior manager being a person</td>
<td>legally married and recognised under the</td>
</tr>
<tr>
<td>in an enterprise within Malaysia:</td>
<td>Malaysian laws, or/and a child to a business</td>
</tr>
<tr>
<td>(i) having proprietary information</td>
<td>person under this category.</td>
</tr>
<tr>
<td>of the enterprise;</td>
<td>Upon an application by a dependant and</td>
</tr>
<tr>
<td>(ii) exercise wide latitude in</td>
<td>subject to Malaysian laws and regulations,</td>
</tr>
<tr>
<td>decision making relating to the</td>
<td>relevant licensing, administrative and</td>
</tr>
<tr>
<td>establishment, control and</td>
<td>registration requirements, a dependant may</td>
</tr>
<tr>
<td>operation of the enterprise;</td>
<td>be permitted to work.</td>
</tr>
<tr>
<td>(iii) primarily direct the</td>
<td>Entry and temporary stay is for a period of up</td>
</tr>
<tr>
<td>management of the enterprise;</td>
<td>to two years and may be extended every two</td>
</tr>
<tr>
<td>and (iv) receive only general</td>
<td>years for a total term not exceeding ten years</td>
</tr>
<tr>
<td>supervision or direction from</td>
<td>for senior managers and not exceeding five</td>
</tr>
<tr>
<td>the board of directors or partners</td>
<td>years for specialists or experts.</td>
</tr>
<tr>
<td>of the enterprise;</td>
<td>(B) specialist or an expert being a person</td>
</tr>
<tr>
<td>(B) specialist or an expert being</td>
<td>within the enterprise who possesses</td>
</tr>
<tr>
<td>a person within the enterprise</td>
<td>knowledge at an advanced level of</td>
</tr>
<tr>
<td>who possesses knowledge at an</td>
<td>continued expertise and who possesses</td>
</tr>
<tr>
<td>advanced level of continued</td>
<td>proprietary knowledge of the enterprise.</td>
</tr>
<tr>
<td>expertise and who possesses</td>
<td>This is provided that the employee of the</td>
</tr>
<tr>
<td>proprietary knowledge of the</td>
<td>service supplier of the other party must</td>
</tr>
<tr>
<td>enterprise.</td>
<td>have been employed for not less than two</td>
</tr>
<tr>
<td></td>
<td>years immediately preceding the date of</td>
</tr>
<tr>
<td></td>
<td>the application for temporary entry.</td>
</tr>
</tbody>
</table>

Entry and temporary stay is for a period of up to two years and may be extended every two years for a total term not exceeding ten years for senior managers and not exceeding five years for specialists or experts.
MALAYSIA’S SCHEDULE OF COMMITMENT FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

C. Contractual Service Suppliers

<table>
<thead>
<tr>
<th>Contractual Service Suppliers</th>
<th>Entry and temporary stay is for a period of up to twelve months or the duration of the contract, whichever is less.</th>
</tr>
</thead>
<tbody>
<tr>
<td>means a business persons who is:</td>
<td></td>
</tr>
<tr>
<td>(i) a specialist or expert who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organisation's products and services in the relevant services sector or subsector; or</td>
<td></td>
</tr>
<tr>
<td>(ii) a professional who possess necessary academic credentials, professional qualifications, experience and/or expertise which have been duly recognized by the professional bodies in Malaysia and registered with those respective professional bodies; or</td>
<td></td>
</tr>
<tr>
<td>(iii) an employee of an enterprise of the other Party, who enters Malaysia temporarily in order to perform a service pursuant to a contract.</td>
<td></td>
</tr>
</tbody>
</table>

A contractual service supplier:

(i) receives his or her remuneration from that enterprise; and

(ii) is not engage in other employment in the territory of the other Party where the service is being provided.

The service contract pursuant to contractual service supplier seeks to supply the services includes any one of the listed sectors or professions as listed below:

**Business Services**

**a) Professional Services**

- Accounting, auditing and bookkeeping services (CPC 862)
- Architectural Services (CPC 8671)
- Engineering Services (CPC 8672)
- Integrated Engineering Services (CPC 8673)
- Urban Planning Services (CPC 86741)
- Landscaping Services (CPC 86742*)
- Specialised Medical Services (CPC 93122)
MALAYSIA’S SCHEDULE OF COMMITMENT FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

- Veterinary Services (CPC 932)

b) Computer and Related Services
   - Computer and Related Services (CPC 841, 842, 843, 844, 845, 84910, 84990**)

c) Research and Developmental Services
   - Research and experimental development services on natural sciences and engineering (CPC 85101, 85103, 85109)

d) Other Business Services
   - Management Consulting Services (CPC 8650*)
   - Technical Testing and Analysis Services (CPC 8676)
   - Services related to management consulting (CPC 86601)
   - Related scientific and technical consulting services (CPC 8675)
   - Convention and exhibition management services (CPC 87909)

Environmental Services
- Wastewater Management (CPC 9401)

Financial Services
- Financial analyst
- Financial managers
- Economists
- Mathematicians
- Statisticians
- Actuaries

Education Services
- Other education professionals
- Managers and professionals marketing education services

Construction Services
- Construction services covering CPC 511 - 518
D. Independent Professionals

Independent Professionals means a self-employed business person who seeks to travel to Malaysia temporarily, to perform a valid service contract without the requirement of a commercial presence, who is:

(i) a specialist or expert who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organisation's products and services in the relevant services sector or subsector; or

(ii) a professional who possess necessary academic credentials, professional qualifications, experience and/or expertise which have been duly recognized by the professional bodies in Malaysia and registered with those respective professional bodies.

The service contract pursuant to which the independent professional is eligible to supply his or her services according to the listed sectors or profession as listed below:

**Business Services**

**a) Professional Services**
- Accounting, auditing and bookkeeping services (CPC 862)
- Architectural Services (CPC 8671)
- Engineering Services (CPC 8672)
- Integrated Engineering Services (CPC 8673)
- Urban Planning Services (CPC 86741)
- Landscaping Services (CPC 86742*)
- Specialised Medical Services (CPC 93122)
- Veterinary Services (CPC 932)

**b) Computer and Related Services**
- Computer and Related Services (CPC 841, 842, 843, 844, 845, 84910, 84990**)

**c) Research and Developmental Services**
- Research and experimental development services on natural sciences and engineering (CPC 85101,
MALAYSIA’S SCHEDULE OF COMMITMENT FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

<table>
<thead>
<tr>
<th>85103, 85109)</th>
<th>d) Other Business Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Management Consulting Services (CPC 8650*)</td>
</tr>
<tr>
<td></td>
<td>• Technical Testing and Analysis Services (CPC 8676)</td>
</tr>
<tr>
<td></td>
<td>• Services related to management consulting (CPC 86601)</td>
</tr>
<tr>
<td></td>
<td>• Related scientific and technical consulting services (CPC 8675)</td>
</tr>
<tr>
<td></td>
<td>• Convention and exhibition management services (CPC 87909)</td>
</tr>
<tr>
<td></td>
<td>Communication Service</td>
</tr>
<tr>
<td></td>
<td>• Motion picture and video tape production and distribution services (CPC 9611)</td>
</tr>
<tr>
<td></td>
<td>Environmental Services</td>
</tr>
<tr>
<td></td>
<td>• Wastewater Management (CPC 9401)</td>
</tr>
<tr>
<td></td>
<td>Financial Services</td>
</tr>
<tr>
<td></td>
<td>• Financial analyst</td>
</tr>
<tr>
<td></td>
<td>• Financial managers</td>
</tr>
<tr>
<td></td>
<td>• Economists</td>
</tr>
<tr>
<td></td>
<td>• Mathematicians</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
<td>• Actuaries</td>
</tr>
<tr>
<td></td>
<td>Education Services</td>
</tr>
<tr>
<td></td>
<td>• Other education professionals</td>
</tr>
<tr>
<td></td>
<td>• Managers and professionals marketing education services</td>
</tr>
<tr>
<td></td>
<td>• Lecturers</td>
</tr>
<tr>
<td></td>
<td>Construction Services</td>
</tr>
<tr>
<td></td>
<td>• Construction services covering CPC 511 – 518</td>
</tr>
</tbody>
</table>

Not more 20 per cent of lecturers employed in an educational institution who possesses the necessary qualification, knowledge, credentials or experience.
MEXICO’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY
FOR BUSINESS PERSONS

The following sets out Mexico’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) with respect to the temporary entry of business persons.

A. Business Visitors

Mexico extends its commitments under this category to all Parties that have made commitments under the heading “Business Visitors and Short Business Visitors”.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable to the foreign nationals seeking to enter into the country on a temporary basis, and intending to:</td>
<td></td>
</tr>
<tr>
<td>- Establish, develop or manage a foreign capital investment.</td>
<td></td>
</tr>
<tr>
<td>- Provide specialized services, including after-sale or after-lease services, previously agreed or as referred to in a contract of transfer of technology, patent and trademark, for the sale of machinery and equipment, technical training of personnel or any other production process from an established company in Mexico.</td>
<td></td>
</tr>
<tr>
<td>- Attend business administration meetings, conferences, trade fairs and performing management or executive duties in a company or its subsidiaries or affiliates</td>
<td></td>
</tr>
</tbody>
</table>

A. Length of stay

For the purposes of temporary entry, Mexico shall grant a stay up to 180 days.
Description of Category

that are established in Mexico.
The source of income for the proposed business activity is outside Mexico; and the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside Mexico.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>that are established in Mexico.</td>
<td></td>
</tr>
<tr>
<td>The source of income for the proposed business activity is outside Mexico; and the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside Mexico.</td>
<td></td>
</tr>
</tbody>
</table>

B. Investors

Mexico extends its commitments under this category to all Parties that have made commitments under the heading "Investors", or "Independent Executives" or "Persons Responsible for Setting up a Commercial Presence".

Mexico shall grant temporary entry and provide a work permit or work authorization to spouses of Investors of another Party where that Party has also made a commitment in its schedule for spouses, and will not:

- require labour certification tests or other procedures of similar intent as a condition for temporary entry; or
- impose or maintain any numerical restriction relating to temporary entry.

For purposes of this category:

It is applicable to the foreign nationals seeking to enter into the country on a temporary basis or that is already in the country and intending to:

- Know different investment alternatives.
- Perform a direct investment or supervise such investment.
- Represent a foreign company or perform business transactions.

A. Length of stay

For the purposes of the temporary entry, Mexico shall grant a stay of one year, which may be extended 3 times for each and equal period of time.
- Developing, administering or providing 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.

### C. Intra-Corporate Transferees

Mexico extends its commitments under this category to all Parties that have made commitments under the heading “Intra-Company Transferees” and/or “Intra-Corporate Transferees”. Mexico shall grant temporary entry and provide a work permit or work authorization to spouses of Intra-Company Transferees of another Party where that Party has also made a commitment in its schedule for spouses, and will not:

(a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or

(b) impose or maintain any numerical restriction relating to temporary entry.

#### 1. For purposes of this category:

- **Executive** means a business person within an organization who primarily directs the management of the organization, exercises wide latitude in decision-making.

- **Manager** means a business person within an organization who primarily directs the organization or a department or sub-division of the organization, supervises, and controls the work of other supervisory, professional or managerial employees.

- **Specialist** means a business

### A. Length of stay

For the purposes of the temporary entry, Mexico shall grant a stay of one year, which may be extended 3 times for each and equal period of time.
A person who possesses specialized knowledge of the company’s products or services and its application in international markets, or an advanced level of expertise or knowledge of the company’s processes and procedures.

### D. Professionals and technician-professionals

Mexico extends its commitments under this category to all Parties that have made commitments under the heading “Professionals”, “Independent Professionals”, “Professionals and Technicians”, “Professionals and Technician-Professionals”, “Technicians”, “Contractual Service Suppliers” and/or “Qualified Professionals”, limited to the same occupations, activities, professions or sectors committed by the other Party. Mexico shall grant temporary entry and provide a work permit or work authorization to spouses of Professionals and technician-professionals of another Party where that Party has also made a commitment in its schedule for spouses, and will not:

(a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or
(b) impose or maintain any numerical restriction relating to temporary entry.

<table>
<thead>
<tr>
<th>1. For purposes of this category:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Professional</strong> means a business person who is engaged in a specialty occupation requiring:</td>
</tr>
<tr>
<td>(a) theoretical and practical application of a body of specialized knowledge; and</td>
</tr>
<tr>
<td>(b) attainment of a post-secondary degree for entry into the occupation.</td>
</tr>
<tr>
<td><strong>Technician professional</strong> means a professional who:</td>
</tr>
</tbody>
</table>

### A. Conditions and limitations

1. The following occupations or activities will be granted Temporary Entry for technician professional:

1. Technician professional in Designing, Advertising and Communication.
2. Technician professional in Architecture and Interior Designs.
3. Technician professional in Accounting and Management.
4. Technician professional in Tourism and Gastronomy.
5. Technician professional in Systems and Computing.
6. Technician professional in Engineering.
7. Technician professional in Health (includes technical
### E. Contractual Service Supplier

Mexico extends its commitments under this category to all Parties that have made commitments under the heading “Professionals”, “Independent Professionals”, “Professionals and Technicians”, “Professionals and Technician-Professionals,”...

| (a) theoretical and practical application of a body of specialized knowledge; and |
| (b) attainment of a post-secondary technical degree, for entry into the occupation. |

2. Mexico shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level or technician-professional, based on a work contract, and submits the following:

(a) documentation demonstrating that the business person shall be so engaged and describing the purpose of entry; and
(b) documentation demonstrating that the business person has the minimal academic requirements or alternative academic degrees.

3. For greater certainty, the temporary entry of a professional or technician-professional shall not imply the recognition of academic degrees or certificates, neither the granting of licenses for professional practice.

8. Technician professional in Construction

9. Technician professional in Electricity.

10. Technician professional in Industrial Production.

11. Technician professional in Maintenance and Repair of Machinery and Equipment (includes maintenance and repair of all types of vehicles, vessels and aircraft), provided that is not part of the staff that manned any vessel or aircraft covered with the flag or Mexican merchant logo.

2. This category is subject to a remunerated employment offer in Mexico.

### B. Length of stay

For the purposes of the temporary entry, Mexico shall grant a stay of one year, which may be extended 3 times for each and equal period of time.
“Technicians”, “Contractual Service Suppliers” and/or “Qualified Professionals”, limited to the same occupations, activities, professions or sectors committed by the other Party Mexico shall grant temporary entry and provide a work permit or work authorization to spouses of Professionals and technician-professionals of another Party where that Party has also made a commitment in its schedule for spouses, and will not:

(a) require labour certification tests or other procedures of similar intent as a condition for temporary entry; or
(b) impose or maintain any numerical restriction relating to temporary entry.

1. For purposes of this category:

- Contractual Service Supplier means a business person who is engaged in a specialty occupation requiring:
  
  (a) theoretical and practical application of a body of specialized knowledge; and
  
  (b) attainment of a post-secondary degree for entry into the occupation.

- Technician professional means a professional who:
  
  (a) theoretical and practical application of a body of specialized knowledge; and
  
  (b) attainment of a post-secondary technical degree, for entry into the occupation.

2. Mexico shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business

C. Conditions and limitations

1. The following occupations or activities will be granted Temporary Entry for technician professional:

   1. Technician professional in Designing, Advertising and Communication.
   
   2. Technician professional in Architecture and Interior Designs.
   
   3. Technician professional in Accounting and Management.
   
   4. Technician professional in Tourism and Gastronomy.
   
   5. Technician professional in Systems and Computing.
   
   6. Technician professional in Engineering.
   
   7. Technician professional in Health (includes technical nursing, pharmacy and physiotherapy).
   
   8. Technician professional in Construction
   
   9. Technician professional in Electricity.
   
   10. Technician professional in Industrial Production.
   
   11. Technician professional in Maintenance and Repair of Machinery and Equipment (includes maintenance and repair of all types of vehicles, vessels and aircraft), provided that is not part of the staff that manned any vessel or aircraft covered with the flag or Mexican merchant logo.

2. This category is subject to a remunerated employment offer in
activity at a professional level or technician-professional, based on a work contract, and submits the following:

(a) documentation demonstrating that the business person shall be so engaged and describing the purpose of entry; and

(b) documentation demonstrating that the business person has the minimal academic requirements or alternative academic degrees.

3. For greater certainty, the temporary entry of a professional or technician-professional shall not imply the recognition of academic degrees or certificates, neither the granting of licenses for professional practice.

4. This category is not subject to a remunerated employment offer in Mexico.

<table>
<thead>
<tr>
<th>D. Length of stay</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the purposes of the temporary entry, Mexico shall grant a stay of one year, which may be extended 3 times for each and equal period of time.</td>
</tr>
</tbody>
</table>
NEW ZEALAND’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY
FOR BUSINESS PERSONS

1. The following sets out New Zealand’s commitments in accordance with Article 12.4
(Grant of Temporary Entry) in respect of the temporary entry of business persons.

A. Business Visitors

New Zealand extends its commitments under this category to any Party that has made
commitments in its Schedule in the category of ‘Business Visitors’ or ‘Service Sales Persons’.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Definition</strong>: A business person:</td>
<td>Entry for a period not exceeding in aggregate three months in any calendar year.</td>
</tr>
<tr>
<td>(a) who is seeking temporary entry to New Zealand for the purpose of:</td>
<td></td>
</tr>
<tr>
<td>(i) attending meetings or conferences, or engaging in consultations with business colleagues;</td>
<td></td>
</tr>
<tr>
<td>(ii) taking orders or negotiating contracts for an enterprise located in the territory of another Party, but not selling goods or providing services to the general public; or</td>
<td></td>
</tr>
<tr>
<td>(iii) undertaking business consultations or negotiations concerning the establishment, expansion or winding up of a business enterprise or investment in New Zealand, or any related matter;</td>
<td></td>
</tr>
<tr>
<td>(b) who is not seeking to enter the labour market of New Zealand; and</td>
<td></td>
</tr>
<tr>
<td>(c) whose principal place of business, actual place of remuneration and predominant place of accrual of profits remain outside New Zealand.</td>
<td></td>
</tr>
</tbody>
</table>

B. Intra Corporate Transferees

New Zealand extends its commitments under this category to any Party that has made
commitments in its Schedule in the category of ‘Intra Corporate Transferees’.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Definitions</strong>: An executive, manager or a specialist:</td>
<td></td>
</tr>
</tbody>
</table>

Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions
(a) who is an employee of a goods supplier, service supplier or investor of a Party with a commercial presence in New Zealand; and
(b) whose salary and any related payments are paid entirely by the service supplier or enterprise that employs the intra-corporate transferee.

**Executive**: A business person who primarily directs the management of an enterprise, exercises wide latitude in decision making and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the enterprise. An executive would not directly perform tasks related to the actual provision of the service or the operation of the enterprise. Executives must have been employed by their employer for at least twelve months prior to their proposed transfer to New Zealand.

**Manager**: A business person who will be responsible for or directs the entire or a substantial part of the operations of the enterprise in New Zealand, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the entire or a substantial part of the operations of the enterprise. Managers must have been employed by their employer for at least twelve months prior to their proposed transfer to New Zealand.

**Specialist**: A business person with advanced trade, technical or professional skills within an organisation who possesses knowledge at an advanced level of technical expertise and who possesses proprietary knowledge of the organisation’s service, research equipment, techniques or management. Such specialists are responsible for or employed in a particular aspect of an organisation’s operations in New Zealand. Skills are assessed in terms of the applicant’s employment experience, qualifications and suitability for the position.

**Executives and Managers**: Entry for a period of initial stay up to a maximum of three years.

**Specialists**: Entry for a period of initial stay up to a maximum of three years.

C. Installers / Servicers

New Zealand extends its commitments under this category to any Party that has made commitments in its Schedule in the category of ‘Installers/Servicers’, ‘Contractual Service Suppliers’, ‘Independent Professionals’, ‘Professionals’ or ‘Technicians’.
### Description of Category

**Definition:** A business person who is an installer or servicer of machinery or equipment, in situations when installation or servicing by the supplying company is a condition of purchase of the machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.

**Conditions and Limitations (including length of stay):**

Entry for periods not exceeding three months in any twelve-month period.

### Independent Professionals

New Zealand extends its commitments under this category to any Party that has made commitments in its Schedule in the category of ‘Independent Professionals’, ‘Contractual Service Suppliers’, ‘Installers/Servicers’, ‘Professionals’ or ‘Technicians’.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Definition:</strong> A self-employed business person with advanced technical or professional skills, without the requirement for a commercial presence, working under a valid contract in New Zealand.</td>
<td>Entry for a period of stay up to a maximum of twelve months and subject to economic needs tests.</td>
</tr>
</tbody>
</table>

An independent professional must have:

(a) a qualification resulting from at least three years of formal post-secondary school education leading to a degree or diploma recognised as comparable to the domestic standard in New Zealand; and

(b) at least six years of experience.

Both (a) and (b) must be in the field in which the Independent Professional wishes to supply their professional services.

Only in respect of the service sectors set out in New Zealand’s Schedule of Specific Commitments in the WTO (as currently set out in GATS/SC/62, GATS/SC/62/Suppl.1, and GATS/SC/62/Suppl.2) and the additional service sectors set out below.

1. **BUSINESS SERVICES**

A. Professional Services

a. Legal services (international and foreign law)

f. Integrated engineering services

g. Consultancy related to urban planning and landscape architectural services

B. Computer and Related Services

e. Maintenance and repair of office machinery and equipment including computers
5. **EDUCATIONAL SERVICES**
   E. **Other education services**
      - Language training provided in private specialist language institutions;
      - Tuition in subjects taught at the primary and secondary levels, provided by private specialist institutions operating outside the New Zealand compulsory school system.

6. **ENVIRONMENTAL SERVICES**
   A. **Waste Water Management**
   B. **Waste Management**
   C. **Sanitation and similar services**
   D. **Protection of ambient air and climate**: consultancy only
   E. **Noise and vibration abatement**: consultancy only
   F. **Protection of biodiversity and landscape**: consultancy only
   G. **Other environmental and ancillary services**: consultancy only

2. Notwithstanding the commitments set out above, New Zealand reserves the right to adopt or maintain any measure in cases of labour / management disputes, and also with respect to ships’ crews.

3. With respect to audio-visual services, New Zealand immigration instructions stipulate a special procedure for the granting of visas to entertainers, performing artists and associated support personnel for work purposes. To be eligible for a work visa or work permit, such applicants must come within the policy guidelines agreed to between the Minister of Immigration, independent promoters, agents or producers and the relevant performing artists’ unions.
SINGAPORE’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

1. The following sets out Singapore’s commitments in accordance with Article 12.4 Grant of Temporary Entry in respect of the temporary entry for business persons.

2. Notwithstanding the definition of “business person” in Article 12.1 Definitions of the Temporary Entry For Business Persons Chapter, Singapore’s commitments shall not extend to the permanent residents of another Party.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Visitors refer to Business Persons of a Party who are defined as follows:</td>
<td>Entry of business visitors shall be subject to the fulfilment of eligibility requirements prevailing at the time of application. These details can be found at the website of the Immigration &amp; Checkpoints Authority (website address is <a href="http://www.ica.gov.sg/page.aspx?pageid=95&amp;secid=94">http://www.ica.gov.sg/page.aspx?pageid=95&amp;secid=94</a> ). Entry for these business visitors is for up to 30 days.</td>
</tr>
<tr>
<td>Definition: Business Visitors are business persons who are seeking temporary entry into Singapore for business activity that is international in scope, and not seeking employment or residence in Singapore. Their primary source of remuneration, principal place of business, and predominant place of accrual of profits remain outside Singapore. They may seek entry for the purpose of: a) conducting or attending business-related conferences, seminars or workshops; b) negotiating the sale of services or goods where such negotiations do not involve direct sales to the general public.</td>
<td></td>
</tr>
<tr>
<td>Investors refer to Business Persons of a Party who are defined as follows:</td>
<td>Entry of investors shall be subject to the fulfilment of eligibility requirements prevailing at the time of application. These details can be found at the website of the Immigration &amp; Checkpoints Authority (website address is <a href="http://www.ica.gov.sg/page.aspx?pageid=95&amp;secid=94">http://www.ica.gov.sg/page.aspx?pageid=95&amp;secid=94</a> ). Entry for these investors is for up to 30 days.</td>
</tr>
<tr>
<td>Definition: Investors refer to business persons responsible for setting up, developing or administering an establishment for which a substantial amount of capital has been or will be committed by the business person in a supervisory or executive capacity, or involves essential skills.</td>
<td></td>
</tr>
</tbody>
</table>
VIET NAM’S SCHEDULE OF COMMITMENTS FOR TEMPORARY ENTRY FOR BUSINESS PERSONS

The following sets out Viet Nam’s commitments in accordance with Article 12.4 (Grant of Temporary Entry) in respect of the temporary entry of business persons.

<table>
<thead>
<tr>
<th>Description of Category</th>
<th>Conditions and Limitations (including length of stay)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Intra-corporate transferees</strong></td>
<td></td>
</tr>
<tr>
<td>Viet Nam extends its commitments under this category to all Parties that have made commitments under the heading of:</td>
<td></td>
</tr>
<tr>
<td>- “Intra-Corporate Transferees”</td>
<td></td>
</tr>
<tr>
<td>Viet Nam shall grant entry and temporary stay to intra-corporate transferees, as defined below, working in services sectors and subsectors where Viet Nam undertook commitments in the WTO (WT/ACC/VNM/48/Add.2) without requiring these business persons to obtain a work permit or an equivalent requirement as a condition of temporary entry.</td>
<td></td>
</tr>
<tr>
<td>Viet Nam may, upon application, grant the right of entry and temporary stay to the accompanying spouse and/or dependents of an intra-corporate transferee of another Party.</td>
<td></td>
</tr>
<tr>
<td>Upon application, intra-corporate transferees and, where relevant, their spouses and dependents may be issued with temporary residence cards, or equivalent multiple entry rights.</td>
<td></td>
</tr>
</tbody>
</table>

**Definition:**

Intra-corporate transferees comprise managers, executives and specialists of an enterprise of another Party, which has established a commercial presence in the territory of Viet Nam, temporarily moving as intra-corporate transferees to that commercial presence, and those who have been previously employed by the enterprise for at least one year. For more clarity,

(a) Managers and executives are those who primarily direct the management of the enterprises which have established commercial presence in Viet Nam, receiving only general supervision or direction from the board of directors or stockholders of the business or their equivalent, including directing the establishment or a department or subdivision of the establishment, supervising and controlling the work of other supervisory, professional or

- These persons shall be granted entry and a stay permit for an initial period of three years which may be extended subject to the term of operation of those entities in Viet Nam.

- For any commercial presence established in the territory of Viet Nam by an enterprise of another Party, at least 20% of the total number of managers, executives and specialists shall be Vietnamese nationals. However, a minimum of 3 non-Vietnamese managers, executives and specialists shall be permitted.

- The stay of spouses and dependents of intra-corporate transferees shall be the same as the intra-corporate transferees concerned.
managerial employees, having the authority personally to hire and fire or recommend hiring, firing or other personnel actions, and who do not directly perform tasks concerning the actual supply of the services of the establishment;

(b) Specialists are business persons working within an organization who possess knowledge at an advanced level of expertise and with knowledge of the organization's services, research equipment, techniques or management or (ii) have five (5) years of professional experience in the same position as the one they shall be working in in Viet Nam. In assessing such knowledge, account will be taken not only of knowledge specific to the commercial presence, but also of whether the person has a high level of skills or qualification referring to a type of work or trade requiring specific technical knowledge. Specialists may include, but are not limited to, members of licensed professions.

B. Other personnel

Vietnam extends its commitments under this category to all Parties that have made commitments under the headings of:

- “Independent Executives”
- “Other Personnel”
- “Persons Responsible for Setting Up a Commercial Presence”
- “Investors”.

Definition:

Other personnel comprise managers, executives and specialists, as defined in A(a) and (b), who cannot be substituted by Vietnamese and who are employed outside Viet Nam's territory by an enterprise of another Party which has established a commercial presence in the territory of Viet Nam with a view to participating in the foreign enterprise's activities in Viet Nam.

These persons shall be granted entry and a stay permit in conformity with the term of the concerned employment contract or for an initial period of three years whichever is shorter, which may be extended subject to the employment contract between them and the commercial presence.
### C. Service sales persons

Vietnam extends its commitments under this category to all Parties that have made commitments under the headings of:

- “Business Visitors”
- “Service Sales Persons”.

**Definition:**

Service sales persons are those who are not based in the territory of Viet Nam and receiving no remuneration from a source located within Viet Nam, and who are engaged in activities related to representing a service provider of another Party for the purpose of negotiating for the sale of the services of that provider where:

(i) such sales are not directly made to the general public; and

(ii) the salesperson is not directly engaged in supplying the service.

| The stay of these sales persons is limited to a period of six months. |

### D. Persons responsible for setting up a commercial presence

Vietnam extends its commitments under this category to all Parties that have made commitments under the headings of:

- “Independent Executives”
- “Other Personnel”
- “Persons Responsible for Setting Up a Commercial Presence”
- “Investors”.

Viet Nam may, upon application, grant the right of entry and temporary stay to the accompanying spouse and/or dependents of a person responsible for setting up a commercial presence of another Party.

Upon application, persons responsible for setting up a commercial presence and, where relevant, their spouses and dependents may be issued with temporary residence cards, or equivalent multiple entry rights.

**Definition:**

Persons responsible for setting up a commercial presence are managers and executives (as defined in A(a) and (b) above) within a juridical person, who are responsible for:

- The stay of these persons is limited to a period of 01 year.
- The stay of spouses and dependents of
for the setting up, in Viet Nam, of a commercial presence of a service provider of an other Party when:

(i) these people are not engaged in making direct sales or supplying services; and

(ii) the service provider has its principal place of business in the territory of an other Party and has no other commercial presence in Viet Nam.

E. Contractual service suppliers (CSS)

Vietnam extends its commitments under this category to all Parties that have made commitments under the headings of:

- “Contractual Service Suppliers”
- “Independent Professionals”
- “Installers/Servicers”
- “Professionals”.

Viet Nam may, upon application, grant the right of entry and temporary stay to the accompanying spouse and/or dependents of a contractual service supplier of another Party.

Upon application, contractual service suppliers and, where relevant, their spouses and dependents may be issued with temporary residence cards, or equivalent multiple entry entry rights.

**Definition:**

Contractual service suppliers (CSS) are business persons who are employees of an enterprise of another Party having no commercial presence in Viet Nam and having obtained a service contract from a Vietnamese enterprise engaged in business operation in Viet Nam. The competent authority of Viet Nam must be able to establish the necessary procedures to guarantee the bona fide character of the contract.

Contractual service suppliers must possess either: (a) a university degree or a technical qualification document demonstrating knowledge of an equivalent level; (b) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws and regulations of Viet Nam; or (c) at least 5 years of experience in the sector.

Contractual service suppliers may enter and stay in Viet Nam for a period of six months or for the duration of the contract, whichever is shorter. Extensions may be possible.

The number of contractual service suppliers covered by the service contract shall not be larger than necessary to fulfil the contract, as it may be decided by the laws and regulations and requirement of Viet Nam.

The stay of spouses and dependents of contractual service suppliers shall be the same as contractual service suppliers concerned.
professional experience in the sector.

Contractual service suppliers should have been employed by the foreign enterprise having no commercial presence in Viet Nam for a period of no less than 2 years and have met the requirements prescribed for "specialist" above.

The entry of contractual service suppliers is allowed for the following sectors:

- Computer and related services (CP 841, 845, 849)
- Engineering services (CPC 8672)
- Integrated engineering services (CPC 8673)
- Legal services (CPC 861)
- Accounting, taxation and auditing services (CPC 862, 8630)
- Architectural services (CPC 8671)
- Services incidental to mining (CPC 883, CPC 5115)
- Telecommunications services
- Distribution services (CPC 621, 622, 631, 632, 61111, 61112, 6113, 6121, 8929)
- Construction and related engineering services (CPC 511, 512, 513, 514, 515, 516, 517, 518)
- Educational services (CPC 922, 923, 924, 929)
- Environmental services
- Financial services (including banking and insurance)
- Services related to the hosting of a sporting event (CPC 96411, 96412, 96413)
- Road transport services (CPC 7123)
- Air transport services (Sales and marketing air products services, Computer reservation services and Maintenance and repair of aircraft (CPC 8868**) and commercial flight training).
CHAPTER 13

TELECOMMUNICATIONS

Article 13.1: Definitions

For the purposes of this Chapter:

commercial mobile services means public telecommunications services supplied through mobile wireless means;

cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

end-user means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

enterprise means an enterprise as defined in Article 1.3 (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 with 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;

international mobile roaming service means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications services that enables end-users to use their home mobile handset or other device for voice, data or messaging services while outside the territory in which the end-user’s home public telecommunications network is located;

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;

**licence** means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for that person to offer a 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;

**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 treatment no less favourable 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, at the same location, the same telephone numbers when switching between the same category of 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. These services may include telephone and data transmission typically involving transmission of customer-supplied information between two or more defined points without any end-to-end change in the form or content of the customer’s information;

**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;

**telecommunications** means the transmission and reception of signals by any electromagnetic means, including by photonic 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

**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 13.2: Scope

1. This Chapter shall apply to:

   (a) any measure relating to access to and use of public telecommunications services;

   (b) any measure relating to obligations regarding suppliers of public telecommunications services; and

   (c) any other measure relating to telecommunications services.

2. This Chapter shall not apply to any measure relating to broadcast or cable distribution of radio or television programming, except that:

   (a) Article 13.4.1 (Access to and Use of Public Telecommunications Services) shall apply with respect to a cable or broadcast service supplier’s access to and use of public telecommunications services; and

   (b) Article 13.22 (Transparency) shall apply to any technical measure to the extent that the measure also affects public telecommunications services.

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;¹

¹ For greater certainty, nothing in this Chapter shall be construed to require a Party to authorise an enterprise of
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; or

prevent a Party from prohibiting a person who operates a private network from using its private network to supply a public telecommunications network or service to third persons.

4. Annex 13-A (Rural Telephone Suppliers – United States) and Annex 13-B (Rural Telephone Suppliers – Peru) include additional provisions relating to the scope of this Chapter.

Article 13.3: Approaches to Regulation

1. The Parties recognise 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 recognise 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 recognise 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;\(^2\) or

(c) use any other appropriate means that benefit the long-term interest of end-users.

3. When 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

another Party to establish, construct, acquire, lease, operate or supply public telecommunications services, unless otherwise provided for in this Agreement.

\(^2\) Consistent with paragraph 2(b), 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 Articles 13.7 (Treatment by Major Suppliers of Public Telecommunication Services), 13.9.2 (Resale), 13.11 (Interconnection with Major Suppliers), 13.13 (Co-Location by Major Suppliers), or 13.14 (Access to Poles, Ducts, Conduits and Rights-of-Way Owned or Controlled by Major Suppliers) to the commercial mobile market.
public telecommunications service, if its telecommunications regulatory body or other competent 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 13.4: Access to and Use of Public Telecommunications Services

1. Each Party shall ensure that any enterprise of another Party has access to and use of any public telecommunications service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions.

2. Each Party shall ensure that any service supplier of another 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, signalling, processing and conversion functions; and

   (e) use operating protocols of their choice.

3. Each Party shall ensure that an enterprise of any Party may use public telecommunications services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained

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3 For greater certainty, this Article does not prohibit any Party from requiring an enterprise to obtain a licence to supply any public telecommunications service within its territory.

4 In Viet Nam, networks authorised to establish for the purpose of carrying out, on a non-commercial basis, voice and data telecommunications between members of a closed user group can only directly interconnect with each other where approved in writing by the telecommunications regulatory body. Viet Nam shall ensure that upon request an applicant receives the reasons for the denial of an authorisation. Viet Nam shall review this requirement to obtain written approval within two years of the date of entry into force of this Agreement.
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 a 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 generally available to the public; or

   (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

   (a) a requirement to use a specified technical interface, including an interface protocol, for connection with those networks or services;

   (b) a requirement, when necessary, for the inter-operability 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) a licensing, permit, registration or notification procedure 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 13.5: Obligations Relating to Suppliers of Public Telecommunications Services**

*Interconnection*²

1. Each Party shall ensure that suppliers of public telecommunications services in its

² For greater certainty, the term “interconnection”, as used in this Chapter, does not include access to unbundled network elements.
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 that those suppliers only use that information for the purpose of providing these services.

Number Portability

4. 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.6

Access to Numbers

5. Each Party shall ensure that suppliers of public telecommunications services of another Party established in its territory are afforded access to telephone numbers on a non-discriminatory basis.7

Article 13.6: International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates

6 With respect to certain Parties, this paragraph shall apply as follows:

(a) for Brunei Darussalam, this paragraph shall not apply until such time as it determines, pursuant to periodic review, that it is economically feasible to implement number portability in Brunei Darussalam;

(b) for Malaysia, this paragraph shall apply only with respect to commercial mobile services until such time as it determines that it is economically feasible to apply number portability to fixed services; and

(c) for Viet Nam, this paragraph shall apply to fixed services at such time as it determines that it is technically and economically feasible. Within four years of the date of entry into force of this Agreement for Viet Nam, it shall conduct a review for it to determine the economic feasibility of applying number portability to fixed services. With respect to commercial mobile services, this paragraph shall apply to Viet Nam no later than 2020.

7 For Viet Nam, this paragraph shall not apply with respect to blocks of numbers that have been allocated prior to entry into force of this Agreement.
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) minimising 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.

3. The Parties recognise that a Party, when it has the authority to do so, may choose to adopt
or maintain measures affecting rates for wholesale international roaming services with a view to
ensuring that those rates are reasonable. If a Party considers it appropriate, it may cooperate on
and implement mechanisms with other Parties to facilitate the implementation of those measures,
including by entering into arrangements with those Parties.

4. If a Party (the first Party) chooses to regulate rates or conditions for wholesale
international mobile roaming services, it shall ensure that a supplier of public
 telecommunications services of another Party (the second Party) has access to the regulated rates
or conditions for wholesale international mobile roaming services for its customers roaming in
the territory of the first Party in circumstances in which:8

(a) the second Party has entered into an arrangement with the first Party to
reciprocally regulate rates or conditions for wholesale international mobile
roaming services for suppliers of the two Parties;9 or

(b) in the absence of an arrangement of the type referred to in subparagraph (a), the
supplier of public telecommunications services of the second Party, of its own
accord:

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8 For greater certainty, no Party shall, solely on the basis of any obligations owed to it by the first Party under a
most-favoured-nation provision, or under a telecommunications-specific non-discrimination provision, in any
existing international trade agreement, seek or obtain for its suppliers the access to regulated rates or conditions for
wholesale international mobile roaming services that is provided under this Article.

9 For greater certainty, access under paragraph 4(a) to the rates or conditions regulated by the first Party shall be
available to a supplier of the second Party only if such regulated rates or conditions are reasonably comparable to
those reciprocally regulated under the arrangement referred to in subparagraph (a). The telecommunications
regulatory body of the first Party shall, in the case of disagreement, determine whether the rates or conditions are
reasonably comparable.
(i) makes available to suppliers of public telecommunications services of the first Party wholesale international mobile roaming services at rates or conditions that are reasonably comparable to the regulated rates or conditions;\textsuperscript{10} and

(ii) meets any additional requirements that the first Party imposes with respect to the availability of the regulated rates or conditions.\textsuperscript{11}

The first Party may require suppliers of the second Party to fully utilise commercial negotiations to reach agreement on the terms for accessing such rates or conditions.

5. A Party that ensures access to regulated rates or conditions for wholesale international mobile roaming services in accordance with paragraph 4 shall be deemed to be in compliance with its obligations under Article 10.4 (Most-Favoured-Nation Treatment), Article 13.4.1 (Access to and Use of Public Telecommunications Services), and Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services) with respect to international mobile roaming services.

6. Each Party shall provide to the other Parties information on rates for retail international mobile roaming services for voice, data and text messages offered to consumers of the Party when visiting the territories of the other Parties. A Party shall provide that information no later than one year after the date of entry into force of this Agreement for the Party. Each Party shall update that information and provide it to the other Parties on an annual basis or as otherwise agreed. Interested Parties shall endeavour to cooperate on compiling this information into a report to be mutually agreed by the Parties and to be made publicly available.

7. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

**Article 13.7: 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 favourable than that major supplier accords in like circumstances to its subsidiaries, its affiliates or non-affiliated service suppliers regarding:

\textsuperscript{10} For the purposes of this subparagraph, rates or conditions that are reasonably comparable means rates or conditions agreed to be such by the relevant suppliers or, in the case of disagreement, determined to be such by the telecommunications regulatory body of the first Party.

\textsuperscript{11} For greater certainty, such additional requirements may include, for example, that the rates provided to the supplier of the second Party reflect the reasonable cost of supplying international mobile roaming services by a supplier of the first Party to a supplier of the second Party, as determined through the methodology of the first Party.
(a) the availability, provisioning, rates or quality of like public telecommunications services; and

(b) the availability of technical interfaces necessary for interconnection.

**Article 13.8: 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.

2. The anti-competitive practices referred to in paragraph 1 include in particular:

   (a) engaging in anti-competitive cross-subsidisation;

   (b) using information obtained from competitors with anti-competitive results; and

   (c) not making available, 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 13.9: Resale**

1. No Party shall prohibit the resale of any public telecommunications service.\(^{12}\)

2. Each Party shall ensure that a major supplier in its territory:

   (a) offers for resale, at reasonable rates,\(^{13}\) to suppliers of public telecommunications services of another Party, public telecommunications services that the major supplier provides at retail to end-users; and

   (b) does not impose unreasonable or discriminatory conditions or limitations on the resale of those services.\(^{14}\)

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\(^{12}\) Brunei Darussalam may require that licensees who purchase public telecommunications services on a wholesale basis only resell their services to an end-user.

\(^{13}\) For the purposes of this Article, each Party may determine reasonable rates through any methodology it considers appropriate.

\(^{14}\) Where provided in its laws or regulations, a Party may prohibit a reseller that obtains, at wholesale rates, a public telecommunications service available at retail to only a limited category of subscribers from offering the service to a
3. Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by major suppliers pursuant to paragraph 2, based on the need to promote competition or to benefit the long-term interests of end-users.

4. If a Party does not require that a major supplier offer a specific public telecommunications service for resale, it nonetheless shall allow service suppliers to request that the service be offered for resale consistent with paragraph 2, without prejudice to the Party’s decision on the request.

**Article 13.10: Unbundling of Network Elements by Major Suppliers**

Each Party shall provide its telecommunications regulatory body or another appropriate body with 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. Each 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 13.11: 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 favourable 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 different category of subscribers.
the service to be provided; and

(e) on request, at points in addition to the network termination points offered to the majority of 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 with the opportunity to interconnect their facilities and equipment with those of the major supplier through the following options:

   (a) a reference interconnection offer or another standard 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 that is 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 interconnection agreements that are in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory;

   (b) the public availability of rates, terms and conditions for interconnection with a major supplier set by the telecommunications regulatory body or other competent body; or

   (c) the public availability of a reference interconnection offer.

Services for which those rates, terms and conditions are made publicly available do not have to include all interconnection-related services offered by a major supplier, as determined by a Party
Article 13.12: Provisioning and Pricing of Leased Circuits Services by Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides to 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. Further to paragraph 1, each Party shall provide its telecommunications regulatory body or other appropriate bodies 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 and cost-oriented prices.

Article 13.13: Co-Location by Major Suppliers

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 and non-discriminatory.

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 facilitating virtual co-location, based on a generally available offer, on a timely basis, and on terms and conditions and at cost-oriented rates, that are reasonable and non-discriminatory.

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 such a request.
Article 13.14: Access to Poles, Ducts, Conduits and Rights-of-way Owned or Controlled by Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides access to poles, ducts, conduits, and rights-of-way or 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, subject to technical feasibility.

2. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, rights-of-way or any other structures to which it requires major suppliers in its territory to provide access in accordance with paragraph 1. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

Article 13.15: International Submarine Cable Systems

Each Party shall ensure that any major supplier who controls international submarine cable landing stations in the Party’s territory provides access to those landing stations, consistent with the provisions of Article 13.11 (Interconnection with Major Suppliers), Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), and Article 13.13 (Co-Location by Major Suppliers), to public telecommunications suppliers of another Party.

Article 13.16: Independent Regulatory Bodies and Government Ownership

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any 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 or

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15 Chile may comply with this obligation by maintaining appropriate measures for the purpose of preventing a major supplier in its territory from denying access to poles, ducts, conduits and rights-of-way, owned or controlled by the major supplier.

16 For Chile, this provision shall apply when its telecommunications regulatory body obtains the authority to implement this provision. Nonetheless, Chile shall ensure reasonable and non-discriminatory access to international submarine cable systems including landing stations in its territory.

17 For Viet Nam, co-location for international submarine landing stations owned or controlled by the major supplier in the territory of Viet Nam excludes physical co-location.

18 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.
maintain an operating or management role\textsuperscript{19} in any supplier of public telecommunications services.

2. Each Party shall ensure that the regulatory decisions and procedures of its telecommunications regulatory body or other competent authority related to provisions contained in this Chapter are impartial with respect to all market participants.

3. No Party shall accord more favourable 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 favourable treatment is owned by the national government of the Party.

Article 13.17: Universal Service

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 13.18: Licensing Process

1. If a Party requires a supplier of public telecommunications services to have a licence, the Party shall ensure the public availability of:

   (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 licence; and

   (c) the terms and conditions of all licences in effect.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the:

   (a) denial of a licence;

   (b) imposition of supplier-specific conditions on a licence;

\textsuperscript{19} Viet Nam’s telecommunications regulatory body assumes the role of representing the government as owner of certain telecommunications suppliers. In this context, Viet Nam shall comply with this provision by ensuring that any regulatory actions with respect to those suppliers do not materially disadvantage any competitor.
(c) revocation of a licence; or

(d) refusal to renew a licence.

**Article 13.19: 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\(^{20}\) 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 10.5 (Market Access) either as it applies to cross-border trade in services or through the operation of Article 10.2.2 (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 other provisions of 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 endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour 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 13.20: Enforcement**

Each Party shall provide its competent authority with the authority to enforce the Party’s measures relating to the obligations set out in Article 13.4 (Access to and Use of Public Telecommunications Services), Article 13.5 (Obligations Relating to Suppliers of Public Telecommunications Services), Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services), Article 13.8 (Competitive Safeguards), Article 13.9 (Resale), Article 13.10 (Unbundling of Network Elements by Major Suppliers), Article 13.11

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\(^{20}\) For Peru, the commitment to make publicly available assigned bands shall apply only to bands used to provide access to end-users.
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

(Interconnection with Major Suppliers), Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), Article 13.13 (Co-Location by Major Suppliers), Article 13.14 (Access to Poles, Ducts, Conduits and Rights-of-way Owned or Controlled by Major Suppliers) and Article 13.15 (International 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), or the modification, suspension or revocation of licences.

Article 13.21: Resolution of Telecommunications Disputes

1. Further to Articles 26.3 (Administrative Proceedings) and 26.4 (Review and Appeal), each Party shall ensure that:

Recourse

(a) enterprises have recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes regarding the Party’s measures relating to matters set out in Article 13.4 (Access to and Use of Public Telecommunications Services), Article 13.5 (Obligations Relating to Suppliers of Public Telecommunications Services), Article 13.6 (International Mobile Roaming), Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services), Article 13.8 (Competitive Safeguards), Article 13.9 (Resale), Article 13.10 (Unbundling of Network Elements by Major Suppliers), Article 13.11 (Interconnection with Major Suppliers), Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), Article 13.13 (Co-Location by Major Suppliers), Article 13.14 (Access to Poles, Ducts, Conduits and Rights-of-way Owned or Controlled by Major Suppliers) and Article 13.15 (International Submarine Cable Systems);

(b) if a telecommunications regulatory body declines to initiate any action on a request to resolve a dispute, it shall, upon request, provide a written explanation for its decision within a reasonable period of time;21

(c) suppliers of public telecommunications services of another Party that have requested interconnection with a major supplier in the Party’s territory may seek review, within a reasonable and publicly specified period of time after the supplier requests interconnection, by its telecommunications regulatory body to resolve disputes regarding the terms, conditions and rates for interconnection with that major supplier; and

21 For the United States, subparagraph 1(b) applies only to the national regulatory body.
Reconsideration

(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 or other relevant 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 or other relevant 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.

Article 13.22: Transparency

1. Further to Article 26.2.2 (Publication), each Party shall ensure that when its telecommunications regulatory body seeks input 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

22 With respect to Peru, enterprises may not petition for reconsideration of rulings of general application, as defined in Article 26.1 (Definitions), unless provided for under its laws and regulations. For Australia, subparagraph 1(d) does not apply.

23 For greater certainty, seeking input does not include internal governmental deliberations.
2. Further to Article 26.2.1 (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 13.21 (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.

Article 13.23: 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. For greater certainty, a Party adopting those measures shall do so consistent with Article 13.22 (Transparency).

2. When a Party finances the development of advanced networks, it may make its financing conditional on the use of technologies that meet its specific public policy interests.

24 For greater certainty, a Party may consolidate its responses to the comments received from interested persons. Viet Nam may comply with this obligation by responding to any questions regarding its decisions upon request.

25 For greater certainty, “advanced networks” includes broadband networks.
Article 13.24: 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 13.25: Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services and undertake to promote those standards through the work of relevant international organisations.

Article 13.26: 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 13-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(37) of the Communications Act of 1934, as amended, (47 U.S.C. § 251(f)(2) and § 153(44)), from the obligations contained in Article 13.5.4 (Number Portability), Article 13.9 (Resale), Article 13.10 (Unbundling of Network Elements by Major Suppliers), Article 13.11 (Interconnection with Major Suppliers), and Article 13.13 (Co-location by Major Suppliers).
1. With respect to Peru:

(a) a rural operator shall not be considered a major supplier;

(b) Article 13.5.4 (Number Portability) shall not apply to rural operators; and

(c) Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), Article 13.13 (Co-Location by Major Suppliers) and Article 13.14 (Access to Poles, Ducts, Conduits, and Rights-of-way Owned or Controlled by Major Suppliers) shall not apply to the facilities deployed by major suppliers in rural areas.

2. For the purposes of this Annex, for Peru:

(a) rural area means a population centre:

   (i) that is not included within urban areas, with a population of less than 3,000 inhabitants, a low population density, and a lack of basic services; or

   (ii) with a teledensity rate of less than two fixed lines per 100 inhabitants; and

(b) rural operator means a rural telephone company that has at least 80 per cent of its total fixed subscriber lines in operation in rural areas.
CHAPTER 14

ELECTRONIC COMMERCE

Article 14.1: Definitions

For the purposes of this Chapter:

computing facilities means computer servers and storage devices for processing or storing information for commercial use;

covered person\(^1\) means:

(a) a covered investment as defined in Article 9.1 (Definitions);

(b) an investor of a Party as defined in Article 9.1 (Definitions), but does not include an investor in a financial institution; or

(c) a service supplier of a Party as defined in Article 10.1 (Definitions),

but does not include a “financial institution” or a “cross-border financial service supplier of a Party” as defined in Article 11.1 (Definitions);

digital product means a computer programme, text, video, image, sound recording or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically;\(^2\),\(^3\)

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 transmission or transmitted electronically means a transmission made using any electromagnetic means, including by photonic means;

personal information means any information, including data, about an identified or identifiable natural person;

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\(^1\) For Australia, a covered person does not include a credit reporting body.

\(^2\) For greater certainty, digital product does not include a digitised representation of a financial instrument, including money.

\(^3\) The definition of digital product should not be understood to reflect a Party’s view on whether trade in digital products through electronic transmission should be categorised as trade in services or trade in goods.
Article 14.2: Scope and General Provisions

1. The Parties recognise the economic growth and opportunities provided by electronic commerce and the importance of frameworks that promote consumer confidence in electronic commerce and of avoiding unnecessary barriers to its use and development.

2. This Chapter shall apply to measures adopted or maintained by a Party that affect trade by electronic means.

3. This Chapter shall not apply to:

   (a) government procurement; or

   (b) information held or processed by or on behalf of a Party, or measures related to such 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 the obligations contained in the relevant provisions of Chapter 9 (Investment), Chapter 10 (Cross-Border Trade in Services) and Chapter 11 (Financial Services), including any exceptions or non-conforming measures set out in this Agreement that are applicable to those obligations.

5. For greater certainty, the obligations contained in Article 14.4 (Non-Discriminatory Treatment of Digital Products), Article 14.11 (Cross-Border Transfer of Information by Electronic Means), Article 14.13 (Location of Computing Facilities) and Article 14.17 (Source Code) are:

   (a) subject to the relevant provisions, exceptions and non-conforming measures of Chapter 9 (Investment), Chapter 10 (Cross-Border Trade in Services) and Chapter 11 (Financial Services); and

   (b) to be read in conjunction with any other relevant provisions in this Agreement.
5. The obligations contained in Article 14.4 (Non-Discriminatory Treatment of Digital Products), Article 14.11 (Cross-Border Transfer of Information by Electronic Means) and Article 14.13 (Location of Computing Facilities) shall not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article 9.11 (Non-Conforming Measures), Article 10.7 (Non-Conforming Measures) or Article 11.10 (Non-Conforming Measures).

Article 14.3: Customs Duties

1. No Party shall impose customs duties on electronic transmissions, including content 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 content transmitted electronically, provided that such taxes, fees or charges are imposed in a manner consistent with this Agreement.

Article 14.4: Non-Discriminatory Treatment of Digital Products

1. No Party shall accord less favourable 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. Paragraph 1 shall not apply to the extent of any inconsistency with the rights and obligations in Chapter 18 (Intellectual Property).

3. The Parties understand that this Article does not apply to subsidies or grants provided by a Party including government-supported loans, guarantees and insurance.

4. This Article shall not apply to broadcasting.

Article 14.5: Domestic Electronic Transactions Framework


2. Each Party shall endeavour to:

\(^4\) 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 14.4.1.
(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 14.6: Electronic Authentication and Electronic Signatures

1. Except in circumstances otherwise provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. No Party shall adopt or maintain measures for electronic authentication that would:
   (a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods for that transaction; or
   (b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with any legal requirements with respect to authentication.

3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication meets certain performance standards or is certified by an authority accredited in accordance with its law.

4. The Parties shall encourage the use of interoperable electronic authentication.

Article 14.7: Online Consumer Protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent and deceptive commercial activities as referred to in Article 16.7.2 (Consumer Protection) when they engage in electronic commerce.

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 recognise the importance of cooperation between their respective national consumer protection agencies or other relevant bodies on activities related to cross-border electronic commerce in order to enhance consumer welfare. To this end, the Parties affirm that the cooperation sought under Article 16.7.5 and Article 16.7.6 (Consumer Protection) includes cooperation with respect to online commercial activities.
Article 14.8: Personal Information Protection\(^5\)

1. The Parties recognise the economic and social benefits of protecting the personal information of users of electronic commerce and the contribution that this makes to enhancing consumer confidence in electronic commerce.

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 electronic commerce. 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.\(^6\)

3. Each Party shall endeavour to adopt non-discriminatory practices in protecting users of electronic commerce from personal information protection violations occurring within its jurisdiction.

4. Each Party should publish information on the personal information protections it provides to users of electronic commerce, including how:

   (a) individuals can pursue remedies; and

   (b) business can comply with any legal requirements.

5. Recognising 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. These mechanisms may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement, or broader international frameworks. To this end, the Parties shall endeavour to exchange information on any such mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them.

Article 14.9: Paperless Trading

Each Party shall endeavour to:

(a) make trade administration documents available to the public in electronic form; and

\(^{5}\) Brunei Darussalam and Viet Nam are not required to apply this Article before the date on which that Party implements its legal framework that provides for the protection of personal data of the users of electronic commerce.

\(^{6}\) For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as a comprehensive privacy, personal information or personal data protection laws, sector-specific laws covering privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.
(b) accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

Article 14.10: Principles on Access to and Use of the Internet for Electronic Commerce

Subject to applicable policies, laws and regulations, the Parties recognise 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 management7;

(b) connect the end-user devices of a consumer’s choice to the Internet, provided that such devices do not harm the network; and

(c) access information on the network management practices of a consumer’s Internet access service supplier.

Article 14.11: Cross-Border Transfer of Information by Electronic Means

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. Each Party shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

   (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

   (b) does not impose restrictions on transfers of information greater than are required to achieve the objective.

Article 14.12: Internet Interconnection Charge Sharing

The Parties recognise that a supplier seeking international Internet connection should be

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7 The Parties recognise that an Internet access service supplier that offers its subscribers certain content on an exclusive basis would not be acting contrary to this principle.
able to negotiate with suppliers of another Party on a commercial basis. These negotiations may include negotiations regarding compensation for the establishment, operation and maintenance of facilities of the respective suppliers.

Article 14.13: Location of Computing Facilities

1. The Parties recognise that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. 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.

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

   (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and

   (b) does not impose restrictions on the use or location of computing facilities greater than are required to achieve the objective.

Article 14.14: Unsolicited Commercial Electronic Messages\(^8\)

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

   (a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages;

   (b) require the consent, as specified according to the laws and regulations of each Party, of recipients to receive commercial electronic messages; or

   (c) otherwise provide for the minimisation of unsolicited commercial electronic messages.

\(^8\) Brunei Darussalam is not required to apply this Article before the date on which it implements its legal framework regarding unsolicited commercial electronic messages.
2. Each Party shall provide recourse against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained pursuant to paragraph 1.

3. The Parties shall endeavour to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

**Article 14.15: Cooperation**

Recognising the global nature of electronic commerce, the Parties shall endeavour to:

(a) work together to assist SMEs to overcome obstacles to its use;

(b) exchange information and share experiences on regulations, policies, enforcement and compliance regarding electronic commerce, including:

(i) personal information protection;

(ii) online consumer protection including means for consumer redress and building consumer confidence;

(iii) unsolicited commercial electronic messages;

(iv) security in electronic communications;

(v) authentication; and

(vi) e-government;

(c) exchange information and share views on consumer access to products and services offered online among the Parties;

(d) participate actively in regional and multilateral fora to promote the development of electronic commerce; and

(e) encourage development by the private sector of methods of self-regulation that foster electronic commerce, including codes of conduct, model contracts, guidelines and enforcement mechanisms.

**Article 14.16: Cooperation on Cybersecurity Matters**

The Parties recognise the importance of:

(a) building the capabilities of their national entities responsible for computer
security incident response; and

(b) using existing collaboration mechanisms to cooperate to identify and mitigate malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties.

Article 14.17: Source Code

1. No Party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory.

2. For the purposes of this Article, software subject to paragraph 1 is limited to mass-market software or products containing such software and does not include software used for critical infrastructure.

3. Nothing in this Article shall preclude:

(a) the inclusion or implementation of terms and conditions related to the provision of source code in commercially negotiated contracts; or

(b) a Party from requiring the modification of source code of software necessary for that software to comply with laws or regulations which are not inconsistent with this Agreement.

4. This Article shall not be construed to affect requirements that relate to patent applications or granted patents, including any orders made by a judicial authority in relation to patent disputes, subject to safeguards against unauthorised disclosure under the law or practice of a Party.

Article 14.18: Dispute Settlement

1. With respect to existing measures, Malaysia shall not be subject to dispute settlement under Chapter 28 (Dispute Settlement) regarding its obligations under Article 14.4 (Non-Discriminatory Treatment of Digital Products) and Article 14.11 (Cross-Border Transfer of Information by Electronic Means) for a period of two years after the date of entry into force of this Agreement for Malaysia.

2. With respect to existing measures, Viet Nam shall not be subject to dispute settlement under Chapter 28 (Dispute Settlement) regarding its obligations under Article 14.4 (Non-Discriminatory Treatment of Digital Products), Article 14.11 (Cross-Border Transfer of Information by Electronic Means) and Article 14.13 (Location of Computing Facilities) for a period of two years after the date of entry into force of this Agreement for Viet Nam.
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions
CHAPTER 15

GOVERNMENT PROCUREMENT

Article 15.1: 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;

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 15-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 recognises 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 15.2: 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 15-A;
   (b) 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;
   (c) 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 15-A, at the time of publication of a notice of intended procurement;

(d) by a procuring entity; and

(e) that is not otherwise excluded from coverage under this Agreement.

Activities Not Covered

3. Unless otherwise provided in a Party's Schedule to Annex 15-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;

(d) public employment contracts;

(e) procurement:

(i) conducted for the specific purpose of providing international assistance, including development aid;

(ii) funded by an international organisation or foreign or international grants, loans or other assistance to which procurement procedures or conditions of the international organisation or donor apply. If the procedures or conditions of the international organisation or donor do not restrict the participation of suppliers then the procurement shall be subject to Article 15.4.1 (General Principles); or

(iii) conducted 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; and

(f) procurement of a good or service outside the territory of the Party of the procuring entity, for consumption outside the territory of that Party.
Schedules

4. Each Party shall specify the following information in its Schedule to Annex 15-A:
   
   (a) in Section A, the central government entities whose procurement is covered by this Chapter;
   
   (b) in Section B, the sub-central government entities whose procurement is covered by this Chapter;
   
   (c) in Section C, other entities whose procurement is covered by this Chapter;
   
   (d) in Section D, the goods covered by this Chapter;
   
   (e) in Section E, the services, other than construction services, covered by this Chapter;
   
   (f) in Section F, the construction services covered by this Chapter;
   
   (g) in Section G, any General Notes;
   
   (h) in Section H, the applicable Threshold Adjustment Formula;
   
   (i) in Section I, the publication information required under Article 15.6.2 (Publication of Procurement Information); and
   
   (j) in Section J, any transitional measures in accordance with Article 15.5 (Transitional Measures).

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 15.3: 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 labour.

2. The Parties understand that subparagraph 1(b) includes environmental measures necessary to protect human, animal or plant life or health.

Article 15.4: 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 favourable 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 favourably 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

4. A procuring entity shall use an open tendering procedure for covered procurement unless Article 15.9 (Qualification of Suppliers) or Article 15.10 (Limited Tendering) applies.

Rules of Origin

5. Each Party shall apply to covered procurement of a good the rules of origin that it applies in the normal course of trade to that good.

Offsets

6. 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

7. 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

8. 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.
9. 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 15.5: Transitional Measures

1. A Party that is a developing country (developing country Party) may, with the agreement of the other Parties, adopt or maintain one or more of the following transitional measures, during a transition period set out in, and in accordance with, Section J of the Party’s Schedule to Annex 15-A:

(a) a price preference programme, provided that the programme:

   (i) provides a preference only for the part of the tender incorporating goods or services originating in that developing country Party; and

   (ii) is transparent, and that the preference and its application in the procurement are clearly described in the notice of intended procurement;

(b) an offset, provided that any requirement for, or consideration of, the imposition of the offset is clearly stated in the notice of intended procurement;

(c) the phased-in addition of specific entities or sectors; and

(d) a threshold that is higher than its permanent threshold.

A transitional measure shall be applied in a manner that does not discriminate between the other Parties.

2. The Parties may agree to the delayed application of any obligation in this Chapter, other than Article 15.4.1(b) (General Principles), by the developing country Party while that Party implements the obligation. The implementation period shall be only the period necessary to implement the obligation.

3. Any developing country Party that has negotiated an implementation period for an obligation under paragraph 2 shall list in its Schedule to Annex 15-A the agreed implementation period, the specific obligation subject to the implementation period and any interim obligation with which it has agreed to comply during the implementation period.
4. After this Agreement has entered into force for a developing country Party, the other Parties, on request of that developing country Party, may:

   (a) extend the transition period for a measure adopted or maintained under paragraph 1 or any implementation period negotiated under paragraph 2; or

   (b) approve the adoption of a new transitional measure under paragraph 1, in special circumstances that were unforeseen.

5. A developing country Party that has negotiated a transitional measure under paragraphs 1 or 4, an implementation period under paragraph 2, or any extension under paragraph 4, shall take those steps during the transition period or implementation period that may be necessary to ensure that it is in compliance with this Chapter at the end of any such period. The developing country Party shall promptly notify the other Parties of each step in accordance with Article 27.7 (Reporting on Progress Related to Transitional Measures).

6. Each Party shall give consideration to any request by a developing country Party for technical cooperation and capacity building in relation to that Party’s implementation of this Chapter.

**Article 15.6: Publication of Procurement Information**

1. Each Party shall promptly publish any measure of general application relating to covered procurement, and any change or addition to this information.

2. Each Party shall list in Section I of its Schedule to Annex 15-A the paper or electronic means through which the Party publishes the information described in paragraph 1 and the notices required by Article 15.7 (Notices of Intended Procurement), Article 15.9.3 (Qualification of Suppliers) and Article 15.16.3 (Post-Award Information).

3. Each Party shall, on request, respond to an inquiry relating to the information referred to in paragraph 1.

**Article 15.7: Notices of Intended Procurement**

1. For each covered procurement, except in the circumstances described in Article 15.10 (Limited Tendering), a procuring entity shall publish a notice of intended procurement through the appropriate paper or electronic means listed in Annex 15-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 15-A, through a single point of access; and
(b) for sub-central government entities and other entities covered under Annex 15-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 15.9 (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, unless that indication is publicly available through information published pursuant to Article 15.6.2 (Publication of Procurement Information).

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.
5. For the purposes of this Chapter, each Party shall endeavour to use English as the language for publishing the notice of intended procurement.

Notice of Planned Procurement

6. 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 15.8: 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; or
(d) 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 labour rights as recognised by the Parties and set forth in Article 19.3 (Labour Rights), provided that such measures are applied in a manner consistent with Chapter 26 (Transparency and Anti-Corruption), 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 15.9: Qualification of Suppliers

Registration Systems and Qualification Procedures

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.

2. No Party, including its procuring entities, shall:

   (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 Party’s measures authorise the use of selective tendering, and 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 15.7.3(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;

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 19 (Labour) with respect to labour.
(b) provide, by the commencement of the time period for tendering, at least the information in Article 15.7.3 (c), (e) and (f) (Notices of Intended Procurement) to the qualified suppliers that it notifies as specified in Article 15.14.3(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 15.6.2 (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 15.14.2 (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 recognise 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 15.10: 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 15.7 (Notices of Intended Procurement) through Article 15.9 (Qualification of Suppliers) and Article 15.11 (Negotiations) through Article 15.15 (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 authorised 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. Subsequent procurements of these newly developed goods or services, however, shall be subject to this Chapter;

(f) if additional construction services that were not included in the initial contract but that were within the objectives of the original tender documentation have, due to unforeseeable circumstances, become necessary to complete the construction services described therein. However, the total value of contracts awarded for additional construction services may not exceed 50 per cent of the value of the initial contract;

(g) 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;

(h) if a contract is awarded to the winner of a design contest, provided that:

(i) the contest has been organised 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

(i) 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 15.11: Negotiations

1. A Party may provide for its procuring entities to conduct negotiations in the context of covered procurement if:

   (a) the procuring entity has indicated its intent to conduct negotiations in the notice of intended procurement required under Article 15.7 (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 15.12: Technical Specifications

1. A procuring entity shall not prepare, adopt or apply any technical specification or
prescribe any conformity assessment procedure with the purpose or effect of creating an unnecessary obstacle to trade between the Parties.

2. In prescribing the technical specifications for the good or service being procured, a procuring entity shall, 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, recognised 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 15.13: 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.

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 15.14: 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 15.7 (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 15.15: Treatment of Tenders and Awarding of Contracts**

*Treatment of Tenders*

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.

2. 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*

3. 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 notices and tender documentation and be submitted by a supplier who satisfies the conditions for participation.

4. Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the procuring entity has determined to be fully capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notice and tender documentation, submits:

   (a) the most advantageous tender; or

   (b) if price is the sole criterion, the lowest price.
5. 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 15.16: 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 15.17 (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 15.10 (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 15.10.3 (Limited Tendering), for at least three years after the award of a contract.
Article 15.17: 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 authorisation of the supplier that provided the information, disclose information that would prejudice legitimate commercial interests of a particular supplier or that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities and review bodies, to disclose confidential information if that disclosure:

   (a) would impede law enforcement;

   (b) might prejudice fair competition between suppliers;

   (c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

   (d) would otherwise be contrary to the public interest.

Article 15.18: Ensuring Integrity in Procurement Practices

Each Party shall ensure that criminal or administrative measures exist to address corruption in its government procurement. These measures may include procedures to render ineligible for participation in the Party’s procurements, either indefinitely or for a stated period of time, suppliers that the Party has determined to have engaged in fraudulent or other illegal actions in relation to government procurement in the Party’s territory. Each Party shall also ensure that it has in place policies and procedures to eliminate to the extent possible or manage any potential conflict of interest on the part of those engaged in or having influence over a procurement.

Article 15.19: 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
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 15.20: Modifications and Rectifications of Annex

1. A Party shall notify any proposed modification or rectification (“modification”) to its Schedule to Annex 15-A by circulating a notice in writing to the other Parties through the overall contact points designated under Article 27.5 (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 15-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 (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.


**Article 15.21: Facilitation of Participation by SMEs**

1. The Parties recognise 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) endeavour 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 15.22: Cooperation**
1. The Parties recognise their shared interest in cooperating to promote international liberalisation of government procurement markets with a view to achieving enhanced understanding of their respective government procurement systems and to improving access to their respective markets.

2. The Parties shall endeavour to cooperate in matters such as:

   (a) facilitating participation by suppliers in government procurement, in particular, with respect to SMEs;

   (b) exchanging experiences and information, such as regulatory frameworks, best practices and statistics;

   (c) developing and expanding the use of electronic means in government procurement systems;

   (d) building capability of government officials in best government procurement practices;

   (e) institutional strengthening for the fulfilment of the provisions of this Chapter; and

   (f) enhancing the ability to provide multilingual access to procurement opportunities.

**Article 15.23: Committee on Government Procurement**

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) cooperation between the Parties, as provided for in Article 15.22 (Cooperation);

   (b) facilitation of participation by SMEs in covered procurement, as provided for in Article 15.21 (Facilitation of Participation by SMEs);

   (c) use of transitional measures; and

   (d) consideration of further negotiations as provided for in Article 15.24 (Further Negotiations).

**Article 15.24: Further Negotiations**
1. The Committee shall review this Chapter and may decide to hold further negotiations with a view to:

   (a) improving market access coverage through enlargement of procuring entity lists and reduction of exclusions and exceptions as set out in Annex 15-A;

   (b) revising the thresholds set out in Annex 15-A;

   (c) revising the Threshold Adjustment Formula in Section H of Annex 15-A; and

   (d) reducing and eliminating discriminatory measures.

2. No later than three years after the date of entry into force of this Agreement, the Parties shall commence negotiations with a view to achieving expanded coverage, including sub-central coverage. Parties may also agree to cover sub-central government procurement prior to or following the start of those negotiations.

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2 For those Parties that administer at the central level of government the kinds of procurement that other Parties may administer by sub-central entities, those negotiations may involve commitments at the central government level rather than at the sub-central government level.
ANNEX 15-A: SCHEDULE OF AUSTRALIA

SECTION A

Central Government Entities

1. Chapter 15 (Government Procurement) applies to central government entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.2.8 (Scope and Coverage), to equal or exceed:
   (a) for procurement of goods and services, 130,000 SDRs; and
   (b) for procurement of construction services, 5,000,000 SDRs.

2. The monetary thresholds set out in subparagraphs 1(a) and 1(b) shall be adjusted in accordance with Section H of this Schedule to Annex 15.

Schedule of Australia\textsuperscript{1,2,3,4}

Administrative Appeals Tribunal
Attorney-General’s Department
Australian Aged Care Quality Agency
Australian Bureau of Statistics
Australian Centre for International Agricultural Research
Australian Crime Commission
Australian Electoral Commission
Australian Federal Police
Australian Institute of Criminology
Australian Law Reform Commission
Australian National Audit Office
Australian Office of Financial Management (AOFM)
Australian Public Service Commission
Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)
Australian Research Council
Australian Taxation Office
Australian Trade Commission (Austrade)
Australian Transaction Reports and Analysis Centre (AUSTRAC)
Australian Transport Safety Bureau
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Bureau of Meteorology
Commonwealth Grants Commission
CrimTrac Agency
Department of Agriculture and Water Resources
Department of Communications and the Arts
Department of Defence
Department of Education and Training
Department of Employment
Department of Finance
Department of Foreign Affairs and Trade
Department of Health
Department of Human Services
Department of Immigration and Border Protection
Department of Industry, Innovation and Science
Department of Infrastructure and Regional Development
Department of Parliamentary Services
Department of Social Services
Department of the Environment
Department of the House of Representatives
Department of the Prime Minister and Cabinet
Department of the Senate
Department of the Treasury
Department of Veterans’ Affairs
Fair Work Commission
Family Court and Federal Circuit Court
Federal Court of Australia
Geoscience Australia
Inspector-General of Taxation
IP Australia
National Archives of Australia
National Blood Authority
National Capital Authority
National Competition Council
Office of Parliamentary Counsel
Office of the Australian Accounting Standards Board
Office of the Australian Information Commissioner
Notes to the Schedule of Australia

1. Chapter 15 (Government Procurement) only covers those entities listed (including an office within a listed entity) in this schedule.

2. Chapter 15 (Government Procurement) does not cover the procurement of motor vehicles by any entity listed in this Section.

3. Chapter 15 (Government Procurement) does not cover procurement relating to the functions of the Australian Government Solicitor.

4. Department of Defence
   a) Chapter 15 (Government Procurement) does not cover Department of Defence procurement of the following goods due to Article 29.2 (Security Exceptions):

<table>
<thead>
<tr>
<th>Category</th>
<th>FSC Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weapons</td>
<td>FSC 10</td>
</tr>
<tr>
<td>Fire Control Equipment</td>
<td>FSC 12</td>
</tr>
<tr>
<td>Ammunition and Explosives</td>
<td>FSC 13</td>
</tr>
<tr>
<td>Guided Missiles</td>
<td>FSC 14</td>
</tr>
<tr>
<td>Aircraft and Airframe Structural Components</td>
<td>FSC 15</td>
</tr>
<tr>
<td>Aircraft Components and Accessories</td>
<td>FSC 16</td>
</tr>
<tr>
<td>Aircraft Launching, Landing, &amp; Ground Handling Equipment</td>
<td>FSC 17</td>
</tr>
<tr>
<td>Space Vehicles</td>
<td>FSC 18</td>
</tr>
<tr>
<td>Ships, Small Craft, Pontoons and Floating Docks</td>
<td>FSC 19</td>
</tr>
<tr>
<td>Ship and Marine Equipment</td>
<td>FSC 20</td>
</tr>
<tr>
<td>Product Category</td>
<td>FSC Code</td>
</tr>
<tr>
<td>-----------------------------------------------------------</td>
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</tr>
<tr>
<td>Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles</td>
<td>FSC 23</td>
</tr>
<tr>
<td>Engines, Turbines, and Components</td>
<td>FSC 28</td>
</tr>
<tr>
<td>Engines Accessories</td>
<td>FSC 29</td>
</tr>
<tr>
<td>Bearings</td>
<td>FSC 31</td>
</tr>
<tr>
<td>Water Purification and Sewage Treatment Equipment</td>
<td>FSC 46</td>
</tr>
<tr>
<td>Valves</td>
<td>FSC 48</td>
</tr>
<tr>
<td>Maintenance and Repair Shop Equipment</td>
<td>FSC 49</td>
</tr>
<tr>
<td>Prefabricated Structures and Scaffolding</td>
<td>FSC 54</td>
</tr>
<tr>
<td>Communication, Detection, and Coherent Radiation Equipment</td>
<td>FSC 58</td>
</tr>
<tr>
<td>Electrical and Electronic Equipment Components</td>
<td>FSC 59</td>
</tr>
<tr>
<td>Fiber Optics Materials, Components, Assemblies, and Accessories</td>
<td>FSC 60</td>
</tr>
<tr>
<td>Electric Wire, and Power and Distribution Equipment</td>
<td>FSC 61</td>
</tr>
<tr>
<td>Alarm, Signal and Security Detection Systems</td>
<td>FSC 63</td>
</tr>
<tr>
<td>Instruments and Laboratory Equipment</td>
<td>FSC 66</td>
</tr>
<tr>
<td>Specialty Metals</td>
<td>No Code</td>
</tr>
</tbody>
</table>

**Note:** Whether a good is included within the scope of this Note shall be determined solely according to the descriptions provided in the left column above. U.S. Federal Supply Codes are provided for reference purposes only. *(For a complete listing of the United States Federal Supply Codes, to which the Australian categories are approximately equivalent, see http://www.fbo.gov).*

b) For Australia, this Chapter does not cover the following services, as elaborated in the Common Classification System and the WTO system of classification – MTN.GNS/W/120, due to Article 29.2 (Security Exceptions) (For a complete listing of the Common Classification System, see: http://www.sice.oas.org/trade/nafta/chap-105.asp.)

- Design, development, integration, test, evaluation, maintenance, repair, modification, rebuilding and installation of military systems and equipment (approximately equivalent to relevant parts of U.S. Product Service Codes A & J)
- Operation of Government-owned Facilities (approximately equivalent to U.S. Product Service Code M)
- Space services (AR, B4 & V3)
- Services in support of military forces overseas
c) Chapter 15 (Government Procurement) does not cover the procurement of goods and services by, or on behalf of, the Defence Intelligence Organisation, the Australian Signals Directorate, or the Australian Geospatial-Intelligence Organisation.

d) In respect of Article 15.4 (National Treatment and Non-Discrimination) the Australian Government reserves the right, pursuant to Article 29.2, (Security Exceptions) to maintain the Australian industry capability program and its successor programs and policies.

e) In respect of the Department of Defence, a good or a service is covered with respect to Vietnam only to the extent that Vietnam has covered that good or service in its schedule.
SECTION B

Sub-Central Government Entities

1. Chapter 15 (Government Procurement) applies to sub-central government entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.2.8 (Scope and Coverage), to equal or exceed:

   (a) for procurement of goods and services, 355,000 SDR; and
   (b) for procurement of construction services, 5,000,000 SDR.

2. The monetary thresholds set out in subparagraphs 1(a) and 1(b) shall be adjusted in accordance with Section H of this Schedule to Annex 15.

Procuring Entities and Notes to Section B

Chapter 15 (Government Procurement) covers only those entities specifically listed in this Schedule.

Australian Capital Territory

ACT Gambling and Racing Commission
ACT Insurance Authority
ACTION
ACT Auditor-General
Capital Metro Authority
Chief Minister, Treasury and Economic Development Directorate
Community Services Directorate
Cultural Facilities Corporation
Education and Training Directorate
Environment and Planning Directorate
Health Directorate
Housing ACT
Independent Competition and Regulatory Commission
Justice and Community Safety Directorate
Legal Aid Commission
Ombudsman of the ACT
Territory and Municipal Services Directorate

1. For the entities listed for the Australian Capital Territory, Chapter 15 (Government Procurement) does not cover the procurement of health and welfare services, education services, utility services, or motor vehicles.

**New South Wales**

Department of Justice  
Fire and Rescue NSW  
Information and Privacy Commission  
Legal Aid NSW  
Ministry for Police and Emergency Services  
New South Wales Crime Commission  
New South Wales Rural Fire Service  
Office of the Director of Public Prosecutions NSW  
State Emergency Service  
Department of Education  
Board of Studies, Teaching and Education Standards  
Multicultural NSW  
Advocate for Children and Young People  
Sydney Olympic Park Authority  
Department of Family and Community Services  
Department of Finance, Services and Innovation  
WorkCover NSW  
Motor Accidents Authority of NSW  
Department of Premier and Cabinet  
Department of Planning and Environment  
New South Wales Electoral Commission  
New South Wales Ombudsman  
Police Integrity Commission  
Sydney Harbour Foreshore Authority  
Environment Protection Authority  
Department of Industry, Skills and Regional Development  
NSW Food Authority
NSW Rural Assistance Authority
Ministry of Health
Health Care Complaints Commission
Transport for NSW
The Treasury
The Audit Office of New South Wales
Public Service Commission
Office of Environment and Heritage
Office of the Local Government
Parliamentary Counsel’s Office
Crown Solicitor’s Office

1. For the entities listed for New South Wales, Chapter 15 (Government Procurement) does not cover the procurement of health and welfare services, education services, motor vehicles.

2. For the entities listed for New South Wales, Chapter 15 (Government Procurement) does not apply to procurements undertaken by a covered entity on behalf of a non-covered entity.

3. Chapter 15 (Government Procurement) does not cover procurement related to the functions of the Privacy Commission by the Information and Privacy Commission.

4. Chapter 15 (Government Procurement) does not cover procurement by Transport for NSW, related to the functions of the Transport Construction Authority, and The Country Rail Infrastructure Authority or its successor agencies.

**Northern Territory**

Department of the Chief Minister
Auditor General’s Office
Department of the Legislative Assembly
Ombudsman’s Office
Remuneration Tribunal
Northern Territory Electoral Commission
Aboriginal Areas Protection Authority
Department of Housing
Department of Local Government and Regions
Department of Sport and Recreation and Racing
Land Development Corporation
Department of Business
Department of Children and Families
Department of Community Services
Department of Primary Industry and Fisheries
Department of Mines and Energy
Department of Land Resource Management
Department of Arts and Museums
Department of Lands, Planning and the Environment
Parks and Wildlife Commission of the Northern Territory
Museum and Art Galleries Board
Strehlow Research Centre Board
Department of Health
Central Australian Hospital Network
Top End Hospital Network
Health and Community Services Complaints Commission
Northern Territory Employment and Training Authority
Department of the Attorney-General and Justice
Department of Correctional Services
Work Health Authority
Northern Territory Licensing Commission
Racing Commission
Tourism NT
Northern Territory Emergency Service
Northern Territory Fire and Rescue Service
Police Force of the Northern Territory
Office of the Commissioner for Public Employment
Department of Treasury and Finance
Utilities Commission of the Northern Territory

1. For the entities listed for the Northern Territory, Chapter 15 (Government Procurement) does not cover set-asides on behalf of the Charles Darwin University pursuant to Partnership Agreements between the Northern Territory Government and Charles Darwin University.

Queensland

Entities declared to be departments pursuant to section 14 of the Public Service Act 2008
(Qld)

Motor Accident Insurance Commission

Nominal Defendant

Public Service Commission

Public Trust Office

1. For the entities listed for Queensland, this Chapter does not apply to procurement:
   a) by covered entities on behalf of non-covered entities
   b) undertaken by departments, or parts of departments, which deliver health, education, training and/or arts services
   c) of health services, education services, training services, arts services, welfare services, government advertising and motor vehicles.

2. For entities listed for Queensland, Article 15.16.3(f) (Post Award Information) does not apply for a period of three years from the date of entry into force of Chapter 15 (Government Procurement), so as to allow time for the entities listed for Queensland to make necessary modifications to electronic means to enable the publication of such information.

South Australia

Attorney-General's Department
Auditor-General's Department
Department for Communities and Social Inclusion
Department for Correctional Services
Country Fire Service
Courts Administration Authority
Defence SA
Department for Education and Child Development
Department for Health and Ageing
Department of Environment, Water and Natural Resources
Department of Planning, Transport and Infrastructure
Department of Primary Industries and Regions
Department of the Premier and Cabinet
Department of Treasury and Finance
Electoral Commission of South Australia
Tasmania

Department of Education
Department of Health and Human Services
Department of Justice
Department of Police and Emergency Management
Department of Premier and Cabinet
Department of Primary Industries, Parks, Water and Environment
Department of State Growth
Department of Treasury and Finance
House of Assembly
Legislative Council
Legislature-General
Office of the Governor
Tasmanian Audit Office
Tasmanian Health Service
Office of the Ombudsman
Office of the Director of Public Prosecutions
Tourism Tasmania

1. For the entities listed for South Australia, Chapter 15 (Government Procurement) does not cover the procurement of health and welfare services, education services, advertising services or motor vehicles.
1. For the entities listed for Tasmania, Chapter 15 (Government Procurement) does not cover the procurement of health and welfare services, education services, or advertising services.

**Victoria**

Department of Education and Training  
Department of Economic Development, Jobs, Transport and Resources  
Department of Environment, Land, Water and Planning  
Department of Health and Human Services  
Department of Justice and Regulation  
Department of Premier and Cabinet  
Department of Treasury and Finance  
Commission for Children and Young People  
Essential Services Commission  
Game Management Authority  
Independent Broad-Based Anti-corruption Commission  
Office of Public Prosecutions  
Office of the Chief Commissioner of Police (Victoria Police)  
Office of the Commissioner for Environmental Sustainability  
Office of the Fire Services Levy Monitor  
Office of the Freedom of Information Commissioner  
Office of the Legal Services Commissioner  
Office of the Ombudsman  
Office of the Privacy Commissioner  
Office of the Road Safety Camera Commissioner  
Office of the Victorian Inspectorate  
Taxi Services Commission  
Victorian Auditor-General's Office  
Victorian Commission for Gambling and Liquor Regulation  
Victorian Electoral Commission  
Victorian Equal Opportunity and Human Rights Commission  
Victorian Public Sector Commission
Victorian Responsible Gambling Foundation

1. For the entities listed for Victoria, the offer does not cover the procurement of motor vehicles.
2. For the entities listed for Victoria, the offer does not apply to procurement by covered entities on behalf of non-covered entities.

Western Australia

Botanic Gardens and Parks Authority
Corruption and Crime Commission (Western Australia)
Country High Schools Hostels Authority
Department of Aboriginal Affairs
Department of Agriculture and Food
Department of Child Protection and Family Support
Department of Commerce
Department of Corrective Services
Department of Culture and the Arts
Department of Education
Department of Education Services
Department of Environment Regulation
Department of Fire and Emergency Services
Department of Finance
Department of Fisheries
Department of Health
Department of Lands
Department of Local Government and Communities
Department of Mines and Petroleum
Department of Parks and Wildlife
Department of Planning
Department of Racing, Gaming and Liquor
Department of Regional Development
Department of Sport and Recreation
Department of State Development
Department of Training and Workforce Development
Department of Treasury
Department of Water
Department of the Attorney General
Department of the Premier and Cabinet
Department of the Registrar Western Australia Industrial Relations Commission
Disability Services Commission
Equal Opportunity Commission
Gascoyne Development Commission
Goldfields Esperance Development Commission
Governor’s Establishment
Great Southern Development Commission
Heritage Council of Western Australia
Housing Authority
Kimberley Development Commission
Law Reform Commission of Western Australia
Legislative Assembly
Legislative Council
Main Roads Western Australia
Mid West Development Commission
Minerals and Energy Research Institute of Western Australia
National Trust of Australia (WA)
Office of the Auditor General
Office of the Director of Public Prosecutions
Office of the Information Commissioner
Office of the Inspector of Custodial Services
Office of the Parliamentary Commissioner for Administrative Investigations
Parliamentary Services Department
Peel Development Commission
Pilbara Development Commission
Public Sector Commission
Public Transport Authority
Rottnest Island Authority
Rural Business Development Corporation
Salaries and Allowances Tribunal
School Curriculum and Standards Authority
Small Business Development Corporation
South West Development Commission
State Library of Western Australia
Swan River Trust
Western Australia Police
Western Australian Electoral Commission
Western Australian Land Information Authority (Landgate)
Western Australian Planning Commission
Western Australian Sports Centre Trust (trading as VenuesWest)
Western Australian Tourism Commission
Wheatbelt Development Commission
Zoological Parks Authority

1. For greater certainty, consistent with Article 15.9.9 (Qualification of Suppliers), in relation to procurements from the Department of Finance, Building Management and Works’ Prequalification Scheme; and Main Road’s ‘National Prequalification System for Civil (Road and Bridge) Construction Contracts’ Scheme, requests for participation in a procurement from suppliers not already prequalified at the time of tender release will not be considered due to the time and complexity involved in assessing requests. This does not preclude suppliers from applying at anytime to become prequalified. Prequalification ensures the financial security of building and construction contractors and does not discriminate between local suppliers and the suppliers of other Parties.

Notes to Section B

For entities listed in this section:

1. Australia offers coverage of sub-central entities listed in Section B only to Canada, Chile, Japan, Mexico and Peru. Australia is prepared to extend coverage of Section B to other TPP Parties upon negotiation of mutually acceptable concessions.
2. A service listed in Section E services is covered with respect to Canada and Mexico only to the extent that party has covered that Service in their Schedule.
3. In relation to multi-use lists:
   a) a notice inviting suppliers to apply for inclusion on a multi-use list may be used as a notice of intended procurement, provided a statement is included that only suppliers on the multi-use list will receive further notices of procurement covered by the multi-use list; and
   b) where all or a limited number of qualified suppliers have been selected, the time...
period for tendering may be fixed by mutual agreement between the procuring entity and the selected suppliers. In the absence of agreement, the period shall not be less than 10 days.

4. For Mexico, Australia may set aside from the obligations of this Chapter each fiscal year following the date of entry into force of this Agreement the respective percentage specified in paragraph 5 the total value of procurement contracts for goods and services, and any combination thereof, and construction services procured by the States and Territories in the year that are above thresholds set out in Section B.

5. The percentages referred to in paragraph 4 are as follows:

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>45%</td>
<td>45%</td>
<td>40%</td>
<td>40%</td>
</tr>
<tr>
<td>Year 6</td>
<td>Year 7</td>
<td>Year 8</td>
<td>Year 9</td>
<td>Year 10 and thereafter</td>
</tr>
<tr>
<td>35%</td>
<td>35%</td>
<td>30%</td>
<td>30%</td>
<td>0%</td>
</tr>
</tbody>
</table>
SECTION C
Other Entities

1. Chapter 15 (Government Procurement) applies to other covered entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.2.8 (Scope and Coverage), to equal or exceed:
   (a) for procurement of goods and services, 400,000 SDRs; and
   (b) for procurement of construction services, 5,000,000 SDRs.

2. The monetary thresholds set out in subparagraphs 1(a) and 1(b) shall be adjusted in accordance with Section H of this Schedule to Annex 15.

Schedule of Australia

1. Australian Communications and Media Authority
2. Australian Competition and Consumer Commission
3. Australian Financial Security Authority
4. Australian Fisheries Management Authority
5. Australian Human Rights Commission
6. Australian Institute of Health and Welfare
7. Australian Institute of Marine Science
8. Australian Maritime Safety Authority
10. Australian Nuclear Science and Technology Organisation
11. Australian Pesticides and Veterinary Medicines Authority
12. Australian Prudential Regulation Authority
13. Australian Securities and Investments Commission
14. Australian War Memorial
15. Comcare
16. Commonwealth Scientific and Industrial Research Organisation
17. Export Finance and Insurance Corporation
18. Grains Research and Development Corporation
19. Great Barrier Reef Marine Park Authority
20. National Gallery of Australia
22. Reserve Bank of Australia
23. Sydney Harbour Federation Trust
24. The Director of National Parks
25. Tourism Australia

Notes to the Schedule of Australia

1. Chapter 15 (Government Procurement) covers only those entities listed in this Schedule.
2. For the entities listed in this section, Chapter 15 (Government Procurement) does not cover the procurement of motor vehicles.
3. Chapter 15 (Government Procurement) does not cover procurement of telecommunications services by the Australian War Memorial.
SECTION D

Goods

Chapter 15 (Government Procurement) applies to all goods procured by the entities listed in Sections A through C, unless otherwise specified in Chapter 15 (Government Procurement), including this Schedule to Annex 15.

Schedule of Australia

Chapter 15 (Government Procurement) does not cover the procurement of:

a) Blood and blood-related products, including plasma derived products.
SECTION E

Services

Chapter 15 (Government Procurement) applies to all services procured by the entities listed in Sections A through C, unless otherwise specified in this Chapter, including this Schedule to Annex 15.

Schedule of Australia

This Chapter does not cover the procurement of:

a) plasma fractionation services;
b) government advertising services;
c) health and welfare services; and
d) research and development services.
SECTION F

Construction Services

Chapter 15 (Government Procurement) applies to all construction services procured by the entities listed in Sections A through C, unless otherwise specified in Chapter 15 (Government Procurement), including in this Schedule to Annex 15.
SECTION G

General Notes

Unless otherwise specified herein, the following General Notes in each Party’s Schedule apply without exception to Chapter 15 (Government Procurement), including to all sections of this Schedule to Annex 15.

Schedule of Australia

Chapter 15 (Government Procurement) does not apply to:

a) any form of preference to benefit small and medium enterprises;
b) measures to protect national treasures of artistic, historic, or archaeological value;
c) measures for the health and welfare of indigenous people; and
d) measures for the economic and social advancement of indigenous people.

For greater certainty:

a) Chapter 15 (Government Procurement) does not apply to procurement funded by grants and sponsorship payments received from persons not listed in this Annex;
b) Chapter 15 (Government Procurement) does not apply to procurement by a procuring entity from another government entity; and

c) a procuring entity may use limited tendering procedures for unsolicited innovative proposals under Article 15.10.2(g) (Limited Tendering).
SECTION H

Threshold Adjustment Formula

1. The thresholds shall be adjusted in every even-numbered year with each adjustment taking effect on January 1, beginning on January 1 of an even numbered year after the date when this agreement takes into effect.

2. Every two years, Australia shall calculate and publish the value of the thresholds under this Chapter expressed in Australian dollars. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Australian in terms of the Special Drawing Rights (SDR) over the two-year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect, and rounded to the nearest thousand Australian dollars.

4. Australia shall notify the other Parties of the current thresholds in its currency immediately after this Agreement enters into force, and the adjusted thresholds in its currency thereafter in a timely manner.

5. Australia shall consult if a major change in its national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.
SECTION I

Procurement Information

All information on government procurements is published on the following websites:


SECTION J

Transitional Measures in accordance with Article 15.5 (Transitional Measures)

None.
ANNEX 15-A: SCHEDULE OF SINGAPORE

SECTION A

Central Government Entities which Procure in Accordance with the Provisions of this Chapter

Unless otherwise specified, this Chapter covers procurement by entities listed in this Section, subject to the following thresholds:

- **Goods** (specified in Section D)  
  *Threshold:* SDR 130,000

- **Services** (specified in Section E)  
  *Threshold:* SDR 130,000

- **Construction** (specified in Section F)  
  *Threshold:* SDR 5,000,000

*List of Entities:*

- Auditor-General's Office
- Attorney-General's Chambers
- Cabinet Office
- Istana
- Judicature
- Ministry of Transport
- Ministry of Culture
- Ministry of Education
- Ministry of Environment and Water Resources
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Health
- Ministry of Home Affairs
- Ministry of Information and Communications
- Ministry of Manpower
- Ministry of Law
- Ministry of National Development
- Ministry of Trade and Industry
- Ministry of Social and Family Development
- Parliament
- Presidential Councils
- Prime Minister's Office
- Public Service Commission
- Ministry of Defence

This Agreement will generally apply to purchases by the Singapore Ministry of Defence of the following Federal Supply Categories (FSC) of the United States of America (others being excluded) subject to the Government of Singapore's determinations under the provision of Article 15.3 (Exceptions).
<table>
<thead>
<tr>
<th>FSC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>22</td>
<td>Railway Equipment</td>
</tr>
<tr>
<td>23</td>
<td>Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles</td>
</tr>
<tr>
<td>24</td>
<td>Tractors</td>
</tr>
<tr>
<td>25</td>
<td>Vehicular Equipment Components</td>
</tr>
<tr>
<td>26</td>
<td>Tires and Tubes</td>
</tr>
<tr>
<td>29</td>
<td>Engine Accessories</td>
</tr>
<tr>
<td>30</td>
<td>Mechanical Power Transmission Equipment</td>
</tr>
<tr>
<td>31</td>
<td>Bearings</td>
</tr>
<tr>
<td>32</td>
<td>Woodworking Machinery and Equipment</td>
</tr>
<tr>
<td>34</td>
<td>Metalworking Machinery</td>
</tr>
<tr>
<td>35</td>
<td>Service and Trade Equipment</td>
</tr>
<tr>
<td>36</td>
<td>Special Industry Machinery</td>
</tr>
<tr>
<td>37</td>
<td>Agricultural Machinery and Equipment</td>
</tr>
<tr>
<td>38</td>
<td>Construction, Mining, Excavating and Highway Maintenance Equipment</td>
</tr>
<tr>
<td>39</td>
<td>Materials Handling Equipment</td>
</tr>
<tr>
<td>40</td>
<td>Rope, Cable, Chain and Fittings</td>
</tr>
<tr>
<td>41</td>
<td>Refrigeration, Air Conditioning and Air Circulating Equipment</td>
</tr>
<tr>
<td>42</td>
<td>Fire Fighting, Rescue and Safety Equipment</td>
</tr>
<tr>
<td>43</td>
<td>Pumps and Compressors</td>
</tr>
<tr>
<td>44</td>
<td>Furnace, Steam Plant and Drying Equipment</td>
</tr>
<tr>
<td>45</td>
<td>Plumbing, Heating and Sanitation Equipment</td>
</tr>
<tr>
<td>46</td>
<td>Water Purification and Sewage Treatment Equipment</td>
</tr>
<tr>
<td>47</td>
<td>Pipe, Tubing, Hose and Fittings</td>
</tr>
<tr>
<td>48</td>
<td>Valves</td>
</tr>
<tr>
<td>51</td>
<td>Handtools</td>
</tr>
<tr>
<td>52</td>
<td>Measuring Tools</td>
</tr>
<tr>
<td>53</td>
<td>Hardware and Abrasives</td>
</tr>
<tr>
<td>54</td>
<td>Prefabricated Structures and Scaffolding</td>
</tr>
<tr>
<td>55</td>
<td>Lumber, Millwork, Plywood and Veneer</td>
</tr>
<tr>
<td>56</td>
<td>Construction and Building Materials</td>
</tr>
<tr>
<td>61</td>
<td>Electric Wire, and Power and Distribution Equipment</td>
</tr>
<tr>
<td>62</td>
<td>Lighting, Fixtures and Lamps</td>
</tr>
<tr>
<td>63</td>
<td>Alarm, Signal and Security Detection Systems</td>
</tr>
<tr>
<td>65</td>
<td>Medical, Dental and Veterinary Equipment and Supplies</td>
</tr>
<tr>
<td>67</td>
<td>Photographic Equipment</td>
</tr>
<tr>
<td>68</td>
<td>Chemicals and Chemical Products</td>
</tr>
<tr>
<td>69</td>
<td>Training Aids and Devices</td>
</tr>
<tr>
<td>70</td>
<td>General Purpose Automatic Data Processing Equipment, Software, Supplies and Support Equipment</td>
</tr>
<tr>
<td>71</td>
<td>Furniture</td>
</tr>
<tr>
<td>72</td>
<td>Household and Commercial Furnishings and Appliances</td>
</tr>
<tr>
<td>73</td>
<td>Food Preparation and Serving Equipment</td>
</tr>
<tr>
<td>74</td>
<td>Office Machines, Text Processing Systems and Visible Record Equipment</td>
</tr>
<tr>
<td>75</td>
<td>Office Supplies and Devices</td>
</tr>
<tr>
<td>76</td>
<td>Books, Maps and other Publications</td>
</tr>
<tr>
<td>77</td>
<td>Musical Instruments, Phonographs and Home-Type Radios</td>
</tr>
<tr>
<td>78</td>
<td>Recreational and Athletic Equipment</td>
</tr>
<tr>
<td>79</td>
<td>Cleaning Equipment and Supplies</td>
</tr>
<tr>
<td>80</td>
<td>Brushes, Paints, Sealers and Adhesives</td>
</tr>
<tr>
<td>81</td>
<td>Containers, Packaging and Packing Supplies</td>
</tr>
<tr>
<td>83</td>
<td>Textiles, Leather, Furs, Apparel and Shoe Findings, Tents and Flags</td>
</tr>
<tr>
<td>84</td>
<td>Clothing, Individual Equipment, and Insignia</td>
</tr>
</tbody>
</table>
Notes to Section A

1. The Chapter shall not apply to any procurement in respect of:
   
   (a) construction contracts for chanceries abroad and headquarters buildings made by the Ministry of Foreign Affairs; and
   
   (b) contracts made by the Internal Security Department, Criminal Investigation Department, Security Branch and Central Narcotics Bureau of the Ministry of Home Affairs as well as procurement that have security considerations made by the Ministry.

2. Unless otherwise specified herein, this Chapter applies to all agencies subordinate to the entities listed in this Section that do not have a legal status that is separate from the listed entities under Singapore’s law.
SECTION B

Sub-Central Entities which Procure in Accordance with the Provisions of the Chapter

Non-applicable for Singapore - Singapore does not have any sub-central entities.
SECTION C

All other Entities which Procure in Accordance with the Provisions of this Chapter

Unless otherwise specified, this Chapter covers procurement by the entities listed in this Section, subject to the following thresholds:

- **Goods** (specified in Section D)  \( \text{Threshold:} \) SDR 400,000
- **Services** (specified in Section E)  \( \text{Threshold:} \) SDR 400,000
- **Construction** (specified in Section F)  \( \text{Threshold:} \) SDR 5,000,000

**List of Entities:**

- Agency for Science, Technology and Research
- Board of Architects
- Building and Construction Authority
- Casino Regulatory Authority
- Civil Aviation Authority of Singapore
- Civil Service College
- Competition Commission of Singapore
- Council for Estate Agencies
- Economic Development Board
- Health Promotion Board
- Hotels Licensing Board
- Housing and Development Board
- Info–communications Development Authority of Singapore
- Inland Revenue Authority of Singapore
- International Enterprise Singapore
- Land Transport Authority of Singapore
- Jurong Town Corporation
- Maritime and Port Authority of Singapore
- Monetary Authority of Singapore
- Media Development Authority
- National Arts Council
- National Library Board
- National Parks Board
- Preservation of Monuments Board
- Professional Engineers Board
- Public Transport Council
- Science Centre Board
- Sentosa Development Corporation
- Singapore Land Authority
- Singapore Tourism Board
- Standards, Productivity and Innovation Board
- Urban Redevelopment Authority
SECTION D

Goods

This Chapter applies generally to all goods procured by the entities listed in Section A and C, unless otherwise specified in this Chapter.
SECTION E

Services

The following services as contained in document MTN.GNS/W/120 are offered (others being excluded):

<table>
<thead>
<tr>
<th>CPC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>862</td>
<td>Accounting, Auditing and Book-keeping Services</td>
</tr>
<tr>
<td>8671</td>
<td>Architectural Services</td>
</tr>
<tr>
<td>865</td>
<td>Management Consulting Services</td>
</tr>
<tr>
<td>874</td>
<td>Building-Cleaning Services</td>
</tr>
<tr>
<td>641-643</td>
<td>Hotels and Restaurants (incl. catering)</td>
</tr>
<tr>
<td>74710</td>
<td>Travel Agencies and Tour Operators</td>
</tr>
<tr>
<td>7472</td>
<td>Tourist Guide Services</td>
</tr>
<tr>
<td>843</td>
<td>Data Processing Services</td>
</tr>
<tr>
<td>844</td>
<td>Database Services</td>
</tr>
<tr>
<td>932</td>
<td>Veterinary Services</td>
</tr>
<tr>
<td>84100</td>
<td>Consultancy Services Related to the Installation of Computer Hardware</td>
</tr>
<tr>
<td>84210</td>
<td>Systems and Software Consulting Services</td>
</tr>
<tr>
<td>87201</td>
<td>Executive Search Services</td>
</tr>
<tr>
<td>87202</td>
<td>Placement services of office support personnel and other workers</td>
</tr>
<tr>
<td>87905</td>
<td>Translation and Interpretation Services</td>
</tr>
<tr>
<td>7523</td>
<td>Electronic Mail</td>
</tr>
<tr>
<td>7523</td>
<td>Voice Mail</td>
</tr>
<tr>
<td>7523</td>
<td>On-Line Information and Database Retrieval</td>
</tr>
<tr>
<td>7523</td>
<td>Electronic Data Interchange</td>
</tr>
<tr>
<td>96112</td>
<td>Motion Picture or Video Tape Production Services</td>
</tr>
<tr>
<td>96113</td>
<td>Motion Picture or Video Tape Distribution Services</td>
</tr>
<tr>
<td>96121</td>
<td>Motion Picture Projection Services</td>
</tr>
<tr>
<td>96122</td>
<td>Video Tape Projection Services</td>
</tr>
<tr>
<td>96311</td>
<td>Library Services</td>
</tr>
<tr>
<td>8672</td>
<td>Engineering Services</td>
</tr>
<tr>
<td>7512</td>
<td>Courier Services</td>
</tr>
<tr>
<td></td>
<td>- Biotechnology Services</td>
</tr>
<tr>
<td></td>
<td>- Exhibition Services</td>
</tr>
<tr>
<td></td>
<td>- Commercial Market Research</td>
</tr>
<tr>
<td></td>
<td>- Interior Design Services, Excluding Architecture</td>
</tr>
<tr>
<td></td>
<td>- Professional, Advisory and Consulting Services Relating to Agriculture, Forestry, Fishing and Mining, Including Oilfield Services</td>
</tr>
</tbody>
</table>

Notes to Section E:

1. The offer regarding services is subject to the measures listed in Singapore’s Schedule to Annex I and Annex II under Chapter 10 (Cross Border Trade in Services) and Chapter 9 (Investment).
SECTION F

Construction Services

The following construction services in the sense of Division 51 of the Central Product Classification as contained in document MTN.GNS/W/120 are offered (others being excluded):

List of construction services offered:

<table>
<thead>
<tr>
<th>CPC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>512</td>
<td>General construction work for buildings</td>
</tr>
<tr>
<td>513</td>
<td>General construction work for civil engineering</td>
</tr>
<tr>
<td>514, 516</td>
<td>Installation and assembly work</td>
</tr>
<tr>
<td>517</td>
<td>Building completion and finishing work</td>
</tr>
<tr>
<td>511, 515, 518</td>
<td>Others</td>
</tr>
</tbody>
</table>

Notes to Section F:

1. The offer regarding construction services is subject to the measures listed in Singapore’s Schedule to Annex I and Annex II under Chapter 10 (Cross Border Trade in Services) and Chapter 9 (Investment).
The Chapter shall not apply to any procurement made by a covered entity on behalf of a non-covered entity.
SECTION H

Threshold Adjustment

1. The thresholds for the procurement of goods and services by entities listed in Section A and C, and the thresholds for procurement of construction services by entities listed in Section A and C shall be adjusted at two yearly intervals with each adjustment taking effect on January 1, beginning on January 1, XX.

2. The adjustments shall be based on the average of the daily conversion rates of the Singapore currency in terms of the Special Drawing Rights (SDR), published by the International Monetary Fund in its monthly "International Financial Statistics" over the two-year period preceding 1 October or 1 November of the year prior to the thresholds in Singapore currency becoming effective which will be from 1 January.

3. Singapore shall consult if a major change in its national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.
SECTION I

Procurement Information

All information on government procurement is published on https://www.gebiz.gov.sg/.
ANNEX 15-A: SCHEDULE OF UNITED STATES

Section A: Central Level of Government Entities

1. This Chapter applies to the entities of the central level of government listed in this Section where the value of the procurement is estimated, in accordance with paragraphs 8-9 Article 15.2, to equal or exceed:
   (a) for procurement of goods and services: 130,000 SDRs; and
   (b) for procurement of construction services: 5,000,000 SDRs.

The thresholds set out in this paragraph shall be adjusted in accordance with Section H of this Annex.

2. Unless otherwise specified herein, this Chapter applies to all agencies subordinate to the entities listed in this Section.

Schedule of the United States

1. Advisory Council on Historic Preservation
2. African Development Foundation
3. Alaska Natural Gas Transportation System
4. American Battle Monuments Commission
5. Appalachian Regional Commission
6. Broadcasting Board of Governors
7. Commission of Fine Arts
8. Commission on Civil Rights
9. Commodity Futures Trading Commission
10. Consumer Product Safety Commission
11. Corporation for National and Community Service
12. Court Services and Offender Supervision Agency for the District of Columbia
13. Delaware River Basin Commission
14. Denali Commission
15. Department of Agriculture (Note 1)
16. Department of Commerce (Note 2)
17. Department of Defense (Note 3)
18. Department of Education
19. Department of Energy (Note 4)
20. Department of Health and Human Services
21. Department of Homeland Security (Note 5)
22. Department of Housing and Urban Development
23. Department of the Interior, including the Bureau of Reclamation
24. Department of Justice
25. Department of Labor
26. Department of State
27. Department of Transportation (Note 6)
28. Department of the Treasury
29. Department of Veterans Affairs
30. Environmental Protection Agency
31. Equal Employment Opportunity Commission
32. Executive Office of the President
33. Export-Import Bank of the United States
34. Farm Credit Administration
35. Federal Communications Commission
36. Federal Crop Insurance Corporation
37. Federal Deposit Insurance Corporation
38. Federal Election Commission
39. Federal Energy Regulatory Commission
40. Federal Home Loan Mortgage Corporation
41. Federal Housing Finance Agency
42. Federal Labor Relations Authority
43. Federal Maritime Commission
44. Federal Mediation and Conciliation Service
45. Federal Mine Safety and Health Review Commission
47. Federal Reserve System
48. Federal Retirement Thrift Investment Board
49. Federal Trade Commission
50. General Services Administration (Note 7)
51. Government National Mortgage Association
52. Holocaust Memorial Council
53. Inter-American Foundation
54. Merit Systems Protection Board
55. Millennium Challenge Corporation
56. National Aeronautics and Space Administration
57. National Archives and Records Administration
58. National Assessment Governing Board
59. National Capital Planning Commission
60. National Council on Disability
61. National Credit Union Administration
62. National Endowment for the Arts
63. National Endowment for the Humanities
64. National Foundation on the Arts and the Humanities
65. National Labor Relations Board
66. National Mediation Board
67. National Science Foundation
68. National Transportation Safety Board
69. Nuclear Regulatory Commission
70. Occupational Safety and Health Review Commission
71. Office of Government Ethics
72. Office of Personnel Management
73. Office of Special Counsel
74. Overseas Private Investment Corporation
75. Peace Corps
76. Railroad Retirement Board
77. Securities and Exchange Commission
78. Selective Service System
79. Small Business Administration
80. Smithsonian Institution
81. Social Security Administration
82. Susquehanna River Basin Commission
83. U.S. Marine Mammal Commission
84. United States Access Board
85. United States Agency for International Development
86. United States International Trade Commission

**Notes to United States Schedule**

1. **Department of Agriculture**: This Chapter does not cover procurement of any agricultural good made in furtherance of an agricultural support program or a human feeding program.

2. **Department of Commerce**: This Chapter does not cover procurement of any good or service related to the shipbuilding activities of the U.S. National Oceanic and Atmospheric Administration.

3. **Department of Defense**: This Chapter does 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](https://www.acquisition.gov)) listed below:

- FSC 11 Nuclear Ordnance
- FSC 18 Space Vehicles
- 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, Shoes, Tents, and Flags (all elements other than pins, needles, sewing kits, flagstaffs, flagpoles and flagstaff trucks)
(b) This Chapter does 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 percent; silicon, 0.60 per cent; or copper, 0.60 percent;

(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 percent;

(iv) titanium or a titanium alloy; or

(v) zirconium or a zirconium base alloy.

(c) The Chapter generally does not cover procurement of any good described in any of the following FSC classifications, due to the application of Article 29.2 (Security Exceptions):

- FSC 10 Weapons
- FSC 12 Fire Control Equipment
- FSC 13 Ammunitions and Explosives
- FSC 14 Guided Missiles
- FSC 15 Aircraft and Airframe Structural Components
- FSC 16 Aircraft Components and Accessories
- FSC 17 Aircraft Launching, Landing, and Ground Handling 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
- FSC 59 Electrical and Electronic Equipment Components
- FSC 95 Metal Bars, Sheets, and Shapes

4. **Department of Energy**: Due to the application of Article 29.2 (Security Exceptions), this Chapter does 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.

5. Department of Homeland Security:

(a) This Chapter does not cover procurement by the Transportation Security Administration of FSC 83 (Textiles, Leather, Furs, Apparel, Shoes, Tents, and Flags) and FSC 84 (Clothing, Individual Equipment, and Insignia).

(b) The national security considerations applicable to the Department of Defense apply equally to the U.S. Coast Guard.

6. Department of Transportation: This Chapter does not cover procurement by the Federal Aviation Administration.

7. General Services Administration: This Chapter does not cover procurement of any good in any of the following FSC classifications:

- FSC 51 Hand Tools
- FSC 52 Measuring Tools
- FSC 7340 Cutlery and Flatware

8. For goods and services including construction services of Japan and suppliers of such goods and services, this Agreement does not cover procurement by the National Aeronautics and Space Administration.

9. For goods and services, including construction services, of Viet Nam and suppliers of such goods and services, this Agreement applies only to the following entities for the Department of Defense:

   - Department of Defense Education Activity
   - Defense Commissary Agency

The United States is prepared to amend this Note at such time as coverage with respect to the Ministry of National Defense can be resolved with Viet Nam.

Section B: Sub-Central Level of Government Entities

None

Section C: Other Covered Entities

1. This Chapter applies to the other covered entities listed in this Section where the value of the procurement is estimated, in accordance with paragraphs 8-9 Article 15.2, to equal or exceed:
(a) for procurement of goods and services: US$250,000; and
(b) for procurement of construction services: 5 million SDRs

The monetary threshold set out in subparagraph (b) shall be adjusted in accordance with Section H of this Annex.

2. Unless otherwise specified herein, this Chapter applies only to the entities listed in this Section.

Schedule of the United States
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
7. Rural Utilities Service (Note 1)

Notes to Schedule of the United States
1. The Rural Utilities Service shall not impose any domestic purchase requirement as a condition of its financing of any power generation or telecommunication project that exceeds the thresholds specified above. The Rural Utilities Service undertakes no other commitments with respect to its financing of power generation and telecommunications projects.

2. For goods and services, including construction services, of Malaysia and suppliers of such goods and services, this Agreement does not cover procurement by entities listed in Section C that are responsible for the generation or distribution of electricity, including the commitment with respect to financing provided by the Rural Utilities Service of power generation projects described in Note 1 to Section C.

Section D: Goods

This Chapter covers all goods procured by the entities listed in Sections A through C, subject to the Notes to the respective Sections and the General Notes.

Section E: Services

This Chapter covers all services procured by the entities listed in Sections A through C, subject to the Notes to the respective Sections, the General Notes, and the Notes to this Section, except for the services excluded in the Schedule of a Party.

Schedule of the United States

This Chapter does not cover procurement of any of the following services, as identified in accordance with the Provisional Central Product Classification (CPC), which is found
a) All transportation services, including Launching Services (CPC Categories 71, 72, 73, 74, 8859, 8868).

b) 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 listed in Section A through C of the Annex, Research and Development facilities.

c) Public utilities services, except enhanced (i.e., value-added) telecommunications services.

d) Research and development.

Notes to the Schedule of the United States

1. This Chapter does not cover procurement of any service in support of military forces located overseas.

Section F: Construction Services

This Chapter covers all construction services procured by the entities listed in Sections A through C, listed in Division 51 of the Provisional Central Product Classification (CPC), which is found at: http://unstats.un.org/unsd/cr/registry/regcs.asp?C1=9&Lg=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.

Schedule of the United States

This Chapter does not cover procurement of dredging services.

Section G: General Notes

Unless otherwise specified herein, the following General Notes in each Party’s Schedule apply without exception to this Chapter, including to all sections of this Annex.

Schedule of the United States

1. This Chapter does 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. Except as specified otherwise in this Annex, this Chapter does not apply to non-
contractual agreements or any form of government assistance, including governmental provision of goods and services to persons or governmental authorities not specifically covered under the Annex to this Chapter.

3. Where a contract is to be awarded by an entity that is not covered by this Chapter, this Chapter shall not be construed to cover any good or service component of that contract.

4. This Chapter does not cover procurement of transportation services that form a part of, or are incidental to, a procurement contract.

Section H: Threshold Adjustment Formula

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, XX.

2. Every two years, each Party shall calculate adjustments of the thresholds for the procurement of goods and services by entities listed in Sections A and B and for procurement of construction services by entities listed in Sections A through C based on an average of the daily conversion rates of the Party's currency in terms of SDRs, published by the IMF in its monthly "International Financial Statistics," for the two-year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect.

3. The Parties shall consult if any major change in a national currency vis-à-vis the other currency creates a significant problem with regard to the application of this Chapter.

Section I: Means of Publication

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:

- Federal Acquisition Regulation (FAR): http://www.acquisition.gov/far/index.html
- Agency Supplemental Regulations: http://www.acquisition.gov/agency_supp_regs.asp
- Federal Register: https://www.federalregister.gov/
- Federal Government Procurement Policies:
http://www.whitehouse.gov/omb/procurement/


- Judicial Decisions:
  - US Court of Federal Claims (jurisdiction includes claims related to government contracts, including bid protests): http://www.uscfc.uscourts.gov/

Laws, judicial decisions, administrative rulings and procedures regarding government procurement for entities listed in Section C are available directly from the listed entities.
VIETNAM’S FINAL MARKET ACCESS OFFER ON GOVERNMENT PROCUREMENT

SECTION A:
Central Level of Government Entities

This Chapter applies to the entities of the central level of government listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods and Services
- From the date of entry into force of this Agreement for Vietnam to the end of the 5th year after entry into force: SDR 2,000,000
- From the 6th year to the end of 10th year after entry into force of this Agreement for Vietnam: SDR 1,500,000
- From the 11th year to the end of 15th year after entry into force of this Agreement for Vietnam: SDR 1,000,000
- From the 16th year to the end of 20th year after entry into force of this Agreement for Vietnam: SDR 260,000
- From the 21st year to the end of 25th year after entry into force of this Agreement for Vietnam: SDR 190,000
- From the 26th year after entry into force of this Agreement for Vietnam: SDR 130,000

Construction
- From the date of entry into force of this Agreement for Vietnam to the end of the 5th year after entry into force: SDR 65,200,000
- From the 6th year to the end of 10th year after entry into force of this Agreement for Vietnam: SDR 32,600,000
- From the 11th year to the end of 15th year after entry into force of this Agreement for Vietnam: SDR 16,300,000
- From the 16th year after entry into force of this Agreement for Vietnam: SDR 8,500,000

List of Entities:
1. Bộ Tư pháp (Ministry of Justice)
   - Bộ Pháp luật hình sự - hành chính (Department of Criminal and Administrative Legislation)
   - Bộ Pháp luật dân sự - kinh tế (Department of Economic-Civil Legislation)
   - Bộ Pháp luật quốc tế (Department of International Law)
   - Bộ Phổ biến, giáo dục pháp luật (Department of Legal Dissemination and Education)
   - Cục Bộ trợ trợ pháp (Agency of Judicial Support)
   - Bộ Tổ chức cán bộ (Department of Personnel and Organization)
   - Thanh tra Bộ (Ministry Inspectorate)
   - Bộ Thi đua – Khen thưởng (Department of Emulation and Commendation)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Vụ Các vấn đề chung về xây dựng pháp luật (Department of General Affairs on Legislative Development)
Cục Trợ giúp pháp lý (Agency of National Legal Aid)
Cục Con nuôi (Agency of Child Adoption)
Vụ Kế hoạch – Tài chính (Department of Planning and Finance)
Tổng cục Thi hành án dân sự (Directorate of Civil Judgement Enforcement)
Cục Kiểm tra văn bản quy phạm pháp luật (Agency of Examination of Legal Normative Documents)
Cục Đăng ký quốc gia giao dịch bảo đảm (Agency of National Registry of Secured Transactions)
Cục Công nghệ thông tin (Agency of Information Technology)
Văn phòng Bộ (Ministry Office)
Cục bồi thường nhà nước (Agency of National Compensation)
Cục Công tác phía Nam (The South Agency)
Cục Kiểm soát thủ tục hành chính (Agency of Administrative Procedure Control)
Cục Hồ sơ, quốc tịch, chứng thực (Agency of Civil Status, Nationality and Authentication)

2. Bộ Kế hoạch và Đầu tư (Ministry of Planning and Investment)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legislation)
Thành tra Bộ (Ministry Inspectorate)
Vụ Thi đua khen thưởng (Department of Emulation and Reward)
Vụ Hợp tác xã (Department of Cooperatives)
Vụ Tài chính tiền tệ (Department of Finance and Monetary)
Vụ Tổng hợp kinh tế quốc dân (Department of National Economic Issues)
Cục Quản lý đầu thầu (Public Procurement Agency)
Vụ Kinh tế công nghiệp (Department of Industrial Economy)
Vụ Kinh tế nông nghiệp (Department of Agricultural Economy)
Vụ Kinh tế dịch vụ (Department of Service Economy)
Vụ Kết cấu hạ tầng và đô thị (Department of Infrastructure and Urban Centers)
Vụ Quản lý các khu kinh tế (Department of Economic Zones Management)
Vụ Giám sát và Thẩm định đầu tư (Department of Investment Supervision & Appraisal)
Vụ Quản lý quy hoạch (Department of Planning Management)
Vụ Kinh tế địa phương và lãnh thổ (Department of Local and Territorial Economy)
Vụ Kinh tế đối ngoại (Department of Foreign Economic Relations)
Vụ Lao động, Văn hóa, Xã hội (Department of Labor, Culture and Social Affairs)
Vụ Khoa học, Giáo dục, Tài nguyên và Môi trường (Department of Science, Education, Natural Resources and Environment)
Cục Phát triển doanh nghiệp (Enterprise Development Agency)
Cục Đầu tư nước ngoài (Foreign Investment Agency)
Cục Quản lý đăng ký kinh doanh (Business Registration Management Agency)
Văn phòng Bộ, kể cả các VPĐĐ ở Thành phố Hồ Chí Minh và Đà Nẵng (Ministry Office, including Representative Offices in Ho Chi Minh and Da Nang city)
Vụ Quốc phòng – An ninh (National Defense - Security Department)
Tổng cục Thống kê (General Statistics Office)

3. Bộ Lao động, Thương binh và Xã hội (Ministry of Labour, Invalids and Social Affairs)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legal Affairs)
Thanh tra Bộ (Ministry Inspectorate)
Vụ Bảo hiểm xã hội (Department of Social Insurance)
Vụ Bình đẳng giới (Department of Gender Equality)
Vụ Lao động – Tiền lương (Department of Labour-Salary)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Cục Quản lý lao động ngoài nước (Agency of Overseas Labour)
Cục An toàn lao động (Agency of Occupational Safety and Health)
Cục Việc làm (Agency of Employment)
Cục Bảo vệ, chăm sóc trẻ em (Agency of Children Protection and Care)
Vụ Kế hoạch – Tài chính (Department of Planning – Finance)
Cục Người có công (Agency of the People with Special Contributions to the Country)
Cục Phò, chống tẻ nạn xâ hội (Agency of Social Evil Prevention)
Cục Bảo trợ xã hội (Agency of Social Protection)
Văn phòng Bộ (Ministry Office)
Tổng Cục dạy nghề (Directorate of Vocational Training)

4. Bộ Văn hóa, Thể thao và Du lịch (Ministry of Culture, Sports and Tourism)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legislation)
Thanh tra Bộ (Ministry Inspectorate)
Vụ Khoa học, Công nghệ và Môi trường (Department of Science, Technology and Environment)
Cục Hợp tác quốc tế (Agency of International Cooperation)
Cục Di sản văn hóa (Agency of Cultural Heritage)
Vụ Đào tạo (Department of Training Management)
Tổng cục Du lịch (Directorate of Vietnam National Administration of Tourism)
Vụ Thị du khen thưởng (Department of Emulation and Reward)
Cục Mỹ thuật, Nhiếp ảnh và Triển lãm (Agency of Art, Photography and Exhibition)
Vụ Gia đình (Department of Family)
Vụ Văn hóa dân tộc (Department of Ethnic Culture)
Vụ Thư viện (Department of Library)
Vụ Kế hoạch – Tài chính (Department of Planning and Finance)
Văn phòng Bộ kế cả VPĐĐ ở Đà Nẵng (Ministry Office, including Representative Offices in Da Nang city)
5. Bộ Khoa học và Công nghệ (Ministry of Science and Technology)

- Vụ Tổ chức cán bộ (Department of Personnel and Organization)
- Vụ Pháp chế (Department of Legislation)
- Thanh tra Bộ (Ministry Inspectorate)
- Vụ Hợp tác quốc tế (Department of International Cooperation)
- Vụ Khoa học xã hội và Tự nhiên (Department of Social and Natural Sciences)
- Vụ Khoa học và Công nghệ các ngành Kinh tế - Kỹ thuật (Department of Science and Technology for Economic Technical Branches)
- Vụ Công nghệ cao (Department of High Technology)
- Vụ Đánh giá, Thẩm định và Giám định công nghệ (Department of Technology Appraisal, Examination and Assessment)
- Vụ Kế hoạch – Tổng hợp (Department of Planning and General Affairs)
- Cục Ứng dụng và phát triển công nghệ (Technology Application and Development Agency)
- Văn phòng Bộ (Ministry Office)
- Cục Công tác phía Nam (The South Agency)
- Tổng Cục Tiêu chuẩn đo lường Chất lượng (Directorate of Standards and Quality)
- Văn phòng các chương trình trọng điểm cấp Nhà nước (Office of State-Level Key Programs)
- Vụ Tài chính (Department of Finance)
- Vụ Thị dual - Khen thưởng (Department of Emulation and Reward)
- Vụ Phát triển khoa học và công nghệ địa phương (Department of Local Science and Technology Development)
- Cục Phát triển thị trường và doanh nghiệp khoa học và công nghệ (National Agency for Technology Entrepreneurship and Commercialization Development)
- Cục Thông tin khoa học và Công nghệ quốc gia (National Agency for Scientific and Technological Information)
- Cục An toàn bức xạ và Hạt nhân (Vietnam Agency for Radiation and Nuclear Safety and Control)
- Cục Năng lượng nguyên tử (Vietnam Atomic Energy Commission)
- Ban Quản lý Khu công nghệ cao Hoà Lạc (The Management Board of Hoa Lac Hi-Tech Park)

6. Bộ Tài chính (Ministry of Finance)

- Cục Quản lý giá (Agency of Price Control)
- Cục Tài chính Doanh nghiệp (Agency of Corporate Finance)
Cục Quản lý Nợ và Tài chính đối ngoại (Agency of Debt Management and External Finance)
Cục Quản lý Công sản (Agency of Public Asset Management)
Vụ Ngân sách nhà nước (Department of State Budget)
Vụ Đầu tư (Department of Investment)
Vụ I (Vụ Tài chính, Quốc phòng, An ninh đặc biệt) (Department of Finance for National Defense and Security)
Vụ Tài chính hành chính (Department of Public Expenditure)
Vụ Chính sách thuế (Department of Tax Policy)
Vụ Tài chính các Ngân hàng và tổ chức tài chính (Department of Banking and Financial Institutions)
Vụ chế độ kế toán và kiểm toán (Department of Accounting and Auditing Regulations)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Vụ Pháp chế (Department of Legislation)
Vụ Tổ chức cán bộ (Department of Personnel and Training)
Vụ Thi đua - Khen thưởng (Department of Emulation and Commendation)
Thanh tra Bộ (Ministry Inspectorate)
Cục Quản lý, giám sát Bảo hiểm (Insurance Supervisory Agency)
Cục Kế hoạch tài chính (Agency of Planning and Finance)
Văn phòng Bộ, kế cả VPDD tại Thành phố Hồ Chí Minh (Ministry Office, including Representative Offices in HoChiMinh city)
Ủy ban Chứng khoán Nhà nước (State Securities Commission)
Tổng cục Dự trữ nhà nước (General Department of State Reserves)
Kho bạc Nhà nước (State Treasury)
Tổng cục Hải quan (General Department of Customs)
Tổng cục Thuế (General Department of Taxation)
Cục Tin học và Thông kê tài chính (Agency of Financial Informatics and Statistics)

7. Bộ Xây dựng (Ministry of Construction)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Vụ Khoa học công nghệ và môi trường (Department of Science, Technology and Environment)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legislation)
Vụ Quy hoạch – kiến trúc (Department of Architecture and Construction Planning)
Thành tra Bộ (Ministry Inspectorate)
Vụ Kinh tế xây dựng (Department of Construction Economics)
Cục Phát triển đô thị (Urban Development Agency)
Vụ Vật liệu xây dựng (Department of Building Materials)
Vụ Kế hoạch tài chính (Department of Planning and Finance)
Cục Quản lý hoạt động xây dựng (Agency of Construction Activity Management)
Cục Hà tầng kỹ thuật (Agency of Technical – Infrastructure)
Cục Giám định nhà nước về chất lượng công trình xây dựng (State Agency of Construction Quality Inspection)
Cục Quản lý nhà và thị trường Bất động sản (Management Agency for Housing and Real-estate Market)
Văn phòng Bộ (Ministry Office)
Cục công tác phía Nam (The South Agency)
Vụ Quản lý doanh nghiệp (Enterprises Management Department)

8. Bộ Thông tin và Truyền thông (Ministry of Information and Communications)
Vụ Bưu chính (Department of Posts)
Vụ Công nghệ thông tin (Department of Information Technology)
Vụ Khoa học và Công nghệ (Department of Science and Technology)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Vụ Pháp chế (Department of Legislation)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Kế hoạch - Tài chính (Department of Planning and Finance)
Thành tra Bộ (Ministry Inspectorate)
Văn phòng Bộ, kể cả VPDD tại Đà Nẵng (Ministry Office, including Representative Offices in DaNang city)
Cục Tần số vô tuyến điện (Agency of Radio Frequency Management)
Cục Viễn thông (Agency of Telecommunications)
Cục Tin học hóa (Agency of Computerization)
Cục Báo chí (Agency of Press)
Cục Xuất bản, In và Phát hành (Agency of Publication, Print and release)
Cục Phát thanh, truyền hình và thông tin điện tử (Agency of Broadcasting and Electronic Information)
Cục Công tác phía Nam (The South Agency)
Cục Thông tin đối ngoại (Agency of Foreign Information Service)
Vụ Quản lý doanh nghiệp (Enterprises Management Department)
Vụ Thi đua khen thưởng (Department of Emulation and Reward)
Vụ Thông tin cơ sở (Department of Fundamental Information)
Cục bưu điện Trung ương (Central Post Agency)
Cục An toàn thông tin (Agency of Information Security)

9. Bảo hiểm Xã hội Việt Nam (Vietnam Social Security)
Ban Đầu tư quy (Department of fund investment and management)
Văn phòng, bao gồm VPDD tại TP. Hồ Chí Minh (Administration Office, including Representative Office in HoChiMinh city)
Ban Thực hiện chính sách Bảo hiểm xã hội (Department of Implementation of Social Security Policies)
Ban Thực hiện chính sách Bảo hiểm y tế (Department of Implementation of Health Insurance Policies)
Ban Số, Thẻ (Department of Issuance of Books and Cards)
Ban Tuyên truyền (Department of Propaganda)
Ban Hợp tác quốc tế (Department of International Cooperation)
Ban Thi đua – Khen thưởng (Department of Emulation and Reward)
Ban Pháp chế (Department of Legislation)
Ban Tổ chức cán bộ (Department of Personnel and Organization)
Ban Thu (Department of Money Collection)
Ban Tài chính – Kế toán (Department of Finance and Accounting)
Ban Kế hoạch và Đầu tư (Department of Planning and Investment)
Ban Dược và Vật tư y tế (Department of Pharmaceutics)
Ban Kiểm tra (Department of Inspection)
Ban Kiểm toán nội bộ (Department of Internal Audit)

10. **Thanh tra Chính phủ (Government Inspectorate)**

Vụ Tổ chức Căn bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legislation)
Vụ Hợp tác Quốc tế (Department of International Cooperation)
Vụ thanh tra kinh tế ngành (Vụ I) (Department of sector-based Economic Inspection (Dep.I))
Vụ thanh tra khối nội chính và kinh tế tổng hợp (Vụ II) (Department of Internal Affairs and General Economic Inspection (Dep.II))
Vụ thanh tra khối văn hóa xã hội (Vụ III) (Department of Socio-Cultural Inspection (Dep.III))

Cục giải quyết khiếu nại tố cáo và thanh tra khu vực 1 (Cục I) (Agency of Settlement of Complaints-Denunciations and Inspection for region 1 (Agency I))
Cục giải quyết khiếu nại tố cáo và thanh tra khu vực 2 (Cục II) (Agency of Settlement of Complaints-Denunciations and Inspection for region 2 (Agency II))
Cục giải quyết khiếu nại tố cáo và thanh tra khu vực 3 (Cục III) (Agency of Settlement of Complaints-Denunciations and Inspection for region 3 (Agency III))

Cục chống tham nhũng (Cục IV) (Anti-corruption Agency (Agency IV))

Văn phòng, kế cɔ VPDD tại Thành phố Hồ Chí Minh (Ministry Office, including Representative Offices in HoChiMinh city)
Vụ tiếp dân và xử lý đơn thư (Department of Citizen Reception and Complaint and Denunciation Handling)
Vụ giám sát, thẩm định và xử lý sau thanh tra (Department of Post-Inspection Supervision, Evaluation and Handling)
Vụ Kế hoạch, Tài chính và Tổng hợp (Department of Planning, Finance and General Affairs)

11. **Bộ Công Thương (Ministry of Industry and Trade)**

Vụ Kế hoạch (Planning Department)
Vụ Tổ chức cán bộ (Organization and Personnel Department)
Vụ Pháp chế (Legal Affairs Department)
Vụ Hợp tác quốc tế (International Cooperation Department)

Thanh tra Bộ (Ministry Inspectorate)
Vụ Khoa học và Công nghệ (Science and Technology Department)
Vụ Công nghiệp nặng (Heavy Industry Department)
Tổng cɔ năng lượng (Directorate of Energy)
Vụ Công nghiệp nhẹ (Light Industry Department)
Cục Xuất nhập khẩu (Export-Import Department)
Vụ Thị trường trong nước (Domestic Market Department)
Vụ Thương mại biên giới và miền núi (Mountainous and Frontier Trade Department)
Vụ Thị trường châu Á - Thái Bình Dương (Asia-Pacific Market Department (Zone I Department))

7
12. Bộ Y tế (Ministry of Health)

Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legislation)
Thanh tra Bộ (Ministry Inspectorate)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Cục Quản lý dược (Drug Administration of Vietnam)
Vụ Bảo hiểm y tế (Department of Health Insurance)
Vụ Sức khỏe Bà mẹ – Trẻ em (Department of Children - Mother Health)
Cục Quản lý Y Dược cổ truyền (Agency of Administration of Traditional Medicine)
Vụ Trang thiết bị và Công trình y tế (Department of Health Equipment and Works)
Vụ Kế hoạch – Tài chính (Department of Planning and Finance)
Văn phòng Bộ, kể cả VPDD tại Thành phố Hồ Chí Minh (Ministry’ Office, including Representative Offices in Ho Chi Minh city)
Cục Y tế dự phòng (Agency of Preventive Medicine)
Cục Phòng, chống HIV/AIDS (HIV/AIDS Prevention Agency)
Cục Quản lý khám, chữa bệnh (Agency of Health Examination and Treatment)
Cục An toàn thức phẩm (Agency of Food Safety)
Tổng cục Dân số – Kế hoạch hóa gia đình (Directorate of Population Family Planning)
Vụ truyền thông và Thi đua-Khen thưởng (Department of communication and Emulation)
Cục Công nghệ thông tin (Agency of Information Technology)
13. Bộ Tài nguyên và Môi trường (Ministry of Natural Resources and Environment)
   - Bộ Pháp chế (Department of Legislation)
   - Bộ Tài chính (Department of Finance)
   - Bộ Tổ chức cán bộ (Department of Personnel and Organization)
   - Bộ Hợp tác quốc tế (Department of International Cooperation)
   - Bộ Thị đua khen thưởng và tuyên truyền (Department of Emulation, Commendation and Propaganda)
   - Thanh tra Bộ (Ministry Inspectorate)
   - Bộ Kế hoạch (Department of Planning)
   - Bộ Khoa học và Công nghệ (Department of Science and Technology)
   - Tổng cục Quản lý đất đai (Directorate of Land Administration)
   - Tổng cục Quản lý tài nguyên nước (Agency of Water Resources Management)
   - Tổng cục Khoa học và Công nghệ (Department of Science and Technology)
   - Tổng cục Di자ch và khoáng sản (Directorate of Geology and Minerals of Vietnam)
   - Tổng cục Môi trường (Directorate of Environment)
   - Tổng cục Địa chất và khoáng sản (Directorate of Geology and Minerals of Vietnam)
   - Tổng cục Biên phòng và Địa bàn biển đảo (General Department of the Sea and Offshore Islands)

14. Bộ Giáo dục và Đào tạo (Ministry of Training and Education)
   - Thanh tra Bộ (Ministry Inspectorate)
   - Bộ Pháp chế (Department of Legislation)
   - Bộ Tổ chức cán bộ (Department of Personnel and Organization)
   - Bộ Giáo dục Mầm non (Department of Pre-school Education)
   - Bộ Giáo dục Tiểu học (Department of Primary Education)
   - Bộ Giáo dục Trung học (Department of Secondary Education)
   - Bộ Giáo dục Chuyên ngành (Department of Professional Education)
   - Bộ Giáo dục Đại học (Department of Higher Education)
   - Bộ Giáo dục Dân tộc (Department of Ethnic Minorities Education)
   - Bộ Giáo dục Thường xuyên (Department of Continuing Education)
   - Bộ Công tác học sinh, sinh viên (Department of Student Affairs)
   - Bộ Giáo dục Quốc phòng (Department of National Defense)
   - Bộ Khoa học - Công nghệ và Môi trường (Department of Science, Technology and Environment)
15. Bộ Nội vụ (Ministry of Home Affairs)
   - Bộ Nội vụ (Department of Home Affairs)
   - Bộ Nội vụ - Biên chế (The Organization and Personnel Administration)
   - Bộ Nội vụ - Tiền lương (The Salary Department)
   - Bộ Nội vụ - Công chức - Viên chức (The Department of State Employees and Servants)
   - Bộ Nội vụ - Chinh quyền địa phương (The Local Administration Department)
   - Bộ Nội vụ - Hợp tác quốc tế (The International Cooperation Department)
   - Bộ Nội vụ - Tổ chức phi chính phủ (The Department of Non-Government Organization)
   - Bộ Nội vụ - Cải cách hành chính (The Administrative Reform Department)
   - Bộ Nội vụ - Đào tạo, Bồi dưỡng cán bộ công chức (The Department of Training and Fostering of State Officials)
   - Bộ Nội vụ - Pháp chế (The Department of Legislation)
   - Bộ Nội vụ - Tổng hợp (The General Department)
   - Bộ Nội vụ - Thanh tra (Ministry Inspectorate)
   - Văn phòng Bộ, các cơ quan VPDD tại Đà Nẵng và Thành phố Hồ Chí Minh (Ministry Office, including Representative Offices in Da nang and Ho Chi Minh city)
   - Các Văn thư và Lưu trữ nhà nước (State Records Management and Archives Agency)
   - Ban Tôn giáo Chính phủ (Government Committee for Religious Affairs)
   - Ban Thi đua - Khen thưởng Trung ương (Central Committee of Emulation and Commendation)
   - Bộ Nội vụ - Kế hoạch - Tài chính (Department of Planning – Finance)
   - Bộ Nội vụ - Công tác thanh niên (Department of Youth affairs)

16. Bộ Ngoại giao (Ministry of Foreign Affairs)
   - Bộ Ngoại giao (Ministry of Foreign Affairs)
   - Bộ Außen (ASEAN Department)
   - Bộ Außen - Nam Á - Nam Á - Nam Thái Bình Dương (South East Asia-South Asia-South Pacific Department)
   - Bộ Außen - Bắc Á (North East Asia Department)
   - Bộ Außen - Châu Âu (Europe Department)
17. **Ủy ban Dân tộc (Committee on Ethnic Minority Affairs)**

- **Vụ Tổ chức cán bộ (Department of Personnel and Organization)**
- **Vụ Pháp chế (Department of Legislation)**
- **Thành tra (Inspectorate)**
- **Vụ Chính sách dân tộc (Department of Policies on Ethnic Minority)**
- **Vụ Địa phương I (Department of Locality No.I)**
- **Vụ Địa phương II (Department of Locality No.II)**
- **Vụ Địa phương III (Department of Locality No.III)**
- **Vụ Tuyên truyền (Department of Propaganda)**
- **Vụ Hợp tác quốc tế (Department of International Cooperation)**
- **Vụ Tổng hợp (Department of General Affairs)**
- **Vụ Kế hoạch - Tài chính (Department of Planning and Finance)**
- **Văn phòng (Ministry Office)**
- **Vụ dân tộc thiểu số (Department of Ethnic Minorities)**

18. **Bộ Nông nghiệp và Phát triển nông thôn (Ministry of Agriculture and Rural Development)**

- **Vụ Hợp tác quốc tế (International Cooperation Department)**
Vụ Khoa học, Công nghệ và Môi trường (Department of Sciences, Technology and Environment)
Vụ Kế hoạch (Department of Planning)
Vụ Tài chính (Department of Finance)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Pháp chế (Department of Legislation)
Thanh tra Bộ (Ministry Inspectorate)
Cục Chăn nuôi (Agency of Livestock)
Cục Trồng trọt (Agency of Crop Production)
Cục Chế biến, nông lâm sản và nghiệp vụ (Agency of Processing for Agro-forestry- Fisheries Products and Salt Production)
Văn phòng Bộ (Ministry Office)
Cục Bảo vệ thực vật (Agency of Plant Protection)
Tổng cục Thủy lợi (Water Resources Directorate)
Tổng cục Lâm nghiệp (Directorate of Forest)
Tổng cục Thủy sản (Directorate of Fisheries)
Cục Thú y (Agency of Animal Health)
Cục Quản lý xây dựng công trình (Agency of Construction Management)
Cục Kinh tế hợp tác và Phát triển nông thôn (Agency of Cooperatives and Rural Development)
Cục Quản lý chất lượng nông lâm sản và thủy sản (National Agro-Forestry-Fisheries Quality Assurance Agency)
Vụ Quản lý doanh nghiệp (Department of Enterprise Management)

19. Bộ Giao thông vận tải (Ministry of Transportation)
Vụ Pháp chế (Department of Legislation)
Vụ Tổ chức cán bộ (Department of Personnel and Organization)
Vụ Vận tải (Department of Transportation)
Vụ Môi trường (Department of Environment)
Vụ Hợp tác quốc tế (Department of International Cooperation)
Vụ An toàn giao thông (Department of Traffic Safety)
Vụ Kết cấu hạ tầng giao thông (Department of Transport Infrastructure)
Vụ Khoa học - Công nghệ (Department of Science and Technology)
Vụ Tài chính (Department of Finance)
Vụ Kế hoạch - Đầu tư (Department of Planning and Investment)
Vụ quản lý doanh nghiệp (Department of Enterprises Management)
Thanh tra Bộ (Ministry Inspectorate)
Văn phòng Bộ (Ministry Office)
Cục Quản lý xây dựng và Chất lượng công trình giao thông (Transport Engineering Construction and Quality Management Agency)
Cục Đăng kiểm Việt Nam (Vietnam Register Agency)
Cục Đường thủy nội địa Việt Nam (Vietnam Inland Waterways Agency)
Notes to Section A:

1. This Chapter shall apply only to the procurement made by the above-mentioned entities subordinate to the relevant ministries which are listed in this Section and their administrative subordinate agencies at central level.

2. Ministry of Labour, Invalids and Social Affairs: This Chapter shall not apply to any procurement of goods and services involving martyrs’ cemetery.

3. Vietnam Social Security: For greater certainty, this Chapter shall not cover any procurement of investment management, investment advisory, or master custody and safekeeping services for the purposes of managing and investing the assets of superannuation funds of Vietnam Social Security.

4. Ministry of Transport: This Chapter shall not apply to procurement of construction service of Ministry of Transport.

5. Ministry of National Defense

a) This Chapter covers only the goods described as belows:

- Tyres used on light trucks (Maximum payload capacity from 410 kg to 3050 kg, external diameter from 475 mm to 972 mm), on specialty motor cars (Maximum payload capacity from 2937 kg to 61500 kg, external diameter from 1220 mm to 3045 mm), on heavy trucks (Maximum payload capacity from 4770 kg to 5525 kg, external diameter from 1020 mm to 1230 mm)

- Inner tubes used on motor cars (Sectional diameter from 104 mm to 236 mm, inside diameter from 305 mm to 605 mm), on bicycles (as stipulated in TC 03-2002/CA), on motorcycles (as stipulated in TCVN 5721-1, JIS6367, DOT, SN1)

- Leather products used on motor cars

- Elastic belts of all kinds (80 mm wide and 500 m long)

- Cast-iron pipes and accessories (Gray cast iron, ductile cast iron: Common kinds with diameter from 100-800mm suitable to ISO 2531:1998 national standard)

- Antenna pillars (Stay cables of a triangle cross-section of 330 with a height of 21-45 m;
stay cables of a triangle cross-section of 660 with a height of 36-66 m; stay cables of a triangle cross-section of 800 with a height of 60-100 m; stay cables of a circle cross-section with a height of 15 m; mobile cable ties - of a height of 10 m) and all kinds of metallic scaffolds, support pillars and shuttering (Of common kind)
- Spiral screws
- Chimneys
- Equipment for production of baked bricks of all kinds (Of an output of up to 20 million bricks/year)
- Equipment for production of pure ice (Parameters of big machines: ice cube size of 48 x 80 mm, an output of 9-10 tons/24h, 400 kg/batch, power consumption level of 0.085 kwh/kg of ice, the compressor's output of 50 HP)
- Sterilizing autoclaves (Of types of 20, 52 and 75 litres)
- Industrial water filters (Of an output of 6 tons/h, electric capacity of 25 kw)
- Winches, operated by electric motor (Of a lifting capacity of up to 50 tons)
- Dot matrix printers
- Washing machines of all kinds (Including kinds with automatic dryers)
- Cash registers
- Showers (Used for baffle separator in kitchen: Q030JGEV, Q030JGV, Q030JGEVQ01)
- Tube plate acid lead battery (Special-used for forklift trucks operated by electricity: capacity of between 2V-100 Ah and 2V-1000 Ah; Special-used for trams in golf yards, railway stations, ports; capacity of 6V-225Ah, 8V-195Ah; 12V-130Ah)
- Headlights for car, Headlights for 1-ton – capacity - under - truck, Wipers for automobile,
- Horn for automobile
- Post office boxes
- Webcam
- Two-wheels bicycles and other pedal-powered cycles (Including three-wheel cargo pedicabs)
- Exhaust pipes of motorcycles, Grip handle at back of motorcycles, Before and back dampings for motorcycles
- One-phase and three-phase electric meters (U of up to 380V, I of up to 100A), One-phase and three-phase electronic meters, Single-phase electronic meters (Degree of accuracy 1.0: normalized voltage (Un): 220 VAC, rated current (Ib):5A, 10A, 20A, 30A, 50A: maximum current (Imax): 20A, 40A, 60A, 80A, 100A, starting current (Ist)<0.4%Ib; working frequency: 50Hz; meter constant: 1600 impulse/kwh),
- Composite protection boxes of electricity meters,
- Composite boxes of electricity meters
- Testing apparatus for meter (12 – position single phase; 40 – position single phase)
- Alarm-clocks
- Wall clocks (Electrically operated)
- Warning signs made of fluorescent reflection aluminium (For autos, motors, traffic signs)
- Rubber sticks, Electric sticks of all kinds, Pepper spray (type of 500 ml, 2000 ml)
- Cane or beet sugar and sucrose (chemically pure, in solid form), Raw sugar not
containing added flavoring or coloring matter and Others
- Vinegar
- Table Salt
- Lime
- Pure copper ore (18-20% Cu)
- Monosodium glutamate
- Printing inks of all kinds (used to print identification)
- Newsprint, in rolls or sheets (Of a standard weight of 42-55 g/m²)
- Uncoated paper and paperboard, of a kind used for printing, writing or photocopying, card-making, punch tape paper or waxed base for manufacture of technical paper (Of a standard weight of 40-120 g/m². Excluding those under subheadings of: 4802.51.20, 4802.60.20, 4802.30.00, 4802.40.00, 4802.20.00)
- Paper shoe insoles (For lining shoes)
- Three-ply, five-ply cartons
- Cotton and polyester shoelaces
- Inners of vacuum flasks
- Electrostatic-painted steel protection boxes of electric meter (For electric grid works)
- Accessories of motorbike and bicycle
- Composite meter protection box (For electric grid works; type of 01 meter, single phase; type of 02 meters, single phase; type of 04 meters, single phase, type of 01 meter, 03 phases)
- HDPE plastic water tubes (Type of φ 20-110mm, with low heat-transfer coefficient, resisting sunlight, not be ionized under ultraviolet ray, resisting the low temperature of -40°C), PPR plastic water tubes (Type of φ 20-90mm, resisting high temperature and pressure, high durability, good bending resistance, not causing noise and vibration when water flow going pass)
- Plastic doors, Plastic doors with steel core produced from shaped uPVC bar (Manufactured synchronously from components such as shaped door frame, glassy box, and washer. Having sound insulating, heat insulating property and resisting high pressure; energy saving)
- Mirror glass (Of a thickness of between 1.5 - 18mm)
- Hot and cold showers (Type of 02 water-flows used for restroom), Cold bathroom showers (Type of 01 water-flow used for restroom), Hot and cold lavatory faucets (Type of 02 water-flows used for restroom), Cold faucets (Type of 01 water-flow used for restrooms), Cold tap to wash up dishes (Type of 02 water-flows used for kitchen room), Pond faucet (Type of 02 water-flows used for washing hands)
- Electric lamp of all kinds (Filament lamps of common type; Compact lamps of 2U, 3U, capacity of 5-20W; FHF Fluorescents, capacity of 32W, FLD Fluorescents, capacity of 18W and 36W)
- Paper-made packaging of software products
- Boxes and covers protecting objects carrying information
- Paper-made labels of electronic products

b) This Chapter covers only the services described in the United Nation Provisional Central Product Classification as belows:

<table>
<thead>
<tr>
<th>CPC</th>
<th>Description</th>
</tr>
</thead>
</table>

15
<table>
<thead>
<tr>
<th>HS</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>61120</td>
<td>Maintenance and repair services of motor vehicles (except for service</td>
</tr>
<tr>
<td></td>
<td>involving engine overhaul)</td>
</tr>
<tr>
<td>612</td>
<td>Sale, maintenance and repair services of motorcycles and snowmobiles; sales of</td>
</tr>
<tr>
<td></td>
<td>related parts and accessories (offer only the services involving maintenance</td>
</tr>
<tr>
<td></td>
<td>and repair services of motor vehicles under CPC612)</td>
</tr>
<tr>
<td>87401</td>
<td>Disinfecting and exterminating services</td>
</tr>
<tr>
<td>87507</td>
<td>Restoration, copying and retouching services of photography</td>
</tr>
<tr>
<td>87501</td>
<td>Portrait photography services</td>
</tr>
<tr>
<td>51520</td>
<td>Water well drilling (except for installation and repair work of piping systems</td>
</tr>
<tr>
<td></td>
<td>within buildings)</td>
</tr>
</tbody>
</table>

6. Ministry of Public Security

*a) This Chapter covers only the goods described in the Harmonized System Code (HS) issued together with Circular no.156/2011/TT-BTC dated November 24th, 2011 as belows:

<table>
<thead>
<tr>
<th>HS</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>Pharmaceutical products</td>
</tr>
<tr>
<td>34.02</td>
<td>Organic surface-active agents (other than soap); surface-active preparations,</td>
</tr>
<tr>
<td></td>
<td>washing preparations (including auxiliary washing preparations) and cleaning</td>
</tr>
<tr>
<td></td>
<td>preparations, whether or not containing soap, other than those of heading 34.01.</td>
</tr>
<tr>
<td>3402.19.10</td>
<td>Of a kind suitable for use in fire-extinguishing preparations</td>
</tr>
<tr>
<td>3813.00.00</td>
<td>Preparations and charges for fire-extinguishers; charged fire-extinguishing</td>
</tr>
<tr>
<td></td>
<td>grenades.</td>
</tr>
<tr>
<td>39.26</td>
<td>Other articles of plastics and articles of other materials of headings 39.01 to</td>
</tr>
<tr>
<td>3926.20.60</td>
<td>Articles of apparel used for protection from chemical substances, radiation or</td>
</tr>
<tr>
<td></td>
<td>fire</td>
</tr>
<tr>
<td>3926.90.42</td>
<td>Protective masks for use in welding and similar work</td>
</tr>
<tr>
<td>3926.90.44</td>
<td>Life saving cushions for the protection of persons falling from heights</td>
</tr>
<tr>
<td>3926.90.49</td>
<td>Other</td>
</tr>
<tr>
<td>59.07</td>
<td>Textile fabrics otherwise impregnated, coated or covered; painted canvas</td>
</tr>
<tr>
<td></td>
<td>being theatrical scenery, studio back-cloths or the like.</td>
</tr>
<tr>
<td>5907.00.30</td>
<td>Fabrics impregnated, coated or covered with fire resistant substances</td>
</tr>
<tr>
<td>59.09</td>
<td>Textile hosepiping and similar textile tubing, with or without lining, armor</td>
</tr>
<tr>
<td></td>
<td>or accessories of other materials.</td>
</tr>
<tr>
<td>5909.00.10</td>
<td>Fire hoses</td>
</tr>
<tr>
<td>61.13</td>
<td>Garments, made up of knitted or crocheted fabrics of heading 59.03, 59.06 or</td>
</tr>
<tr>
<td></td>
<td>59.07.</td>
</tr>
<tr>
<td>61.16</td>
<td>Gloves, mittens and mitts, knitted or crocheted.</td>
</tr>
<tr>
<td>6116.10.10</td>
<td>Other</td>
</tr>
<tr>
<td>62.10</td>
<td>Garments, made up of fabrics of heading 56.02, 56.03, 59.03, 59.06 or 59.07.</td>
</tr>
<tr>
<td>6210.10</td>
<td>Of fabrics of heading 56.02 or 56.03</td>
</tr>
<tr>
<td>6210.10.11</td>
<td>Garments used for protection from chemical substances, radiation or fire</td>
</tr>
<tr>
<td>6210.20.20</td>
<td>Garments used for protection from fire</td>
</tr>
<tr>
<td>6210.20.30</td>
<td>Garments used for protection from chemical substances or radiation</td>
</tr>
<tr>
<td>6210.30.20</td>
<td>Garments used for protection from fire</td>
</tr>
</tbody>
</table>
6210.30.30 Garments used for protection from chemical substances or radiation
6210.40.10 Garments used for protection from fire
6210.40.20 Garments used for protection from chemical substances or radiation
6210.50.10 Garments used for protection from fire
6210.50.20 Garments used for protection from chemical substances or radiation
64.01 Waterproof footwear with outer soles and uppers of rubber or of plastics, the
uppers of which are neither fixed to the sole nor assembled by stitching,
riveting, nailing, screwing, plugging or similar processes.
65.06 Other headgear, whether or not lined or trimmed.
6506.10.20 Industrial safety helmets and firefighters’ helmets, excluding steel helmets
82.01 Hand tools, the following: spades, shovels, mattocks, picks, hoes, forks and
rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any
kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools
of a kind used in agriculture, horticulture or forestry.
82.02 Hand saws; blades for saws of all kinds (including slitting, slotting or toothless
saw blades).
82.03 Files, rasps, pliers (including cutting pliers), pincers, tweezers, metal cutting
shears, pipe-cutters, bolt croppers, perforating punches and similar hand tools.
84.24 Mechanical appliances (whether or not hand-operated) for projecting,
dispersing or spraying liquids or powders; fire extinguishers, whether or not
charged; spray guns and similar appliances; steam or sand blasting machines
and similar jet projecting machines.
8424.10 Fire extinguishers, whether or not charged
85.01 Electric motors and generators (excluding generating sets).
85.03 Parts suitable for use solely or principally with the machines of heading 85.01
or 85.02.
85.19 Sound recording or reproducing apparatus.
85.22 Parts and accessories suitable for use solely or principally with the apparatus of
heading 85.19 or 85.21.
85.25 Transmission apparatus for radio-broadcasting or television, whether or not
incorporating reception apparatus or sound recording or reproducing apparatus;
television cameras, digital cameras and video camera recorders.
85.26 Radar apparatus, radio navigational aid apparatus and radio remote control
apparatus.
85.37 Boards, panels, consoles, desks, cabinets and other bases, equipped with two or
more apparatus of heading 85.35 or 85.36, for electric control or the
distribution of electricity, including those incorporating instruments or
apparatus of Chapter 90, and numerical control apparatus, other than switching
apparatus of heading 85.17.
87.05 Special purpose motor vehicles, other than those principally designed for the
transport of persons or goods (for example, breakdown lorries, crane lorries,
fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying
lorries, mobile workshops, mobile radiological units).
8705.10.00 Crane lorries
8705.20.00 Mobile drilling derricks
8705.90.50 Street cleaning vehicles; cesspool emptiers; mobile clinics; spraying lorries of all kinds

89.05 Light-vessels, fire-floats, dredgers, floating cranes and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms.

89.06 Other vessels, including warships and lifeboats other than rowing boats.

8908.00.00 Vessels and other floating structures for breaking up.

90.18 Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments.

90.19 Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus.

9020.00.00 Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters.

90.21 Orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability.

90.22 Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like.

b) This Chapter does not cover services or construction services procured by the Ministry of Public Security;

c) The extent and composition of coverage of pharmaceuticals by the Ministry, and the rights accorded to the foreign invested pharmaceutical enterprises, will follow the same formula as that employed by the Ministry of Health for its covered procurement of pharmaceuticals, laid out in the notes in Section D (Goods).
SECTION B:
Sub-Central level of Government Entities

None
SECTION C:
Other covered entities

This Chapter applies to the entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods and Services:

- From the date of entry into force of this Agreement for Vietnam to the end of the 5th year after entry into force: SDR 3,000,000
- From the 6th year after entry into force of this Agreement for Vietnam: SDR 2,000,000

Construction:

- From the date of entry into force of this Agreement for Vietnam to the end of the 5th year after entry into force: SDR 65,200,000
- From the 6th year to the end of 10th year after entry into force of this Agreement for Vietnam: SDR 55,000,000
- From the 11th year to the end of 15th year after entry into force of this Agreement for Vietnam: SDR 40,000,000
- From the 16th year to the end of 20th year after entry into force of this Agreement for Vietnam: SDR 25,000,000
- From the 21st year after entry into force of this Agreement for Vietnam: SDR 15,000,000

List of Entities:

1. **Thống tấn xã Việt Nam (Vietnam News Agency)**
   - **Ban Tố chức cán bộ (Personnel and Organization Board)**
   - **Ban Kiểm tra (Board of Inspection)**
   - **Ban Thư ký biên tập (Editor Board)**
   - **Ban Kế hoạch – Tài chính (Board of Planning and Finance)**
   - **Ban Biên tập tin đối ngoại (Board of News for Foreign Service)**
   - **Ban Biên tập tin trong nước (Board of Domestic News)**
   - **Ban Biên tập tin kinh tế (Board of Economic News)**
   - **Ban Biên tập tin thế giới (Board of World News)**
   - **Trung tâm thông tin tư liệu (Database-Documentation Center)**
   - **Trung tâm tin học (Informatics Centre)**
   - **Trung tâm Bồi dưỡng nghiệp vụ Thông tấn (Vietnam News Agency Professional Training Centre)**
   - **Co quan Thông tấn xã Việt Nam khu vực phía Nam (Representative Office in the South)**
   - **Co quan Thông tấn xã Việt Nam khu vực miền Trung – Tây Nguyên (Representative Office in the Centre - Tay Nguyen)**
   - **Ban Biên tập ảnh (Pictorial Editorial Board)**
   - **Văn phòng Thông tấn xã (The Administrative Affair Office)**

   20
2. Học viên Chính trị quốc gia Hồ Chí Minh (Ho Chi Minh National Academy of Politics)

- Vũ Tổ chức cán bộ (Department of Personnel and Organization)
- Vũ Quản lý khoa học (Department of Scientific Management)
- Ban Thanh tra (Board of Inspection)
- Vũ Hợp tác quốc tế (Department of International cooperation)
- Vũ Quản lý đào tạo (Department of Training Management)
- Vũ Các trường chính trị (Department of Provincial Political Schools)
- Viện Quan hệ quốc tế (Institute of International Relations)
- Viện Nhà nước và Pháp luật (Institute of State and Law)
- Viện Triết học (Institute of Philosophy)
- Viện Chính trị học (Institute of Political Sciences)
- Viện Văn hóa và Phát triển (Institute of Culture and Development)
- Viện Nghiên cứu quyền con người (Institute of Human Right Studies)
- Viện Kinh tế (Institute of Economics)
- Tạp chí Lý luận chính trị (Journal of Political Theory)
- Viện Lịch sử Đảng (Institute of the CPV History)
- Viện Hồ Chí Minh và các Lãnh tụ của Đảng (Institute of Ho Chi Minh and the CPV's Leaders' Studies)
- Viện Chủ nghĩa xã hội khoa học (Institute of Scientific Socialism)
- Viện Xã hội học (Institute of Sociology)
- Vũ Kế hoạch – Tài chính (Department of Planning and Finance)

3. Viện Hàn lâm Khoa học xã hội Việt Nam (Vietnam Academy of Social Sciences)

- Nhà xuất bản Khoa học xã hội (Social Sciences Publishing House)
- Viện Nghiên cứu Ấn Độ và Tây Nam Á (Institute of Indian and Southwest Asian Studies)
- Trung tâm Phân tích và Dự báo (The Centre for Analysis and Forecast)
- Tạp chí Khoa học xã hội Việt Nam (Vietnam Social Sciences Review)
- Viện Nghiên cứu con người (Institute of Human Studies)
- Viện Nghiên cứu Tôn giáo (Institute for Religious Studies)
- Viện Nghiên cứu Đồng Bắc Á (Vietnam Institute for Northeast Asian Studies)
- Viện Nghiên cứu Châu Mỹ (Vietnam Institute of American Studies)
- Bảo tàng Dân tộc học Việt Nam (Vietnam Museum of Ethnology)
- Viện Nghiên cứu Châu Phi và Trung Đông (Institute of African and Middle East Studies)
- Viện Nghiên cứu Trung Quốc (Vietnam Institute of Chinese Studies)
- Trung tâm Thông tin Công nghệ thông tin (Center for Information Technology)
- Viện Phát triển bền vững vùng Tây Nguyên (Institute of Sustainable Development of the Central Region)
- Viện Nghiên cứu Văn hóa (Institute of Cultural Studies)
- Viện Sử học (Institute of History)
Viện Nhà nước và Pháp luật (Institute of State and Law)
Viện Dân tộc học (Institute of Anthropology)
Viện Nghiên cứu Đông Nam Á (Institute for Southeast Asian Studies)
Viện Triết học (Institute of Philosophy)
Viện Xã hội học (Institute of Sociology)
Viện Nghiên cứu Châu Âu (Institute for European Studies)
Viện Tâm lý học (Institute of Psychology)
Viện Văn học (Vietnam Institute of Literature)
Viện Kinh tế và Chính trị thế giới (Institute of World Economics and Politics)
Viện Nghiên cứu Hán – Nôm (Institute of Han - Nom Studies)
Học viện Khoa học xã hội (Graduate Academy of Social Sciences)
Viện Khảo cổ học (Institute of Archaeology)
Viện Thông tin Khoa học xã hội (Institute of Social Sciences Information)
Ban Tổ chức cán bộ (Department of Personnel and Organization)
Ban Kế hoạch – Tài chính (Department of Finance and Planning)
Ban Quản lý Khoa học (Department of Science Management)
Ban Hợp tác quốc tế (Department of International Cooperation)
Văn phòng (Head Office)

4. Việt Hàn làm Khoa học và công nghệ Việt Nam (Vietnam Academy of Science and Technology (VAST))
Viện Toán học (Institute of Mathematics)
Nhà xuất bản Khoa học tự nhiên và Công nghệ (Publishing House for Science and Technology)
Viện Vật lý Ứng dụng và Thiết bị khoa học (Institute of Applied Physics and Scientific Instruments)
Viện Cơ học và Tin học ứng dụng (Institute of Applied Informatics and Mechanics)
Viện Công nghệ hóa học (Institute of Chemical Technology)
Viện Khoa học vật liệu ứng dụng (Institute of Applied Materials Science)
Viện Sinh học nhiệt đới (Institute of Tropical Biology)
Viện Khoa học năng lượng (Institute of Energy Science)
Văn phòng VAST, bao gồm văn phòng đại diện tại Thành phố Hồ Chí Minh (Administration Office, including Representative Offices in HoChiMinh city)
Viện Công nghệ thông tin (Institute of Information Technology)
Viện Cơ học (Institute of Mechanics)
Viện Vật lý địa cầu (Institute of Geophysics)
Viện Sinh thái và Tài nguyên sinh vật (Institute of Ecology and Biological Resources)
Viện Tài nguyên và Môi trường biển (Institute of Marine Environment and Resources)
Viện Sinh học Tây Nguyên (Tay Nguyen Institute of Biology)
5. Bệnh viện Bạch Mai (Bach Mai Hospital)
6. Bệnh viện Chợ Rẫy (Cho Ray Hospital)
7. Bệnh viện Đa khoa Trung ương Huế (Hue Central Hospital)
8. Bệnh viện Đa khoa Trung ương Thái Nguyên (Thai Nguyen National General Hospital)
9. Bệnh viện Đa khoa Trung ương Cần Thơ (Can Tho National Hospital)
10. Bệnh viện Đa khoa Trung ương Quảng Nam (Quang Nam Central General Hospital)
11. Bệnh viện Việt Nam - Thụy Điển Uông Bí (Uông Bi Viet Nam – Sweden Hospital)
12. Bệnh viện Hữu nghị Việt Nam - Cu Ba Đồng Hới (Vietnam – Cuba Donghoi Friendship Hospital)
13. Bệnh viện Hữu nghị Việt - Đức (Viet Duc Hospital)
14. Bệnh viện E (E Hospital)
15. Bệnh viện Hữu nghị (Friendship Hospital)
16. Bệnh viện Thông Nhất (Thong Nhat Hospital/ Unified Hospital)
17. Bệnh viện C Đà Nẵng (C Hospital)
18. Bệnh viện K (K Hospital)
20. Bệnh viện Phụ - Sản Trung ương (National Hospital of Obstetrics and Gynecology)
22. Bệnh viện Tai - Mũi - Hong Trung ương (Hospital of Ear - Nose - Throat)
23. Bệnh viện Nội tiết Trung ương (National Hospital of Endocrinology)
24. Bệnh viện Răng - Hàm - Mặt Trung ương Hà Nội (National Hospital of Odonto - Stomatolgy)
25. Bệnh viện Răng - Hàm - Mặt Trung ương thành phố Hồ Chí Minh (Ho Chi Minh Hospital of Odonto - Stomatology)
26. Bệnh viện 71 Trung ương (Central 71 Hospital)
27. Bệnh viện 74 Trung ương (Central 74 Hospital)
28. Bệnh viện Phổi Trung ương (National Hospital of Lung Diseases)
29. Bệnh viện Tâm thần Trung ương 1 (National Psychiatric Hospital no.1)
30. Bệnh viện Tâm thần Trung ương 2 (National Metal Hospital 2)
31. Bệnh viện Phong - Da liễu Trung ương Quy Hòa (Quyhoa National Leprosy Dermatology Hospital)
32. Bệnh viện Phong - Da liễu Trung ương Quynh Lập (Quynh Lap National Leprosy Dermatology Hospital)
33. Bệnh viện Điều dưỡng - Phục hồi chức năng Trung ương (Hospital of Nursing - Rehabilitation)
34. Bệnh viện Bệnh Nhiệt đới Trung ương (National Hospital of Tropical Diseases)
35. Bệnh viện Da liễu Trung ương (National Hospital of Dermatology and Venereology)
36. Bệnh viện Lão khoa Trung ương (Hospital of Geriatric)
37. Bệnh viện Y học cổ truyền Trung ương (National Hospital of Traditional Medicine)
38. Bệnh viện Châm cứu Trung ương (National Hospital of Acupuncture)

Notes to Section C:
1. For greater certainty, for Vietnam News Agency, Ho Chi Minh National Academy of Politics, Vietnam Academy for Social Sciences, Vietnam Academy for Science and Technology, this Chapter shall apply only to the procurement made by the above-mentioned entities subordinate to the relevant procuring entities.
2. Ho Chi Minh National Academy of Politics: This Chapter shall not apply to procurement of restoration services of Ho Chi Minh National Academy of Politics.
3. Vietnam News Agency: This Chapter shall not apply to any procurement in relation to news and documentary production of Vietnam News Agency.
4. National Hospitals: For 34 national hospitals, for the purpose of determining whether a pharmaceutical procurement equals or exceeds the Section C goods threshold, the relevant contract will be the consolidated pharmaceutical contract which lasts at least 1 year for each hospital, or the centralised contract conducted by the Ministry of Health on behalf of them. Should a hospital procure in contracts which last a shorter period, the applicable threshold shall be 500,000 SDR. Should a procurement contract concern a single pharmaceutical product, the applicable threshold shall be 180,000 SDR.
5. Vietnam does not offer the coverage of Section C to Mexico.
SECTION D: Goods

This Chapter covers the procurement of all goods procured by the entities listed in Section A through C, subject to the Notes to the respective Sections and the General Notes, except for goods indicated in the lists below:

<table>
<thead>
<tr>
<th>HS</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.06</td>
<td>Rice</td>
</tr>
<tr>
<td>27.09</td>
<td>Petroleum oils and oils obtained from bituminous minerals, crude.</td>
</tr>
<tr>
<td>27.10</td>
<td>Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils.</td>
</tr>
<tr>
<td>49.01</td>
<td>Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets</td>
</tr>
<tr>
<td>49.02</td>
<td>Newspapers, journals and periodicals, whether or not illustrated or containing advertising material</td>
</tr>
<tr>
<td>49.05</td>
<td>Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed</td>
</tr>
<tr>
<td>49.07</td>
<td>Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title.</td>
</tr>
<tr>
<td>8517.61</td>
<td>Base stations</td>
</tr>
<tr>
<td>8525.50</td>
<td>Transmission apparatus</td>
</tr>
<tr>
<td>8525.60</td>
<td>Transmission apparatus incorporating reception apparatus</td>
</tr>
<tr>
<td>85.26</td>
<td>Radar apparatus, radio navigational aid apparatus and radio remote control apparatus.</td>
</tr>
<tr>
<td>8527.13</td>
<td>Other apparatus combined with sound recording or reproducing apparatus</td>
</tr>
<tr>
<td>8527.19</td>
<td>Reception apparatus capable of planning, managing and monitoring the electromagnetic spectrum Recorded discs, tapes, solid-state non-volatile storage devices, “smart cards” and other media for the recording of sound or of other phenomena.</td>
</tr>
</tbody>
</table>

Note to Section D:

For pharmaceutical products, the following notes apply:

(1) For each calendar year following the date of entry into force of this Agreement for Vietnam, Vietnam may set aside from the obligations of this Chapter the respective percentage of contract value of pharmaceutical products as belows:

<table>
<thead>
<tr>
<th>Year</th>
<th>1st-3rd</th>
<th>4th – 10th</th>
<th>11th – 15th</th>
<th>16th onward</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage of contract value</td>
<td>100</td>
<td>65</td>
<td>60</td>
<td>50</td>
</tr>
</tbody>
</table>

(2) With respect to the share of pharmaceutical procurement subject to commitments under this Chapter, its composition will be composed of the following categories in sequential order:
a) All innovative (patented) pharmaceuticals; then
b) All Category 1 generics (under the classification system of Vietnam’s Ministry of Health); then
c) All Category 2 generics; then
d) All Category 3 generics; then
e) All Category 4 generics; then
f) Category 5 generics;

until the share of the annual procurement that is covered for that year is reached.

(3) TPP suppliers of pharmaceuticals, including foreign invested enterprises, to covered entities shall have the right to participate directly in tenders.

(4) This Chapter does not cover procurement of distribution services of pharmaceutical products that form a procurement contract or form a part of, or are incidental to, a procurement contract. In case these services form a part of, or are incidental to, a procurement contract, the successful supplier of that procurement, including foreign invested enterprises, shall have the right to choose any licensed pharmaceutical distributor(s) in Vietnam to deliver pharmaceutical products to covered entities, including their existing distributor(s).
SECTION E: Services

The following services, as elaborated in the Provisional Central Product Classification, are offered (others being excluded):

<table>
<thead>
<tr>
<th>CPC code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>61</td>
<td>Sale, maintenance and repair services of motor vehicles and motorcycles</td>
</tr>
<tr>
<td>64</td>
<td>Hotel and restaurant services</td>
</tr>
<tr>
<td>75231</td>
<td>Data network services</td>
</tr>
<tr>
<td>75232</td>
<td>Electronic message and information services</td>
</tr>
<tr>
<td>84</td>
<td>Computer and related services</td>
</tr>
<tr>
<td>862</td>
<td>Accounting, auditing and book-keeping services</td>
</tr>
<tr>
<td>863</td>
<td>Taxation services</td>
</tr>
<tr>
<td>864</td>
<td>Market research and public opinion polls</td>
</tr>
<tr>
<td>872</td>
<td>Placement and supply services of personnel</td>
</tr>
<tr>
<td>874</td>
<td>Building-cleaning services</td>
</tr>
<tr>
<td>87501</td>
<td>Portrait photography services</td>
</tr>
<tr>
<td>87503</td>
<td>Action photography services</td>
</tr>
<tr>
<td>87504</td>
<td>Specialty photography services</td>
</tr>
<tr>
<td>87505</td>
<td>Photography processing services</td>
</tr>
<tr>
<td>87506</td>
<td>Motion picture processing services to the motion picture and television industries</td>
</tr>
<tr>
<td>87507</td>
<td>Restoration, copying and retouching services of photography</td>
</tr>
<tr>
<td>87509</td>
<td>Other photographic services</td>
</tr>
<tr>
<td>876</td>
<td>Packaging services</td>
</tr>
<tr>
<td>87903</td>
<td>Telephone answering services</td>
</tr>
<tr>
<td>87904</td>
<td>Duplicating services</td>
</tr>
<tr>
<td>87905</td>
<td>Translation and interpretation services</td>
</tr>
<tr>
<td>87906</td>
<td>Mailing list compilation and mailing services</td>
</tr>
<tr>
<td>94</td>
<td>Sewage and refuse disposal, sanitation and other environmental protection services (except for refuse collection in the offices of covered entities)</td>
</tr>
<tr>
<td>97</td>
<td>Other services (except for Codes: 97030 – Funeral, cremation and undertaking services and 97090 – Other services n.e.c.)</td>
</tr>
<tr>
<td>980</td>
<td>Private households with employed persons</td>
</tr>
<tr>
<td>99</td>
<td>Services provided by extraterritorial organizations and bodies</td>
</tr>
</tbody>
</table>

Note to Section E:

1. This Chapter shall not apply to:
   a. any procurement of public utilities services;
   b. any procurement of services associated with the management and operation of government facilities and all privately owned facilities used for government purposes;

2. For CPC 75231, 75232, 84, commitments under this Chapter are available to a TPP supplier who is, in case the procurement applies to enterprises, established and operates in Vietnam under Vietnamese laws, or in case the procurement applies to an individual, an individual bearing Vietnamese nationality.
SECTION F:
Construction Works

This Chapter covers all construction services procured by the entities listed in Section A and Section C listed in Division 51 of the Provisional Central Product Classification (CPC), except for the construction services excluded in the Schedule of the Party, subject to the Notes to the respective Sections, the General Notes, and the Notes to this Section.

Notes to Section F:
This Chapter shall not cover the procurement of:
1. Dredging services;
2. Construction in remote, mountainous and extremely difficult areas as stipulated in Vietnam’s regulations and on islands located beyond Vietnam’s territorial sea;
3. Construction of ministerial level headquarters.
SECTION G:
General Notes

I. This Chapter shall not apply to:

1. build-operate-transfer contract and public works concession contract;
2. any procurement for the purposes of developing, protecting or preserving national treasures of artistic, historic, archaeological value or cultural heritage;
3. procurement of any goods and related services involving national reserves stipulated in the Law on National Reserves and any amendments thereof;
4. any procurement involving any form of preference to benefit small and medium enterprises;
5. measures for the health, welfare and the economic and social advancement of ethnic minorities;
6. procurement funded by grants and sponsorship payments from persons not listed in this Annex;
7. any procurement of goods and services inside the territory of Vietnam, for the consumption outside the territory of Vietnam;
8. any procurement of goods and services involving national celebrations and religious purposes;
9. transportation services that form a part of, or are incidental to, a procurement contract;
10. any procurement by a procuring entity from another government entity.

II. For greater certainty

1. Limited tendering shall apply also to bomb and mine sweeping for land clearance.
2. This Chapter does not apply to any procurement made by a covered entity on behalf of a non-covered entity.
3. Provided that it complies with Article 15.4, Vietnam may adopt measures that discriminate in favour of suppliers of any Party offering the goods or services of any Party against those suppliers offering goods or services from non Parties.
4. Any exclusion that is related either specifically or generally to a procuring entity will also apply to any successor entity in such a manner as to maintain the value of this offer.
5. Services covered by this Chapter are subject to exclusions from and reservations to the Chapters on Cross-Border Trade in Services, Investment and Financial Services.
6. Nothing in this Chapter shall be construed to prevent Vietnam from adopting or maintaining any measure that it considers necessary for the protection of essential security interests, including national secrets, as defined in Vietnam’s laws and regulations.
7. This market access offer shall only apply to TPP’s initial members, namely Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and The United States.
SECTION H
Threshold Adjustment Formula

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, XX.

2. Every two years, Vietnam shall calculate and publish the value of the thresholds under this Chapter expressed in Vietnam Dong. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Vietnam Dong in terms of the Special Drawing Rights (SDR) over the two-year period preceding October 1 of the year before the adjusted thresholds are to take effect.

4. Vietnam shall notify the other Parties of the current thresholds in Vietnam Dong immediately after this Agreement enters into force for Vietnam, and the adjusted thresholds in Vietnam Dong thereafter in a timely manner.

5. Vietnam shall consult if a major change in Vietnam Dong relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter

SECTION I
Procurement Information

Notice of Intended Procurement is published in Báo Đầu thu (Vietnam Public Procurement Newspaper).
Vietnam shall provide the address of website to publish procurement information after transitional period.
SECTION J
Transitional Measures

1. Article 15.7.2 (Notices of Intended Procurement): Notwithstanding the requirement in Article 15.7.2, where notices of intended procurement are accessible by electronic means, they must be provided free of charge, Vietnam may charge a fee for access to its notices of intended procurement, when these notices are accessible by electronic means, until Vietnam’s e-procurement system is operational and Vietnam has issued a legal measure requiring all of its Section A procuring entities to use the e-procurement system, provided that it complies with Article 15.4 (National Treatment and Non-Discrimination). During this transitional period, Vietnam will periodically inform the parties of the status of the development and implementation of its e-procurement system.

2. Article 15.7.3(g) and (h) (Notices of Intended Procurement): Notwithstanding the requirements in Article 15.7.3(g) and (h) that a notice of intended procurement include a list and a brief description of any conditions for participation of suppliers and limitations on the number of qualified supplier to be invited to tender, Vietnam may omit such information from its notices of intended procurement, until Vietnam’s e-procurement system is operational and Vietnam has issued a legal measure requiring all of its section A procuring entities to use the e-procurement system. During this transitional period, Vietnam shall provide such information in its tender documentation, provided that it complies with Article 15.4 (National Treatment and Non-Discrimination).

3. Article 15.14.3 (Time Periods): Notwithstanding the requirement in Article 15.14.3 that a procuring entity provide 40 days for the final date for submission of tenders, Vietnam may establish a final date for submission of tenders that is not less than 25 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 entity notifies the suppliers that they will be invited to submit tenders;

until Vietnam’s e-procurement system is operational and Vietnam has issued a legal measure requiring all of its Section A procuring entities to use the e-procurement system, or seven years after entry into force of this Agreement for Vietnam, whichever is earlier, provided that it complies with Article 15.4 (National Treatment and Non-Discrimination).

Upon request by Vietnam, the Parties will give favourable consideration to the extension of the transitional period for up to a maximum of an additional three years period provided that Vietnam has demonstrated concrete steps during the implementation period to comply with Article 15.14.3.

4. Article 15.16 (Post Award Information): Notwithstanding the requirements in Article 15.16.3(f) that the post-award notice include a brief description of the circumstances justifying the use of a limited tendering procedure, Vietnam may omit such information from post-award notices until Vietnam’s e-procurement system is operational and Vietnam has issued a legal measure requiring all of its Section A procuring entities to use the e-procurement system. During this period, Vietnam shall provide such information to a Party on request.
5. Article 15.19 (Domestic Review): Notwithstanding Article 15.19, Vietnam may delay application of its obligations under Article 15.19 (Domestic Review) for three years after entry into force of this Agreement for Vietnam. During this period, Vietnam shall allow suppliers of any Party to take complaints about the conduct of a covered procurement to the procuring entity, in accordance with the Public Procurement Law, provided that it complies with Article 15.4 (National Treatment and Non-Discrimination).

6. Notwithstanding Chapter 28 (Dispute Settlement), Vietnam shall not be subject to dispute settlement with respect to its obligations under Chapter 15 (Government Procurement) for five years from the date of entry into force of this Agreement for Vietnam. During this transitional period, Vietnam shall enter into consultations with any Party that raises concerns with the implementation of its obligations.
Offset
Notwithstanding Article 15.4.6 (Offset), Vietnam is allowed to seek, take account of, impose or enforce any form of offsets at any stage of a procurement as follows:

1. Upon the entry into force of this Agreement for Vietnam, Vietnam may request offsets in any form, including a price preference program, on up to 40 per cent of the annual value of total covered procurement, decreasing after ten years to on up to 30 per cent of the annual value of total covered procurement, until the end of 25\textsuperscript{th} year. The offset program shall be eliminated from the beginning of the 26\textsuperscript{th} year after the entry into force of this Agreement for Vietnam.

2. For greater certainty, paragraph 1 does not limit the amount of offsets that Vietnam may request on a contract that falls within the annual percentage of total covered procurement subject to offsets as indicated above.
SECTION A
Central Government Entities

This Chapter 15 (Government Procurement) applies to the central government entities listed in this section where value of procurement is estimated to equal or exceed the following threshold:

**Goods and Services**

- **SDR 250,000.00**
  - From 1st and 2nd year after coming into force of the Agreement;
  - **SDR 190,000.00**
    - Starting from the 3rd to 4th year after coming into force of the Agreement;
  - **SDR 130,000.00**
    - Starting from the 5th year after coming into force of the Agreement.

**Construction Services**

- **SDR 5,000,000.00**

**List of Entities**

1. Prime Minister’s Office
   a. Audit Department
   b. Anti-Corruption Bureau
   c. Attorney General’s Chamber
   d. Councils of State
   e. Civil Service Institute
   f. Department of Economic Planning and Development
   g. E-Government National Centre
   h. Government Printing
   i. Internal Security
   j. Information
   k. Management Services
   l. Narcotics Control Bureau
   m. Public Service Department
   n. Public Service Commission
   o. Radio Television Brunei
   p. Royal Customs and Traditions
   q. Royal Brunei Police Force
   r. State Mufti
   s. State Judiciary
   t. Department of Electrical Services
   u. Energy Department
   v. Brunei Research Department
2. Ministry Of Defence
   a. Directorate of Administration and Manpower
   b. Directorate of Finance and Acquisition
   c. Directorate of Development & Works Services
   d. Directorate of Operations
   e. Directorate of Personnel
   f. Directorate of Logistics
   g. Directorate of Defence Policy
   h. Royal Brunei Armed Forces
   i. Directorate of Intelligence
   j. Directorate of Force Capability Development
   k. Sultan Haji Hassanal Bolkiah Institute of Defence and Strategic Studies
   l. The Centre of Science And Technology Research And Development (CSTRAD)
   m. Office Strategy Management
   n. Technical Equipment Maintenance Division
   o. Calibration Centre
   p. Royal Brunei Armed Forces Religious Department

3. Ministry Of Finance
   a. Supply and State Stores Department
   b. Royal Custom and Excise Department
   c. Treasury Department
   d. His Majesty Sultan’s Flight Department

4. Ministry of Foreign Affairs and Trade
   a. Administration Department
   b. Information and Communication Department
   c. Protocol and Consular Affairs Department
   d. Policy Planning Department
   e. Politics I Department
   f. Politics II Department
   g. ASEAN Department
   h. International Organisation Department
   i. Economic Cooperation Department
   j. Trade Development
   k. International Trade Department
   l. Security Department

5. Ministry Of Education
   a. Department of Administration and Services
   b. Planning and Estate Management Department
   c. Department of Schools
   d. Department of Schools Inspectorate
   e. Curriculum Development Department
   f. Examinations Department
   g. Department of Planning, Development and Research
   h. Department of Information and Communication Technology
   i. Department of Co-Curricular Education
Subject to Legal Review in English, Spanish, and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

j. Department of Technical Education
k. University Brunei Darussalam
l. Sultan Sharif Ali Islamic University
m. Brunei Institute of Technology
n. Department of Human Resources Development

6. Ministry Of Health
   a. Finance and Administration Department
   b. Policy and Planning Department
   c. Health Care Technology Department
   d. Department of Health Services
   e. Department of Medical Services
   f. Estate Management Department

7. Ministry Of Development
   a. Public Works Department
   b. Town & Country Planning Department
   c. Land Department
   d. Survey Department
   e. Housing Development Department
   f. Environment, Parks & Recreation Department

8. Ministry Of Communication
   a. Marine Department
   b. Ports Department
   c. Department of Civil Aviation
   d. Land Transport Department
   e. Department of Postal Services
   f. Brunei Darussalam Meteorological Department

9. Ministry of Primary Resources And Tourism
   a. Agriculture and Agrifood Department
   b. Forestry Department
   c. Fisheries Department
   d. Tourism Development Department
   e. Brunei Industry Development Authority (BINA)

10. Ministry Of Religious Affairs
    a. Administration Department
    b. Islamic Religious Council Office
    c. Department of Syariah Affairs
    d. Haj Department
    e. Department of Mosques Affairs
    f. Department of Islamic Studies
    g. Islamic Dakwah Centre
    h. Religious Office Belait District
    i. Religious Office Tutong District
    j. Religious Office Temburong District
    k. Institute Tahfiz Al Quran Sultan Haji Hassanal Bolkiah
Subject to Legal Review in English, Spanish, and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

1. University College Religious Teachers’ Seri Begawan
m. Islamic Legal Unit

11. Ministry of Home Affairs

a. Brunei/Muara District Office
b. Tutong District Office
c. Belait District Office
d. Temburong District Office
e. Bandar Seri Begawan Municipal Board
f. Tutong Municipal Board
g. Kuala Belait and Seria Municipal Board
h. Immigration and National Registration Department
i. Labour Department
j. Prison Department
k. Fire and Rescue Department
l. National Disaster Management Centre

12. Ministry Of Culture Youth and Sports

a. Brunei Darussalam History Centre
b. Youth and Sports Department
c. Museums Department
d. Community Development Department
e. Language and Literature Bureau

Note to Section A:

All agencies subordinate to the above listed agencies are covered.

SECTION B
Sub-central government entities whose procurement is covered by this Chapter

Not applicable to Brunei. Brunei does not have sub-central governments.

SECTION C
Other government entities whose procurement is covered by this Chapter

This Chapter 15 (Government Procurement) applies to the other Government entities listed in this section where the value of procurement is estimated, to equal or exceed the following threshold:

Goods and Services  
SDR 500,000.00  
From 1st to 2nd year after coming into force of the Agreement;

SDR 315,000.00  
Starting from the 3rd to 4th year after coming into force of the Agreement;
Subject to Legal Review in English, Spanish, and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

SDR 130,000.00
Starting from the 5th year after coming into force of the Agreement.

Construction Services SDR 5,000,000.00

List of Entities

Authority Monetary Brunei Darussalam
Employee Provident Fund

Note to Section C:

1. The Chapter shall not apply to any procurement by or on behalf of Authority Monetary Brunei Darussalam of direct inputs for the use in minting of Brunei Darussalam coins.

SECTION D
Goods

Chapter 15 (Government Procurement) applies to all goods procured by entities listed in Section A and Section C, unless otherwise specified in this Chapter, including this Annex.

SECTION E
Services

Chapter 15 (Government Procurement) applies to all services procured by entities listed in Section A and Section C, unless otherwise specified in this Chapter, including this Annex.

SECTION F
Construction Services

Chapter 15 (Government Procurement) applies to all construction services procured by entities listed in Section A and Section C, unless otherwise specified in this Chapter, including in this Annex.

SECTION G
General Notes

1. For greater certainty, Chapter 15 (Government Procurement) does not apply to

a) Any procurement by office of Nurul Iman’s Palace;

b) Any procurement made by a covered entity on behalf of non-covered entity; and

c) Any government procurement measures to benefit small and medium enterprises, that are applied in a manner consistent with obligation in Chapter 15 (Government Procurement) with respect to the covered procurement set forth in this Annex.
SECTION H
Threshold Adjustment Formula

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, XX.

2. Every two years, Brunei Darussalam shall calculate and publish the value of the thresholds under this Chapter expressed in Brunei Dollar. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Brunei Dollar in terms of the Special Drawing Rights (SDR) over the two-year period preceding October 1 of the year before the adjusted thresholds are to take effect, and rounded to the nearest Brunei Dollar.

4. Brunei shall notify the other Parties of the current thresholds in its respective currency immediately after this Agreement enters into force, and the adjusted thresholds in its respective currency thereafter in a timely manner.

5. Brunei shall consult if a major change in its national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.

SECTION I
Procurement Information

All information on Government Procurement is published on the following website


Notices of intended procurement: http://www.pelitabrunei.gov.bn/iklan/tawaran

SECTION J
Transitional Measure

1. Article 15.7.3(b) and (i) (Notices of Intended Procurement): Notwithstanding the requirement in Article 15.7.3(b) and (i) (Notices of Intended Procurement) that specified information must be included in the notice of intended procurement, Brunei may omit from its notices of intended procurement the information required in sub-paragraphs (b) and (i) for three years after entry into force of this Agreement. During this transitional period, Brunei shall provide the information required in subparagraph (b) in its tender documentation, provided that it complies with Article 15.4 (National Treatment and Non-Discrimination).

2. Article 15.16.3 (Post-Award Information): Notwithstanding the requirement in Article 15.16.3 (Post-Award Information) that the procuring entity publish a notice of the award of a contract, Brunei may delay application of this requirement for three years after entry into force of this Agreement. During this transitional period, Brunei shall provide information, upon request of suppliers of other Parties, with respect to its contract awards.
3. Article 15.19 (Domestic Review): Notwithstanding Article 15.19 (Domestic Review), Brunei may delay application of its obligations under Article 15.19 (Domestic Review) for five years after entry into force of this Agreement. During this transitional period, Brunei shall allow suppliers of other Parties to take complaints about the conduct of a covered procurement to the procuring entity, provided that it complies with Article 15.4 (National Treatment and Non-Discrimination).

4. Article 15.7.1 (Notice of intended procurement), 15.9.3 (Qualification of Suppliers), and 15.14.2 (Time Periods): Notwithstanding the requirements in Articles 15.7.1 (Notice of intended procurement), 15.9.3 (Qualification of Suppliers), and 15.14.2 (Time Periods), Brunei may delay implementation of the requirement to publish a notice of intended procurement where it uses a multi-use list for the procurement of certain services, for three years from the date of entry into force of this Agreement. During this period, Brunei shall:

(a) notify all suppliers on the relevant multi-use list of procurement opportunities;
(b) establish that the final date for submission of requests for participation in Article 15.14.2 (Time Periods) shall be from the date of such notification; and
(c) provide an electronic link to procuring entities’ multi-use lists via the Ministry of Finance website at www.mof.gov.bn, provided it complies with Article 15.4 (National Treatment and Non-Discrimination).
OFFER OF CANADA

ANNEX 15-A: SCHEDULE OF CANADA

SECTION A

Central Government Entities

Unless otherwise specified, this Chapter covers procurement by entities listed in this Section, subject to the following thresholds:

<table>
<thead>
<tr>
<th>Thresholds</th>
<th>Goods</th>
<th>Services</th>
<th>Construction Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>130,000 SDRs</td>
<td></td>
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<tr>
<td>130,000 SDRs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5,000,000 SDRs</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

List of Entities:

1. Atlantic Canada Opportunities Agency
2. Canada Border Services Agency
3. Canada Emission Reduction Incentives Agency
4. Canada Employment Insurance Commission
5. Canada Industrial Relations Board
6. Canada Revenue Agency
7. Canada School of Public Service
8. Canadian Centre for Occupational Health and Safety
9. Canadian Environmental Assessment Agency
10. Canadian Food Inspection Agency
11. Canadian Grain Commission
12. Canadian Human Rights Commission
13. Canadian Human Rights Tribunal
14. Canadian Institutes of Health Research
15. Canadian Intergovernmental Conference Secretariat
16. Canadian International Trade Tribunal
17. Canadian Northern Economic Development Agency
18. Canadian Nuclear Safety Commission
19. Canadian Polar Commission
20. Canadian Radio-television and Telecommunications Commission
21. Canadian Transportation Accident Investigation and Safety Board
22. Canadian Transportation Agency
23. Copyright Board
24. Correctional Service of Canada
25. Courts Administration Service
26. Department of Agriculture and Agri-Food
27. Department of Canadian Heritage
28. Department of Citizenship and Immigration
29. Department of Employment and Social Development
30. Department of Finance
31. Department of Fisheries and Oceans
32. Department of Foreign Affairs, Trade and Development
33. Department of Health
34. Department of Indian Affairs and Northern Development
35. Department of Industry
36. Department of Justice
37. Department of National Defence
38. Department of Natural Resources
39. Department of Public Safety and Emergency Preparedness
40. Department of Public Works and Government Services
41. Department of the Environment
42. Department of Transport
43. Department of Veterans Affairs
44. Department of Western Economic Diversification
45. Director of Soldier Settlement
46. Director, The Veterans’ Land Act
47. Economic Development Agency of Canada for the Regions of Quebec
49. Financial Consumer Agency of Canada
50. Immigration and Refugee Board
51. Indian Residential Schools Truth and Reconciliation Commission
52. Library and Archives of Canada
53. Military Grievances External Review Committee
54. Military Police Complaints Commission
55. National Battlefields Commission
56. National Energy Board
57. National Farm Products Council
58. National Film Board
59. National Research Council of Canada
60. Natural Sciences and Engineering Research Council
61. Northern Pipeline Agency
62. Office of Infrastructure of Canada
63. Office of the Auditor General
64. Office of the Chief Electoral Officer
65. Office of the Commissioner for Federal Judicial Affairs
66. Office of the Commissioner of Lobbying
67. Office of the Commissioner of Official Languages
68. Office of the Coordinator, Status of Women
69. Office of the Correctional Investigator of Canada
70. Office of the Director of Public Prosecutions
71. Office of the Governor General's Secretary
72. Office of the Public Sector Integrity Commissioner
73. Office of the Registrar of the Supreme Court of Canada
74. Office of the Superintendent of Financial Institutions
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75. Offices of the Information and Privacy Commissioners of Canada
76. Parks Canada Agency
77. Parole Board of Canada
78. Patented Medicine Prices Review Board
79. Privy Council Office
80. Public Health Agency of Canada
81. Public Service Commission
82. Public Service Labour Relations and Employment Board
83. Registry of the Competition Tribunal
84. Registry of the Public Servants Disclosure Protection Tribunal
85. Registry of the Specific Claims Tribunal
86. Royal Canadian Mounted Police
87. Royal Canadian Mounted Police External Review Committee
88. Royal Canadian Mounted Police Public Complaints Commission
89. Security Intelligence Review Committee
90. Shared Services Canada
91. Social Sciences and Humanities Research Council
92. Statistics Canada
93. Transportation Appeal Tribunal of Canada
94. Treasury Board of Canada Secretariat
95. Veterans Review and Appeal Board

Note to Section A

1. No entity listed in Section A has the power to create subordinate entities.

SECTION B

Sub-Central Government Entities

Unless otherwise specified, this Chapter covers procurement by entities listed in this Section, subject to the following thresholds:

Thresholds: 355,000 SDRs Goods
            355,000 SDRs Services
List of Entities:

*†ALBERTA

All Ministries and Agencies (All Government Departments and Provincial Agencies, Boards, Councils, Committees and Commissions) of the Province.

This Section does not include:
- Legislative Assembly
- Legislative Assembly Office
- Office of the Auditor General
- Office of the Chief Electoral Officer
- Office of the Ethics Commissioner
- Office of the Information and Privacy Commissioner
- Office of the Ombudsman

*†BRITISH COLUMBIA

All Ministries, Boards, Commissions, Agencies and Committees of the Province.

This Section does not include the Legislative Assembly.

†MANITOBA

All Departments, Boards, Commissions and Committees of the Province.
NEW BRUNSWICK

The following provincial entities are included:

Chief Electoral Officer
Clerk of the Legislative Assembly
Department of Agriculture, Aquaculture and Fisheries
Department of Business New Brunswick
Department of Education and Early Childhood Development
Department of Energy and Mines
Department of Environment and Local Government
Department of Finance
Department of Health
Department of Justice
Department of Natural Resources
Department of Post-Secondary Education, Training and Labour
Department of Public Safety
Department of Social Development
Department of Government Services
Department of Tourism, Heritage and Culture
Department of Transportations and Infrastructure
Executive Council Office
Labour and Employment Board
Language Training Centre
New Brunswick Police Commission
Office of Human Resources
Office of the Attorney General
Office of the Auditor General
Office of the Comptroller
Office of the Leader of the Opposition
Office of the Lieutenant-Governor
Office of the Ombudsman
Office of the Premier

This Section does not cover procurement of sand, stone, gravel, asphalt compound and pre-mixed concrete for use in the construction or repair of roads.

NEWFOUNDLAND AND LABRADOR

All Departments of the Province.
†NORTHWEST TERRITORIES

All Departments and Agencies of the Territory.

This Section does not cover procurement subject to the Northwest Territories Business Incentive Policy

*†NOVA SCOTIA

This Section applies to all Departments and Offices of the Province established under the Public Service Act, except for the following entities and circumstances:

(i) Emergency Health Services (a subdivision of the Department of Health and Wellness) in respect to ambulance-related procurement, including telecommunications, for Emergency Health Care purposes;
(ii) Chief Information Office and the Chief Information Office of the Department of Health and Wellness;
(iii) Any measure Nova Scotia adopts or maintains with respect to culture or cultural industries; and
(iv) Procurement of FSC 58 (communications, detection and coherent radiation equipment).

†NUNAVUT

All Departments and Agencies of the Territory.

This Section does not cover procurement subject to the Nunavummi Nangminiaqatunik Ikajuuti (NNI Policy) nor those contracts within the terms of Article 24 of the Nunavut Land Claims.

ONTARIO

All Ministries of the Province.

The following Agencies are included:

AgriCorp
Centennial Centre of Science and Technology (Ontario Science Centre)
Deposit Insurance Corporation of Ontario
Metropolitan Convention Centre Corporation
Niagara Parks Commission
Ontario Clean Water Agency
Ontario Financial Services Commission
Ontario Immigrant Investor Corporation
This Section does not cover procurement of construction materials that are used for highway construction and maintenance.

*PRINCE EDWARD ISLAND

All Departments of the Province.

This Section does not cover procurement of construction materials that are used for highway construction and maintenance.

*QUÉBEC

All departments of the Province and the governmental agencies set out in subparagraph (2) of the first paragraph of section 4 of the Act Respecting Contracting by Public Bodies (Chapter C-65.1).

The following entities are also included:

Agence du revenu du Québec
Institut national d’excellence en santé et en services sociaux

This Section does not cover procurement:

(a) of cultural or artistic goods and services;
(b) of seedling production services;
(c) for work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
(d) of construction-grade steel (including requirements on subcontracts); and
(e) from a non-profit organization.

This Chapter does not apply to any measure of Québec adopted or maintained with respect to culture or cultural industries.
\textbf{*†SASKATCHEWAN}\\

All Ministries of the Province.\\
The following Boards and Agencies are covered:\n\begin{itemize}
\item Public Employee Benefits Agency
\item Saskatchewan Archives Board
\item Saskatchewan Arts Board
\end{itemize}\nThis Section does not include Legislative Branch Entities.\\

\textbf{*†YUKON}\\

The following Departments of the Territory are covered:\n\begin{itemize}
\item Department of Community Services
\item Department of Economic Development
\item Department of Education
\item Department of Energy, Mines and Resources
\item Department of Environment
\item Department of Finance
\item Department of Health and Social Services
\item Department of Highways and Public Works
\item Department of Justice
\item Department of Tourism and Culture
\item Executive Council Office
\item Public Service Commission
\end{itemize}\nThe following Agencies are included:\n\begin{itemize}
\item French Language Services Directorate
\item Women’s Directorate
\item Yukon Worker’s Compensation Health and Safety Board
\end{itemize}\n
\textbf{Notes to Section B:}\n\begin{enumerate}
\item For provinces and territories listed in Section B, this Chapter does not apply to preferences or restrictions on highway projects.
\item For provinces and territories listed in Section B, this Chapter does not apply to preferences or restrictions associated with programs promoting the development of distressed areas.
\item This Chapter does not cover procurement that is intended to contribute to economic development within the provinces of Manitoba, Newfoundland and Labrador, New
\end{enumerate}
4. For those provinces and territories marked by an asterisk (*), this Chapter does not cover procurement:

(a) of goods purchased for representational or promotional purposes; or

(b) of services or construction services purchased for representational or promotional purposes outside the province or territory.

5. For those provinces and territories marked by an obelisk (†), this Chapter does not cover the procurement of goods, services or construction services purchased for the benefit of, or which is to be transferred to the authority of, school boards or their functional equivalents, publicly-funded academic institutions, social services entities or hospitals.

6. This Chapter does not include Crown Corporations of the provinces and territories.

7. For provinces and territories listed in Section B, this Chapter does not cover procurement of urban rail and urban transportation equipment, systems, components and materials incorporated therein as well as all project related materials of iron or steel.

8. For Malaysia, Mexico, United States and Vietnam, this Chapter does not apply to procurement by entities listed in Section B. Canada is prepared to extend coverage of Section B upon the negotiation of mutually acceptable concessions.
SECTION C

Other Entities

Unless otherwise specified, this Chapter covers procurement by the entities listed in this Section, subject to the following thresholds:

Thresholds:

<table>
<thead>
<tr>
<th>Type</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods</td>
<td>355,000 SDRs</td>
</tr>
<tr>
<td>Services</td>
<td>355,000 SDRs</td>
</tr>
<tr>
<td>Construction Services</td>
<td>5,000,000 SDRs</td>
</tr>
</tbody>
</table>

List of Central Government Other Entities:

1. Atlantic Pilotage Authority
2. Blue Water Bridge Authority
3. Canada Development Investment Corporation
4. Canada Lands Company Limited
5. Canada Post Corporation
6. Canadian Museum of History
7. Canada Museum of Human Rights
8. Canadian Museum of Nature
9. Canadian Museum of Immigration at Pier 21
10. Canadian Tourism Commission
11. Defence Construction (1951) Ltd.
12. Federal Bridge Corporation Limited
13. Great Lakes Pilotage Authority
14. Laurentian Pilotage Authority
15. Marine Atlantic Inc.
16. National Capital Commission
17. National Gallery of Canada
18. National Museum of Science and Technology
19. Pacific Pilotage Authority
20. PPP Canada Inc.
21. Royal Canadian Mint
22. Via Rail Canada Inc.

Notes to Section C

1. This Chapter does not cover procurement by or on behalf of the Royal Canadian Mint of direct inputs for use in minting anything other than Canada legal tender.

2. This Chapter does not cover procurement by the Canada Lands Company Limited or its subsidiaries for the development of real property for commercial sale or resale.

3. This Chapter does not cover leasing or rental of transportation equipment by or on behalf of Canada Post Corporation, Marine Atlantic Inc., or any pilotage authority.

SECTION D
Goods

1. Unless otherwise specified and subject to paragraph 2, this Chapter covers all goods.

2. Subject to the application of [paragraph 3 of Article 15.3 [ESSENTIAL SECURITY EXCEPTION]] of this Chapter, with respect to procurement by the Department of National Defence, the Royal Canadian Mounted Police, the Department of Fisheries and Oceans for the Canadian Coast Guard, and provincial police forces, this Chapter covers only the goods described in the Federal Supply Classifications (FSC) listed below:

   FSC 22. Railway equipment
   FSC 23. Motor vehicles, trailers and cycles (except buses in 2310 and except military trucks and trailers in 2320 and 2330 and tracked combat, assault and tactical vehicles in 2350 and wheeled combat, assault and tactical vehicles in 2355 formerly classified in 2320)
   FSC 24. Tractors
   FSC 25. Vehicular equipment components
   FSC 26. Tires and tubes
   FSC 29. Engine accessories
   FSC 30. Mechanical power transmission equipment
   FSC 32. Woodworking machinery and equipment
   FSC 34. Metal working machinery
   FSC 35. Service and trade equipment
   FSC 36. Special industry machinery
   FSC 37. Agricultural machinery and equipment
   FSC 38. Construction, mining, excavating and highway maintenance equipment
   FSC 39. Materials handling equipment
   FSC 40. Rope, cable, chain and fittings
   FSC 41. Refrigeration and air conditioning equipment
   FSC 42. Fire fighting, rescue and safety equipment (except 4220: Marine lifesaving and diving equipment; and 4230: Decontaminating and impregnating equipment)
   FSC 43. Pumps and compressors
   FSC 44. Furnace, steam plant, drying equipment and nuclear reactors
   FSC 45. Plumbing, heating and sanitation equipment
   FSC 46. Water purification and sewage treatment equipment
   FSC 47. Pipe, tubing, hose and fittings
   FSC 48. Valves
   FSC 49. Maintenance and repair shop equipment
FSC 52. Measuring tools
FSC 53. Hardware and abrasives
FSC 54. Prefabricated structures and scaffolding
FSC 55. Lumber, millwork, plywood and veneer
FSC 56. Construction and building materials
FSC 61. Electric wire and power and distribution equipment
FSC 62. Lighting fixtures and lamps
FSC 63. Alarm and signal systems
FSC 65. Medical, dental and veterinary equipment and supplies
FSC 66. Instruments and laboratory equipment (except 6615: Automatic pilot mechanisms and airborne Gyro components; and 6665: Hazard detecting instruments and apparatus)
FSC 67. Photographic equipment
FSC 68. Chemicals and chemical products
FSC 69. Training aids and devices
FSC 70. General purpose automatic data processing equipment, software, supplies and support equipment (except 7010: Automatic Data Processing Equipment (ADPE) configurations)
FSC 71. Furniture
FSC 72. Household and commercial furnishings and appliances
FSC 73. Food preparation and serving equipment
FSC 74. Office machines, text processing system and visible record equipment
FSC 75. Office supplies and devices
FSC 76. Books, maps and other publications (except 7650: drawings and specifications)
FSC 77. Musical instruments, phonographs and home-type radios
FSC 78. Recreational and athletic equipment
FSC 79. Cleaning equipment and supplies
FSC 80. Brushes, paints, sealers and adhesives
FSC 81. Containers, packaging and packing supplies
FSC 85. Toiletries
FSC 87. Agricultural supplies
FSC 88. Live animals
FSC 91. Fuels, lubricants, oils and waxes
FSC 93. Non-metallic fabricated materials
FSC 94. Non-metallic crude materials
FSC 96. Ores, minerals and their primary products
FSC 99. Miscellaneous
1. Unless otherwise specified, this Chapter covers the services specified in paragraphs 2 and 3. Such services are identified in accordance with the United Nations Provisional Central Product Classification (CPC Prov.) which is found at: http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=9&Lg=1. For purposes of implementation of this Chapter, Canada reserves the right to use a classification system of its choosing.

2. This Chapter covers the following services procured by central government entities listed in Section A and other entities listed in Section C:

   61  Sale, Maintenance and Repair Services of Motor Vehicles and Motorcycles

   62  Commission agents' and wholesale trade services, except of motor vehicles and motorcycles

   7522  Business network services

   7525  Interconnection services

   7526  Integrated telecommunications services

   754  Telecommunications related services

   83  Leasing or rental services without operator

   861  Legal Services (advisory services on foreign and international law only)

   862  Accounting, auditing and book-keeping services

   863  Taxation Services (except legal services)

   86503  Marketing management consulting services

   8671  Architectural services

   8672  Engineering services

   8673  Integrated engineering services (except 86731 Integrated engineering services for transportation infrastructure turnkey projects)

   8676  Technical testing and analysis services including quality control and inspection (except with reference transportation equipment)

   872  Placement and supply services of personnel
This Chapter covers the following services procured by central government entities listed in Section A, sub-central government entities listed in Section B, and other entities listed in Section C:

- Repair services of personal and household goods
- Hotel and Restaurant services
- Travel agency and tour operator services
- Commercial courier services (including multi-modal)
- Electronic data interchange (EDI)
- Electronic mail
- Enhanced/value-added facsimile services, including store and forward, store and retrieve Code and protocol conversion
7523 On-line information and data base retrieval
7523 Voice mail
821 Real estate services involving own or leased property
822 Real estate services on a fee or contract basis
83106 to 83109 only Leasing or rental services concerning machinery and equipment without operator
83203 to 83209 only Leasing or rental services concerning personal and household goods
841 Consultancy services related to the installation of computer hardware
842 Software implementation services, including systems and software consulting services, systems analysis, design, programming and maintenance services
843 Data processing services, including processing, tabulation and facilities management services
843 On-line information and/or data processing (including transaction processing)
844 Data base services
845 Maintenance and repair services of office machinery and equipment including computers
849 Other computer services
86501 General management consulting services
86504 Human resources management consulting services
86505 Production management consulting services
866 Services related to management consulting (except 86602 Arbitration and conciliation services)
8674 Urban planning and landscape architectural services
8676 Technical testing and analysis services including quality control and inspection (except with reference to FSC 58 and transportation equipment)
874 Building-cleaning services
876  Packaging services

8814  Services incidental to forestry and logging, including forest management

883  Services incidental to mining, including drilling and field services

8861 to 8864, and 8866  Repair services incidental to metal products, machinery and equipment

94  Sewage and refuse disposal, sanitation and similar services

Notes to Section E

1. This Chapter does not cover procurement of the following:

   (a)  Services for the management and operation of government facilities or privately owned facilities used for government purposes, including federally-funded research and development;

   (b)  Public utilities services;

   (c)  Shipbuilding and repair and related architectural and engineering services;

   (d)  Services, with reference to those goods purchased by the Department of National Defence, the Royal Canadian Mounted Police, the Department of Fisheries and Oceans for the Canadian Coast Guard and provincial police forces which are not covered by this Chapter;

   (e)  Services procured in support of military forces located overseas; and

   (f)  Services related to culture or cultural industries

2. The coverage of any service listed in this Section that is provided by or from an aircraft is covered with respect to a particular Party only to the extent that such Party provides effective market access for such service in its territory.
SECTION F

Construction Services

1. Unless otherwise specified and subject to paragraph 2, this Chapter covers all construction services identified in Division 51 of the United Nations Provisional Central Product Classification (CPC Prov.)

2. This Chapter does not cover procurement of the following:

   (a) dredging services; and

   (b) construction services procured by or on behalf of the federal Department of Transport.
SECTION G

General Notes

Unless otherwise specified, the following General Notes apply to this Chapter, including to Sections A through F.

1. This Chapter does not cover procurement in respect of:
   (a) shipbuilding and repair, including related architectural and engineering services;
   (b) agricultural goods made in furtherance of agricultural support programmes or human feeding programmes;
   (c) transportation services that form a part of, or are incidental to, a procurement contract; and
   (d) an international crossing between Canada and another country, including the design, construction, operation or maintenance of the crossing as well as any related infrastructure.

2. This Chapter does not cover procurement by a procuring entity from another government entity.

3. This Chapter does not apply to:
   (a) any form of preference, including set asides, to benefit micro, small and medium enterprises;
   (b) any measure adopted or maintained with respect to Aboriginal peoples, nor to set asides for aboriginal businesses; existing aboriginal or treaty rights of any of the Aboriginal peoples of Canada protected by section 35 of the Constitution Act, 1982 are not affected by this Chapter;

4. For greater certainty, this Chapter shall be interpreted in accordance with the following:
   (a) The procurement process is the process that begins after a procuring entity has decided on its requirement and continues through to and including contract award;
   (b) Where a contract to be awarded by a procuring entity is not covered by this Chapter, this Chapter shall not be construed to cover any good or service component of that contract;
   (c) Any exclusion that is related either specifically or generally to a procuring entity will also apply to any successor entity in such a manner as to maintain the value of this offer;
(d) For the purpose of the definition of build-operate-transfer contract and public works concession contract, a “contractual arrangement” means a contract;

(e) Services covered by this Chapter are subject to Canada’s exclusions from and reservations to the Chapters on Cross-Border Trade in Services, Investment and Financial Services;

(f) For the purposes of Article 15.12(7), "government information" includes third party information held by or on behalf of the government and "sensitive" information includes confidential, classified or otherwise protected information; and

(g) This Chapter does not cover procurement by a procuring entity on behalf of another entity where the procurement would not be covered by this Chapter if it were conducted by the other entity itself.
Threshold Adjustment Formula

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, XX.

2. Every two years, Canada shall calculate and publish the value of the thresholds under this Chapter expressed in Canadian dollars. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Canadian dollar in terms of the Special Drawing Rights (SDR) over the two-year period preceding October 1 of the year before the adjusted thresholds are to take effect.

4. Canada shall consult if a major change in its national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.
Procurement Information

All information on government procurements is published on the following websites:

Canadian Government Tender System: https://buyandsell.gc.ca/
ANNEX 15-A: SCHEDULE OF CHILE

Section A: Central Government Entities

1. This Chapter applies to procurement by the Central Level of Government Entities listed in this Section where the value of the procurement is estimated, in accordance with Section H (Threshold Adjustment Formula), to equal or exceed the following relevant threshold:

For procurement of goods and services: \( \text{SDRs} \ 95.000 \)

For procurement of construction services: \( \text{SDRs} \ 5.000.000 \)

2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section H of this Annex.

Schedule of Chile

Ejecutivo

1. Presidencia de la República (Office of the President of the Republic)
2. Ministerio del Interior y Seguridad Pública (Ministry of Interior and Public Security)
3. Ministerio de Relaciones Exteriores (Ministry of Foreign Affairs)
5. Ministerio de Hacienda (Ministry of Finance)
6. Ministerio Secretaría General de la Presidencia (Ministry of the General Secretariat of the President’s Office)
8. Ministerio de Economía, Fomento y Turismo (Ministry of Economy, Development and Tourism)
9. Ministerio de Minería (Ministry of Mining)
10. Ministerio de Energía (Ministry of Energy)
11. Ministerio de Desarrollo Social (Ministry of Social Development)
12. Ministerio de Educación (Ministry of Education)
13. Ministerio de Justicia (Ministry of Justice)
14. Ministerio del Trabajo y Previsión Social (Ministry of Labor and Social Welfare)
15. Ministerio de Obras Públicas (Ministry of Public Works)
16. Ministerio de Transportes y Telecomunicaciones (Ministry of Transport and Telecommunications)
17. Ministerio de Salud (Ministry of Health)
18. Ministerio de Vivienda y Urbanismo (Ministry of Housing and Urban Development)
19. Ministerio de Bienes Nacionales (Ministry of National Assets)
20. Ministerio de Agricultura (Ministry of Agriculture)
21. Ministerio del Medio Ambiente (Ministry of Environment)
22. Ministerio del Deporte (Ministry of Sport)
23. Servicio Nacional de la Mujer (National Women’s Service)
24. Consejo Nacional de la Cultura y las Artes (National Council for Culture and the Arts)

Note to Section A
Unless otherwise specified within this Section, all agencies subordinate to those listed are covered by this Agreement.

Section B: Sub-Central Government Entities

1. This Chapter applies to procurement by the Sub-Central Level of Government Entities listed in this Section where the value of the procurement is estimated, in accordance with Section H (Threshold Adjustment Formula), to equal or exceed the following relevant threshold:

For procurement of goods and services: SDRs 200,000

For procurement of construction services: SDRs 5,000,000

2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section H of this Annex.

Schedule of Chile

B.1 Gobiernos Regionales (Regional Governments)

Intendencia Región de Arica y Parinacota (Intendancy of Arica y Parinacota Region)
Gobernación de Arica (Governor’s Office - Arica)
Gobernación de Parinacota (Governor’s Office - Parinacota)

Intendencia Región de Tarapacá (Intendancy of Tarapacá Region)
Gobernación de Iquique (Governor’s Office - Iquique)
Gobernación de Tamarugal (Governor’s Office - Tamarugal)

Intendencia Región de Antofagasta (Intendancy of Antofagasta Region)
Gobernación de Antofagasta (Governor’s Office – Antofagasta)
Gobernación de Loa (Governor’s Office – Loa)
Gobernación de Tocopilla (Governor’s Office – Tocopilla)

Intendencia Región de Atacama (Intendancy of Atacama Región)
Gobernación de Copiapó (Governor’s Office – Copiapó)
Gobernación de Huasco (Governor’s Office – Huasco)
Gobernación de Chañaral (Governor’s Office – Chañaral)

Intendencia Región de Coquimbo (Intendancy of Coquimbo Region)
Gobernación de El Elqui (Governor’s Office – El Elqui)
Gobernación de Limari (Governor’s Office – Limari)
Gobernación de Choapa (Governor’s Office – Choapa)

Intendencia Región de Valparaíso (Intendancy of Valparaíso Region)
Gobernación de Valparaíso (Governor’s Office - Valparaíso)
Gobernación de Quillota (Governor’s Office - Quillota)
Gobernación de San Antonio (Governor’s Office – San Antonio)
Gobernación de San Felipe (Governor’s Office – San Felipe)
Gobernación de Los Andes (Governor’s Office – Los Andes)
Gobernación de Petorca (Governor’s Office - Petorca)
Gobernación de Isla de Pascua (Governor’s Office –Isla de Pascua)

Intendencia Región del Libertador Bernardo O’Higgins (Intendancy of Libertador
Bernardo O Higgins Region)
Gobernación de Cachapoal (Governor’s Office - Cachapoal)
Gobernación de Colchagua (Governor’s Office - Colchagua)
Gobernación de Cardenal Caro (Governor’s Office – Cardenal Caro)

Intendencia Región del Maule (Intendancy of Maule Region)
Gobernación de Curicó (Governor’s Office -Curicó)
Gobernación de Talca (Governor’s Office - Talca)
Gobernación de Linares (Governor’s Office - Linares)
Gobernación de Cauquenes (Governor’s Office - Cauquenes)

Intendencia Región del Bío Bío (Intendancy of Bío Bío Region)
Gobernación de Concepción (Governor’s Office - Concepción)
Gobernación de Ñuble (Governor’s Office - Ñuble)
Gobernación de Bío Bío (Governor’s Office – Bío Bío)
Note to Section B

Chile offers the entities listed under this Section only to those Parties that assume equivalent commitments at the sub-central level\(^1\). In the case of the Parties that currently

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\(^1\) For greater certainty, Chile is not extending Sub Central coverage to: Brunei Darussalam, Malaysia, New Zealand, the United States and Vietnam.
do not have entities at this level of government, Chile could extend the benefits of this Section to the Parties that make improvements to their respective coverage under Section A or C.

Section C: Other Covered Entities

1. This Chapter applies to entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Section H, to equal or exceed:

(a) for procurement of goods and services: \( \text{SDRs} \ 220,000 \)

(b) for procurement of construction services: \( \text{SDRs} \ 5,000,000 \)

2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section H of this Annex.

3. This Section covers only those entities specifically listed below.

Schedule of Chile

1. Empresa Portuaria Arica (Arica Port Company)
2. Empresa Portuaria Iquique (Iquique Port Company)
3. Empresa Portuaria Antofagasta (Antofagasta Port Company)
4. Empresa Portuaria Coquimbo (Coquimbo Port Company)
5. Empresa Portuaria Valparaiso (Valparaiso Port Company)
6. Empresa Portuaria San Antonio (San Antonio Port Company)
7. Empresa Portuaria Talcahuano San Vicente (Talcahuano San Vicente Port Company)
8. Empresa Portuaria Puerto Montt (Puerto Montt Port Company)
9. Empresa Portuaria Chacabuco (Chacabuco Port Company)
10. Empresa Portuaria Austral (Austral Port Company)
11. Aeropuertos de propiedad del Estado, dependientes de la Dirección General de Aeronáutica Civil (State-owned Airports, dependent on the General Directorate for Civil Aeronautics)

Section D: Goods

This Chapter applies to all goods procured by the entities listed in Sections A through C, unless otherwise specified in this Chapter, including this Annex.

Section E: Services
This Chapter applies to all services procured by the entities listed in Section A through C, except the following:

**Financial Services**

All classes

*Section F: Construction Services*

This Chapter applies to all construction services procured by the entities listed in Sections A through C, unless otherwise specified in this Chapter, including this Annex.

This Chapter shall not apply to construction services intended for Easter Island (*Isla de Pascua*).

*Section G: General Notes*

1. This Chapter does not apply to:
   
   a) any form of preference to benefit micro, small and medium sized enterprises.
   
   b) the procurement of storage and hosting of government data and related services.

2. For greater certainty, this Chapter does not apply to:
   
   a) procurement by a procuring entity from another government entity; and
   
   b) procurement by a procuring entity on behalf of an entity not listed in Annex15.

*Section H: Threshold Adjustment Formula*

Thresholds shall be converted to the respective national currencies in accordance with the following provisions:

1. Each Party shall calculate and publish the value of the thresholds under this Chapter expressed in the corresponding national currency. These calculations will be based on the conversion rates published by the IMF in its monthly “International Financial Statistics”.

2. The conversion rates shall be the average of the daily values of the respective national currency in terms of the SDR over the two years preceding 1 October or 1 November of the year prior to the thresholds in national currency becoming effective which will be from 1 January.
3. Thresholds expressed in national currencies will be fixed for two years, i.e. calendar years, for all Parties.

Section I: Procurement Information

All information on government procurements is published on the following websites:

www.chilecompra.cl or www.mercadopublico.cl

www.mop.cl

www.diarioficial.cl
ANNEX 15-A: SCHEDULE OF JAPAN

SECTION A

Central Government Entities

Thresholds:

<table>
<thead>
<tr>
<th>Thresholds</th>
<th>Goods</th>
<th>Construction services</th>
<th>Architectural, engineering and other technical services covered by Chapter 15 (Government Procurement)</th>
<th>Other services</th>
</tr>
</thead>
<tbody>
<tr>
<td>100,000 SDRs</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>4,500,000 SDRs</td>
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</tr>
<tr>
<td>450,000 SDRs</td>
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</tr>
</tbody>
</table>

List of Entities:

All entities covered by the Accounts Law (Law No. 35 of 1947) as follows:

- House of Representatives
- House of Councillors
- Supreme Court
- Board of Audit
- Cabinet
- National Personnel Authority
- Cabinet Office
- Reconstruction Agency
- Imperial Household Agency
- Japan Fair Trade Commission
- National Public Safety Commission (National Police Agency)
- Personal Information Protection Commission
- Financial Services Agency
- Consumer Affairs Agency
- Ministry of Internal Affairs and Communications
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Finance
- Ministry of Education, Culture, Sports, Science and Technology
- Ministry of Health, Labour and Welfare
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Economy, Trade and Industry
- Ministry of Land, Infrastructure, Transport and Tourism
- Ministry of the Environment
- Ministry of Defense

Notes to Section A

Entities covered by the Accounts Law include all their internal subdivisions, independent organs, attached organizations and other organizations and local branch offices provided for in the National Government Organization Law (Law No. 120 of 1948) and the Law establishing the Cabinet Office (Law No. 89 of 1999).
SECTION B

Sub-Central Government Entities

Thresholds:

- 200,000 SDRs for Goods
- 15,000,000 SDRs for Construction services
- 1,500,000 SDRs for Architectural, engineering and other technical services covered by Chapter 15 (Government Procurement)
- 200,000 SDRs for Other services

List of Entities:

All prefectural governments entitled "To", "Do", "Fu" and "Ken", and all designated cities entitled "Shitei-toshi", covered by the Local Autonomy Law (Law No. 67 of 1947) as follows:

- Hokkaido
- Aomori-ken
- Iwate-ken
- Miyagi-ken
- Akita-ken
- Yamagata-ken
- Fukushima-ken
- Ibaraki-ken
- Tochigi-ken
- Gunma-ken
- Saitama-ken
- Chiba-ken
- Tokyo-to
- Kanagawa-ken
- Niigata-ken
- Toyama-ken
- Ishikawa-ken
- Fukui-ken
- Yamanashi-ken
- Nagano-ken
- Gifu-ken
- Shizuoka-ken
- Aichi-ken
- Mie-ken
- Shiga-ken
- Kyoto-fu
- Osaka-fu
- Hyogo-ken
- Nara-ken
- Wakayama-ken
- Tottori-ken
- Shimane-ken
- Okayama-ken
- Hiroshima-ken
Notes to Section B

1. For Malaysia, Mexico, New Zealand, United States and Vietnam, Chapter 15 (Government Procurement) does not apply to procurement by entities listed in Section B.

2. "To", "Do", "Fu", "Ken" and "Shitei-toshi" covered by the Local Autonomy Law include all internal subdivisions, attached organizations and branch offices of all their governors or mayors, committees and other organizations provided for in the Local Autonomy Law.

3. Chapter 15 (Government Procurement) does not cover contracts which the entities award for purposes of their daily profit-making activities which are exposed to competitive forces in markets. This note shall not be used in a manner which circumvents the provisions of Chapter 15 (Government Procurement).

4. Procurement related to operational safety of transportation is not covered.

5. Procurement related to the production, transport or distribution of electricity is not covered.
SECTION C

Other Entities

Thresholds:

130,000 SDRs  Goods
4,500,000 SDRs  Construction services for Japan Post Holdings Company Limited,
                Japan Post Company Limited, Japan Post Bank Company Limited,
                Japan Post Insurance Company Limited, and Management
                Organization for Postal Savings and Postal Life Insurance  in Group A
15,000,000 SDRs  Construction services for all other entities in Group A
4,500,000 SDRs  Construction services for entities in Group B
450,000 SDRs  Architectural, engineering and other technical services covered by
                Chapter 15 (Government Procurement)
130,000 SDRs  Other service

List of Entities:

1. Group A
   - Agriculture and Livestock Industries Corporation
   - Central Nippon Expressway Company Limited
   - Development Bank of Japan Inc.
   - East Nippon Expressway Company Limited
   - Environmental Restoration and Conservation Agency
   - Farmers’ Pension Fund
   - Fund for the Promotion and Development of the Amami Islands
   - Government Pension Investment Fund
   - Hanshin Expressway Company Limited
   - Health Insurance Claims Review & Reimbursement Services
   - Honshu-Shikoku Bridge Expressway Company Limited
   - Japan Alcohol Corporation
   - Japan Arts Council
   - Japan Atomic Energy Agency (c)
   - Japan Bank for International Cooperation
   - Japan Environmental Storage & Safety Corporation
   - Japan Expressway Holding and Debt Repayment Agency
   - Japan External Trade Organization
   - Japan Finance Corporation
   - Japan Finance Organization for Municipalities
   - Japan Foundation, The
   - Japan Housing Finance Agency
   - Japan Institute for Labour Policy and Training, The
   - Japan International Cooperation Agency
   - Japan Labour Health and Welfare Organization
   - Japan National Tourism Organization
   - Japan Oil, Gas and Metals National Corporation (d)
   - Japan Organization for Employment of the Elderly, Persons with Disabilities
     and Job Seekers
   - Japan Post Bank Company Limited
   - Japan Post Company Limited
   - Japan Post Holdings Company Limited
   - Japan Post Insurance Company Limited
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

- Japan Racing Association
- Japan Railway Construction, Transport and Technology Agency (a) (e)
- Japan Science and Technology Agency
- Japan Society for the Promotion of Science
- Japan Sport Council
- Japan Student Services Organization
- Japan Water Agency
- JKA
- Management Organization for Postal Savings and Postal Life Insurance
- Metropolitan Expressway Company Limited
- Mutual Aid Association for Agricultural, Forestry and Fishery Organization Personnel
- Narita International Airport Corporation
- National Association of Racing, The
- National Center for Persons with Severe Intellectual Disabilities, Nozominosono
- National Consumer Affairs Center of Japan
- New Energy and Industrial Technology Development Organization
- Northern Territories Issue Association
- Okinawa Development Finance Corporation
- Open University of Japan Foundation, The
- Organization for Small & Medium Enterprises and Regional Innovation, JAPAN
- Organization for Workers’ Retirement Allowance Mutual Aid Promotion and Mutual Aid Corporation for Private Schools of Japan, The
- RIKEN (c)
- Tokyo Metro Co., Ltd. (b)
- Urban Renaissance Agency
- Welfare and Medical Service Agency
- West Nippon Expressway Company Limited

2. Group B

- Building Research Institute
- Center for National University Finance and Management
- Civil Aviation College
- Electronic Navigation Research Institute
- Fisheries Research Agency
- Food and Agricultural Materials Inspection Center
- Forestry and Forest Products Research Institute
- Inter-University Research Institute Corporation
- Japan Health Insurance Association
- Japan International Research Center for Agricultural Sciences
- Japan Mint
- Japan Pension Service
- Labor Management Organization for USFJ Employees
- Marine Technical Education Agency
- National Agency of Vehicle Inspection
- National Agriculture and Food Research Organization
- National Archives of Japan
- National Cancer Center
- National Center for Child Health and Development
- National Center for Geriatrics and Gerontology
- National Center for Global Health and Medicine
- National Center for Industrial Property Information and Training
- National Center for Seeds and Seedlings
- National Center for Teachers’ Development
Notes to Section C

1. Chapter 15 (Government Procurement) does not cover contracts which the entities in Group A award for purposes of their daily profit-making activities which are exposed to competitive forces in markets. This note shall not be used in a manner which circumvents the provisions of Chapter 15 (Government Procurement).

2. Notes to specific entities:
   
   (a) With respect to the railway construction-related activities by Japan Railway Construction, Transport and Technology Agency, procurement related to operational safety of transportation is not covered.

   (b) With respect to Tokyo Metro Co., Ltd., procurement related to operational safety of transportation is not covered.

   (c) With respect to Japan Atomic Energy Agency and RIKEN, procurement which...
could lead to the disclosure of information incompatible with the purpose of the Treaty on the Non-Proliferation of Nuclear Weapons or with international agreements on intellectual property rights and procurement for safety-related activities aiming at utilization and management of radioactive materials and responding to emergencies of nuclear installation are not covered.

(d) With respect to Japan Oil, Gas and Metals National Corporation, procurement related to geological and geophysical survey is not covered.

(e) With respect to the shipbuilding activities by Japan Railway Construction, Transport and Technology Agency, procurement of ships to be jointly owned with private companies is not covered.

(f) With respect to National Institutes of Biomedical Innovation, Health and Nutrition, procurement other than that conducted for the National Institute of Health and Nutrition is not covered.
SECTION D

Goods

1. Chapter 15 (Government Procurement) covers procurement of all goods by the entities listed in Sections A through C, unless otherwise specified in this Agreement.

2. Chapter 15 (Government Procurement) covers procurement by the Ministry of Defense of the following Federal Supply Classification (FSC) categories subject to the Japanese Government determinations under the provisions of Article 29.1.2 (Security Exceptions):

<table>
<thead>
<tr>
<th>FSC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>22</td>
<td>Railway Equipment</td>
</tr>
<tr>
<td>24</td>
<td>Tractors</td>
</tr>
<tr>
<td>32</td>
<td>Woodworking Machinery and Equipment</td>
</tr>
<tr>
<td>34</td>
<td>Metalworking Machinery</td>
</tr>
<tr>
<td>35</td>
<td>Service and Trade Equipment</td>
</tr>
<tr>
<td>36</td>
<td>Special Industry Machinery</td>
</tr>
<tr>
<td>37</td>
<td>Agricultural Machinery and Equipment</td>
</tr>
<tr>
<td>38</td>
<td>Construction, Mining, Excavating, and Highway Maintenance Equipment</td>
</tr>
<tr>
<td>39</td>
<td>Materials Handling Equipment</td>
</tr>
<tr>
<td>40</td>
<td>Rope, Cable, Chain, and Fittings</td>
</tr>
<tr>
<td>41</td>
<td>Refrigeration, Air Conditioning, and Air Circulating Equipment</td>
</tr>
<tr>
<td>43</td>
<td>Pumps and Compressors</td>
</tr>
<tr>
<td>45</td>
<td>Plumbing, Heating and Sanitation Equipment</td>
</tr>
<tr>
<td>46</td>
<td>Water Purification and Sewage Treatment Equipment</td>
</tr>
<tr>
<td>47</td>
<td>Pipe, Tubing, Hose, and Fittings</td>
</tr>
<tr>
<td>48</td>
<td>Valves</td>
</tr>
<tr>
<td>51</td>
<td>Hand Tools</td>
</tr>
<tr>
<td>52</td>
<td>Measuring Tools</td>
</tr>
<tr>
<td>55</td>
<td>Lumber, Millwork, Plywood and Veneer</td>
</tr>
<tr>
<td>61</td>
<td>Electric Wire, and Power and Distribution Equipment</td>
</tr>
<tr>
<td>62</td>
<td>Lighting Fixtures and Lamps</td>
</tr>
<tr>
<td>65</td>
<td>Medical, Dental, and Veterinary Equipment and Supplies</td>
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<tr>
<td>6630</td>
<td>Chemical Analysis Instruments</td>
</tr>
<tr>
<td>6635</td>
<td>Physical Properties Testing Equipment</td>
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<tr>
<td>6640</td>
<td>Laboratory Equipment and Supplies</td>
</tr>
<tr>
<td>6645</td>
<td>Time Measuring Instruments</td>
</tr>
<tr>
<td>6650</td>
<td>Optical Instruments</td>
</tr>
<tr>
<td>6655</td>
<td>Geophysical and Astronomical Instruments</td>
</tr>
<tr>
<td>6660</td>
<td>Meteorological Instruments and Apparatus</td>
</tr>
<tr>
<td>6670</td>
<td>Scales and Balances</td>
</tr>
<tr>
<td>6675</td>
<td>Drafting, Surveying, and Mapping Instruments</td>
</tr>
<tr>
<td>6680</td>
<td>Liquid and Gas Flow, Liquid Level, and Mechanical Motion Measuring Instruments</td>
</tr>
<tr>
<td>6685</td>
<td>Pressure, Temperature, and Humidity Measuring and Controlling Instruments</td>
</tr>
<tr>
<td>6695</td>
<td>Combination and Miscellaneous Instruments</td>
</tr>
<tr>
<td>67</td>
<td>Photographic Equipment</td>
</tr>
<tr>
<td>68</td>
<td>Chemicals and Chemical Products</td>
</tr>
<tr>
<td>71</td>
<td>Furniture</td>
</tr>
<tr>
<td>72</td>
<td>Household and Commercial Furnishings and Appliances</td>
</tr>
<tr>
<td>73</td>
<td>Food Preparation and Serving Equipment</td>
</tr>
<tr>
<td>Page</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>74</td>
<td>Office Machines and Visible Record Equipment</td>
</tr>
<tr>
<td>75</td>
<td>Office Supplies and Devices</td>
</tr>
<tr>
<td>76</td>
<td>Books, Maps, and Other Publications</td>
</tr>
<tr>
<td>77</td>
<td>Musical Instruments, Phonographs, and Home-type Radios</td>
</tr>
<tr>
<td>79</td>
<td>Cleaning Equipment and Supplies</td>
</tr>
<tr>
<td>80</td>
<td>Brushes, Paints, Sealers, and Adhesives</td>
</tr>
<tr>
<td>8110</td>
<td>Drums and Cans</td>
</tr>
<tr>
<td>8115</td>
<td>Boxes, Cartons, and Crates</td>
</tr>
<tr>
<td>8125</td>
<td>Bottles and Jars</td>
</tr>
<tr>
<td>8130</td>
<td>Reels and Spools</td>
</tr>
<tr>
<td>8135</td>
<td>Packaging and Packing Bulk Materials</td>
</tr>
<tr>
<td>85</td>
<td>Toiletries</td>
</tr>
<tr>
<td>87</td>
<td>Agricultural Supplies</td>
</tr>
<tr>
<td>93</td>
<td>Non-metallic Fabricated Materials</td>
</tr>
<tr>
<td>94</td>
<td>Non-metallic Crude Materials</td>
</tr>
<tr>
<td>99</td>
<td>Miscellaneous</td>
</tr>
</tbody>
</table>
SECTION E

Services

Chapter 15 (Government Procurement) covers the following services, which are identified in accordance with the United Nations Provisional Central Product Classification (CPC) 1991, as well as document MTN.GNS/W/120 for Telecommunications services:

(Provisional Central Product Classification (CPC), 1991)

- 51 Construction work
- 6112 Maintenance and repair services of motor vehicles (Note 1)
- 6122 Maintenance and repair services of motorcycles and snowmobiles (Note 1)
- 633 Repair services of personal and household goods
- 642 Food serving services (Note 5)
- 643 Beverage serving services (Note 5)
- 712 Other land transport services (except 71235 Mail transportation by land)
- 7213 Rental services of sea-going vessels with operator
- 7223 Rental services of non-sea-going vessels with operator
- 73 Air transport services (except 73210 Mail transportation by air)
- 748 Freight transport agency services
- 7512 Courier services (Note 2)
- Telecommunications services
  -- MTN.GNS/W/120
    - Corresponding CPC
      -- 2.C.h. - 7523 Electronic mail;
      -- 2.C.i. - 7521 Voice mail;
      -- 2.C.j. - 7523 On-line information and data base retrieval;
      -- 2.C.k. - 7523 Electronic data interchange (EDI);
      -- 2.C.l. - 7529 Enhanced facsimile services;
      -- 2.C.m. - 7523 Code and protocol conversion; and
      -- 2.C.n. - 7523 On-line information and/or data processing (including transaction processing)
- 83106 to 83108 Leasing or rental services concerning agricultural machinery and equipment without operator (Note 5)
- 83203 Leasing or rental services concerning furniture and other household Appliances (Note 5)
- 83204 Leasing or rental services concerning pleasure and leisure equipment (Note 5)
- 83209 Leasing or rental services concerning other personal or household goods (Note 5)
- 84 Computer and related services
- 864 Market research and public opinion polling services
- 865 Management consulting services (Note 5)
- 866 Services related to management consulting (except 86602 Arbitration and conciliation services) (Note 5)
- 867 Architectural, engineering and other technical services (Note 3)
- 871 Advertising services
- 87304 Armoured car services
- 874 Building-cleaning services
- 876 Packaging services (Note 5)
- 8814 Services incidental to forestry and logging, including forest management
- 88442 Publishing and printing services (Note 4)
- 886 Repair services incidental to metal products, machinery and equipment
- 921 Primary education services
- 922 Secondary education services
- 923 Higher education services
- 924 Adult education services
- 94 Sewage and refuse disposal, sanitation and other environmental protection services
- 9611 Motion picture and video tape production and distribution services (except 96112 Motion picture or video tape production services)

Notes to Section E

1. Maintenance and repair services are not covered with respect to those motor vehicles, motorcycles and snowmobiles which are specifically modified and inspected to meet regulations of the entities.

2. Courier services are not covered with respect to letters.

3. Architectural, engineering and other technical services related to construction services, with the exception of the following services when procured independently, are covered:

   - Final design services of CPC 86712 Architectural design services;
   - CPC 86713 Contract administration services;
   - Design services consisting of one or a combination of final plans, specifications and cost estimates of either CPC 86722 Engineering design
services for the construction of foundations and building structures, or CPC 86723 Engineering design services for mechanical and electrical installations for buildings, or CPC 86724 Engineering design services for the construction of civil engineering works; and

- CPC 86727 Other engineering services during the construction and installation phase.

4. Publishing and printing services are not covered with respect to materials containing confidential information.

5. With respect to the following services, Chapter 15 (Government Procurement) does not cover procurement by the entities listed in Sections B and C:

- CPC 642 Food serving services
- CPC 643 Beverage serving services
- CPC 83106 to 83108 Leasing or rental services concerning agricultural machinery and equipment without operator
- CPC 83203 Leasing or rental services concerning furniture and other household Appliances
- CPC 83204 Leasing or rental services concerning pleasure and leisure equipment
- CPC 83209 Leasing or rental services concerning other personal or household goods
- CPC 865 Management consulting services
- CPC 866 Services related to management consulting (except 86602 Arbitration and conciliation services)
- CPC 876 Packaging services
SECTION F

Construction Services

List of Division 51, Provisional Central Product Classification (CPC), 1991:

All services listed in Division 51.

Note to Section F

Procurement with regard to a construction project within the scope of the Act on Promotion of Private Finance Initiative (Law No. 117 of 1999) as of 30 November 2011 is covered.
SECTION G

General Notes

1. Chapter 15 (Government Procurement) does not cover contracts to be awarded to co-operatives or associations in accordance with laws and regulations existing at the time of the entry into force of this Agreement for Japan.

2. Except as provided for in the Note to Section F, procurement with regard to a project within the scope of the Act on Promotion of Private Finance Initiative (Law No. 117 of 1999) as of 10 December 2010 is covered.
SECTION H

Threshold Adjustment Formula

1. The thresholds shall be adjusted in every even-numbered year with each adjustment taking effect on April 1, beginning on April 1 of even numbered year after the date when this agreement takes into effect.

2. Every two years, Japan shall calculate and publish the value of the thresholds under this Schedule expressed in Yen. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Yen in terms of the Special Drawing Rights (SDR) over the two year period preceding January 1 of the year in which the adjusted thresholds are to take effect.

4. Japan shall notify the other Parties of the current thresholds in its currency immediately after this Agreement enters into force, and the adjusted thresholds in its currency thereafter in a timely manner.

5. Japan shall consult if a major change in its national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.
SECTION I

Procurement Information

1. Electronic or paper media which publishes the information described in Article 15.6.1 (Publication of Procurement Information) pursuant to Article 15.6.2 (Publication of Procurement Information).

   (a) Section A:

   Kanpō
   and/or Hōreizensho

   (b) Section B:

   Kenpō
   Shihō
   or their equivalents,
   or Kanpō
   and/or Hōreizensho

   (c) Section C:

   Kanpō
   and/or Hōreizensho,
   or http://www.mofa.go.jp/mofaj/ecm/ep/page24_000444.html

2. Electronic or paper media which publishes the notices required by Article 15.7 (Notices of Intended Procurement), Article 15.9.3 (Qualification of Suppliers) and Article 15.16.3 (Post-Award Information) pursuant to Article 15.6.2 (Publication of Procurement Information).

   (a) Section A:


   (b) Section B:

   Kenpō;
   Shihō;
   or their equivalents.

   (c) Section C:

   Kanpō;
   or http://www.mofa.go.jp/mofaj/ecm/ep/page24_000444.html
SECTION J

Transitional Measures in accordance with Article 15.5 (Transitional Measures)

None.
ANNEX 15-A: SCHEDULE OF MALAYSIA

SECTION A

Central Government Entities

This Chapter applies to the entities of Central Government listed in this Section where the value of the procurement is estimated to equal or exceed the following relevant thresholds:

**Goods**

(specified in Section D)  
SDR1,500,000  
From 1st to 4th year after date of entry into force of the Agreement for Malaysia;

SDR800,000  
Starting from the 5th to 7th year after date of entry into force of the Agreement for Malaysia;

SDR130,000  
Starting from the 8th year onwards after date of entry into force of the Agreement for Malaysia.

**Services**

(specified in Section E)  
SDR2,000,000  
From 1st to 4th year after date of entry into force of the Agreement for Malaysia;

SDR1,000,000  
Starting from the 5th to 7th year after date of entry into force of the Agreement for Malaysia;

SDR500,000  
Starting from the 8th to 9th year after date of entry into force of the Agreement for Malaysia;

SDR130,000  
Starting from the 10th year onwards after date of entry into force of the Agreement for Malaysia.
Construction Services (specified in Section F)

SDR63,000,000
From 1st to 5th year after date of entry into force of the Agreement for Malaysia;

SDR50,000,000
Starting from the 6th to 10th year after date of entry into force of the Agreement for Malaysia;

SDR40,000,000
Starting from the 11th to 15th year after date of entry into force of the Agreement for Malaysia;

SDR30,000,000
Starting from the 16th to 20th year after date of entry into force of the Agreement for Malaysia;

SDR14,000,000
Starting from the 21st year onwards after date of entry into force of the Agreement for Malaysia.

List of Entities (Note 1):

Jabatan Perdana Menteri (Prime Minister’s Department)
- Bahagian Hal Ehwal Undang-Undang (Legal Affairs Division)
- Bahagian Istimadat dan Urus Setia Persidangan Antarabangsa (Protocol Division and International Conference Secretariat)
- Bahagian PERMATA (PERMATA Division)
- Biro Pengaduan Awam (Public Complaints Bureau)
- Institut Latihan Kehakiman dan Perundangan (Judicial and Legal Training Institute)
- Jabatan Perkhidmatan Awam (Department of Public Service)
- Pejabat Ketua Pendaftar Mahkamah Persekutuan (Chief Registrar’s Office Federal Court of Malaysia)
- Unit Pengurusan Prestasi dan Pelaksanaan (Performance Management and Delivery Unit)
- Unit Perancang Ekonomi (Economic Planning Unit)

Kementerian Belia dan Sukan (Ministry of Youth and Sports)
- All divisions
- Jabatan Belia dan Sukan Negara (Department of National Youth and Sports)
- Pejabat Pendaftar Pertubuhan Belia (Registrar of Youth Societies Office)
- Pejabat Pesuruhjaya Sukan (Sports Commissioner Office)
Kementerian Dalam Negeri (Ministry of Home Affairs)
- All divisions (Note 2(a) & Note 2(b))
- Agensi Antidadah Kebangsaan (National Anti-Drug Agency) (Note 2(b))
- Jabatan Imigresen Malaysia (Department of Immigration Malaysia) (Note 2(b))
- Jabatan Pendaftaran Negara (Department of National Registration) (Note 2(b))
- Jabatan Pendaftaran Pertubuhan Malaysia (The Registry of Societies Malaysia)
- Jabatan Penjara Malaysia (Department of Prison Malaysia) (Note 2(b))
- Jabatan Pertahanan Awam Malaysia (Department of Civil Defence Malaysia) (Note 2(b))
- Jabatan Sukarelawan Malaysia (Volunteer Corps)
- Polis Diraja Malaysia (Royal Malaysian Police Force) (Note 2(b))

Kementerian Kemajuan Luar Bandar dan Wilayah (Ministry of Rural and Regional Development)
- All divisions
- Institut Kemajuan Desa (Institute for Rural Advancement)

Kementerian Kerja Raya (Ministry of Works)
- All divisions
- Jabatan Kerja Raya (Department of Public Works)

Kementerian Kesejahteraan Bandar, Perumahan dan Kerajaan Tempatan (Ministry of Urban Wellbeing, Housing and Local Government) (Note 3)
- All divisions
- Institut Latihan Perumahan dan Kerajaan Tempatan (Housing and Local Government Training Institute)
- Jabatan Bomba dan Penyelamat Malaysia (Department of Fire and Rescue Malaysia)
- Jabatan Kerajaan Tempatan (Department of Local Government)
- Jabatan Landskap Negara (Department of National Landscape)
- Jabatan Pengurusan Sisa Pepejal Negara (Department of National Solid Waste Management)
- Jabatan Perumahan Negara (Department of National Housing)
- Tribunal Perumahan dan Pengurusan Strata (Housing Tribunal and Strata Management)

Kementerian Kesihatan (Ministry of Health)
- All divisions (Note 4)
- Biro Pengawalan Farmaseutikal Kebangsaan (National Pharmaceutical Control Bureau)
- Institut Kanser Negara (National Institute of Cancer)
- Institut Kesihatan Umum (Institute for Public Health)
- Institut Pengurusan Kesihatan (Institute for Health Management)
- Institut Penyelidikan Perubatan (Institute for Medical Research)
- Institut Penyelidikan Sistem Kesihatan (Institute for Health System Research)
- Institut Penyelidikan Tingkahlaku Kesihatan (Institute for Health Behavioural Research)
- Institut Perubatan Respiratori (Institute for Medical Respiratory)
• Pusat Darah Negara (National Blood Centre)
• Pusat Kawalan Kusta Negara (National Leprosy Control Centre)
• Pusat Penyelidikan Klinikal (Clinical Research Centre)
• Pusat Pergigian Kanak-Kanak & Kolej Latihan Pergigian Malaysia (Children Dental Centre & Dental Training College)

Kementerian Kewangan (Ministry of Finance)
• Jabatan Penilaian dan Perkhidmatan Harta (Property Valuation and Services Department)
• Kastam Diraja Malaysia (Royal Customs of Malaysia)
• Perbendaharaan Malaysia (Federal Treasury of Malaysia) *(Note 5)*

Kementerian Komunikasi dan Multimedia (Ministry of Communication and Multimedia)
• All divisions
• Institut Penyiaran dan Penerangan Tun Abdul Razak (Tun Abdul Razak Institute of Broadcasting and Information)
• Jabatan Penerangan (Department of Information)
• Jabatan Penyiaran (Department of Broadcasting)

Kementerian Luar Negara (Ministry of Foreign Affairs)
• All divisions
• Institut Diplomasi dan Hubungan Luar (Institute of Diplomacy and Foreign Relations)
• Pusat Serantau Asia Tenggara Bagi Mencegah Keganasan (South-East Asia Regional Centre for Counter Terrorism)

Kementerian Pelancongan dan Kebudayaan (Ministry of Tourism and Culture)
• All divisions
• Arkib Negara Malaysia (National Archives of Malaysia)
• Istana Budaya
• Jabatan Kebudayaan dan Kesenian Negara (Department of National Culture and Arts)
• Jabatan Muzium Malaysia (Department of Museums Malaysia)
• Jabatan Warisan Negara (Department of National Heritage)
• Perpustakaan Negara Malaysia (National Library of Malaysia)

Kementerian Pembangunan Wanita, Keluarga dan Masyarakat (Ministry of Women, Family and Community Development)
• All divisions
• Institut Pengupayaan Wanita Bagi Anggota Pergerakan Negara-Negara Berkecuali (NAM Institute for the Empowerment of Women)
• Institut Sosial Malaysia (Social Institute of Malaysia)
• Jabatan Pembangunan Wanita (Department of Women Development)
Kementerian Pendidikan (Ministry of Education) (Note 6)
- All divisions
- Jabatan Pendidikan Negeri (State Education Departments)

Kementerian Pendidikan Tinggi (Ministry of Higher Education) (Note 7)
- All divisions
- Jabatan Pendidikan Politeknik (Department of Polytechnic Education)
- Jabatan Pendidikan Kolej Komuniti (Department of Community College Education)

Kementerian Pengangkutan (Ministry of Transport)
- All divisions
- Jabatan Keselamatan Jalan Raya (Department of Road Safety)
- Jabatan Laut Malaysia (Department of Marine Malaysia)
- Jabatan Penerbangan Awam (Department of Civil Aviation)
- Jabatan Pengangkutan Jalan (Department of Road Transport)

Kementerian Perdagangan Antarabangsa dan Industri (Ministry of International Trade and Industry)
- All divisions

Kementerian Perdagangan Dalam Negeri, Koperasi dan Kepenggunaan (Ministry of Domestic Trade, Cooperative and Consumerism)
- All divisions

Kementerian Pertahanan (Ministry of Defence) (Note 8)
- All divisions
- Jabatan Hal Ehwal Veteran (Department of Veteran Affairs)
- Jabatan Ketua Hakim Peguam (Department of Judge Advocate General)

Kementerian Pertanian dan Industri Asas Tani (Ministry of Agriculture and Agro-Based Industry) (Note 9)
- All divisions
- Jabatan Perikanan (Department of Fisheries)
- Jabatan Perkhidmatan Quarantin dan Pemeriksaan Malaysia (Malaysian Quarantine and Inspection Services)
- Jabatan Perkhidmatan Veterinar (Department of Veterinary Services)
- Jabatan Pertanian (Department of Agriculture)

Kementerian Perusahaan Perladangan dan Komoditi (Ministry of Plantation Industries and Commodities)
- All divisions

Kementerian Sains, Teknologi dan Inovasi (Ministry of Science, Technology and Innovations)
- All divisions
- Jabatan Kimia Malaysia (Department of Chemistry Malaysia)
• Jabatan Meteorologi Malaysia (Department of Meteorology Malaysia)
• Jabatan Standard Malaysia (Department of Standards Malaysia)
• Pusat Sains Negara (National Science Centre)

Kementerian Sumber Asli dan Alam Sekitar (Ministry of Natural Resources and Environment)
• All divisions
• Institut Penyelidikan Hidraulik Kebangsaan (National Hydraulic Research Institute)
• Institut Tanah dan Ukur Negara (National Institute of Land and Survey)
• Jabatan Alam Sekitar (Department of Environment)
• Jabatan Biokeselamatan (Department of Biosafety)
• Jabatan Perhutanan Semenanjung Malaysia (Forestry Department of Peninsular Malaysia)
• Jabatan Perlindungan Hidupan Liar dan Taman Negara (Department of Wildlife and National Parks)
• Jabatan Taman Laut (Department of Marine Park)

Kementerian Sumber Manusia (Ministry of Human Resources)
• All divisions
• Jabatan Hal Ehwal Kesatuan Sekerja (Department of Trade Union Affairs)
• Jabatan Keselamatan dan Kesihatan Pekerjaan (Department of Occupational Safety and Health)
• Jabatan Pembangunan Kemahiran (Department of Skills Development)
• Jabatan Perhubungan Perusahaan Malaysia (Industrial Relations Department)
• Jabatan Tenaga Kerja Sabah (Department of Labour Sabah)
• Jabatan Tenaga Kerja Sarawak (Department of Labour Sarawak)
• Jabatan Tenaga Kerja Semenanjung Malaysia (Department of Labour Peninsular Malaysia)
• Jabatan Tenaga Manusia (Department of Manpower)
• Mahkamah Perusahaan Malaysia (Industrial Court of Malaysia)

Kementerian Tenaga, Teknologi Hijau dan Air (Ministry of Energy, Green Technology and Water)
• All divisions

Kementerian Wilayah Persekutuan (Ministry of Federal Territories)
• All divisions

Notes to Section A of Malaysia:
1. This Chapter covers only the entities listed under each Ministry and Jabatan Perdana Menteri (Prime Minister’s Department) including the subordinates of the listed entities, unless otherwise specified. Those subordinates that have separate legal status are not covered.
2. **Kementerian Dalam Negeri (Ministry of Home Affairs):** This Chapter does not cover:
   (a) *Bahagian Kawalan Penerbitan dan Teks Al-Quran (Publication and Qur’anic Text Control Division)*; and  
   (b) any procurement that has security considerations determined by the Ministry.

3. **Kementerian Kesejahteraan Bandar, Perumahan dan Kerajaan Tempatan (Ministry of Urban Wellbeing, Housing and Local Government):** This Chapter does not cover procurement in relation to Program Perumahan Rakyat (People’s Housing Programme).

4. **Kementerian Kesihatan (Ministry of Health):** For greater certainty, government hospitals and clinics are covered.

5. **Kementerian Kewangan (Ministry of Finance):** This Chapter covers all divisions under *Perbendaharaan Malaysia (Federal Treasury of Malaysia)* except *Bahagian Syarikat Pelaburan Kerajaan (Government Investment Company Division)*.

6. **Kementerian Pendidikan (Ministry of Education):**
   (a) This Chapter does not cover:
      - *Lembaga Peperiksaan (Examination Syndicates)*; and  
      - Procurement in relation to uniforms, text books, and milk and food programmes for pre-school and school children.  
   (b) For greater certainty, schools, matriculation colleges and teacher training institutes are covered.

7. **Kementerian Pendidikan Tinggi (Ministry of Higher Education):** For greater certainty, community colleges and polytechnics are covered.

8. **Kementerian Pertahanan (Ministry of Defence):** This Chapter covers the procurement of goods and services described in United States Federal Supply Code (FSC) classification (*Version August 1998*) listed below:

   **FSC Description**
   
   22 Railway Equipment  
   23 Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles  
   24 Tractors  
   25 Vehicular Equipment Components  
   26 Tires and Tubes  
   29 Engine Accessories  
   30 Mechanical Power Transmission Equipment  
   31 Bearings  
   32 Woodworking Machinery and Equipment  
   34 Metalworking 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 Fire Fighting, Rescue and Safety Equipment
43 Pumps and Compressors
44 Furnace, Steam Plant and Drying Equipment
45 Plumbing, Heating and Sanitation Equipment
46 Water Purification and Sewage Treatment Equipment
47 Pipe, Tubing, Hose and Fittings
48 Valves
51 Handtools
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
67 Photographic Equipment
68 Chemicals and Chemical Products
69 Training Aids and Devices
70 General Purpose Automatic Data Processing Equipment, 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
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
83 Textiles, Leather, Furs, Apparel and Shoe Findings, Tents and Flags
84 Clothing, Individual Equipment, and Insignia
85 Toiletries
87 Agricultural Supplies
88 Live Animals
91 Fuels, Lubricants, Oils and Waxes
93 Non-metallic Fabricated Materials
94 Non-metallic Crude Materials
95 Metal Bars, Sheets and Shapes
96 Ores, Minerals, and their Primary Products
99 Miscellaneous

9. **Kementerian Pertanian dan Industri Asas Tani (Ministry of Agriculture and Agro-Based Industry):** This Chapter does not cover any procurement and distribution of inputs for agro-food production in Malaysia.
SECTION B

Sub-Central Government Entities

None.
SECTION C

Other Entities

This Chapter applies to the entities listed in this Section where the value of the procurement is estimated to equal or exceed the following relevant thresholds:

<table>
<thead>
<tr>
<th>Goods (specified in Section D)</th>
<th>SD²R2,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>From 1st to 4th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
<tr>
<td></td>
<td>SD²R1,000,000</td>
</tr>
<tr>
<td></td>
<td>Starting from the 5th to 7th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
<tr>
<td></td>
<td>SD²R150,000</td>
</tr>
<tr>
<td></td>
<td>Starting from the 8th year onwards after date of entry into force of the Agreement for Malaysia.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Services (specified in Section E)</th>
<th>SD²R2,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>From 1st to 4th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
<tr>
<td></td>
<td>SD²R1,000,000</td>
</tr>
<tr>
<td></td>
<td>Starting from the 5th to 7th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
<tr>
<td></td>
<td>SD²R500,000</td>
</tr>
<tr>
<td></td>
<td>Starting from the 8th to 9th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
<tr>
<td></td>
<td>SD²R150,000</td>
</tr>
<tr>
<td></td>
<td>Starting from the 10th year onwards after date of entry into force of the Agreement for Malaysia.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Construction Services (specified in Section F)</th>
<th>SD²R63,000,000</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>From 1st to 5th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
<tr>
<td></td>
<td>SD²R50,000,000</td>
</tr>
<tr>
<td></td>
<td>Starting from the 6th to 10th year after date of entry into force of the Agreement for Malaysia;</td>
</tr>
</tbody>
</table>
SDR40,000,000
Starting from the 11th to 15th year after date of entry into force of the Agreement for Malaysia;

SDR30,000,000
Starting from the 16th to 20th year after date of entry into force of the Agreement for Malaysia;

SDR14,000,000
Starting from the 21st year onwards after date of entry into force of the Agreement for Malaysia.

List of Entities (Note 1):

Lembaga Pembangunan Pelaburan Malaysia (Malaysian Investment Development Authority)

Perbadanan Pembangunan Perdagangan Luar Malaysia (Malaysia External Trade Development Corporation)

Perbadanan Perusahaan Kecil dan Sederhana Malaysia (SME Corporation Malaysia)

Perbadanan Produktiviti Malaysia (Malaysia Productivity Corporation)

Notes to Section C of Malaysia:

1. This Chapter covers only the entities listed including the subordinates of the listed entities, unless otherwise specified. Those subordinates that have separate legal status are not covered.
SECTION D

Goods

This Chapter applies to all goods, as described in the United Nations Provisional Central Product Classification (CPC), procured by the entities listed in Section A and Section C, unless otherwise specified in this Chapter and subject to the General Notes in Section G and the Notes to the respective Sections.

This Chapter does not cover the procurement of:

<table>
<thead>
<tr>
<th>UN CPC CODE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0113</td>
<td>Rice, not husked</td>
</tr>
<tr>
<td>0114</td>
<td>Husked rice</td>
</tr>
<tr>
<td>171</td>
<td>Electrical energy</td>
</tr>
<tr>
<td>180</td>
<td>Natural water</td>
</tr>
<tr>
<td>23160</td>
<td>Rice, semi- or wholly milled</td>
</tr>
<tr>
<td>239</td>
<td>Food products, n.e.c.</td>
</tr>
</tbody>
</table>
SECTION E

Services

This Chapter applies to services listed below, as described in the UN Provisional CPC, procured by the entities listed in Section A and Section C, unless otherwise specified in this Chapter and subject to the General Notes in Section G and the Notes to the respective Sections.

<table>
<thead>
<tr>
<th>UN CPC CODE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>61</td>
<td>Sale, maintenance and repair services of motor vehicles and motorcycles</td>
</tr>
<tr>
<td>62</td>
<td>Commission agents' and wholesale trade services, except of motor vehicles and motorcycles</td>
</tr>
<tr>
<td>63</td>
<td>Retail trade services; repair services of personal and household goods</td>
</tr>
<tr>
<td>71</td>
<td>Land transport services</td>
</tr>
<tr>
<td>72</td>
<td>Water transport services</td>
</tr>
<tr>
<td>732</td>
<td>Freight transportation by air</td>
</tr>
<tr>
<td>74</td>
<td>Supporting and auxiliary transport services (except for Code: 747 - Travel agency, tour operator and tourist guide services)</td>
</tr>
<tr>
<td>75</td>
<td>Post and Telecommunications Services (except CPC 7511 - Postal services)</td>
</tr>
<tr>
<td>83</td>
<td>Leasing or rental services without operator (except for Code: 83101 – Leasing or rental services concerning private cars without operator)</td>
</tr>
<tr>
<td>84</td>
<td>Computer and Related Services</td>
</tr>
<tr>
<td>862</td>
<td>Accounting, auditing and book-keeping services</td>
</tr>
<tr>
<td>863</td>
<td>Taxation services</td>
</tr>
<tr>
<td>864</td>
<td>Market research and public opinion polls</td>
</tr>
<tr>
<td>865</td>
<td>Management consulting services (except for Code: 86502 – Financial management consulting services (except business tax))</td>
</tr>
<tr>
<td>86601</td>
<td>Project management services other than for construction</td>
</tr>
<tr>
<td>867</td>
<td>Architectural, engineering and other technical services</td>
</tr>
<tr>
<td>871</td>
<td>Advertising services</td>
</tr>
<tr>
<td>872</td>
<td>Placement and supply services of personnel</td>
</tr>
<tr>
<td>874</td>
<td>Building-cleaning services</td>
</tr>
<tr>
<td>875</td>
<td>Photographic services</td>
</tr>
<tr>
<td>876</td>
<td>Packaging services</td>
</tr>
<tr>
<td>87905</td>
<td>Translation and interpretation services</td>
</tr>
<tr>
<td>UN CPC CODE</td>
<td>DESCRIPTION</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------</td>
</tr>
<tr>
<td>884</td>
<td>Services incidental to manufacturing, except to the manufacture of metal products, machinery and equipment</td>
</tr>
<tr>
<td>885</td>
<td>Services incidental to the manufacture of metal products, machinery and equipment</td>
</tr>
<tr>
<td>886</td>
<td>Repair services incidental to metal products, machinery and equipment (except for Code: 8867 - Repair services n.e.c. of motor vehicles, trailers and semi-trailers, on a fee or contract basis)</td>
</tr>
<tr>
<td>92</td>
<td>Education services</td>
</tr>
<tr>
<td>93</td>
<td>Health and social services</td>
</tr>
<tr>
<td>94</td>
<td>Sewage and Refuse Disposal, Sanitation and Other Environmental Protection Services (except 9401 - Sewage services and 9403 - Sanitation and similar services)</td>
</tr>
<tr>
<td>95</td>
<td>Services of membership organizations (except for Code: 95910 - Religious services)</td>
</tr>
<tr>
<td>96311</td>
<td>Library services</td>
</tr>
<tr>
<td>9641</td>
<td>Sporting services</td>
</tr>
<tr>
<td>97</td>
<td>Other services (except for Codes: 97030 - Funeral, cremation and undertaking services and 97090 - Other services n.e.c.)</td>
</tr>
<tr>
<td>98</td>
<td>Private households with employed persons</td>
</tr>
<tr>
<td>99</td>
<td>Services provided by extraterritorial organizations and bodies</td>
</tr>
</tbody>
</table>

**Notes to Section E of Malaysia:**

1. This Chapter does not cover procurement of cabotage services for the shipment of goods from any port or place in Malaysia to another port or place in Malaysia; or from any port or place in Malaysia to any place in the exclusive economic zone or vice versa, that form a part of, or are incidental to a procurement contract.

2. For CPC 75 and CPC 84, this Chapter does not cover any procurement that will affect Malaysia's essential security interest, as determined by the procuring entities.

3. This Chapter does not cover plasma fractionation services.
SECTION F

Construction Services

This Chapter applies to all construction services, as described in the UN Provisional CPC 51, procured by the entities listed in Section A and Section C, unless otherwise specified in this Chapter and subject to the General Notes in Section G and the Notes to the respective Sections.

Notes to Section F of Malaysia:

1. This Chapter does not cover procurement of dredging services.

2. This Chapter does not cover construction services that is carried out to maintain or improve the existing slope (hillside surfacing) conditions through periodic maintenance; or to reconstruct or improve existing slopes or construct new slopes due to natural disaster, flood, landslide ground subsidence and other emergency and unforeseen circumstances.
SECTION G

General Notes

Unless otherwise specified, the following General Notes apply without exception to this Chapter, including to all Sections of this Annex.

1. Chapter 15: Government Procurement shall not apply to–
   (a) any procurement by and for Istana Negara;
   (b) any procurement in relation to rural development programmes in rural areas with less than 10,000 residents and poverty eradication programmes for households earning below Malaysia’s Poverty Line Income;
   (c) any Public Private Partnership (PPP) contractual arrangements including build-operate-transfer (BOT) and public work concessions;
   (d) any measures for the development, conservation or preservation of local handicraft, national treasures and national heritage;
   (e) any procurement for religious purposes, including that form a part of, or incidental to a procurement contract;
   (f) any procurement for research and development; and
   (g) any procurement in relation to national celebration events except for construction services.

2. Malaysia reserves the right to adopt or maintain any measure that confers safeguards, provides preference or renders assistance, benefits or other forms of rights or interests to Bumiputera in relation to government procurement not covered by this Chapter. For procurement covered by this Chapter, Malaysia reserves the right to accord Bumiputera status to eligible companies and apply the following measures under the Bumiputera policy:
   (a) set aside procurement of construction services contracts for Bumiputera up to 30 per cent of the total value of construction services contracts above the threshold from entry into force of the Agreement for Malaysia; and
   (b) price preference for:
      (i) **Category 1:**
         - Bumiputera suppliers providing goods and services originating from any TPP Parties, according to the following schedule:

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Percentage of price preference for Category 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above RM500,000 – RM1.5 million</td>
<td>7%</td>
</tr>
<tr>
<td>Above RM1.5 million – RM5 million</td>
<td>5%</td>
</tr>
<tr>
<td>Above RM5 million – RM10 million</td>
<td>3%</td>
</tr>
<tr>
<td>Above RM10 million – RM15 million</td>
<td>2.5%</td>
</tr>
<tr>
<td>Above RM15 million</td>
<td>0</td>
</tr>
</tbody>
</table>
(ii) **Category 2:**
- Bumiputera suppliers providing goods and services originating from countries other than TPP Parties, according to the following schedule:

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Percentage of price preference for Category 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above RM500,000 – RM1.5 million</td>
<td>3.5%</td>
</tr>
<tr>
<td>Above RM1.5 million – RM5 million</td>
<td>2.5%</td>
</tr>
<tr>
<td>Above RM5 million – RM10 million</td>
<td>1.5%</td>
</tr>
<tr>
<td>Above RM10 million – RM15 million</td>
<td>1.25%</td>
</tr>
<tr>
<td>Above RM15 million</td>
<td>0</td>
</tr>
</tbody>
</table>

(iii) **Category 3:**
- Bumiputera manufacturers that produce goods, according to the following schedule:

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Percentage of price preference for Category 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to RM10 million</td>
<td>10%</td>
</tr>
<tr>
<td>Above RM10 million – RM100 million</td>
<td>5%</td>
</tr>
<tr>
<td>Above RM100 million</td>
<td>3%</td>
</tr>
</tbody>
</table>

3. Procuring entities shall accord price preference for Category 2 to Malaysian suppliers (other than Bumiputera) and TPP suppliers providing goods and services originating from any TPP Parties.

4. Malaysia reserves the right to adopt or maintain any measure in relation to the procurement of items under Central Contract as described below:
   (a) postal and courier services;
   (b) envelopes;
   (c) high density polyethylene fittings;
   (d) environmentally friendly fire extinguisher including its related system;
   (e) Microsoft products and services under a Master Licensing Agreement; and
   (f) small arms ammunition and pyrotechnic devices.

5. Panel Contract shall be applied in a manner consistent with obligations under this Chapter with respect to the covered procurement set forth in this Annex.

6. Any measure to benefit micro, small and medium enterprises (SMEs) shall be applied in a manner consistent with obligations under this Chapter with respect to the covered procurement set forth in this Annex.

7. For greater certainty, this Chapter shall not apply to–
   (a) any procurement made by a covered entity on behalf of a non-covered entity; and
   (b) procurement funded by grants and sponsorship payments from persons not listed in this Annex.
SECTION H

Threshold Adjustment Formula

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, XX.

2. Every two years, Malaysia shall calculate and publish the value of the thresholds under this Chapter expressed in Malaysian Ringgit. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Malaysian Ringgit in terms of the Special Drawing Rights (SDR) over the two-year period preceding October 1 of the year before the adjusted thresholds are to take effect and rounded to the nearest Malaysian Ringgit.

4. Malaysia shall notify the other Parties of the current thresholds in Malaysian Ringgit immediately after this Agreement enters into force, and the adjusted thresholds in Malaysian Ringgit thereafter in a timely manner.

5. Malaysia shall consult if a major change in Malaysian Ringgit relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.
SECTION I

Publication of Procurement Information

All information on the government procurement is published on the following websites:

Ministry of Finance Malaysia: www.treasury.gov.my
ePerolehan: www.eperolehan.gov.my
SECTION J

Transitional Measures

Thresholds

1. Transitional thresholds for goods, services and construction services in Section A and Section C.

Economic Stimulus Package

2. This Chapter shall not apply to any procurement funded by an economic stimulus package in response to a severe nationwide economic crisis implemented within 25 years after entry into force of this Agreement for Malaysia.

Domestic Review Procedures

3. Article 15.19 (Domestic Review): Notwithstanding Article 15.19, Malaysia may delay application of its obligations under Article 15.19 (Domestic Review) for three years after entry into force of this Agreement for Malaysia. During this transitional period, Malaysia shall use existing internal administrative procedures to address complaints, provided that it complies with Article 15.4.1 and Article 15.4.2 (General Principles). Suppliers of any Party may submit complaints to the Ministry of Finance Malaysia at the address below:

Under Secretary of Government Procurement Division
Government Procurement Division
Ministry of Finance Malaysia
Ministry of Finance Complex
Precinct 2
62952 Putrajaya
Malaysia
Email: gpcompliance@treasury.gov.my
Tel: 0060388824376
Fax: 0060388824290

Dispute Settlement Mechanism

4. Notwithstanding Chapter 28 (Dispute Settlement), Malaysia shall not be subject to dispute settlement with respect to its obligations under Chapter 15 (Government Procurement) for a period of five years following the date of entry into force of this Agreement for Malaysia. During this transitional period, Malaysia shall enter into consultations with any Party that raises concerns with Malaysia’s implementation of these obligations.
Offsets

5. Notwithstanding Article 15.4.6 (General Principles), Malaysia may delay application of its obligations under Article 15.4.6 (General Principles) on offsets for a period of twelve years following the date of entry into force of this Agreement for Malaysia.

6. During the transitional period, offsets may be applied as follows:

(a) procurement with a value of more than RM50 million;

(b) procurement conducted by the procuring entities listed under the Ministries and Jabatan Perdana Menteri (Prime Minister's Department):
   (i) Jabatan Perdana Menteri (Prime Minister's Department);
   (ii) Kementerian Belia dan Sukan (Ministry of Youth and Sports);
   (iii) Kementerian Dalam Negeri (Ministry of Home Affairs);
   (iv) Kementerian Kemajuan Luar Bandar dan Wilayah (Ministry of Rural and Regional Development);
   (v) Kementerian Kerja Raya (Ministry of Works);
   (vi) Kementerian Kesejahteraan Bandar, Perumahan dan Kerajaan Tempatan (Ministry of Urban Wellbeing, Housing and Local Government);
   (vii) Kementerian Kesihatan (Ministry of Health);
   (viii) Kementerian Kewangan (Ministry of Finance);
   (ix) Kementerian Komunikasi dan Multimedia (Ministry of Communication and Multimedia);
   (x) Kementerian Pendidikan (Ministry of Education);
   (xi) Kementerian Pengajian Tinggi (Ministry of Higher Education);
   (xii) Kementerian Pengangkutan (Ministry of Transport);
   (xiii) Kementerian Pertahanan (Ministry of Defence);
   (xiv) Kementerian Pertanian dan Industri Asas Tani (Ministry of Agriculture and Agro-Based Industry);
   (xv) Kementerian Sains, Teknologi dan Inovasi (Ministry of Science, Technology and Innovation);
   (xvi) Kementerian Sumber Asli dan Alam Sekitar (Ministry of Natural Resources and Environment);
   (xvii) Kementerian Tenaga, Teknologi Hijau dan Air (Ministry of Energy, Green Technology and Water);

(c) upon entry into force of this Agreement for Malaysia, the procuring entities may impose offsets as set forth in Malaysia's offsets policy with credit value up to 60 per cent equivalent to procurement contract value until the end of the fourth year;

(d) the procuring entities will continue imposing offsets with credit value up to 40 per cent equivalent to procurement contract value until the end of the eighth year; and

(e) the procuring entities will continue imposing offsets with credit value up to 20 per cent equivalent to procurement contract value until the end of the twelfth year.
7. Starting from the thirteenth year after entry into force of this Agreement for Malaysia, the requirement for offsets will not be applied with regard to covered procurement.

8. Malaysia will ensure that its procuring entities clearly indicate the existence of any offsets requirements in the tender notices and specify the offsets programme required in the tender documentation.
ANNEX 15-A – SCHEDULE OF MEXICO

SECTION A

Federal Government Entities

Unless otherwise specified, this Chapter covers procurement by entities listed in this Section, in accordance with the following thresholds and subject to Section H:

USD$79,507 for Goods and Services
USD$10,335,931 for Construction Services

Federal Government Entities

1. Secretaría de Gobernación (Ministry of Government), includes:
   a. Secretaría General del Consejo Nacional de Población (General Secretary of the National Population Council).
   b. Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (Executive Secretariat of the Public Security National System).
   c. Archivo General de la Nación (General Archives of the Nation).
   d. Centro Nacional de Prevención de Desastres (National Disaster Prevention Center).
   e. Instituto Nacional para el Federalismo y el Desarrollo Municipal (National Institute for Federalism and Municipal Development).
   f. Secretaría Técnica de la Comisión Calificadora de Publicaciones y Revistas Ilustradas (Technical Secretary of Illustrated Periodicals and Publications Examining Commission).
   g. Centro de Producción de Programas Informativos y Especiales (Production Center for Informative Programs and Specials).
   h. Coordinación General de la Comisión Mexicana de Ayuda a Refugiados (General Coordination of the Mexican Commission on Refugee Assistance).
   i. Instituto Nacional de Migración (National Institute of Migration).
   k. Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal (Technical Secretary of the Coordination Council for the Implementation of the Criminal Justice System).
   l. Policía Federal (Federal Police).
   m. Prevención y Readaptación Social (Prevention and Social Readaptation).

2. Secretaría de Relaciones Exteriores (Ministry of Foreign Relations), includes:
   a. Instituto Matías Romero (Matías Romero Institute).
   b. Instituto de los Mexicanos en el Exterior (Institute for Mexicans Abroad).
   c. Agencia mexicana de Cooperación Internacional para el Desarrollo (Mexican International Cooperation Agency for Development).

3. Secretaría de Hacienda y Crédito Público (Ministry of Finance and Public Credit), includes:
   c. Servicio de Administración Tributaria (Tax Administration Service).
4. Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación (Ministry of Agriculture, Livestock, Rural Development, Fisheries and Feeding), includes:
   b. Agencia de Servicios a la Comercialización y Desarrollo de Mercados Agropecuarios (Support Services for Agricultural Marketing).
   e. Servicio de Información Agroalimentaria y Pesquera (Information Service and Agro-alimentary and Fisheries Statistics).
   g. Instituto Nacional de Pesca (National Institute of Fisheries).

5. Secretaría de Comunicaciones y Transportes (Ministry of Communication and Transportation), includes:
   a. Instituto Mexicano del Transporte (Mexican Institute of Transportation).
   b. Servicios a la Navegación en el Espacio Aéreo Mexicano (Mexican Air Navigation Services).

6. Secretaría de Economía (Ministry of Economy), includes:
   b. Instituto Nacional del Emprendedor (National Enterpreneur Institute).
   c. Instituto Nacional de la Economía Social (National Institute for Social Economy).

7. Secretaría de Educación Pública (Ministry of Public Education), includes:
   a. Instituto Nacional de Antropología e Historia (National Institute of Anthropology and History).
   b. Instituto Nacional de Bellas Artes y Literatura (National Institute of Fine Arts and Literature).
   c. Instituto Nacional de Estudios Históricos de las Revoluciones de México (National Institute of Historical Studies of Mexican Revolutions).
   d. Radio Educación (Radio Education).
   e. Consejo Nacional para la Cultura y las Artes (National Council for Culture and Arts).
   g. Instituto Nacional del Derecho de Autor (National Institute for Copyrights).
   h. Administración Federal de Servicios Educativos en el Distrito Federal (Federal Administration of Educational Services in Mexico City).
   i. Comisión de Apelación y Arbitraje del Deporte (Arbitration and Appeal Committee for Sport).
   j. Instituto Politécnico Nacional (National Polytechnic Institute).
   k. Universidad Pedagógica Nacional (National Pedagogical University).

8. Secretaría de Salud (Ministry of Health), includes:
   a. Administración del Patrimonio de la Beneficencia Pública (Public Charity Fund Administration).
   b. Centro Nacional de la Transfusión Sanguínea (National Blood Transfusion Center).
   c. Laboratorios de Biológicos y Reactivos de México, S.A. de C.V. (Laboratories of Biologicals and Reagents of Mexico).
   d. Instituto Nacional de Rehabilitación (National Rehabilitation Institute).
   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. Servicios de Atención Psiquiátrica (Psyquiatriec Attention Services).
   i. Comisión Nacional de Arbitraje Médico (National Commission of Medical Arbitration).
   j. Centro Nacional de Trasplantes (National Transplants Center).
   k. Centro Nacional de Equidad de Género y Salud Reproductiva (National Centre of Reproductive Health and Gender Equity).
   l. Centro Nacional de Excelencia Tecnológica en Salud (National Centre for Health Technology Excellence).
m. Centro Nacional de Programas Preventivos y Control de Enfermedades (National Center for Prevention and Disease Control).

n. Centro Nacional para la Prevención y Control de las Adicciones (National Center for Prevention and Addiction Control).

o. Comisión Nacional de Bioética (National Commission of Bioethics).


9. Secretaría del Trabajo y Previsión Social (Ministry of Labor and Social Welfare), includes:
   b. Comité Nacional Mixto de Protección al Salario (Joint National Committee for Wage Protection).

10. Secretaría de Desarrollo Agrario, Territorial y Urbano (Ministry of Agrarian Territorial and Urban Development), includes:
    b. Registro Agrario Nacional (National Agrarian Registry).
    c. Comisión Nacional de Vivienda (National Housing Commission).

11. 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. Comisión Nacional de Áreas Naturales Protegidas (National Commission on Natural Protected Areas).
    c. Instituto Nacional de Ecología y Cambio Climático (National Institute of Ecology and Climate Change).
    d. Procuraduría Federal de Protección al Ambiente (Federal Attorney's Office for Environmental Protection).


13. Secretaría de Energía (Ministry of Energy), includes:
    c. Comisión Reguladora de Energía (Regulatory Commission of Energy).

14. Secretaría de Desarrollo Social (Ministry of Social Development), includes:
    a. Coordinación Nacional de PROSPERA (National Coordination PROSPERA).

15. Secretaría de Turismo (Ministry of Tourism), includes:
    a. Instituto de Competitividad Turística (Institute for Tourist Competitiveness).
    b. Corporación de Servicios al Turista Ángeles Verdes (Ángeles Verdes Corporation for Tourist Services).

16. Secretaría de la Función Pública (Ministry of Public Administration), includes:
    a. Instituto de Administración y Avalúos de Bienes Nacionales (Institute for Administration and Appraisal of National Property).


22. Centro de Ingeniería y Desarrollo Industrial (Engineering and Industrial Development Center).
SECTION B

Sub-Federal Government Entities

None.

SECTION C

Other Covered Entities

Unless otherwise specified, this Chapter covers procurement by the entities listed in this Section, in accordance with the following thresholds and subject to Section H:

USD$397,535 for Goods and Services

USD$12,721,740 for Construction Services

1. Talleres Gráficos de México (National Printers of Mexico).

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. Servicio Postal Mexicano (Mexican Postal Services).

5. Telecomunicaciones de México (TELECOM) (Telecommunications of México).

6. Petróleos Mexicanos (PEMEX) (Mexican Petroleum) (Not including procurements of fuels or gas)
   - PEMEX Corporativo. (PEMEX Corporative)
   - PEMEX Exploración y Producción. (PEMEX exploration and Production)
   - PEMEX Refinación. (PEMEX Refination)
   - PEMEX Gas y Petroquímica Básica. (PEMEX Gas and Basic Petrochemical)
   - PEMEX Petroquímica. (PEMEX Petrochemical)


9. Distribuidora Impulsora Comercial de Conasupo S.A. de C.V. (Diconsa) (Commercial Distributor and Trade Promotion)

10. Leche Industrializada Conasupo S.A. de C.V. (Liconsa) (Not including the purchase of agricultural goods or goods for human feeding programs).

12. Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado (ISSSTE) (Institute for Social Security and Services for Government Employees).

13. Instituto Mexicano del Seguro Social (IMSS) (Mexican Social Security Institute).

14. 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 goods for human feeding programs).

15. Instituto de Seguridad Social para las Fuerzas Armadas Mexicanas (Social Security Institute for the Mexican Armed Forces).


17. Instituto Nacional para la Educación de los Adultos (National Institute for Adult Education).

18. Centro de Integración Juvenil, A.C (Youth Integration Centers).

19. Instituto Nacional de las Personas Adultas Mayores (National Institute on Old Age).

20. Instituto Nacional de la Infraestructura Física Educativa (National Institute of Physical Educational Infrastructure).


23. Consejo Nacional de Ciencia y Tecnología (CONACYT) (National Science and Technology Council).

24. NOTIMEX S.A. de C.V.

25. Instituto Mexicano de Cinematografía (Mexican Institute of Cinematography).


27. Pronósticos para la Asistencia Pública (Forecasting for Public Assistance).


29. Grupo Aeroportuario de la Ciudad de México S.A. de C.V. (Airport Group of Mexico City)

30. Aeropuerto Internacional de la Ciudad de México, S.A. de C.V. (International Airport of Mexico City).

31. Servicio Aeroportuario de la Ciudad de México, S.A. de C.V. (Airport Services of Mexico City).

32. Instituto Mexicano de la Propiedad Industrial (Mexican Institute of Industrial Property)


34. Instituto Mexicano de la Juventud (Mexican Youth Institute).

35. Ferrocarril del Istmo de Tehuantepec, S.A. de C.V. (Railroad of the Isthmus of Tehuantepec).
6. Consejo de Promoción Turística de México, S.A. de C.V. (México Tourism Board)

Notes to Section C

1. English translation is only provided for purposes of reference; not an official translation.

2. For Brunei, Malaysia, New Zealand and Vietnam, this Chapter does not apply to procurement by entities listed in Section C.

SECTION D

Goods

Unless otherwise specified, this Chapter covers all goods that are procured by the entities listed in Sections A and C. 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- codes)

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
32. Woodworking machinery and equipment
33. Metal-working machinery
34. Service and trade equipment
35. Special industry machinery
36. Agricultural machinery and equipment
37. 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
<table>
<thead>
<tr>
<th>Number</th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>68</td>
<td>Chemicals and chemical products</td>
</tr>
<tr>
<td>69</td>
<td>Training aids and devices</td>
</tr>
<tr>
<td>70</td>
<td>Automatic data processing equipment (including firmware), software, supplies and support equipment</td>
</tr>
<tr>
<td>71</td>
<td>Furniture</td>
</tr>
<tr>
<td>72</td>
<td>Household and commercial furnishings and appliances</td>
</tr>
<tr>
<td>73</td>
<td>Food preparation and serving equipment</td>
</tr>
<tr>
<td>74</td>
<td>Office machines, text processing systems and visible record equipment</td>
</tr>
<tr>
<td>75</td>
<td>Office supplies and devices</td>
</tr>
<tr>
<td>76</td>
<td>Books, maps, and other publications (except 7650: drawings and specifications)</td>
</tr>
<tr>
<td>77</td>
<td>Musical instruments, phonographs, and home-type radios</td>
</tr>
<tr>
<td>78</td>
<td>Recreational and athletic equipment</td>
</tr>
<tr>
<td>79</td>
<td>Cleaning equipment and supplies</td>
</tr>
<tr>
<td>80</td>
<td>Brushes, paints, sealers, and adhesives</td>
</tr>
<tr>
<td>81</td>
<td>Containers, packaging, and packing supplies</td>
</tr>
<tr>
<td>85</td>
<td>Toiletries</td>
</tr>
<tr>
<td>87</td>
<td>Agricultural supplies</td>
</tr>
<tr>
<td>88</td>
<td>Live animals</td>
</tr>
<tr>
<td>91</td>
<td>Fuels, lubricants, oils, and waxes</td>
</tr>
<tr>
<td>93</td>
<td>Nonmetallic fabricated materials</td>
</tr>
<tr>
<td>94</td>
<td>Nonmetallic crude materials</td>
</tr>
<tr>
<td>96</td>
<td>Ores, minerals, and their primary products (except 9620: minerals, natural and synthetic)</td>
</tr>
<tr>
<td>99</td>
<td>Miscellaneous</td>
</tr>
</tbody>
</table>
SECTION E

Services

This Chapter 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 C:

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 y 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 and surveillance systems and armed guards made)
   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
<table>
<thead>
<tr>
<th>Class</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>K110</td>
<td>Solid Fuel Handling Services</td>
</tr>
<tr>
<td>L</td>
<td>Financial and Related Services</td>
</tr>
<tr>
<td></td>
<td>All classes</td>
</tr>
<tr>
<td>R</td>
<td>Professional, Administrative and Management Support Services</td>
</tr>
<tr>
<td>R003</td>
<td>Legal Services</td>
</tr>
<tr>
<td>R004</td>
<td>Certifications and Accreditations for products and institutions other than Educational Institutions</td>
</tr>
<tr>
<td>R012</td>
<td>Patent and Trade Mark Services</td>
</tr>
<tr>
<td>R016</td>
<td>Personal Services Contracts</td>
</tr>
<tr>
<td>R101</td>
<td>Expert Witness (Only for legal services)</td>
</tr>
<tr>
<td>R103</td>
<td>Courier and Messenger Services</td>
</tr>
<tr>
<td>R105</td>
<td>Mail and Distribution Services (Post Office Services excluded)</td>
</tr>
<tr>
<td>R106</td>
<td>Post Office Services</td>
</tr>
<tr>
<td>R116</td>
<td>Court Reporting Services</td>
</tr>
<tr>
<td>R200</td>
<td>Military Recruitment</td>
</tr>
<tr>
<td>S</td>
<td>Utilities</td>
</tr>
<tr>
<td></td>
<td>All classes</td>
</tr>
<tr>
<td>T</td>
<td>Communications, Photographic, Mapping, Printing and Publication Services</td>
</tr>
<tr>
<td>T000</td>
<td>Communications Studies</td>
</tr>
<tr>
<td>T001</td>
<td>Market Research and Public Opinion Services (Formerly Telephone and Field Interviews services, including Focus testing, Syndicated and attitude surveys)</td>
</tr>
<tr>
<td></td>
<td>Except for CPC 86503 Management Consulting Marketing Services.</td>
</tr>
<tr>
<td>T002</td>
<td>Communication Services (including Exhibit Services)</td>
</tr>
<tr>
<td>T003</td>
<td>Advertising Services</td>
</tr>
<tr>
<td>T004</td>
<td>Public Relations Services (Including Writing Services, Even Planning and Management, Media Relations, Radio and TV Analysis, Press Services)</td>
</tr>
<tr>
<td>T005</td>
<td>Arts / Graphics Services</td>
</tr>
<tr>
<td>T008</td>
<td>Film Processing Services</td>
</tr>
<tr>
<td>T009</td>
<td>Film / Video Production Services</td>
</tr>
<tr>
<td>T010</td>
<td>Microfiche Services</td>
</tr>
<tr>
<td>T013</td>
<td>General Photography Services - Still</td>
</tr>
<tr>
<td>T014</td>
<td>Print / Binding Services</td>
</tr>
<tr>
<td>T015</td>
<td>Reproduction Services</td>
</tr>
<tr>
<td>T017</td>
<td>General Photography Services - Motion</td>
</tr>
<tr>
<td>T018</td>
<td>Audio / Visual Services</td>
</tr>
<tr>
<td>T099</td>
<td>Other Communication, Photography, Mapping, Printing and Publication Services</td>
</tr>
<tr>
<td>U</td>
<td>Educational and Training Services</td>
</tr>
<tr>
<td>U003</td>
<td>Reserves Training (Military)</td>
</tr>
<tr>
<td>U010</td>
<td>Certifications and Accreditations for Educational Institutions</td>
</tr>
<tr>
<td>V</td>
<td>Transportation, Travel and Relocation Services</td>
</tr>
<tr>
<td></td>
<td>All classes (except V503 Travel Agent Services)</td>
</tr>
<tr>
<td>W</td>
<td>Lease and Rental of equipment which require patent protection, copyright or other proprietary rights.</td>
</tr>
<tr>
<td>W058</td>
<td>Communication, Detection and Coherent Radiation Equipment</td>
</tr>
</tbody>
</table>

**General Notes:**

1. The provisions of this Chapter do 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, are excluded.
3. All services that are not excluded from the coverage of this Chapter shall be subject to the provisions and annexes on trade in services 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 are excluded from the disciplines of this Chapter.
5. This Chapter does not apply to the procurement of transportation services that are part of, or are incidental to a purchase contract.
SECTION F

Construction Services

This Chapter applies to all construction services procured by the entities listed in Sections A and C, identified in Division 51 of the United Nations Provisional Central Product Classification (CPCProv) which can be found at: http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=51, unless otherwise specified in this Chapter including this Annex.
Section G

General Notes of Mexico

The following General Notes apply to this Chapter, including to Sections A through F:

Transitional Provisions1

PEMEX, CFE and Non-Energy Construction

1. Mexico may set aside from the obligations of this Chapter for each calendar year following the date of entry into force of this Agreement for Mexico the respective percentage specified in paragraph 2 below of:

(a) the total value of procurement contracts for goods and services and any combination thereof and construction services procured by PEMEX in the year that are above the thresholds set out in Section C;
(b) the total value of procurement contracts for goods and services and any combination thereof and construction services procured by CFE in the year that are above the thresholds set out in Annex Section C; and
(c) the total value of procurement contracts for construction services procured in the year that are above the thresholds set out in Section A, excluding procurement contracts for construction services procured by PEMEX and CFE.

2. The percentages referred to in paragraph 1 above are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>45%</td>
<td>45%</td>
<td>40%</td>
<td>40%</td>
</tr>
<tr>
<td>35%</td>
<td>35%</td>
<td>30%</td>
<td>30%</td>
<td>thereafter 0%</td>
</tr>
</tbody>
</table>

3. The value of procurement contracts that are financed by loans from regional and multilateral financial institutions shall not be included in the calculation of the total value of procurement contracts under paragraphs 1 and 2 above.

4. Mexico shall ensure that the total value of the procurement contracts under any single FSC class (or other classification system agreed by the Parties) that are set aside by PEMEX or CFE under paragraphs 1 and 2 above for any calendar year does not exceed 15 per cent of the total value of the procurement contracts that may be set aside by PEMEX or CFE for that year.

Pharmaceuticals

5. Until January 1 of the ninth calendar year following its entry into force of this Agreement for Mexico, this Chapter shall not apply to the procurement by the Secretaría de Salud (Ministry of Health), IMSS, ISSSSTE, Secretaria de la Defensa Nacional (Ministry of National Defense) and the Secretaría de Marina (Ministry of Navy) of drugs that are not currently patented in Mexico or whose Mexican patents have expired. Nothing in this paragraph shall prejudice protection of intellectual property rights under Chapter 18 (Intellectual Property).

1 Transitional provisions in this section shall not apply to Canada, Japan and the United States. With respect to Chile and Peru, Mexico shall apply the equivalent provisions set forth in Annex 8.2, Section G “General Note and Derogations” (Chapter 8) of the Additional Protocol to the Pacific Alliance Agreement.
6. This Chapter does not apply to procurements made:
   (a) with a view to commercial resale by government owned retail stores;
   (b) by one entity from another entity of Mexico; or
   (c) for the purchase of water and for the supply of energy or of fuels for the production of energy.

7. This Chapter does not apply to public utility services (including telecommunication, transmission, water and energy services).

8. This Chapter does not apply to any transportation services including: land transportation (CPC 71); water transport (CPC 72); air transport (CPC 73); supporting and auxiliary transport (CPC 74); post and telecommunication (CPC 75); repair services of other transport equipment, on a fee or contractual basis (CPC 8868).

9. This Chapter does not apply to build-operate-transfer contracts and public works concessions contracts.

10. Notwithstanding any provision in this Chapter, Mexico may set aside procurement contracts from the obligations of this Chapter, subject to the following:2
    a. the total value of the contracts set aside may not exceed the Mexican peso equivalent of:
       i. 1.34 billion United States dollars, in each year until 31 December of the ninth calendar year following the date of entry into force of this Agreement for Mexico, which may be allocated by all entities except PEMEX and CFE;
       ii. 2.23 billion United States dollars, in each year beginning 1 January of the tenth calendar year following the date of entry into force of this Agreement for Mexico, which may be allocated by all entities;
    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 percent of the total value of contracts that may be set aside under this paragraph for that year; and
    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.
    d. the total value of the contracts set aside by PEMEX or CFE may not exceed the Mexican peso equivalent of 892 million United States dollars in each calendar year, beginning 1 January of the tenth year following the date of entry into force of this Agreement for Mexico.

11. 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 10 above shall be adjusted annually for cumulative inflation from the date of entry into force of this Agreement for Mexico, 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”.

The dollar values adjusted for cumulative inflation up to January of each calendar year following 2015 shall be equal to the original dollar values multiplied by the ratio of:

a. 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

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2 For purposes of this paragraph, Mexico shall apply to: (i) Canada and the United States the equivalent provisions set forth in Annex 1001.2b (Schedule of Mexico) of the NAFTA; (ii) Japan the equivalent provisions set forth in Annex 16 referred to in Chapter 11 (General Notes of Mexico, Section 2, Permanent Provisions) of Japan-Mexico Economic Partnership Agreement (EPA); and (iii) Chile and Peru the equivalent provisions set forth in Annex 8.2, Section G “General Note and Derogations” (Chapter 8) of the Additional Protocol to the Pacific Alliance Agreement.
b. 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 (a) and (b) above have the same base year.

The resulting adjusted dollar values shall be rounded to the nearest million dollars.

12. The national security exception provided for in Article 29.2 (Security Exceptions) covers procurements made in support of safeguarding nuclear materials or technology.

13. Notwithstanding any provision of this Chapter, an entity may impose a local content requirement of no more than:

   a. 40 per cent, for labour-intensive turnkey or major integrated projects; or
   b. 25 per cent, for capital-intensive turnkey or major integrated projects.

For the purpose of this paragraph, a “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 nonperformance; and
   iv. the facility will be operated by an entity or through a procurement contract of that entity.

14. 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 10 of its Permanent Provisions or paragraphs 1, 2 and 4 of its Transitional Provisions, 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 the Chapter 28 (Dispute Settlement).

15. Nothing in this Chapter shall be construed to require PEMEX to enter into risk-sharing contracts.

16. This Chapter does not apply to contracts to be awarded to cooperatives and rural or urban unprivileged groups that the government branch or entity agreed directly with them in accordance with laws and regulations existing at the time of the entry into force of this Agreement for Mexico.

17. For greater certainty, this Chapter shall be interpreted in accordance with the following:

   (a) Where a contract to be awarded by a procuring entity is not covered by this Chapter, this Chapter shall not be construed to cover any good or service component of that contract;
   
   (b) Any exclusion that is related either specifically or generally to a procuring entity will also apply to any successor entity in such a manner as to maintain the value of this offer; and
   
   (c) This Chapter does not cover procurement by a procuring entity on behalf of another entity where the procurement would not be covered by this Chapter if it were conducted by the other entity itself.
Section H

Thresholds applicable to Mexico

1. Notwithstanding the threshold values set out in Section A and C, in order to provide equivalence to the current value of the thresholds applied in the context of the NAFTA, Mexico shall, from the date of entry into force of this Agreement for Mexico, apply the NAFTA thresholds, as may be amended, instead of those mentioned in Sections A and C.

2. Mexico shall calculate and convert the value of the thresholds into Mexican pesos using the conversion rate of the Banco de México. Its conversion rate shall be the existing value of the Mexican peso in terms of the US dollar as of 1 December and 1 June of each year, or the first working day thereafter. The conversion rate as of 1 December shall apply from 1 January to 30 June of the following year, and the conversion rate as of 1 June shall apply from 1 July to 31 December of that year.

3. Information related with thresholds will be published in www.compranet.gob.mx

Section I

Procurement Information

Information on government procurements is published on the following websites:

www.dof.gob.mx
www.compranet.gob.mx
www.pemex.com
www.cfe.gob.mx
ANNEX 15-A: SCHEDULE OF NEW ZEALAND

SECTION A

Central government entities whose procurement is covered by this chapter

Chapter 15 (Government Procurement) applies to the central government entities listed in this section where the value of the procurement is estimated, in accordance with Article 15.2 (Scope), to equal or exceed:

<table>
<thead>
<tr>
<th>Goods</th>
<th>SDR: 130,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services</td>
<td>SDR: 130,000</td>
</tr>
<tr>
<td>Construction Services</td>
<td>SDR: 5,000,000</td>
</tr>
</tbody>
</table>

1. Ministry for Primary Industries
2. Canterbury Earthquake Recovery Authority
3. Department of Conservation
4. Department of Corrections
5. Crown Law Office
6. Ministry of Business, Innovation and Employment
7. Ministry for Culture and Heritage
8. Ministry of Defence
9. Ministry of Education
10. Education Review Office
11. Ministry for the Environment
12. Ministry of Foreign Affairs and Trade
14. Ministry of Health
15. Inland Revenue Department
16. Department of Internal Affairs
17. Ministry of Justice
18. Land Information New Zealand
19. Ministry of Māori Development
20. New Zealand Customs Service
21. Ministry of Pacific Island Affairs
22. Department of the Prime Minister and Cabinet
23. Serious Fraud Office
24. Ministry of Social Development  
25. State Services Commission  
26. Statistics New Zealand  
27. Ministry of Transport  
28. The Treasury  
29. Ministry of Women's Affairs  
30. New Zealand Defence Force  
31. New Zealand Police

Note to Section A  
All agencies subordinate to the above listed central government entities are covered, provided that such agency does not have a separate legal personality.

SECTION B  
Sub-central government entities whose procurement is covered by this chapter  
None.

SECTION C  
Other entities whose procurement is covered by this chapter

Chapter 15 (Government Procurement) applies to the other government entities listed in this section where the value of the procurement is estimated, in accordance with Article 15.2 (Scope), to equal or exceed:

<table>
<thead>
<tr>
<th>Category</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods</td>
<td>SDR: 400,000</td>
</tr>
<tr>
<td>Services</td>
<td>SDR: 400,000</td>
</tr>
<tr>
<td>Construction Services</td>
<td>SDR: 5,000,000</td>
</tr>
</tbody>
</table>

1. New Zealand Antarctic Institute  
2. New Zealand Trade and Enterprise  
3. Civil Aviation Authority of New Zealand  
4. Energy Efficiency and Conservation Authority  
5. Maritime New Zealand  
6. New Zealand Fire Service Commission  
7. Tertiary Education Commission  
8. Sport New Zealand (excluding procurement of goods and services containing confidential information related to enhancing competitive sport performance)
9. Careers New Zealand
10. Education New Zealand.

Notes to Section C

1. For the entities listed in this section, Chapter 15 (Government Procurement) covers only those entities listed and does not extend to subordinate or subsidiary agencies.
2. New Zealand does not offer coverage of entities listed in section C to Mexico.

SECTION D
Goods

Chapter 15 (Government Procurement) applies to all goods procured by the entities listed in Sections A and C, unless otherwise specified in Chapter 15 (Government Procurement), including this Annex.

SECTION E
Services

Chapter 15 (Government Procurement) applies to all services procured by the entities listed in Sections A and C unless otherwise specified in Chapter 15 (Government Procurement), except the following:

(a) procurement of research and development services;¹
(b) procurement of public health, education and welfare services;² and
(c) procurements listed in Section G.

SECTION F
Construction services

Chapter 15 (Government Procurement) applies to all construction services³ procured by the entities listed in Sections A and C unless otherwise specified in this Chapter, except for procurement not covered as set out in Section G.

¹ As defined in WTO document MTN.GNS/W/120 (CPC 851-853).
² Refers to procurement, for provision to the public, of services classified in WTO document MTN.GNS/W/120 under the sector headings “Educational Services” (CPC 921, 922, 923, 924, and 929) and “Health Related and Social Services”, (Public Health: CPC 931, including 9311, 9312 and 9319); Welfare: CPC 933 and 913).
³ Refers to WTO document MTN.GNS/W/120 sector heading “Construction and Related Engineering Services”.
SECTION G
General Notes

Chapter 15 (Government Procurement) shall not apply to:

a. any procurement by an entity covered under this Annex from another entity covered under this Annex;

b. procurement of goods or services in respect of contracts for construction, refurbishment or furnishing of chanceries abroad;\(^4\)

c. any programme, preference, set-aside or any other measure that benefits SMEs;

d. any procurement for the purposes of developing, protecting or preserving national treasures of artistic, historic, archaeological value or cultural heritage; or

e. procurement of storage or hosting of government data and related services based on storage or processing outside the territory of New Zealand to protect government information as described in Article 14.2.6.(b).

For greater certainty, Chapter 15 (Government Procurement) shall be interpreted in accordance with the following:

a. a procuring entity may apply limited tendering procedures under Article 15.10.2.(b) (Limited Tendering) or 15.10.2.(g) (Limited Tendering) in relation to unsolicited unique proposals;\(^5\)

b. with reference to Article 15.2.(d) (Scope) this Agreement does not apply to any procurement made by a procuring entity covered under this Annex on behalf of an organisation that is not covered under this Annex;

c. with reference to Article 15.2.2 (Scope) this Agreement does not apply to commercial sponsorship arrangements; and

d. with reference to Article 15.2.2 (Scope) this Agreement does not apply to governmental provision of goods and services.

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\(^4\) As regards construction services, this refers to WTO document MTN.GNS/W/120 sector heading Construction and Related Engineering Services”.

\(^5\) As defined and handled in the New Zealand government guidance document, “Unsolicited Unique Proposals – How to deal with uninvited bids” (May 2013), as updated from time to time.
SECTION H
Threshold Adjustment Formula

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1.

2. Every two years, New Zealand shall calculate and publish the value of the thresholds under this Chapter expressed in New Zealand dollars. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the New Zealand dollar in terms of the Special Drawing Rights (SDR) over the two-year period preceding October 1 of the year before the adjusted thresholds are to take effect.

4. New Zealand shall consult if a major change in its national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.

SECTION I
Publication of Procurement Information

The information to be published under this Chapter 15 (Government Procurement) will be published as follows:

New procurement opportunities: Government Electronic Tenders Service  www.gets.govt.nz
Procurement policy and practice:  www.procurement.govt.nz
New Zealand legislation:  www.legislation.govt.nz
SECTION A: CENTRAL LEVEL OF GOVERNMENT ENTITIES

Goods
Threshold: 95,000 SDR

Services
Threshold: 95,000 SDR

Construction Services
Threshold: 5,000,000 SDR

Peru’s Schedule

Unless otherwise specified herein, this Chapter covers all agencies subordinate to the entities listed in Peru’s Schedule.

1. Superintendencia Nacional de Educación (National Superintendent of Education)
2. Banco Central de Reserva del Perú (Central Reserve Bank of Peru)
3. Congreso de la República del Perú (Congress of the Republic of Peru)
4. Consejo Nacional de la Magistratura (National Council of Magistrates)
5. Contraloría General de la República (Comptroller General’s Office of the Republic)
6. Defensoría del Pueblo (Office of the People’s Ombudsperson)
7. Jurado Nacional de Elecciones (National Electoral Board)
8. Ministerio de Agricultura y Riego (Ministry of Agriculture and Irrigation)
9. Ministerio del Ambiente (Ministry of Environment)
10. Ministerio de Comercio Exterior y Turismo (Ministry of Foreign Trade and Tourism)
11. Ministerio de Cultura (Ministry of Culture)
12. Ministerio de Defensa (Ministry of Defense) (Note 1)
13. Ministerio de Economía y Finanzas (Ministry of Economy and Finance) (Note 2)
14. Ministerio de Educación (Ministry of Education)
15. Ministerio de Energía y Minas (Ministry of Energy and Mining)
16. Ministerio de Justicia y Derechos Humanos (Ministry of Justice and Human Rights)
17. Ministerio de la Mujer y Poblaciones Vulnerables (Ministry of the Woman and Vulnerable Populations)
18. Ministerio de la Producción (Ministry of Production)
19. Ministerio de Relaciones Exteriores (Ministry of Foreign Affairs)
20. Ministerio de Salud (Ministry of Health)
21. Ministerio de Trabajo y Promoción del Empleo (Ministry of Labor and Employment Development)
22. Ministerio de Transportes y Comunicaciones (Ministry of Transport and Telecommunications)
23. Ministerio de Vivienda, Construcción y Saneamiento (Ministry of Housing, Construction and Sanitation)
24. Ministerio del Interior (Ministry of Interior) (Note 1)
25. Ministerio Público (Prosecutor’s Ministry)
27. Poder Judicial (Judicial Power)
28. Presidencia del Consejo de Ministros (Presidency of the Council of Ministers)
29. Registro Nacional de Identificación y Estado Civil (National Registry of Identification and Marital Status)
30. Seguro Social de Salud (ESSALUD) (Health Insurance) (Note 3)
31. Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones (AFPs) (Superintendence of Banking, Insurance and Private Administrators of Pension Funds/AFPs)
32. Tribunal Constitucional (Constitutional Tribunal)

Notes to Peru’s Schedule

1. Ministerio de Defensa and Ministerio del Interior (Ministry of Defense and Ministry of Interior): this Chapter shall not cover the procurement of clothing/apparel (HS 6205) and footwear (HS 64011000) by the Army, Navy, Air Force, or National Police of Peru.

2. Ministerio de Economía y Finanzas (Ministry of Economy and Finance): this Chapter shall not cover procurement by the Agency for the Promotion of Private Investment (PROINVERSION) of technical, legal, financial, economic, or similar consulting services, which are necessary to promote private investment through the granting of concessions or other means such as capital increase, joint ventures, service, leasing, and management contracts.

3. Seguro Social de Salud (ESSALUD) (Health Insurance): this Chapter does not cover the procurement of sheets (HS 6301) and blankets (HS 6302).
SECTION B: SUB CENTRAL LEVEL OF GOVERNMENT ENTITIES

Goods
Threshold: 200,000 SDR

Services
Threshold: 200,000 SDR

Construction Services
Threshold: 5,000,000 SDR

Peru’s Schedule

This Chapter covers procurement only by those entities listed in this Schedule.

1. Gobierno Regional de Amazonas (Regional Government of Amazonas)
2. Gobierno Regional de Ancash (Regional Government of Ancash)
3. Gobierno Regional de Arequipa (Regional Government of Arequipa)
4. Gobierno Regional de Ayacucho (Regional Government of Ayacucho)
5. Gobierno Regional de Apurimac (Regional Government of Apurimac)
6. Gobierno Regional de Cajamarca (Regional Government of Cajamarca)
7. Gobierno Regional del Callao (Regional Government of Callao)
8. Gobierno Regional de Cusco (Regional Government of Cusco)
9. Gobierno Regional de Ica (Regional Government of Ica)
10. Gobierno Regional de Huancavelica (Regional Government of Huancavelica)
11. Gobierno Regional de Huánuco (Regional Government of Huanuco)
12. Gobierno Regional de Junín (Regional Government of Junin)
13. Gobierno Regional de la Libertad (Regional Government of La Libertad)
14. Gobierno Regional de Lambayeque (Regional Government of Lambayeque)
15. Gobierno Regional de Lima (Regional Government of Lima)
16. Gobierno Regional de Loreto (Regional Government of Loreto)
17. Gobierno Regional de Madre de Dios (Regional Government of Madre de Dios)
18. Gobierno Regional de Moquegua (Regional Government of Moquegua)
19. Gobierno Regional de Pasco (Regional Government of Pasco)
20. Gobierno Regional de Piura (Regional Government of Piura)
21. Gobierno Regional de Puno (Regional Government of Puno)
22. Gobierno Regional de San Martín (Regional Government of San Martin)
23. Gobierno Regional de Tacna (Regional Government of Tacna)
24. Gobierno Regional de Tumbes (Regional Government of Tumbes)
25. Gobierno Regional de Ucayali (Regional Government of Ucayali)

Note: Peru offers the entities listed under this Section with respect to:
(a) those Parties that assume equivalent commitments at the same level of government, and
(b) those Parties that:
   i. are signatories of the TPP Agreement at the date of its entry into force, and
   ii. do not have sub-central entities.
SECTION C: OTHER COVERED ENTITIES

Goods
Threshold: 160,000 SDR

Services
Threshold: 160,000 SDR

Construction Services
Threshold: 5,000,000 SDR

Peru’s Schedule
1. Agro Banco (Agriculture Bank)
2. Banco de la Nación (National Bank)
3. Compañía de Negociaciones Mobiliarias e Inmobiliarias S.A. (Negotiation Company of Real Estate and Movable Property)
4. Corporación Financiera de Desarrollo S.A. (Financial Corporation of Development)
5. Corporación Peruana de Aeropuertos y Aviación Civil S.A. (CORPAC) (Peruvian Corporation of Airports and Civil Aviation) (CORPAC)
6. Electricidad del Perú S.A. (ELECTROPERU) (Electricity Company of Peru)
7. Empresa Eléctrica del Sur S.A. (Electricity Company of the South)
8. Empresa de Administración de Infraestructura Eléctrica S.A. (Administration Company of Electric Infrastructure)
9. Empresa de Generación Eléctrica de Machupicchu (Hydro Power Company of Machupicchu)
10. Empresa Nacional de la Coca S.A. (ENACO) (National Company of the Coca)
11. Empresa Nacional de Puertos S.A. (ENAPU) (Peru National Harbors Company)
12. Empresa Peruana de Servicios Editoriales (Peruvian Company of Publishing Services)
13. Empresa Regional de Servicios Públicos de Electricidad del Oriente (Regional Company of Electricity Public Services of the Orient)
14. Empresa Regional de Servicios Públicos de Electricidad del Sur Este S.A. (Regional Company of Electricity Public Services of the South East)
15. PERUPETRO
16. Petróleos del Perú (PETROPERU) (Peru’s Oil Company) (Note 1)
17. Servicio de Agua Potable y Alcantarillado de Lima (SEDAPAL) (Potable Water and Sewerage Service of Lima)
18. Servicio Industrial de la Marina (SIMA) (Naval Industrial Services)
19. Servicios Postales del Perú S.A (Peru Postal Services)
20. Sociedad Eléctrica del Sur Oeste (Electric Company of the South West)
Note to Peru Schedule

(Note 1) Petróleos del Perú (PETROPERU) (Peru’s Oil Company): this Chapter does not cover the procurement of the following goods:

(a) Crude Petroleum
(b) Gasoline
(c) Propane
(d) Diesel oil
(e) Butane
(f) Low sulfur medium distillation or Gasoil
(g) Natural gas
(h) Bio-diesel
(i) Saturated acyclic hydrocarbons
(j) Catalyzers
(k) Ethanol
(l) Additives
SECTION D: GOODS

This Chapter shall apply to all goods procured by the entities listed in Sections A, B and C, subject to the Notes to the respective Sections and Section G.
SECTION E: SERVICES

Peru’s Schedule

This Chapter shall apply to all services procured by the entities listed in Sections A, B and C subject to the Notes to the respective Sections, and Section G, except for the services excluded in Peru’s Schedule.

This Chapter shall not cover the procurement of the following services, as elaborated in the Central Product Classification Version 1.1. (For complete listing of Central Product Classification Version 1.1, see http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=16):

- CPC 8221 Accounting and auditing services
- CPC 82191 Arbitration and conciliating services
SECTION F: CONSTRUCTION SERVICES

This Chapter shall apply to the procurement of all construction services under CPC 51 procured by the procuring entities listed in Sections A, B and C, unless otherwise specified in this Chapter.
SECTION G: GENERAL NOTES

Unless otherwise specified herein, the following General Notes in each Party’s Schedule shall apply without exception to this Chapter, including to all Sections of this Annex.

Peru’s Schedule

I. General Notes:

1. This Chapter shall not apply to procurement programs on behalf of micro and small sized enterprises.

2. This Chapter shall not apply to the procurement of goods for food assistance programs.

3. This Chapter shall not apply to the acquisition of weavings and clothing made with alpaca and llama fibers.

4. This Chapter shall not apply to procurement by the embassies, consulates, and other missions of the foreign service of Peru, exclusively for their operation and management.

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

   (a) the incurring of public indebtedness; or

   (b) public debt management.

6. This Chapter does not apply to procurement by one Peruvian entity of a good or service from another Peruvian entity.
SECTION H: MEANS OF PUBLICATION

All information on government procurements is published on the following websites:

Legislation and Jurisprudence: www.osce.gob.pe

Procuring opportunities on goods and services: www.seace.gob.pe

Procuring opportunities on BOT contracts and public works concessions contracts: www.proinversion.gob.pe

National Registry of Suppliers (RNP): www.rnp.gob.pe
SECTION I: VALUE OF THRESHOLDS

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, 2018.

2. Every two years, Peru shall calculate and publish the value of the thresholds under this Chapter expressed in Nuevos Soles. These calculations shall be based on the conversion rates published by the International Monetary Fund in its monthly “International Financial Statistics”.

3. The conversion rates shall be the average of the daily values of the Nuevos Soles in terms of the Special Drawing Rights (SDR) over the two-year period proceeding October 1 of the year before the adjusted thresholds are to take effect.

4. Peru shall notify the other Parties of the current thresholds in its currency immediately after this Agreement enters into force, and the adjusted thresholds in its currency thereafter in a timely manner.

5. Peru shall consult if a major change in a national currency relative to the SDR or to the national currency of another Party were to create a significant problem with regard to the application of the Chapter.
CHAPTER 16

COMPETITION POLICY

Article 16.1: Competition Law and Authorities and Anticompetitive Business Conduct

1. Each Party shall adopt or maintain national competition laws that proscribe anticompetitive business conduct, with the objective of promoting economic efficiency and consumer welfare, and shall take appropriate action with respect to that conduct. These laws should take into account the APEC Principles to Enhance Competition and Regulatory Reform done at Auckland, September 13, 1999.

2. Each Party shall endeavour to apply its national competition laws to all commercial activities in its territory. However, each Party may provide for certain exemptions from the application of its national competition laws provided that those exemptions are transparent and are based on public policy grounds or public interest grounds.

3. Each Party shall maintain an authority or authorities responsible for the enforcement of its national competition laws (national competition authorities). Each Party shall provide that it is the enforcement policy of that authority or authorities to act in accordance with the objectives set out in paragraph 1 and not to discriminate on the basis of nationality.

Article 16.2: Procedural Fairness in Competition Law Enforcement

1. Each Party shall ensure that before it imposes a sanction or remedy against a person for violating its national competition laws, it affords that person:

   (a) information about the national competition authority’s competition concerns;

   (b) a reasonable opportunity to be represented by counsel; and

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1 This Article is subject to Annex 16-A (Application of Article 16.2, Article 16.3 and Article 16.4 to Brunei Darussalam).

2 For greater certainty, nothing in paragraph 2 shall be construed to preclude a Party from applying its competition laws to commercial activities outside its borders that have anticompetitive effects within its jurisdiction.

3 This Article is subject to Annex 16-A (Application of Article 16.2, Article 16.3 and Article 16.4 to Brunei Darussalam).
(c) a reasonable opportunity to be heard and present evidence in its defence, except that a Party may provide for the person to be heard and present evidence within a reasonable time after it imposes an interim sanction or remedy.

In particular, each Party shall afford that person a reasonable opportunity to present evidence or testimony in its defence, including: if applicable, to offer the analysis of a properly qualified expert, to cross-examine any testifying witness; and to review and rebut the evidence introduced in the enforcement proceeding.

2. Each Party shall adopt or maintain written procedures pursuant to which its national competition law investigations are conducted. If these investigations are not subject to definitive deadlines, each Party’s national competition authorities shall endeavour to conduct their investigations within a reasonable time frame.

3. Each Party shall adopt or maintain rules of procedure and evidence that apply to enforcement proceedings concerning alleged violations of its national competition laws and the determination of sanctions and remedies thereunder. These rules shall include procedures for introducing evidence, including expert evidence if applicable, and shall apply equally to all parties to a proceeding.

4. Each Party shall provide a person that is subject to the imposition of a sanction or remedy for violation of its national competition laws with the opportunity to seek review of the sanction or remedy, including review of alleged substantive or procedural errors, in a court or other independent tribunal established under that Party’s laws.

5. Each Party shall authorise its national competition authorities to resolve alleged violations voluntarily by consent of the authority and the person subject to the enforcement action. A Party may provide for such voluntary resolution to be subject to judicial or independent tribunal approval or a public comment period before becoming final.

6. If a Party’s national competition authority issues a public notice that reveals the existence of a pending or ongoing investigation, that authority shall avoid implying in that notice that the person referred to in that notice has engaged in the alleged conduct or violated the Party’s national competition laws.

7. If a Party’s national competition authority alleges a violation of its national

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4 For the purposes of this Article, “enforcement proceedings” means judicial or administrative proceedings following an investigation into the alleged violation of the competition laws.
competition laws, that authority shall be responsible for establishing the legal and factual basis for the alleged violation in an enforcement proceeding.\(^5\)

8. Each Party shall provide for the protection of business confidential information, and other information treated as confidential under its law, obtained by its national competition authorities during the investigative process. If a Party’s national competition authority uses or intends to use that information in an enforcement proceeding, the Party shall, if it is permissible under its law and as appropriate, provide a procedure to allow the person under investigation timely access to information that is necessary to prepare an adequate defence to the national competition authority’s allegations.

9. Each Party shall ensure that its national competition authorities afford a person under investigation for possible violation of the national competition laws of that Party reasonable opportunity to consult with those competition authorities with respect to significant legal, factual or procedural issues that arise during the investigation.

**Article 16.3: Private Rights of Action\(^6\)**

1. For the purposes of this Article, “private right of action” means the right of a person to seek redress, including injunctive, monetary or other remedies, from a court or other independent tribunal for injury to that person’s business or property caused by a violation of national competition laws, either independently or following a finding of violation by a national competition authority.

2. Recognising that a private right of action is an important supplement to the public enforcement of national competition laws, each Party should adopt or maintain laws or other measures that provide an independent private right of action.

3. If a Party does not adopt or maintain laws or other measures that provide an independent private right of action, the Party shall adopt or maintain laws or other measures that provide a right that allows a person:

   (a) to request that the national competition authority initiate an investigation into an alleged violation of national competition laws; and

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\(^5\) Nothing in paragraph 7 shall prevent a Party from requiring that a person against whom such an allegation is made be responsible for establishing certain elements in defence of the allegation.

\(^6\) This Article is subject to Annex 16-A (Application of Article 16.2, Article 16.3 and Article 16.4 to Brunei Darussalam).
(b) to seek redress from a court or other independent tribunal following a finding of violation by the national competition authority.

4. Each Party shall ensure that a right provided pursuant to paragraph 2 or 3 is available to persons of another Party on terms that are no less favourable than those available to its own persons.

5. A Party may establish reasonable criteria for the exercise of any rights it creates or maintains in accordance with this Article.

**Article 16.4: Cooperation**

1. The Parties recognise the importance of cooperation and coordination between their respective national competition authorities to foster effective competition law enforcement in the free trade area. Accordingly, each Party shall:

   (a) cooperate in the area of competition policy by exchanging information on the development of competition policy; and

   (b) cooperate, as appropriate, on issues of competition law enforcement, including through notification, consultation and the exchange of information.

2. A Party’s national competition authorities may consider entering into a cooperation arrangement or agreement with the competition authorities of another Party that sets out mutually agreed terms of cooperation.

3. The Parties agree to cooperate in a manner compatible with their respective laws, regulations and important interests, and within their reasonably available resources.

**Article 16.5: Technical Cooperation**

Recognising that the Parties can benefit by sharing their diverse experience in developing, applying and enforcing competition law and in developing and implementing competition policies, the Parties shall consider undertaking mutually agreed technical cooperation activities, subject to available resources, including:

   (a) providing advice or training on relevant issues, including through the exchange of officials;

   (b) exchanging information and experiences on competition advocacy, including
ways to promote a culture of competition; and

(c) assisting a Party as it implements a new national competition law.

**Article 16.6: Consumer Protection**

1. The Parties recognise the importance of consumer protection policy and enforcement to creating efficient and competitive markets and enhancing consumer welfare in the free trade area.

2. For the purposes of this Article, fraudulent and deceptive commercial activities refers to those fraudulent and deceptive commercial practices that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, for example:

   (a) a practice of making misrepresentations of material fact, including implied factual misrepresentations, that cause significant detriment to the economic interests of misled consumers;

   (b) a practice of failing to deliver products or provide services to consumers after the consumers are charged; or

   (c) a practice of charging or debiting consumers’ financial, telephone or other accounts without authorisation.

3. Each Party shall adopt or maintain consumer protection laws or other laws or regulations that proscribe fraudulent and deceptive commercial activities.7

4. The Parties recognise that fraudulent and deceptive commercial activities increasingly transcend national borders and that cooperation and coordination between the Parties is desirable to effectively address these activities.

5. Accordingly, 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.

6. The Parties shall endeavour to cooperate and coordinate on the matters set out in this Article through the relevant national public bodies or officials responsible for consumer

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7 For greater certainty, the laws or regulations a Party adopts or maintains to proscribe these activities can be civil or criminal in nature.
protection policy, laws or enforcement, as determined by each Party and compatible with
their respective laws, regulations and important interests and within their reasonably available
resources.

Article 16.7: Transparency

1. The Parties recognise the value of making their competition enforcement policies as
transparent as possible.

2. Recognising the value of the APEC Competition Law and Policy Database in
enhancing the transparency of national competition laws, policies and enforcement activities,
each Party shall endeavour to maintain and update its information on that database.

3. On request of another Party, a Party shall make available to the requesting Party
public information concerning:

   (a) its 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.

4. Each Party shall ensure that a final decision finding a violation of its national
competition laws is made in writing and sets out, in non-criminal matters, findings of fact and
the reasoning, including legal and, if applicable, economic analysis, on which the decision is
based.

5. Each Party shall further ensure that a final decision referred to in paragraph 4 and any
order implementing that decision are published, or if publication is not practicable, are
otherwise made available to the public in a manner that enables interested persons and other
Parties to become acquainted with them. Each Party shall ensure that the version of the
decision or order that is made available to the public does not include confidential
information that is protected from public disclosure by its law.

Article 16.8: Consultations

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. The Party addressed shall accord full and sympathetic consideration to the concerns of the requesting Party.

Article 16.9: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter BBB (Dispute Settlement) for any matter arising under this Chapter.
Annex 16-A:

Application of Article 16.2, Article 16.3 and Article 16.4 to Brunei Darussalam

1. If as of the date of entry into force of this Agreement, Brunei Darussalam does not have a national competition law which is in force and has not established a national competition authority, Article 16.2 (Procedural Fairness in Competition Law Enforcement), Article 16.3 (Private Rights of Action) and Article 16.4 (Cooperation) shall not apply to Brunei Darussalam for a period of no longer than 10 years after that date.

2. If Brunei Darussalam establishes a national competition authority or authorities before the end of the 10 year period, Article 16.2 (Procedural Fairness in Competition Law Enforcement), Article 16.3 (Private Rights of Action), and Article 16.4 (Cooperation) shall apply to Brunei Darussalam from the date of establishment.

3. During the 10 year period, Brunei Darussalam shall take such steps as may be necessary to ensure that it is in compliance with Article 16.2 (Procedural Fairness in Competition Law Enforcement), Article 16.3 (Private Rights of Action) and Article 16.4 (Cooperation) at the end of the 10-year period and shall endeavour to comply with these obligations before the end of such period. Upon request of a Party, Brunei Darussalam shall inform the Parties of its progress since entry into force of the Agreement in developing and implementing an appropriate national competition law and establishing a national competition authority or authorities.
CHAPTER 17

STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

Article 17.1: 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, designate, or authorise 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 referenced in sub-paragraph (a); and

(c) is free from investment direction from 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 to a state-owned enterprise by virtue of that state-owned enterprise’s government ownership or control, where:

(a) “assistance” means:

(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 favourable than those commercially available to that 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 practices; 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) intra-group transactions within a corporate group including state-owned enterprises (e.g. between the parent and subsidiaries of the group, or among the group’s subsidiaries) when normal business practices require reporting the financial position of the group excluding these intra-group transactions, (b) other transactions between state-owned enterprises that are consistent with the usual practices of privately owned enterprises in arm’s length transactions, or (c) 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.
C. equity capital inconsistent with the usual investment practice (including for the provision of risk capital) of private investors; or

(ii) goods or services other than general infrastructure on terms more favourable than those commercially available to that enterprise;

(b) “by virtue of that state-owned enterprise’s government ownership or control” means:  

(i) the Party or any of the Party’s state enterprises or state-owned enterprises explicitly limits access to the assistance to any of its state-owned enterprises;

(ii) the Party or any of the Party’s state enterprises or state-owned enterprises provides assistance which is predominately used by the Party’s state-owned enterprises;

(iii) the Party or any of the Party’s state enterprises or state-owned enterprises provides a disproportionately large amount of the assistance to the Party’s state-owned enterprises; or

(iv) the Party or any of the Party’s state enterprises or state-owned enterprises otherwise favours the Party’s state-owned enterprises through the use of its discretion in the provision of assistance;

a 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;

sovereign wealth fund means an enterprise owned, or controlled through ownership interests, by a Party that:

(a) serves solely as a special purpose investment fund or arrangement for asset management, investment, and related activities, using financial assets of a Party; and

5 In determining whether the assistance is provided “by virtue of that enterprise’s government ownership or control,” account shall be taken of the extent of diversification of economic activities within the territory of the Party, as well as of the length of time during which the non-commercial assistance programme has been in operation.

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 greater certainty, the Parties understand that the word “arrangements” as an alternative to “funds” allows for a flexible interpretation of the legal arrangement through which the assets can be invested.
(b) is a Member of the International Forum of Sovereign Wealth Funds or endorses the Generally Accepted Principles and Practices ("Santiago Principles") issued by the International Working Group of Sovereign Wealth Funds, October 2008, or such other principles and practices as may be agreed to by the Parties; and includes any special purpose vehicles established solely for such activities described in sub-paragraph (a) wholly owned by the enterprise, or wholly owned by the Party but managed by the enterprise; and

**state-owned enterprise** means an enterprise:

(a) that is principally engaged in commercial activities; and

(b) in which a Party:

(i) directly owns more than 50 percent of the share capital;

(ii) controls, through ownership interests, the exercise of more than 50 percent of the voting rights; or

(iii) holds the power to appoint a majority of members of the board of directors or any other equivalent management body.

**Article 17.2: Scope**

1. This Chapter shall apply with respect to the activities of state-owned enterprises and designated monopolies of a Party that affect trade or investment between Parties within the free trade area.9

2. Nothing in this Chapter shall prevent a central bank or monetary authority of a Party from performing regulatory or supervisory activities or conducting monetary and related credit policy and exchange rate policy.

3. Nothing in this Chapter shall prevent 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 organisation or association, from exercising regulatory or supervisory authority over financial services suppliers.

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8 For the purposes of this Chapter, the terms “financial service supplier,” “financial institution” and “financial services” have the same meaning as in Article 11.1 (Definitions).

9 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 17.7 (Adverse Effects).
4. Nothing in this Chapter shall prevent a Party, or one of its state enterprises or state-owned enterprises from undertaking activities 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.

5. This Chapter shall not apply with respect to a sovereign wealth fund of a Party, except:
   (a) Article 17.6.1 and Article 17.6.3 (Non-commercial Assistance) shall apply with respect to a Party’s indirect provision of non-commercial assistance through a sovereign wealth fund; and
   (b) Article 17.6.2 (Non-commercial Assistance) shall apply with respect to a sovereign wealth fund’s provision of non-commercial assistance;

6. This Chapter shall not apply with respect to:
   (a) an independent pension fund of a Party; or
   (b) an enterprise owned or controlled by an independent pension fund of a Party, except:
      (i) Article 17.6.1 and Article 17.6.3 (Non-commercial Assistance) shall apply 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 17.6.1 and Article 17.6.3 (Non-commercial Assistance) shall apply with respect to a Party’s indirect provision of non-commercial assistance through an enterprise owned or controlled by an independent pension fund.

7. This Chapter shall not apply to government procurement.

8. Nothing in this Chapter shall prevent a state-owned enterprise of a Party from providing goods or services exclusively to that Party for the purposes of carrying out that Party’s governmental functions.

9. 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

10 Malaysia shall not be subject to dispute settlement under Chapter 28 (Dispute Settlement) with respect to enterprises owned or controlled by Khazanah Nasional Berhad for a period of two years following the entry into force of this Agreement, in light of ongoing development of state-owned enterprise reform legislation.
10. Articles 17.4 (Non-discriminatory treatment and commercial considerations), Article 17.6 (Non-commercial Assistance), and Article 17.10 ((Transparency) shall not apply to any service supplied in the exercise of governmental authority.  

11. Article 17.4.1(b), Article 17.4.1(c), Article 17.4.2(b), and Article 17.4.2(c) (Non-discriminatory treatment and commercial considerations) shall 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 9.11.1 (Non-Conforming Measures), Article 10.7.1 (Non-Conforming Measures) or Article 11.10.1 (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 9.11.2 (Non-Conforming Measures), Article 10.7.2 (Non-Conforming Measures) or Article 11.10.2 (Non-Conforming Measures), as set out in its Schedule to Annex II or in Section B of its Schedule to Annex III.

Article 17.3: Delegated 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, such entities act in a manner that is not inconsistent with that Party’s obligations under this Agreement.  

Article 17.4: Non-discriminatory treatment and commercial considerations

1. Each Party shall ensure that each of its state-owned enterprises, when engaging in commercial activities:

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11 For the purposes of this paragraph, “a service supplied in the exercise of governmental authority” has the same meaning as in the WTO General Agreement in Trade in Services, including the meaning in the Financial Services Annex where applicable.

12 Examples of regulatory, administrative or other governmental authority include the power to expropriate, grant licences, approve commercial transactions, or impose quotas, fees or other charges.
(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 subparagraph (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 favourable 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 favourable 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 favourable 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 favourable 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.

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); and

   (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 favourable 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

\[\text{Article 17.4.1 (Non-discriminatory treatment and commercial considerations) shall not apply with respect to the purchase or sale of shares, stock or other forms of equity by a state-owned enterprise as a means of its equity participation in another enterprise.}\]
(ii) accords to a good or service supplied by an enterprise that is a covered investment in the Party’s territory treatment no less favourable than it accords to a like good or a like service sold 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 favourable 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 favourable 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-monopolised market in its territory that negatively affect trade or investment between the Parties.\(^{14}\)

3. Paragraph 1(b) and (c) and paragraph 2 (b) and (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

(b) refusing to purchase or sell goods or services,

provided that such differential treatment or refusal is undertaken in accordance with commercial considerations.

**Article 17.5: 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 country based on a

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\(^{14}\) For greater certainty, a Party may comply with the requirements of sub-paragraph (d) through the enforcement or implementation of its generally applicable national competition laws and regulations, its economic regulatory laws and regulations, or other appropriate measures.
commercial activity carried on in its territory.\(^{15}\) 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 country.

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.\(^{16}\)

**Article 17.6: Non-commercial Assistance**

1. No Party shall cause\(^{17}\) adverse effects to the interests of another Party through the use of non-commercial assistance that it provides, either directly or indirectly\(^{18}\) 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;

   (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 a third Party.

2. 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 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;

\(^{15}\) Article 17.5.1 (Courts and Administrative Bodies) 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 country other than those claims referred to in this paragraph.

\(^{16}\) For greater certainty, the impartiality with which an administrative body exercises its regulatory discretion is to be assessed by reference to a pattern or practice of that administrative body.

\(^{17}\) For the purposes of Article 17.6(1) and (2) (Non-commercial Assistance), 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.

\(^{18}\) 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.
(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 a third Party.

3. No Party shall cause injury to a domestic industry 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 another 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.  

4. A service supplied by a state-owned enterprise of a Party within that Party’s territory shall be deemed to not cause adverse effects.

Article 17.7: Adverse Effects

1. For the purposes of paragraphs 1 and 2 of Article 17.6 (Non-commercial Assistance), adverse effects arise where:

(a) the effect of the non-commercial assistance is 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) the effect of the non-commercial assistance is 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:

19 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 products 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 paragraph 3.

20 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 such cases, there must be evidence that a prospective domestic producer has made a substantial commitment to commence production and sales of the like good.

21 For greater certainty, this paragraph shall not be construed to apply to a service that is itself a form of non-commercial assistance.
(i) from 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 another Party; or

(ii) from the market of a non-Party imports of a like good of another Party;

(c) the effect of the non-commercial assistance is 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:

(i) in 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) in 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) the effect of the non-commercial assistance is 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 a third Party; or

(e) the effect of the non-commercial assistance is 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 a third Party, or significant price suppression, price depression or lost sales in the same market.  

2. For the purposes of subparagraphs (a), (b), and (d) of paragraph 1, 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;

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22 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 be construed to give rise to adverse effects as provided for in 17.7.1 (Adverse Effects).
(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 subparagraphs (c) and (e) of paragraph 1, 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

(a) before the signing of this Agreement, or

(b) within 3 years after the signing of this Agreement pursuant to a law that is enacted, or contractual obligation undertaken, prior to the signing of this Agreement shall be deemed to not cause adverse effects.

6. For the purposes of 17.6.1(b) and 17.6.2(b), adverse effects are deemed not to arise from the initial capitalisation of a state-owned enterprise, or the acquisition by a Party of a controlling interest in an enterprise, that is principally engaged in the supply of services within the territory of the Party.

Article 17.8: Injury

1. For the purposes of Article 17.6.3 (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.  

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 utilisation 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 programmes. 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 of the non-commercial assistance, causing injury within the meaning of this Article. The demonstration of a causal relationship between the above mentioned goods 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, inter alia, 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.

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23 The periods for examination of the non-commercial assistance and injury shall be reasonably established and shall end as closely as practical to the date of initiation of the proceeding before the arbitral tribunal.

24 As set forth in paragraph 2 and 3.
5. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. A determination of a threat of material injury 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 consideration of relevant factors 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 17.9: Party-Specific Annexes**

1. Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations) and Article 17.6 (Non-commercial Assistance) shall 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 17.4 (Non-Discriminatory Treatment and Commercial Considerations), Article 17.5 (Courts and Administrative Bodies), Article 17.6 (Non-commercial Assistance) and 17.10 (Transparency) shall not apply with respect to a Party’s state-owned enterprises or designated monopolies as set out in Annex 17-D.

3. (a) In the case of Singapore, Annex 17-E shall apply.

(b) In the case of Malaysia, Annex 17-F shall apply.

**Article 17.10: Transparency**

25 In making a determination regarding the existence of a threat of material injury, an arbitral tribunal established pursuant to Chapter 28 (Dispute Settlement) should consider, inter alia, such factors as: (i) the nature of the non-commercial assistance in question and the trade effects likely to arise therefrom; (ii) a significant rate of increase in sales in the domestic market by the covered investment, indicating a likelihood of substantially increased sales; (iii) sufficient freely disposable, or an imminent, substantial increase in, capacity of the covered investment indicating the likelihood of substantially increased production of the good, taking into account the availability of export markets to absorb additional production; (iv) whether prices of goods sold by the covered investment will have a significant depressing or suppressing effect on the price of the like goods; and (v) inventories of like good.

26 Article 17.10 (Transparency) shall not apply to Brunei Darussalam with respect to the Entities listed in entry 4 (BIA) of Brunei Darussalam’s Annex IV that engage in the non-conforming activities described in that entry.

27 Article 17.10 (Transparency) shall not apply to Viet Nam with respect to the Entities listed in:

(a) entry 8 of Viet Nam’s Annex IV that engage in the non-conforming activities described in that entry, until that entry ceases to have effect; and

(b) entry 10 of Viet Nam’s Annex IV that engage in the non-conforming activities described in that entry.
1. Each Party shall provide to the other Parties or otherwise make publicly available on an official website a list of its state-owned enterprises within 6 months after the date on which this Agreement enters into force for the Party, and thereafter shall update the list annually.\(^{28,29}\)

2. Each Party shall promptly notify the other Parties or otherwise 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.\(^{30}\)

3. On the written request of another Party, a Party shall promptly provide the following information concerning a state-owned enterprise or a government monopoly, provided that the request includes an explanation of how the activities of the entity may be affecting trade or investment between the Parties:

   (a) the percentage of shares that the Party, its state-owned enterprises, or designated monopolies cumulatively own, and percentage of votes that they cumulatively hold, in the entity;

   (b) a description of any special shares or special voting or other rights that the Party, its state-owned enterprises, or designated monopolies hold, to the extent the rights are different than the rights attached to the general common shares of such 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 3-year period for which information is available;

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\(^{28}\) For Brunei Darussalam, Article 17.10.1 (Transparency) shall not apply until five years from the date of entry into force of the Agreement for Brunei. Separately, within a period of three years after entry into force of the Agreement, Brunei Darussalam shall provide to the other Parties or otherwise make publicly available on an official website a list of its state-owned enterprises that have an annual revenue derived from their commercial activities of more than SDR 500 million in one of the three preceding years, and shall thereafter update the list annually, until the obligation in Article 17.10.1 (Transparency) applies and replaces this obligation.

\(^{29}\) For Vietnam and Malaysia, Article 17.10.1 (Transparency) shall not apply until five years from the date of entry into force of the Agreement for Vietnam and Malaysia, respectively. Separately, within six months after the date on which this Agreement enters into force for Vietnam and Malaysia, respectively, each Party shall provide to the other Parties or otherwise make publicly available on an official website a list of its state-owned enterprises that have an annual revenue derived from their commercial activities of more than SDR 500 million in one of the three preceding years, and shall thereafter update the list annually, until the obligation in Article 17.10.1 (Transparency) applies and replaces this obligation.

\(^{30}\) Article 17.10.2, Article 17.10.3 and Article 17.10.4 (Transparency) shall not apply to Vietnam with respect to the Entities listed in entry 9 of Vietnam’s Annex IV that engage in the non-conforming activities described in that entry.
(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 programme, it has adopted or maintains that provides for the provision of non-commercial assistance, provided that the request includes an explanation of how the policy or programme affects or could affect trade or investment between the Parties.

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 and evaluate the policy or programme and its effects or potential effects on trade or investment between the Parties. The Party responding to a request shall ensure that the information it provides contains the following information:

(a) the form of the non-commercial assistance provided under the policy or programme (i.e. grant, loan);

(b) the names of the government agencies, state-owned enterprises, or state enterprises providing the non-commercial assistance 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 programme providing for the non-commercial assistance;

(d) with respect to goods, the amount per unit or, in cases where this is not possible, the total amount 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 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 programmes 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;
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(g) with respect to policies or programmes providing for non-commercial assistance in the form of the provision of goods or services, the prices charged, if any;

(h) with respect to policies or programmes providing for non-commercial assistance in the form of equity capital, the amount invested, the number and a description of the shares received, and any assessments that were conducted with respect to the underlying investment decision;

(i) duration of the policy or programme 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. Where a Party considers that it has not adopted or does not maintain any policies or programmes subject to the requirements of paragraph 4, it shall so inform the requesting Party in writing.

7. If any relevant points in paragraph 5 have not been addressed in the written response, an explanation shall be provided in the written response itself.

8. The Parties recognise 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 provides written information pursuant to a request under this Article and informs the requesting Party that it considers the information to be confidential, the requesting Party shall not disclose the information without the prior consent of the Party providing the information.

Article 17.11: 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) organising 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 17.12: Committee on State-Owned Enterprises and Designated Monopolies

1. The Parties hereby establish a Committee on State-Owned Enterprises and Designated Monopolies, comprised of 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 such other activities as the Committee may agree.

3. The Committee shall meet within one year after the date this Agreement enters into force, and at least annually thereafter, unless the Parties agree otherwise. The Committee may meet in person, teleconference, video conference, or by any other means, as mutually determined by the Parties.

Article 17.13: Exceptions

1. Nothing in Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations) or Article 17.6 (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

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31 Article 17.12 (Committee on State-Owned Enterprises and Designated Monopolies) shall not apply to Viet Nam with respect to the Entities listed in:
   (a) entry 8 of Viet Nam’s Annex IV that engage in the non-conforming activities described in that entry, until that entry ceases to have effect; and
   (b) entry 10 of Viet Nam’s Annex IV that engage in the non-conforming activities described in that entry.
(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 17.4.1 (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:
  - (i) are not intended to displace commercial financing, or
  - (ii) are offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

- (b) supports private investment outside the territory of the Party, provided that these services:
  - (i) are not intended to displace commercial financing, or
  - (ii) are offered on terms no more favourable 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 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 to not give rise to adverse effects under Article 17.6.1(b) or Article 17.6.2(b) (Non-commercial Assistance), or under Article 17.6.1(c) or Article 17.6.2(c) (Non-commercial Assistance) 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:

- (a) supports exports and imports, provided that these services:
  - (i) are not intended to displace commercial financing, or

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32 In circumstances where no comparable financial services are offered in the commercial market: (1) for the purposes of paragraphs 2(a)(ii), 2(b)(ii), 3(a)(ii) and 3(b)(ii), the 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 (2) for the purposes of subparagraphs 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.

33 For the purposes of Article 17.13.3 (Exceptions), 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 Article 17.13.3 (Exceptions) through an enterprise that is a covered investment shall be deemed to not give rise to adverse effects.
(ii) are offered on terms no more favourable than those that could be obtained for comparable financial services in the commercial market; or

(b) supports private investment outside the territory of the Party, provided that these services:

(i) are not intended to displace commercial financing, or

(ii) are offered on terms no more favourable 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 it falls within the scope of the Arrangement.

4. Article 17.6 (Non-commercial Assistance) shall 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 17.4 (Non-Discriminatory Treatment and Commercial Considerations), Article 17.6 (Non-commercial Assistance), Article 17.10 (Transparency), and Article 17.12 (Committee on State-Owned Enterprises and Designated Monopolies) shall 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 enterprise was less than a threshold amount which shall be calculated in accordance with Annex 17-A.  

34 When a Party invokes this exception during consultations conducted pursuant to Article 28.5 (Consultations), the consulting Parties should exchange and discuss available evidence concerning the state-owned enterprise’s annual revenue derived from the commercial activities during the three previous consecutive fiscal years in an effort to resolve any disagreement regarding the application of this exception during the consultations period.

35 Notwithstanding Article 17.13.5 (Exceptions), for a period of five years after entry into force of this Agreement, Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations) and Article 17.6 (Non-commercial Assistance) shall not apply with respect to a state-owned enterprise or designated monopoly of Brunei Darussalam, Malaysia or Vietnam, if in any one of the three previous consecutive fiscal years, the annual revenue derived from the commercial activities of the enterprise was less than SDR 500 million.
Article 17.14: Further Negotiations
Within 5 years after entry into force of this Agreement, the Parties shall conduct further negotiations on extending the application of the disciplines in this Chapter in accordance with Annex 17-C.

Article 17.15: Process for Developing Information
Annex 17-B shall apply in any dispute under Chapter 28 (Dispute Settlement) regarding a Party’s conformity with Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations) or Article 17.6 (Non-commercial Assistance).
ANNEX 17-A

THRESHOLD CALCULATION

1. At the time of entry into force of this Agreement, the threshold referenced in Article 17.13(5) (Exceptions) shall be 200 million Special Drawing Rights (SDRs).

2. The amount of the threshold shall be adjusted at three-year intervals with each adjustment taking effect in January, beginning 1 January 201x, 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 percent 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:

\[ T_1 = (1 + \left( \sum w_i^{SDR} \cdot \Pi_i^{SDR} \right))T_0 \]

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)
- \( \Pi_i^{SDR} \) = cumulative percent 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. Parties shall convert the threshold into national currency terms where the conversion rates will be the average of monthly values of each 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. All data for the purposes of this Chapter are to 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-à-vis the SDR were to create a significant problem with regard to the application of this Chapter.
ANNEX 17-B

PROCESS FOR DEVELOPING INFORMATION CONCERNING STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

1. Where an arbitral tribunal has been established pursuant to Chapter 28 (Dispute Settlement) to examine a complaint arising under Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations) or Article 17.6 (Non-commercial Assistance), the disputing Parties may exchange written questions, as set forth in paragraphs 2 through 4, to obtain information relevant to the complaint that is not otherwise readily available.

2. A disputing Party (the “questioning Party”) may provide written questions to the other disputing Party (the “answering Party”) within 15 days of the date the tribunal is established. The answering Party shall provide its responses to the questions to the questioning Party within 30 days from 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 from 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, the questioning Party shall inform the tribunal 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 this view. The tribunal shall afford the answering Party an opportunity to reply in writing.

5. Each disputing Party that provides written questions or answers to the other disputing Party pursuant to these procedures shall, on the same day, provide the questions or answers to the tribunal. In the event that a tribunal has not yet been composed, each disputing Party shall, upon the composition of the tribunal, promptly provide the tribunal 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 pursuant to Article 27.2.1(e) (Functions of the Commission) or other rules of procedure agreed to by the Parties.

7. The time periods in paragraphs 2 through 4 may be modified upon agreement of the Parties or approval by the arbitral tribunal.

8. In determining whether a disputing Party has failed to cooperate in the information-gathering process, the tribunal 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 determination, the tribunal should draw adverse inferences from instances of non-cooperation by a disputing Party in the information-gathering process.

10. The tribunal may deviate from the time period set out in Chapter 28 (Dispute Settlement) for the issuance of the initial determination where necessary to accommodate the information-gathering process.

11. The tribunal may seek additional information from a disputing Party that was not provided to the tribunal through the information-gathering process where the tribunal considers the information necessary to resolve the dispute. However, the tribunal 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.
ANNEX 17-C

FURTHER NEGOTIATIONS

Within 5 years after entry into force of this Agreement, the Parties shall conduct further negotiations on extending the application of:

(a) the disciplines in this Chapter to the activities of state-owned enterprises that are owned or controlled, and designated monopolies designated, by a sub-central level of government, where such activities have been listed in Parties’ schedules to Annex 17-D; and

(b) the disciplines in 17.6 (Non-commercial Assistance) and 17.7 (Adverse Effects) to address effects caused in a market of a non-Party through the supply of services by a state-owned enterprise.
Pursuant to Article 17.9.2 (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:

(a) for Australia:

(i) Article 17.4.1 (a) and (b) (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.2 (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Articles 17.6.1(a) and 17.6.2(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 Australia;

(iv) Article 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance); and

(v) Article 17.10.1 (Transparency).

(b) for Canada:

(i) Articles 17.4:1(a) and (b) (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4:1(c)(i) (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Article 17.4:2 (Non-Discriminatory Treatment and Commercial Considerations);

(iv) Article 17.5:2 (Courts and Administrative Bodies), with respect to administrative regulatory bodies established or maintained by a sub-central level of government;

36 For the purposes of Annex 17-D, “sub-central level of government” means the regional level of government and the local level of government of a Party.
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

(v) Articles 17.6:1(a) and Article 17.6:2(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;

(vi) Articles 17.6:1(b) and (c) (Non-Commercial Assistance) and Article 17.6:2(b) and (c) (Non-Commercial Assistance);

(vii) Article 17.6:3 (Non-Commercial Assistance);

(viii) Article 17.10:1 (Transparency); and

(ix) Article 17.10:4 (Transparency), with respect to a policy or programme adopted or maintained by a sub-central level of government.

(c) For Chile:

(i) Article 17.4.1 (a) and (b) (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.1 (c) (i) (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Article 17.4.2 (Non-Discriminatory Treatment and Commercial Considerations);

(iv) Article 17.6.1 (a) and Article 17.6.2 (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 Chile;

(v) Article 17.6.1 (b) and (c) (Non-Commercial Assistance), and Article 17.6.2 (b) and (c) (Non-Commercial Assistance); and

(vi) Article 17.10.1 (Transparency).

(d) for Japan:

(i) Article 17.4.1 (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.2 (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Article 17.6.1(a) and Article 17.6.2(a) (Non-Commercial Assistance) with respect to the production and sale of a good:
A. by a state-owned enterprise in competition with a like good produced and sold by a covered investment of another Party in the territory of Japan or

B. by a state-owned enterprise that is a covered investment in competition with like good produced and sold by a covered investment of another Party in the territory of any other Party;

(iv) Article 17.6.1(b)(c) and Article 17.6.2(b)(c) (Non-Commercial Assistance);

(v) Article 17.6.3 (Non-Commercial Assistance); and

(vi) Article 17.10.1 (Transparency).

(e) for Malaysia

(i) Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.5.2 (Courts and Administrative Bodies) with respect to administrative regulatory bodies established or maintained by a sub-central level of government;

(iii) Article 17.6.1(a) and Article 17.6.2(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 Malaysia;

(iv) Articles 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance); and

(v) Article 17.10 (Transparency).

(f) for Mexico:

(i) Article 17.4.1 (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.2 (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Article 17.6.1(a) and Article 17.6.2(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;

(iv) Article 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance); and

(v) Article 17.10 (Transparency).

(g) for New Zealand:

(i) Article 17.4.1 (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.2 (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Article 17.6.1 (a) and 17.6.2 (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 New Zealand;

(iv) Article 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance);

(v) Article 17.6.3 (Non-Commercial Assistance); and

(vi) Article 17.10.1 (Transparency).

(h) for Peru:

(i) Article 17.4.1(a) and (b) (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.1(c)(i) (Non-Discriminatory Treatment and Commercial Considerations);

(iii) Article 17.4.2 (Non-Discriminatory Treatment and Commercial Considerations);

(iv) Articles 17.6.1(a) and 17.6.2(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 Peru;

(v) Article 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance); and,
(vi) Article 17.10.1 (Transparency).

(i) for the United States:

(i) Article 17.4.1 (a) (Non-Discriminatory Treatment and Commercial Considerations);

(ii) Article 17.4.1 (b) (Non-Discriminatory Treatment and Commercial Considerations), with respect to purchases of a good or service;

(iii) Article 17.4.1(c)(i) (Non-Discriminatory Treatment and Commercial Considerations);

(iv) Article 17.4.2, with respect to designated monopolies designated by a sub-central level of government;

(v) Article 17.5.2 (Courts and Administrative Bodies), with respect to administrative regulatory bodies established or maintained by a sub-central level of government;

(vi) Article 17.6.1(a) and Article 17.6.2(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;

(vii) Article 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance); and

(viii) Article 17.10.1 (Transparency)

(j) For Vietnam:

(i) Article 17.4 (Non-Discriminatory Treatment and Commercial Considerations)

(ii) Article 17.5.2 (Courts and Administrative Bodies), with respect to administrative regulatory bodies established or maintained by a sub-central level of government

(iii) Articles 17.6.1(a) and 17.6.2(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 Viet Nam;

(iv) Articles 17.6.1(b) and (c) (Non-Commercial Assistance) and Article 17.6.2(b) and (c) (Non-Commercial Assistance); and
(i) Article 17.10 (Transparency)
ANNEX 17-E

SINGAPORE

1. Neither Singapore, nor a sovereign wealth fund of Singapore\(^\text{37}\), shall take action to direct or influence decisions of a state-owned enterprise owned or controlled by a sovereign wealth fund of Singapore, including through the exercise of any rights or ownership interests over such state-owned enterprises, except in a manner consistent with this Chapter. However, Singapore, or a sovereign wealth fund of Singapore, may exercise its voting rights in any state-owned enterprise it owns or controls through ownership interests in a manner that is not inconsistent with this Chapter.

2. Article 17.4.1 (Non-Discriminatory Treatment and Commercial Considerations) shall not apply with respect to a state-owned enterprise owned or controlled by a sovereign wealth fund of Singapore.

3. Article 17.6.2 (Non-Commercial Assistance) shall not apply with respect to a state-owned enterprise owned or controlled by a sovereign wealth fund of Singapore, unless:

   (a) in the five-year period preceding the purported breach of Article 17.6.2 (Non-Commercial Assistance), Singapore or a sovereign wealth fund of Singapore has:

      (i) appointed\(^\text{38}\) the CEO or a majority of the other senior management of the state-owned enterprise;

      (ii) appointed a majority of the members of the board of directors of that state-owned enterprise;\(^\text{39}\) or

      (iii) taken action to exercise its legal rights in that state-owned enterprise to actively direct and control the business decisions of that state-owned enterprise in a manner that would be inconsistent with the obligations in this chapter; or

   (b) the state-owned enterprise, pursuant to law, government policy or other measures, is required to:

      (i) provide non-commercial assistance to another state-owned enterprise; or

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\(^{37}\) For the purposes of this Chapter, sovereign wealth funds of Singapore include GIC Private Limited and Temasek Holdings (Private) Limited. Temasek Holdings (Private) Limited is the legal owner of its assets.

\(^{38}\) For paragraph 3.a(i) and 3.a(ii), such appointment includes an appointment that occurred before the aforementioned five-year period, provided the tenure falls during that period.

\(^{39}\) For greater certainty, the mere exercise of a shareholder vote to approve the election of directors does not constitute the appointment of such directors.
(ii) make decisions about its commercial purchase or sales.

4. Singapore is deemed to comply with Article 17.10.1 (Transparency) with respect to any state-owned enterprise owned or controlled by a sovereign wealth fund of Singapore if:

(a) Singapore provides to the other Parties or otherwise makes publicly available on an official website the annual report of the sovereign wealth fund which owns that state-owned enterprise;

(b) any class of securities of that state-owned enterprise is listed on a securities exchange regulated by a member of an internationally recognised securities commissions body including the International Organisation of Securities Commissions; or

(c) that state-owned enterprise files its annual financial reports based on internationally-recognised financial reporting standards including the International Financial Reporting Standards.
1. The Obligations in this Chapter shall not apply with respect to Permodalan Nasional Berhad or an enterprise owned or controlled by Permodalan Nasional Berhad, provided that Permodalan Nasional Berhad:

(a) engages exclusively in the following activities:

(i) administering or providing a plan for members of the public relating to collective investment schemes for the purpose of enhancing their savings and investments, in furtherance of a national agenda solely for the benefit of natural persons who are participants to such a plan and their beneficiaries, or

(ii) investing the assets of these plans;

(b) has a fiduciary duty to the natural persons referenced in sub-paragraph (a); and

(c) is free from investment direction from the government of Malaysia.\(^{40}\)

2. Notwithstanding paragraph 1, Article 17 6.1 and Article 17 6.3 (Non-Commercial Assistance) shall apply with respect to Malaysia’s:

(a) direct or indirect provision of non-commercial assistance to an enterprise owned or controlled by Permodalan Nasional Berhad;\(^{41}\) and

(b) indirect provision of non-commercial assistance through an enterprise owned or controlled by Permodalan Nasional Berhad.

\(^{40}\) Investment direction from the government of Malaysia: (a) does not include general guidance of the Malaysian Government with respect to risk management and asset allocation that is not inconsistent with usual investment practices; and (b) is not demonstrated, alone, by the presence of Malaysian government officials on the enterprise’s board of directors or investment panel.

\(^{41}\) For greater certainty, for the purpose of Annex 17-F, non-commercial assistance does not include Malaysia’s transfer of funds collected from contributors to Permodalan Nasional Berhad or Lembaga Tabung Haji for investment on behalf of the contributors and their beneficiaries.
Lembaga Tabung Haji

1. The Obligations in this Chapter shall not apply with respect to Lembaga Tabung Haji or an enterprise owned or controlled by Lembaga Tabung Haji, provided that Lembaga Tabung Haji:

(a) engages exclusively in the following activities:

(i) administering or providing a personal savings and investment plan solely for the benefit of the natural persons who are contributors to such a plan and their beneficiaries, for the purpose of:

A. enabling individual Muslim beneficiaries, through the investment of their savings in investment activities permissible in Islam, to support their expenditure during pilgrimage; and

B. protecting, safeguarding the interests and ensuring the welfare of pilgrims during pilgrimage by providing various facilities and services, or

(ii) investing the assets of these plans;

(b) has a fiduciary duty to the natural persons referenced in sub-paragraph (a); and

(c) is free from investment direction from the government of Malaysia.

2. Notwithstanding paragraph 1, Article 17 6.1 and Article 17 6.3 (Non-Commercial Assistance) shall apply with respect to Malaysia’s:

(a) direct or indirect provision of non-commercial assistance to an enterprise owned or controlled by Lembaga Tabung Haji; and

(b) indirect provision of non-commercial assistance through an enterprise owned or controlled by Lembaga Tabung Haji.

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42 Investment direction from the government of Malaysia: (a) does not include general guidance of the Malaysian Government with respect to risk management and asset allocation that is not inconsistent with usual investment practices; and (b) is not demonstrated, alone, by the presence of Malaysian government officials on the enterprise’s board of directors or investment panel.
ANNEX IV

NON-CONFORMING ACTIVITIES

Note

1. The Schedule of a Party to this Annex sets out, pursuant to Article 17.9.1 (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 do not apply:

   (a) Article 17.4 (Non-discriminatory Treatment and Commercial Considerations);

   (b) Article 17.6 (Non-commercial Assistance);

2. Each Schedule entry sets out the following elements:

   (a) **Obligations Concerned** specifies the article(s) referred to in paragraph 1 that, pursuant to Article 17.9.1, do not apply to the non-conforming activities of the state-owned enterprise 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;

   (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 17.9.1, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do 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).
CHAPTER 18

INTELLECTUAL PROPERTY

Section A: General Provisions

Article 18.1: 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;


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;

governmental indication means an indication that identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

intellectual property refers to 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;

performance means a performance fixed in a phonogram unless otherwise specified;

with respect to copyright and related rights, the term right to authorise or prohibit refers to exclusive rights;

Singapore Treaty means the Singapore Treaty on the Law of Trademarks, done at Singapore, March 27, 2006;


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


2. For the purposes of Article 18.8 (National Treatment), Article 18.31(a) (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 18.62.1 (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 18.7 (International Agreements) or the TRIPS Agreement.

Article 18.2: 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 18.3: 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 18.4: Understandings in Respect of this Chapter

Having regard to the underlying public policy objectives of national systems, the Parties recognise 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 18.5: Nature and Scope of Obligations**

Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene the provisions of this Chapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

**Article 18.6: 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 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 utilisation 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.

2. Each Party shall notify, if it has not already done so, the WTO of its acceptance of the Protocol amending the TRIPS Agreement, done at Geneva on December 6, 2005.

**Article 18.7: 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; and

   (c) Berne Convention.

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 for that Party:

   (a) Madrid Protocol;

   (b) Budapest Treaty;

   (c) Singapore Treaty;¹

   (d) UPOV 1991;²

   (e) WCT; and

   (f) WPPT.

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.

² Annex 18-A applies to this subparagraph.
Article 18.8: 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 favourable than it accords to its own nationals with regard to the protection of intellectual property rights.

2. With respect to secondary uses of phonograms by means of analog communications and free over-the-air broadcasting and other non-interactive communications to the public, however, a Party may limit the rights of the performers and producers of another Party to the rights its persons are accorded within the jurisdiction of that other Party.

3. 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.

4. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

Article 18.9: Transparency

1. Further to Article 26.2 (Publication) and Article 18.73.1 (Enforcement Practices with Respect to Intellectual Property Rights), each Party shall endeavour to make available on the Internet its laws, regulations, procedures and administrative

3 For greater certainty, with respect to copyrights and related rights that are not covered under Section H (Copyright and Related Rights), nothing in this Agreement limits a Party from taking an otherwise permissible derogation from national treatment with respect to those rights.

4 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 18.68 (TPMs) and the provisions concerning rights management information set out in Article 18.69 (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.
rulings of general application concerning the protection and enforcement of intellectual property rights.

2. Each Party shall, subject to its law, endeavour to make available on the Internet information that it makes public concerning applications for trademarks, geographical indications, designs, patents and plant variety rights.5,6

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.7

Article 18.10: Application of Chapter to Existing Subject Matter and Prior Acts

1. Unless otherwise provided in this Chapter, including in Article 18.64 (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 for a Party and that is protected on that date in the territory of a Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter.

2. Unless provided in Article 18.64 (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 for that Party 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 for a Party.

Article 18.11: 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.8

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5 For greater certainty, paragraphs 2 and 3 are without prejudice to a Party’s obligations under Article 18.24 (Electronic Trademarks System).
6 For greater certainty, paragraph 2 does not require a Party to make available on the Internet the entire dossier for the relevant application.
7 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.
8 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.
Section B: Cooperation

Article 18.12: Contact Points for Cooperation

Further to Article 21.3 (Contact Points for Cooperation and Capacity Building), each Party may designate and notify under Article 27.5.2 (Contact Points) one or more contact points for the purpose of cooperation under this Section.

Article 18.13: Cooperation Activities and Initiatives

The Parties shall endeavour to cooperate on the subject matter covered by this Chapter, such as through appropriate coordination, training and exchange of information between the respective intellectual property offices of the Parties, or other institutions, as determined by each Party. Cooperation may cover areas such as:

(a) developments in domestic and international intellectual property policy;

(b) intellectual property administration and registration systems;

(c) education and awareness relating to intellectual property;

(d) intellectual property issues relevant to:

(i) small and medium-sized enterprises;

(ii) science, technology and innovation activities; and

(iii) the generation, transfer and dissemination of technology;

(e) policies involving the use of intellectual property for research, innovation and economic growth;

(f) implementation of multilateral intellectual property agreements, such as those concluded or administered under the auspices of WIPO; and

(g) technical assistance for developing countries.

Article 18.14: Patent Cooperation and Work Sharing

1. The Parties recognise 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 for the benefit of all users of the patent system and the public as a whole.
2. Further to paragraph 1, the Parties shall endeavour to cooperate among their respective patent offices to facilitate the sharing and use of search and examination work of other Parties. This may include:

   (a) making search and examination results available to the patent offices of other Parties, 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 endeavour to cooperate to reduce differences in the procedures and processes of their respective patent offices.

4. The Parties recognise the importance of giving due consideration to ratifying or acceding to the *Patent Law Treaty*, done at Geneva, June 1, 2000; or in the alternative, adopting or maintaining procedural standards consistent with the objective of the *Patent Law Treaty*.

**Article 18.15: Public Domain**

1. The Parties recognise the importance of a rich and accessible public domain.

2. The Parties also acknowledge the importance of informational materials, such as publicly accessible databases of registered intellectual property rights that assist in the identification of subject matter that has fallen into the public domain.

**Article 18.16: Cooperation in the Area of Traditional Knowledge**

1. The Parties recognise the relevance of intellectual property systems and traditional knowledge associated with genetic resources to each other, when that traditional knowledge is related to those intellectual property systems.

2. The Parties shall endeavour to cooperate through their respective agencies responsible for intellectual property, or other relevant institutions, to enhance the understanding of issues connected with traditional knowledge associated with genetic resources, and genetic resources.

3. The Parties shall endeavour to pursue quality patent examination, which may include:

9 The Parties recognise 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.
(a) that in determining prior art, relevant publicly available documented information related to traditional knowledge associated with genetic resources may be taken into account;

(b) an opportunity for third parties to cite, in writing, to the competent examining authority prior art disclosures that may have a bearing on patentability, including prior art disclosures related to traditional knowledge associated with genetic resources;

(c) if applicable and appropriate, the use of databases or digital libraries containing traditional knowledge associated with genetic resources; and

(d) cooperation in the training of patent examiners in the examination of patent applications related to traditional knowledge associated with genetic resources.

Article 18.17: Cooperation on Request

Cooperation activities and initiatives 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.
Section C: Trademarks

Article 18.18: 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 18.19: Collective and Certification Marks

Each Party shall provide that trademarks include collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in its law, provided that those marks are protected. Each Party shall also provide that signs that may serve as geographical indications are capable of protection under its trademark system. ¹⁰

Article 18.20: 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,¹¹,¹² 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 18.21: 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.

¹⁰ Consistent with the definition of a geographical indication in Article 18.1 (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.
¹¹ For greater certainty, the exclusive right in this Article applies to cases of unauthorised use of geographical indications with goods for which the trademark is registered, in cases in which the use of that geographical indication in the course of trade would result in a likelihood of confusion as to the source of the goods.
¹² For greater certainty, the Parties understand that this Article should not be interpreted to affect their rights and obligations under Article 22 and Article 23 of the TRIPS Agreement.
Article 18.22: 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 6bis of the Paris Convention shall apply, mutatis mutandis, to goods or services that are not identical or similar to those identified by a well-known trademark,\textsuperscript{13} 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.


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,\textsuperscript{14} 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 18.23: 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;

\textsuperscript{13} 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.

\textsuperscript{14} 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.
(c) providing an opportunity to oppose the registration of a trademark or to seek cancellation\textsuperscript{15} of a trademark; and

(d) requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which may be provided by electronic means.

**Article 18.24: Electronic Trademarks System**

Each Party shall provide:

(a) a system for the electronic application for, and maintenance of, trademarks; and

(b) a publicly available electronic information system, including an online database, of trademark applications and of registered trademarks.

**Article 18.25: 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;\textsuperscript{16} 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.

\textsuperscript{15} For greater certainty, cancellation for purposes of this Section may be implemented through nullification or revocation proceedings.

\textsuperscript{16} A Party that relies on translations of the Nice Classification shall follow updated versions of the Nice Classification to the extent that official translations have been issued and published.
Article 18.26: 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 18.27: Non-Recordal of a Licence

No Party shall require recordal of trademark licences:

(a) to establish the validity of the licence; 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 18.28: 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:

(a) an appropriate procedure for the settlement of disputes, based on, or modelled along the same lines as, the principles established in the Uniform Domain-Name Dispute-Resolution Policy, as approved by the Internet Corporation for Assigned Names and Numbers (ICANN) or that:

(i) is designed to resolve disputes expeditiously and at low cost;

(ii) is fair and equitable;

(iii) is not overly burdensome; and

(iv) does not preclude resort to judicial proceedings; and

(b) online public access to a reliable and accurate database of contact information concerning domain-name registrants,

in accordance with each Party’s law and, if applicable, relevant administrator policies regarding protection of privacy and personal data.

2. In connection with each Party’s system for the management of ccTLD domain names, appropriate remedies\(^{17}\) shall be available at least in cases in which a person

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\(^{17}\) The Parties understand that such remedies may, but need not, include, among other things, revocation, cancellation, transfer, damages or injunctive relief.
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 18.29: 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 18.30: Recognition of Geographical Indications

The Parties recognise that geographical indications may be protected through a trademark or *sui generis* system or other legal means.

Article 18.31: 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;\(^\text{18}\)

(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) 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; and

(f) provide for cancellation\(^\text{19}\) of the protection or recognition afforded to a geographical indication.

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\(^{18}\) This subparagraph also applies to judicial procedures that protect or recognise a geographical indication.

\(^{19}\) For greater certainty, for the purposes of this Section, cancellation may be implemented through nullification or revocation proceedings.
Article 18.32: Grounds of Opposition and Cancellation

1. If a Party protects or recognises a geographical indication through the procedures referred to in Article 18.31 (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 for the relevant good in the territory of the Party.

2. If a Party has protected or recognised a geographical indication through the procedures referred to in Article 18.31 (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 to be cancelled, at least, on the grounds listed in paragraph 1. A Party may provide that the grounds listed in paragraph 1 shall apply as of the time of filing the request for protection or recognition of a geographical indication in the territory of the Party.

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 recognised term has ceased meeting the conditions upon which the protection or recognition was originally granted in that Party.

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20 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.

21 For greater certainty, if a Party provides for the procedures in Article 18.31 (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, the Parties understand nothing shall require a Party to protect or recognise 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.

22 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 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that Party is not required to apply those grounds for the purposes of paragraphs 2 or 4 (Grounds of Opposition and Cancellation) in relation to that geographical indication.
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.\(^{23}\) 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 18.31 (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 18.33: Guidelines for Determining Whether a Term is the Term Customary in the Common Language**

With respect to the procedures in Article 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 18.32 (Grounds of 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; and
- (b) how the good referenced by the term is marketed and used in trade in the territory of that Party.\(^{24}\)

**Article 18.34: Multi-Component Terms**

With respect to the procedures in Article 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 18.32 (Grounds of Opposition and Cancellation), an individual component of a multi-component term that is protected as a geographical indication in the territory of a

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\(^{23}\) 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 18.36.6 (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.

\(^{24}\) For the purposes of this subparagraph, a Party’s authorities may take into account, as appropriate, whether the term is used in relevant international standards recognised by the Parties to refer to a type or class of good in the territory of the Party.
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 18.35: 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 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications), that protection or recognition shall commence no earlier than the filing date\(^{25}\) in the Party or the registration date in the Party, as applicable.

**Article 18.36: International Agreements**

1. If a Party protects or recognises 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 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications)\(^{26}\) or Article 18.32.4 (Grounds of Opposition and Cancellation), that Party shall apply at least procedures and grounds that are equivalent to those in Article 18.31(e) (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 18.32.1 (Grounds of 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 recognising the geographical indication and allow interested persons to ascertain the status of requests for protection or recognition;

   (b) make available to the public, on the Internet, details regarding the terms that the Party is considering protecting or recognising 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

\(^{25}\) For greater certainty, the filing date referred to in this paragraph includes, as applicable, the priority filing date under the Paris Convention.

\(^{26}\) Each Party shall apply 18.33 (Guidelines for Determining Whether a Term is the Term Customary in the Common Language) and 18.34 (Multi-Component Terms) in determining whether to grant protection or recognition of a geographical indication pursuant to this paragraph.
meaningful opportunity for interested persons 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 covered by paragraph 6 that permit the protection or recognition of a new geographical indication, a Party shall: 27, 28

(a) apply paragraph 1(b);

(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 recognised; 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 18.32 (Grounds of Opposition and Cancellation), or obligations equivalent to Article 18.32, 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 recognised pursuant to, an international agreement involving a Party or a non-Party, provided that the agreement:

(a) was concluded, or agreed in principle, 29 prior to the date of conclusion, or agreement in principle, of this Agreement;

27 In respect of international agreements covered by paragraph 6 that have 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.

28 A Party may comply with this Article by applying Article 18.31 (Administrative Procedures for the Protection or Recognition of Geographical Indications) and Article 18.32 (Grounds of Opposition and Cancellation).

29 For the purpose of this Article, an agreement “agreed in principle” means an agreement involving another government, government entity or international organisation in respect of which a political
(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.
Section F: Patents and Undisclosed Test or Other Data

Subsection A: General Patents

Article 18.37: 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.\(^{30}\)

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. A Party may limit those new processes to those that do not claim the use of the product as such.

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 18.38: Grace Period

Each Party shall disregard at least information contained in public disclosures used to determine if an invention is novel or has an inventive step, if the public disclosure.\(^{31,32}\)

\(^{30}\) 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.
(a) was made by the patent applicant or by a person that obtained the information directly or indirectly from the patent applicant; and

(b) occurred within 12 months prior to the date of the filing of the application in the territory of the Party.

Article 18.39: 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 18.40: 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 18.41: Other Use Without Authorisation 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.

31 No Party shall be required to disregard information contained in applications for, or registrations of, intellectual property rights made available to the public or published by a patent office, unless erroneously published or unless the application was filed without the consent of the inventor or their successor in title, by a third person who obtained the information directly or indirectly from the inventor.

32 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.
Article 18.42: Patent Filing

Each Party shall provide that if an invention is made independently by more than one inventor, and separate applications claiming that invention are filed with, or for, the relevant authority of the Party, that Party shall grant the patent on the application that is patentable and that has the earliest filing date or, if applicable, priority date, unless that application has, prior to publication, been withdrawn, abandoned or refused.

Article 18.43: 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.

Article 18.44: Publication of Patent Applications

1. Recognising 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 18.45: 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:

33 A Party shall not be required to apply this Article in cases involving derivation or in situations involving any application that has or had, at any time, at least one claim having an effective filing date before the date of entry into force of this Agreement for that Party or any application that has or had, at any time, a priority claim to an application that contains or contained such a claim.

34 For greater certainty, a Party may grant the patent to the subsequent application that is patentable, if an earlier application has been withdrawn, abandoned, or refused, or is not prior art against the subsequent application.

35 A Party may provide that such amendments do not go beyond the scope of the disclosure of the invention, as of the filing date.
(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 18.46: Patent Term Adjustment for Patent Office 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 patents, 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.36

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 processing37 of, or the examination of, the patent application by the granting authority; periods of time that are not directly attributable38 to the granting authority; as well as periods of time that are attributable to the patent applicant.39

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36 Annex 18-D applies to this paragraph.
37 For the purposes of this paragraph, a Party may interpret processing to mean initial administrative processing and administrative processing at the time of grant.
38 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.
39 Notwithstanding Article 18.10 (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.
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

Subsection B: Measures Relating to Agricultural Chemical Products

Article 18.47: Protection of Undisclosed Test or Other Data for Agricultural Chemical Products

1. If a Party requires, as a condition for granting marketing approval for a new agricultural chemical product, the submission of undisclosed test or other data concerning the safety and efficacy of the product, 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 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 ten years 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 ten 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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40 For the purposes of this Chapter, the term “marketing approval” is synonymous with “sanitary approval” under a Party’s law.
41 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.
42 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.
43 For greater certainty, a Party may limit the period of protection under this Article to 10 years.
44 For the purposes of this Article, a Party may treat “contain” as meaning utilize. For greater certainty, for the purposes of this Article, a Party may treat “utilize” as requiring the new chemical entity to be primarily responsible for the product’s intended effect.
Subsection C: Measures Relating to Pharmaceutical Products

Article 18.48: 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 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 18.49: Regulatory Review Exception

Without prejudice to the scope of, and consistent with, Article 18.40 (Exceptions), each Party shall adopt or maintain a regulatory review exception for pharmaceutical products.

Article 18.50: 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...

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45 A Party may comply with the obligations of this paragraph with respect to a pharmaceutical product or, alternatively, with respect to a pharmaceutical substance.

46 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.

47 Notwithstanding Article 18.10 (Application of Chapter to Existing Subject Matter and Prior Acts), this Article shall apply to all applications for marketing approval filed after the date of entry into force of this Article for that Party.

48 Annex 18-D applies to this paragraph.

49 For greater certainty, consistent with Article 18.40 (Exceptions), nothing prevents a Party from providing that regulatory review exceptions apply for purposes of regulatory reviews in that Party, in another country or both.

50 Annex 18-B and Annex 18-C apply to paragraphs 1 and 2 of this Article.
other data concerning the safety and efficacy of the product,\textsuperscript{51} 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\textsuperscript{52} product on the basis of:

\begin{itemize}
\item[(i)] that information; or
\item[(ii)] the marketing approval granted to the person that submitted such information,
\end{itemize}

for at least five years\textsuperscript{53} 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.\textsuperscript{54}

2. Each Party shall:\textsuperscript{55}

\begin{itemize}
\item[(a)] apply paragraph 1, \textit{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,
\item[(b)] apply paragraph 1, \textit{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.\textsuperscript{56}
\end{itemize}

\textsuperscript{51} Each Party confirms that the obligations of this Article, and Article 18.52 (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.

\textsuperscript{52} 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.

\textsuperscript{53} For greater certainty, a Party may limit the period of protection under paragraph 1 to five years, and the period of protection under Article 18.52.1(a) (Biologics) to eight years.

\textsuperscript{54} Annex 18-D applies to this subparagraph.

\textsuperscript{55} A Party that provides a period of at least eight years of protection pursuant to paragraph 1 is not required to apply paragraph 2.
3. Notwithstanding paragraphs 1 and 2 and Article 18.52 (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 18.51: 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\(^57\) 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 opportunity for such a patent holder to seek, prior to the marketing\(^58\) 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

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\(^56\) For the purposes of Article 18.50.2(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.

\(^57\) For greater certainty, for the purposes of this Article, a Party may provide that a “patent holder” includes a patent licensee or the authorised holder of marketing approval.

\(^58\) For the purposes of paragraph 1(b), a Party may treat “marketing” as commencing at the time of listing for purposes of the reimbursement of pharmaceutical products pursuant to a national healthcare programme operated by a Party and inscribed in the Schedule to Annex 26-A (Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices).
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.

Article 18.52: Biologics

1. With regard to protecting new biologics, a Party shall either:

(a) with respect to the first marketing approval in a Party of a new pharmaceutical product that is or contains a biologic, provide effective market protection through the implementation of Article 18.50.1 (Protection of Undisclosed Test or Other Data) and Article 18.50.3, mutatis mutandis, for a period of at least eight years from the date of first marketing approval of that product in that Party; or, alternatively,

(b) with respect to the first marketing approval in a Party of a new pharmaceutical product that is or contains a biologic, provide effective market protection:

(i) through the implementation of Article 18.50.1 (Protection of Undisclosed Test or Other Data) and Article 18.50.3, mutatis mutandis, for a period of at least five years from the date of first marketing approval of that product in that Party,

(ii) through other measures, and

(iii) recognising that market circumstances also contribute to effective market protection

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59 Annex 18-B, Annex 18-C and Annex 18-D apply to this Article.
60 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.
61 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 18.50.1(a) and Article 18.50.1(b) (Protection of Undisclosed Test or Other Data) within five years of the date of entry into force of this Agreement for that Party, provided that other pharmaceutical products in the same class of products have been approved by that Party under the procedures set forth in Article 18.50.1(a) and Article 18.50.1(b) before the date of entry into force of this Agreement for that Party.
to deliver a comparable outcome in the market.

2. For the purposes of this Section, each Party shall apply this Article to, at a minimum, a product that is, or, alternatively, contains, a protein produced using biotechnology processes, for use in human beings for the prevention, treatment, or cure of a disease or condition.

3. Recognising that international and domestic regulation of new pharmaceutical products that are or contain a biologic is in a formative stage and that market circumstances may evolve over time, the Parties shall consult after 10 years from the date of entry into force of this Agreement, or as otherwise decided by the Commission, to review the period of exclusivity provided in paragraph 1 and the scope of application provided in paragraph 2, with a view to providing effective incentives for the development of new pharmaceutical products that are or contain a biologic, as well as with a view to facilitating the timely availability of follow-on biosimilars, and to ensuring that the scope of application remains consistent with international developments regarding approval of additional categories of new pharmaceutical products that are or contain a biologic.

**Article 18.53: Definition of New Pharmaceutical Product**

For the purposes of Article 18.50.1 (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 18.54: Alteration of Period of Protection**

Subject to Article 18.50.3 (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 18.47 (Protection of Undisclosed Test or Other Data for Agricultural Chemical Products), Article 18.50 or Article 18.52 (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 18.47, Article 18.50 or Article 18.52 in the event that the patent protection terminates on a date earlier than the end of the period of protection specified in Article 18.47, Article 18.50 or Article 18.52.

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62 For the purposes of this Article, a Party may treat “contain” as meaning utilize.
Section G: Industrial Designs

Article 18.55: Protection

1. Each Party shall ensure adequate and effective protection of industrial designs and also confirms that protection for industrial designs is available for designs:

   (a) embodied in a part of an article; or, alternatively,

   (b) having a particular regard, where appropriate, to a part of an article in the context of the article as a whole.

2. This Article is subject to Article 25 and Article 26 of the TRIPS Agreement.

Article 18.56: Improving Industrial Design Systems

The Parties recognise the importance of improving the quality and efficiency of their respective industrial design registration systems, as well as facilitating the process of cross-border acquisition of rights in their respective industrial design systems, including giving due consideration to ratifying or acceding to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, done at Geneva, July 2, 1999.
Section H: Copyright and Related Rights

Article 18.57: Definitions

For the purposes of Article 18.58 (Right of Reproduction) and Article 18.60 (Right of Distribution) through Article 18.70 (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;

**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 audiovisual 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 18.58: Right of Reproduction

Each Party shall provide to authors, performers and producers of phonograms the exclusive right to authorise or prohibit all reproduction of their

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63 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.
works, performances or phonograms in any manner or form, including in electronic form.

Article 18.59: Right of Communication to the Public

Without prejudice to Article 11(1)(ii), Article 11bis(1)(i) and (ii), Article 11ter(1)(ii), Article 14(1)(ii), and Article 14bis(1) of the Berne Convention, each Party shall provide to authors the exclusive right to authorise 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.65

Article 18.60: Right of Distribution

Each Party shall provide to authors, performers and producers of phonograms the exclusive right to authorise or prohibit the making available to the public of the original and copies66 of their works, performances and phonograms through sale or other transfer of ownership.

Article 18.61: No Hierarchy

Each Party shall provide that in cases in which authorisation 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 authorisation of the author does not cease to exist because the authorisation of the performer or producer is also required; and

(b) the need for the authorisation of the performer or producer does not cease to exist because the authorisation of the author is also required.

64 References to “authors, performers, and producers of phonograms” refer also to any of their successors in interest.
65 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 11bis(2) of the Berne Convention.
66 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 18.62: Related Rights

1. Each Party shall accord the rights provided for in this Chapter with respect to performers and producers of phonograms: to the performers and producers of phonograms that are nationals\(^{67}\) of another Party; and to performances or phonograms first published or first fixed\(^{68}\) in the territory of another Party.\(^{69}\) 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 authorise 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 authorise or prohibit the broadcasting or any communication to the public of their performances or phonograms, by wire or wireless means\(^{70},^{71}\) 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.

   (b) Notwithstanding subparagraph (a) and Article 18.65 (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.\(^{72}\)

\(^{67}\) For the purposes of determining criteria for eligibility under this Article, with respect to performers, a Party may treat “nationals” as those who would meet the criteria for eligibility under Article 3 of the WPPT.

\(^{68}\) For the purposes of this Article, fixation means the finalisation of the master tape or its equivalent.

\(^{69}\) For greater certainty, in this paragraph with respect to performances or phonograms first published or first fixed in the territory of a Party, a Party may apply the criterion of publication, or alternatively, the criterion of fixation, or both. For greater certainty, consistent with Article 18.8 (National Treatment), each Party shall accord to performances and phonograms first published or first fixed in the territory of another Party treatment no less favourable than it accords to performances or phonograms first published or first fixed in its own territory.

\(^{70}\) With respect to broadcasting and communication to the public, a Party may satisfy the obligation by applying Article 15(1) and Article 15(4) of the WPPT and may also apply Article 15(2) of the WPPT, provided that it is done in a manner consistent with that Party’s obligations under Article 18.8 (National Treatment).

\(^{71}\) 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 audiovisual work.

\(^{72}\) 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
Article 18.63: 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:73

(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;74 and

(b) on a basis other than the life of a natural person, the term shall be:

(i) not less than 70 years from the end of the calendar year of the first authorised publication75 of the work, performance or phonogram; or

(ii) failing such authorised 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.76

Article 18.64: 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.

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.

73 For greater certainty, in implementing this Article, nothing prevents a Party from promoting certainty for the legitimate use and exploitation of a work, performance or phonogram during its term of protection, consistent with Article 18.65 (Limitations and Exceptions) and that Party’s international obligations.

74 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 18.8 (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.

75 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 authorised publication, that Party may continue to calculate the term from fixation.

76 For greater certainty, a Party may calculate a term of protection for an anonymous or pseudonymous work or a work of joint authorship in accordance with Article 7(3) or Article 7bis of the Berne Convention, provided that the Party implements the corresponding numerical term of protection required under this Article.
Article 18.65: 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 18.66: Balance in Copyright and Related Rights Systems

Each Party shall endeavour to achieve an appropriate balance in its copyright and related rights system, among other things by means of limitations or exceptions that are consistent with Article 18.65 (Limitations and Exceptions), including those for the digital environment, giving due consideration to legitimate purposes such as, but not limited to: criticism; comment; news reporting; teaching, scholarship, research, and other similar purposes; and facilitating access to published works for persons who are blind, visually impaired or otherwise print disabled.77,78

Article 18.67: Contractual Transfers

Each Party shall provide that for copyright and related rights, any person acquiring or holding any economic right79 in a work, performance or phonogram:

(a) may freely and separately transfer that right by contract; and

(b) by virtue of contract, including contracts of employment underlying the creation of works, performances or phonograms, shall be able to exercise that right in that person’s own name and enjoy fully the benefits derived from that right.80

77 As recognised by the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, done at Marrakesh, June 27, 2013 (Marrakesh Treaty). The Parties recognise that some Parties facilitate the availability of works in accessible formats for beneficiaries beyond the requirements of the Marrakesh Treaty.

78 For greater certainty, a use that has commercial aspects may in appropriate circumstances be considered to have a legitimate purpose under Article 18.65 (Limitations and Exceptions).

79 For greater certainty, this provision does not affect the exercise of moral rights.

80 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.
Article 18.68: Technological Protection Measures (TPMs)\textsuperscript{81}

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 unauthorised acts in respect of their works, performances, and phonograms, each Party shall provide that any person that:

(a) knowingly, or having reasonable grounds to know,\textsuperscript{82} circumvents without authority any effective technological measure that controls access to a protected work, performance, or phonogram;\textsuperscript{83} or

(b) manufactures, imports, distributes,\textsuperscript{84} 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\textsuperscript{85} for the purpose of circumventing any effective technological measure;

(ii) have only a limited commercially significant purpose or use other than to circumvent any effective technological measure;\textsuperscript{86} or

(iii) are primarily designed, produced, or performed for the purpose of circumventing any effective technological measure,

is liable and subject to the remedies provided for in Article 18.74 (Civil and Administrative Procedures and Remedies).

\textsuperscript{81} 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.

\textsuperscript{82} 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.

\textsuperscript{83} 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 such that work, performance or phonogram.

\textsuperscript{84} A Party may provide that the obligations described in this subparagraph with respect to manufacturing, importation, and distribution apply only in cases in which those activities are undertaken for sale or rental, or if those activities prejudice the interests of the right holder of the copyright or related right.

\textsuperscript{85} The Parties understand that this provision still applies in cases in which the person promotes, advertises, or markets through the services of a third person.

\textsuperscript{86} A Party may comply with this paragraph if the conduct referred to in this subparagraph does not have a commercially significant purpose or use other than to circumvent an effective technological measure.
Each Party shall provide for criminal procedures and penalties to be applied if any person is found to have engaged wilfully\textsuperscript{87} and for the purposes of commercial advantage or financial gain\textsuperscript{88} in any of the above activities.\textsuperscript{89}

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. A Party may also provide that the remedies provided for in Article 18.74 (Civil and Administrative Procedures and Remedies) do not apply to any of the same entities provided that the above activities are carried out in good faith without knowledge that the conduct is prohibited.

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, provided that the product does not otherwise violate a measure implementing paragraph 1.

3. Each Party shall provide that a violation of a measure implementing this Article is independent of any infringement that might occur under the Party’s law on copyright and related rights.\textsuperscript{90}

4. With regard to measures implementing paragraph 1:

(a) a Party may provide certain limitations and exceptions to the measures implementing paragraph 1(a) or paragraph 1(b) in order to enable non-infringing uses if there is an actual or likely adverse impact of those measures on those non-infringing uses, as determined through a legislative, regulatory, or administrative process in accordance with the Party’s law, giving due consideration to evidence when presented in that process, including with respect to whether appropriate and effective measures have been taken by rights holders to enable the beneficiaries to enjoy the limitations and exceptions to copyright and related rights under that Party’s law;\textsuperscript{91}

\textsuperscript{87} For greater certainty, for purposes of this Article and Article 18.69 (RMI), wilfulness contains a knowledge element.

\textsuperscript{88} For greater certainty, for purposes of this Article, Article 18.69 (RMI) and Article 18.77.1 (Criminal Procedures and Penalties), the Parties understand that a Party may treat “financial gain” as “commercial purposes”.

\textsuperscript{89} For greater certainty, no Party is required to impose liability under this Article and Article 18.69 (RMI) for actions taken by that Party or a third person acting with the authorisation or consent of that Party.

\textsuperscript{90} For greater certainty, a Party is not required to treat the criminal act of circumvention set forth in paragraph 1(a) as an independent violation, where the Party criminally penalises such acts through other means.

\textsuperscript{91} For greater certainty, nothing in this provision requires a Party to make a new determination through the legislative, regulatory, or administrative process with respect to limitations and exceptions to the legal protection of effective technological measures: (i) previously established pursuant to trade agreements in force between two or more Parties; or (ii) previously implemented by the Parties, provided that such limitations and exceptions are otherwise consistent with this paragraph.
(b) any limitations or exceptions to a measure that implements paragraph 1(b) shall be permitted only to enable the legitimate use of a limitation or exception permissible under this Article by its intended beneficiaries \(^92\) and does not authorise the making available of devices, products, components, or services beyond those intended beneficiaries;\(^93\) and

(c) a Party shall not, by providing limitations and exceptions under paragraph 4(a) and paragraph 4(b), undermine the adequacy of that Party's legal system for the protection of effective technological measures, or the effectiveness of legal remedies against the circumvention of such measures, that authors, performers, or producers of phonograms use in connection with the exercise of their rights, or that restrict unauthorised acts in respect of their works, performances or phonograms, as provided for in this Chapter.

5. **effective technological measure** means any effective\(^94\) technology, device, or component that, in the normal course of its operation, controls access to a protected work, performance, or phonogram, or protects copyright or related rights related to a work, performance or phonogram.

**Article 18.69: Rights Management Information (RMI)\(^95\)**

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\(^96\) removes or alters any RMI;

   (ii) knowingly distributes or imports for distribution RMI knowing that the RMI has been altered without authority;\(^97\) or

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\(^92\) For greater certainty, a Party may provide an exception to subparagraph 1(b) without providing a corresponding exception to subparagraph 1(a), provided that the exception to paragraph 1(b) is limited to enabling a legitimate use that is within the scope of limitations or exceptions to 1(a) as provided under this subparagraph.

\(^93\) For the purposes of interpreting subparagraph 4(b) only, subparagraph 1(a) should be read to apply to all effective technological measures as defined in paragraph 5, *mutatis mutandis*.

\(^94\) For greater certainty, a technological measure that can, in a usual case, be circumvented accidentally is not an "effective" technological measure.

\(^95\) A Party may comply with the obligations in this Article by providing legal protection only to electronic RMI.

\(^96\) 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.
(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 18.74(Civil and Administrative Procedures and Remedies).

Each Party shall provide for criminal procedures and penalties to be applied if any person is found to have engaged wilfully and for purposes of commercial advantage or financial gain in any of the activities described in subparagraph (a).

A Party may provide that the criminal procedures and penalties referred to in paragraph 1(b) do not apply to a non-profit library, museum, archive, educational institution or public non-commercial broadcasting entity.98

2. For greater certainty, nothing prevents a Party from excluding from a measure that implements paragraph 1 a lawfully authorised 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),

97 A Party may comply with its obligations under this sub-subparagraph by providing for civil judicial proceedings concerning the enforcement of moral rights under its copyright law. 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.

98 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.
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 18.70: Collective Management**

The Parties recognise the important role of collective management societies for copyright and related rights in collecting and distributing royalties\(^99\) based on practices that are fair, efficient, transparent and accountable, which may include appropriate record keeping and reporting mechanisms.

\(^{99}\) For greater certainty, royalties may include equitable remuneration.
Section I: Enforcement

Article 18.71: 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. 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 18.74 (Civil and Administrative Procedures and Remedies), Article 18.75 (Provisional Measures) and Article 18.77 (Criminal Procedures and Penalties) shall be available to the same extent with respect to 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.

100 For greater certainty, “law” is not limited to legislation.
101 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.
Article 18.72: Presumptions

1. In civil, criminal and, if applicable, administrative proceedings involving copyright or related rights, each Party shall provide for a presumption\textsuperscript{102} that, in the absence of proof to the contrary:

   (a) the person whose name is indicated in the usual manner\textsuperscript{103} 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 \textit{prima facie} valid.

3. In connection with the commencement of a civil or administrative enforcement proceeding involving a patent that has been substantively examined and granted\textsuperscript{104} by the competent authority of a Party, that Party shall provide that each claim in the patent be considered \textit{prima facie} to satisfy the applicable criteria of patentability in the territory of the Party.\textsuperscript{105,106}

Article 18.73: 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:

\textsuperscript{102} 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.

\textsuperscript{103} For greater certainty, a Party may establish the means by which it shall determine what constitutes the “usual manner” for a particular physical support.

\textsuperscript{104} For greater certainty, nothing in this Chapter prevents a Party from making available third party procedures in connection with its fulfilment of the obligations under paragraphs 2 and 3.

\textsuperscript{105} 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.

\textsuperscript{106} 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.
(a) preferably are in writing and 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\(^{107}\) 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 recognises the importance of collecting and analysing 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 18.74: 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.\(^{108}\)

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\(^{109}\) 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

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\(^{107}\) For greater certainty, a Party may satisfy the requirement for publication by making the decision or ruling available to the public on the Internet.

\(^{108}\) For the purposes of this Article, the term “right holders” shall include those authorised licensees, federations and associations that have the legal standing and authority to assert such rights. The term “authorised licensee” shall include the exclusive licensee of any one or more of the exclusive intellectual property rights encompassed in a given intellectual property.

\(^{109}\) 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.
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. 110

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. 111

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:

   (a) pre-established damages, which shall be available on the election of the
right holder; or

   (b) additional damages. 112

8. Pre-established damages under paragraphs 6 and 7 shall be set out in an
amount that would be sufficient to compensate the right holder for the harm caused by
the infringement, and with a view to deterring future infringements.

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

110 A Party may comply with this paragraph through presuming those profits to be the damages referred
to in paragraph 3.
111 For greater certainty, additional damages may include exemplary or punitive damages.
112 For greater certainty, additional damages may include exemplary or punitive damages.
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 undue delay and without compensation of any sort, destroyed or disposed of outside the channels of commerce in such a manner as to minimise 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.

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, in the alternative, the alleged infringer 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. 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.
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 with regard to intellectual property rights, including trademarks, geographical indications, patents, copyright and related rights and industrial designs, 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. 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.

17. In civil judicial proceedings concerning the acts described in Article 18.68 (TPMs) and Article 18.69 (RMI):

   (a) each Party shall provide that its judicial authorities have the authority at least to:\(^{113}\)

      (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;\(^{114}\)

      (iii) order court costs, fees or expenses as provided for under paragraph 10; 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, archive, educational institution, museum 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.

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\(^{113}\) For greater certainty, a Party may, but is not required to, put in place separate remedies in respect of Article 18.68 (TPMs) and Article 18.69 (RMI), if those remedies are available under its copyright law.

\(^{114}\) If a Party’s copyright law provides for both pre-established damages and additional damages, that Party may comply with the requirements of this subparagraph by providing for only one of these forms of damages.
Article 18.75: 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.

Article 18.76: 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.115

2. Each Party shall provide that any right holder initiating procedures for its competent authorities116 to suspend release of suspected counterfeit or confusingly similar trademark or pirated copyright goods into free circulation is required 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 to supply sufficient information that may reasonably be expected to be within the right holder’s knowledge to make the suspect

115 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 authorised 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.

116 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.
goods reasonably recognisable 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.

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; 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 with respect to goods under customs control that are:

(a) imported;

(b) destined for export or

(c) in transit

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117 For greater certainty, a Party may establish reasonable procedures to receive or access that information.

118 For greater certainty, that ex officio action does not require a formal complaint from a third party or right holder.

119 For the purposes of this Article, a Party may treat “goods under customs control” as meaning goods that are subject to a Party’s customs procedures.

120 For the purposes of this Article, a Party may treat goods “destined for export” as meaning exported.
and that are suspected of being counterfeit trademark goods or pirated copyright goods.

6. 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 paragraph 1, paragraph 5(a), paragraph 5(b) and, if applicable, paragraph 5(c), 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.

7. 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.

8. 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.

9. This Article also shall apply 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 travellers’ personal luggage.

Article 18.77: Criminal Procedures and Penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright or related rights piracy.

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121 This subparagraph applies to suspect goods that are in transit from one customs office to another customs office in the Party's territory from which the goods will be exported.
122 As an alternative to this subparagraph, a Party shall instead endeavour to provide, if appropriate and with a view to eliminating international trade in counterfeit trademark goods or pirated copyright goods, available information to another Party in respect of goods that it has examined without a local consignee and that are transhipped through its territory and destined for the territory of the other Party, to inform that other Party's efforts to identify suspect goods upon arrival in its territory.
123 A Party may comply with the obligation in this Article with respect to a determination that suspect goods under paragraph 5 infringe an intellectual property right through a determination that the suspect goods bear a false trade description.
124 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.
on a commercial scale. In respect of wilful copyright or related rights piracy, “on a commercial scale” includes at least:

(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.125,126

2. Each Party shall treat wilful importation or exportation of counterfeit trademark goods or pirated copyright goods on a commercial scale as unlawful activities subject to criminal penalties.127

3. Each Party shall provide for criminal procedures and penalties to be applied in cases of wilful importation128 and domestic use, in the course of trade and on a commercial scale, of a label or packaging:129

(a) to which a trademark has been applied without authorisation 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. Recognising the need to address the unauthorised copying130 of a cinematographic work from a performance in a movie theatre that causes significant harm to a right holder in the market for that work, and recognising the need to deter such harm, each Party shall adopt or maintain measures, which shall at a minimum include, but need not be limited to, appropriate criminal procedures and penalties.

125 The Parties understand that a Party may comply with subparagraph (b) by addressing such significant acts under its criminal procedures and penalties for non-authorised uses of protected works, performances and phonograms in its law.
126 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.
127 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. Furthermore, criminal procedures and penalties as specified in paragraphs 1, 2 and 3 are applicable in any free trade zones in a Party.
128 A Party may comply with its obligation relating to importation of labels or packaging through its measures concerning distribution.
129 A Party may comply with its obligations under this paragraph by providing for criminal procedures and penalties to be applied to attempts to commit a trademark offence.
130 For the purposes of this Article, a Party may treat the term “copying” as synonymous with reproduction.
5. With respect to the offences 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 offences described in paragraphs 1 through 5, each Party shall provide the following:

(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.\(^{131}\)

(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.\(^{132}\)

(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 offence, documentary evidence relevant to the alleged offence 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 offences, 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 offence.

\(^{131}\) 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.

\(^{132}\) A Party may also account for such circumstances through a separate criminal offence.
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.

(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 infringement proceedings.

(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 offences 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 18.78: Trade Secrets

1. 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. As used in this Chapter, trade secrets encompass, at a minimum, undisclosed information as provided for in Article 39.2 of the TRIPS Agreement.

2. Subject to paragraph 3, each Party shall provide for criminal procedures and penalties for one or more of the following:

(a) the unauthorised and wilful access to a trade secret held in a computer system;

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133 A Party may also provide this authority in connection with administrative infringement proceedings.
134 With regard to copyright and related rights piracy provided for under paragraph 1, a Party may limit application of this paragraph to the cases in which there is an impact on the right holder’s ability to exploit the work, performance or phonogram in the market.
135 For greater certainty, this Article is without prejudice to a Party’s measures protecting good faith lawful disclosures to provide evidence of a violation of that Party’s law.
136 For the purposes of this paragraph “a 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 undisclosed information by third parties that knew, or were grossly negligent in failing to know, that those practices were involved in the acquisition.
(b) the unauthorised and wilful misappropriation\(^{137}\) of a trade secret, including by means of a computer system; or

(c) the fraudulent disclosure, or alternatively, the unauthorised and wilful disclosure, of a trade secret, including by means of a computer system.

3. With respect to the relevant acts referred to in paragraph 2, a Party may, as appropriate, limit the availability of its criminal procedures, or limit the level of penalties available, to one or more of the following cases in which:

(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;

(c) the acts are intended to injure the owner of such trade secret;

(d) the acts are directed by or for the benefit of or in association with a foreign economic entity; or

(e) the acts are detrimental to a Party’s economic interests, international relations, or national defence or national security.

Article 18.79: Protection of Encrypted Program-Carrying Satellite and Cable Signals

1. Each Party shall make it a criminal offence to:

(a) manufacture, assemble, modify,\(^{138}\) import, export, sell, lease or otherwise distribute a tangible or intangible device or system knowing or having reason to know\(^{139}\) that the device or system meets at least one of the following conditions:

(i) it is intended to be used to assist;

(ii) it is primarily of assistance; or

(iii) its principal function is solely to assist,

137 A Party may deem the term “misappropriation” to be synonymous with “unlawful acquisition”.

138 For greater certainty, a Party may treat “assemble” and “modify” as incorporated in “manufacture”.

139 For the purposes of this paragraph, a Party may provide that “having reason to know” may be demonstrated through reasonable evidence, taking into account the facts 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 “wilful negligence”.

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in decoding an encrypted program-carrying satellite signal without the authorisation of the lawful distributor\(^{140}\) of such signal;\(^{141}\) and

(b) with respect to an encrypted program-carrying satellite signal, wilfully:

(i) receive\(^{142}\) such a signal; or

(ii) further distribute\(^{143}\) such signal,

knowing that it has been decoded without the authorisation 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 or civil remedies\(^{144}\) for wilfully:

(a) manufacturing or distributing equipment knowing that the equipment is intended to be used in the unauthorised reception of any encrypted program-carrying cable signal; and

(b) receiving, or assisting another to receive,\(^{145}\) an encrypted program-carrying cable signal without authorisation of the lawful distributor of the signal.

### Article 18.80: Government Use of Software

1. Each Party recognises 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.

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\(^{140}\) With regard to the criminal offences 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.

\(^{141}\) The obligation regarding export may be met by making it a criminal offence to possess and distribute a device or system described in this paragraph. 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 authorise its decoding.

\(^{142}\) For greater certainty and for the purposes of paragraph 1(b) and paragraph 3(b), a Party may provide that wilful 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.

\(^{143}\) For greater certainty, a Party may interpret “further distribute” as “retransmit to the public”.

\(^{144}\) If a Party provides for civil remedies, it may require a demonstration of injury.

\(^{145}\) 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 wilfully publishing any information in order to enable or assist another person to receive a signal without authorisation of the lawful distributor of the signal.
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 authorised by the relevant licence. These measures shall apply to the acquisition and management of the software for government use.\textsuperscript{146}

\textsuperscript{146} For greater certainty, paragraph 2 should not be interpreted as encouraging regional government agencies to use infringing computer software or, if applicable, to use computer software in a manner which is not authorised by the relevant licence.
Section J: Internet Service Providers

Article 18.81: Definitions

For the purposes of this Section:

the term **copyright** includes related rights; and

**Internet Service Provider** means:

(a) a provider of online services for the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user’s choosing, undertaking the function in Article 18.82.2(a) (Legal Remedies and Safe Harbours); or

(b) a provider of online services undertaking the functions in Article 18.82.2(c) or Article 18.82.2(d) (Legal Remedies and Safe Harbours).

For greater certainty, Internet Service Provider includes a provider of the services listed above that engages in caching carried out through an automated process.

Article 18.82: Legal Remedies and Safe Harbours

1. The Parties recognise 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 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 harbours in respect of online services that are Internet Service Providers. This framework of legal remedies and safe harbours shall include:

(a) **legal incentives** for Internet Service Providers to cooperate with copyright owners to deter the unauthorised storage and transmission of copyrighted materials or, in the alternative, to take other action to deter the unauthorised storage and transmission of copyrighted materials; and

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147 Annex 18-F applies to this Section.
148 Annex 18-E applies to Article 18.82.3 and Article 18.82.4 (Legal Remedies and Safe Harbours).
149 For greater certainty, the Parties understand that implementation of the obligations in paragraph 1(a) on “legal incentives” may take different forms.
(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.\textsuperscript{150}

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\textsuperscript{151} or the intermediate and transient storage of that material done automatically in the course of such a technical process;

(b) caching carried out through an automated process;

(c) storage,\textsuperscript{152} at the direction of a user, of material residing on a system or network controlled or operated by or for the Internet Service Provider,\textsuperscript{153} 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):\textsuperscript{154,155}

\textsuperscript{150} The Parties understand that, to the extent that a Party determines, consistent with its international legal obligations, that a particular act does not constitute copyright infringement, there is no obligation to provide for a limitation in relation to that act.

\textsuperscript{151} The Parties understand that such modification does not include a modification made as part of a technical process or for solely technical reasons such as division into packets.

\textsuperscript{152} For greater certainty, a Party may interpret “storage” as “hosting”.

\textsuperscript{153} For greater certainty, the storage of material may include e-mails and their attachments stored in the Internet Service Provider’s server and web pages residing on the Internet Service Provider’s server.

\textsuperscript{154} A Party may comply with the obligations in paragraph 3 by maintaining a framework in which:

(a) there is a stakeholder organisation that includes representatives of both Internet Service Providers and right holders, established with government involvement;

(b) that stakeholder organisation develops and maintains effective, efficient and timely procedures for entities certified by the stakeholder organisation to verify, without undue delay, the validity of each notice of alleged copyright infringement by confirming that the notice is not the result of mistake or misidentification, before forwarding the verified notice to the relevant Internet Service Provider;

(c) there are appropriate guidelines for Internet Service Providers to follow in order to qualify for the limitation described in paragraph 1(b), including requiring that the Internet Service Provider promptly removes or disables access to the identified materials upon receipt of a verified notice; and be exempted from liability for having done so in good faith in accordance with those guidelines; and

(d) there are appropriate measures that provide for liability in cases in which an Internet Service Provider has actual knowledge of the infringement or awareness of facts or circumstances from which the infringement is apparent.
(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\(^{156}\) of alleged infringement from the right holder or a person authorised 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, provided that it takes reasonable steps in advance or promptly after to notify the person whose material is removed or disabled.\(^{157}\)

4. If a system for counter-notices is provided under a Party’s law, and 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 subject to a counter-notice, unless the person giving the original notice seeks judicial relief within a reasonable period of time.

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\(^{158}\) as a result of an Internet Service Provider relying on the misrepresentation.

6. 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.

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\(^{155}\) 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.

\(^{156}\) 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.

\(^{157}\) 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.

\(^{158}\) For greater certainty, the Parties understand that, “any interested party” may be limited to those with a legal interest recognised under that Party’s law.
7. 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.

8. 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 defences under a Party’s legal system.

9. The Parties recognise the importance, in implementing their obligations under this Article, of taking into account the impacts on right holders and Internet Service Providers.
Section K: Final Provisions

Article 18.83: Final Provisions

1. Except as otherwise provided in Article 18.10 (Application of Chapter to Existing Subject Matter and Prior Acts) and paragraphs 2, 3 and 4, each Party shall give effect to the provisions of this Chapter on the date of entry into force of this Agreement for that Party.159

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. This Section does not affect the rights and obligations of a Party under an international agreement to which it and another Party are party.

3. With respect to works of any Party that avails itself of a transition period permitted to it with regard to implementation of Article 18.63 (Term of Protection for Copyright and Related Rights) as it relates to the term of copyright protection (transition Party), Japan and Mexico shall apply at least the term of protection available under the transition Party's domestic law for the relevant works during the transition period and apply Article 18.8.1 (National Treatment) with respect to copyright term only when that Party fully implements Article 18.63.

4. With regard to obligations subject to a transition period, a Party 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 the Agreement for that Party.

(a) In the case of Brunei, with respect to:

(i) Article 18.7.2(d) (International Agreements), UPOV91, three years;
(ii) Article 18.18 (Types of Signs Registrable as Trademarks), with respect to sound marks, three years;
(iii) Article 18.47 (Protection of Undisclosed Test or Other Data for Agricultural Chemical Products), 18 months;
(iv) Article 18.50 (Protection of Undisclosed Test or Other Data), four years; ++
(v) Article 18.51 (Measures Relating to the Marketing of Certain Pharmaceutical Products), two years;
(vi) Article 18.52 (Biologics), four years; ++ and

159 Only the following Parties have determined that, in order to implement and comply with Article 18.52.1 (Biologics), they require changes to their law, and thus require transition periods: Brunei, Malaysia, Mexico, Peru and Vietnam.
(vii) With respect to Section J (Internet Service Providers), three years

++ If there are unreasonable delays in Brunei in the initiation of the filing of marketing approval applications for new pharmaceutical products after Brunei implements its obligations under Article 18.50 and Article 18.52 in connection with subparagraphs (a)(iv) and (a)(vi), Brunei may consider adopting measures to incentivize the timely initiation of the filing of these applications with a view to the introduction of new pharmaceutical products in its market. To that end, Brunei shall notify the other Parties through the Commission and consult with them on such a proposed measure. Such consultations shall begin within 30 days of a request from an interested Party, and shall provide adequate time and opportunity to resolve any concerns. In addition, any such measure shall respect legitimate commercial considerations and take into account the need for incentives for the development of new pharmaceutical products and for the expeditious marketing approval in Brunei of such products.

(b) In the case of Malaysia, with respect to:

(i) Article 18.7.2(a) (International Agreements), Madrid Protocol, four years;
(ii) Article 18.7.2(b) (International Agreements), Budapest Treaty, four years;
(iii) Article 18.7.2(c) (International Agreements), Singapore Treaty, four years;
(iv) Article 18.7.2(d) (International Agreements), UPOV 1991, four years;
(v) Article 18.18.1 (Types of Signs Registrable as Trademarks), with respect to sound marks, three years;
(vi) Article 18.48.2 (Patent Term Adjustment for Unreasonable Curtailment), 4.5 years;
(vii) Article 18.51 (Measures Relating to the Marketing of Certain Pharmaceutical Products), 4.5 years;
(viii) Article 18.52 (Biologics), five years;
(ix) Article 18.63(a) (Term of Protection for Copyright and Related Rights), with respect to life-based works, two years;
(x) Article 18.76, with respect to ‘confusingly similar’ for applications, four years;
(xi) Article 18.76.5(b) and (c) (Special Requirements Related to Border Measures), with respect to ex officio border enforcement for in transit and export, four years; and
(xii) Article 18.79.2 (Protection of Encrypted Program-Carrying Satellite and Cable Signals), four years.
(c) In the case of Mexico, with respect to:

(i) Article 18.7.2(d) (International Agreements), UPOV 1991, four years;
(ii) Article 18.47 (Protection of Undisclosed Test or Other Data for Agricultural Chemical Products), five years;
(iii) Article 18.48.2 (Patent Term Adjustment for Unreasonable Curtailment), 4.5 years;
(iv) Article 18.50 (Protection of Undisclosed Test or Other Data), five years;++
(v) Article 18.52 (Biologics), five years;+++ and
(vi) Section J (Internet Service Providers), three years.

++ If there are unreasonable delays in Mexico in the initiation of the filing of marketing approval applications for new pharmaceutical products after implementing its obligations under Article 18.50 and Article 18.52 in connection with subparagraphs (c)(iv) and (c)(v), Mexico may consider adopting measures to incentivize the timely initiation of the filing of these applications with a view to the introduction of new pharmaceutical products in its market. To that end, Mexico shall notify the other Parties through the Commission and consult with them on such a proposed measure. Such consultations shall begin within 30 days of a request from an interested Party, and shall provide adequate time and opportunity to resolve any concerns. In addition, any such measure shall respect legitimate commercial considerations and take into account the need for incentives for the development of new pharmaceutical products and for the expeditious marketing approval in Mexico of such products.

(d) In the case of New Zealand, with respect to Article18.63 (Term of Protection for Copyright and Related Rights), eight years. Except that from the date of entry into force of the Agreement for New Zealand, New Zealand shall provide that the term of protection for a work, performance or phonogram that would, during that eight years, have expired under the term that was provided in New Zealand law before the entry into force of this Agreement, instead expires 60 years from the relevant date in Article 18.63 that is the basis for calculating the term of protection under this Agreement. The Parties understand that, in applying Article 18.10 (Application of Chapter to Existing Subject Matter and Prior Acts), New Zealand shall not be required to restore or extend the term of protection to the works, performances and phonograms with a term provided pursuant to the previous sentence, once these works, performances and phonograms fall into the public domain in its territory.
(e) In the case of Peru, with respect to:

(i) Article 18.50.2 (Protection of Undisclosed Test or Other Data), five years;

(ii) Article 18.52 (Biologics), 10 years.

(f) In the case of Viet Nam, with respect to:

(i) Article 18.7.2(b) (International Agreements), Budapest Treaty, two years;

(ii) Article 18.7.2(e) (International Agreements), WCT, three years;

(iii) Article 18.7.2(f) (International Agreements), WPPT, three years;

(iv) Article 18.18.1 (Types of Signs Registrable as Trademarks), with respect to sound marks, three years;

(v) Article 18.46.3 and Article 18.46.4 (Patent Term Adjustment for Patent Office Delays), three years;

(vi) Article 18.47 (Protection of Undisclosed Test or Other Data for Agricultural Chemical Products), five years;

(vii) Article 18.51 (Measures Relating to the Marketing of Certain Pharmaceutical Products), three years;

(viii) Article 18.48.2 (Patent Term Adjustment for Unreasonable Curtailment), five years;

(ix) Article 18.63(a) (Term of Protection for Copyright and Related Rights), with respect to life-based works, five years;

(x) Article 18.76.5(b) (Special Requirements Related to Border Measures), with respect to *ex officio* border measures for export, three years;

(xi) Article 18.76.5(c) (Special Requirements Related to Border Measures), with respect to *ex officio* border measures for in-transit, two years;

(xii) Section J (Internet Service Providers), three years;

(xiii) Article 18.77.6(g) (Criminal Procedures and Penalties), with respect to enforcement without the right holder’s request for rights other than copyright, three years;

(xiv) Article 18.77.2 (Criminal Procedures and Penalties), with respect to importation of pirated copyright goods, three years;

(xv) Article 18.79.1 (Protection of Encrypted Program-Carrying Satellite and Cable Signals), with respect to criminal remedies, three years;

(xvi) Article 18.79.3 (Protection of Encrypted Program-Carrying Satellite and Cable Signals), with respect to cable signals, three years;

(xvii) Article 18.78.2 and Article 18.78.3 (Trade Secrets), three years;
(xviii) Article 18.77.4 (Criminal Procedures and Penalties), with respect to camcording, three years;
(xix) Article 18.68 (TPMs), three years;
(xx) Article 18.69 (RMI), three years;
(xxi) Article 18.77.2 (Criminal Procedures and Penalties), with respect to exportation, three years;
(xxii) Article 18.77.1(b) (Criminal Procedures and Penalties), three years;
(xxiii) Article 18.50 (Protection of Undisclosed Test or Other Data), 10 years;*/++
(xxiv) Article 18.52 (Biologics), 10 years;*/++
(xxv) Article 18.46.3 and Article 18.46.4 (Patent Term Adjustment for Patent Office Delays), with respect to patents claiming pharmaceutical products, five years;^ and
(xxvi) Article 18.46.3 and Article 18.46.4 (Patent Term Adjustment for Patent Office Delays), with respect to patents claiming agricultural chemical products, five years.^

^ For transitions for Article 18.46.3 and Article 18.46.4 (Patent Term Adjustment for Patent Office Delays) for patents claiming pharmaceutical products and agricultural chemical products, the Parties will consider a justified request from Viet Nam for an extension of the transition period for up to one additional year. Viet Nam’s request shall include the reasons for the requested extension. Viet Nam may avail itself of this one-time extension upon providing a request in accordance with this paragraph unless the Commission decides otherwise within 60 days of receiving the request. No later than the date on which the additional one-year period expires, Viet Nam shall provide to the Commission in writing a report on the measures it has taken to fulfill its obligation under Article 18.46.3 and Article 18.46.4.

* For transitions for Article 18.50 (Protection of Undisclosed Test or Other Data) and Article 18.52 (Biologics) for pharmaceutical products:

(A) The Parties will consider a justified request from Viet Nam for an extension of the transition period for up to two additional years. Viet Nam’s request shall include the reason for the requested extension. Viet Nam may avail itself of this one-time extension upon providing a request in accordance with this paragraph unless the Commission decides otherwise within 60 days of receiving the request. No later than the date on which the additional two-year period expires, Viet Nam shall provide to the Commission in writing a report on the measures it has taken to fulfill its obligation under Article 18.50 (Protection of Undisclosed Test or Other Data) and Article 18.52 (Biologics).
(B) Viet Nam may make a further request for an additional one-time extension pursuant to Chapter 27 (Administrative and Institutional Provisions). Viet Nam’s request shall include the reason for the request. The Commission shall decide pursuant to the procedures set forth in Article 27.3 (Decision-Making), whether to grant the request based on relevant factors, which may include capacity as well as other appropriate circumstances. Viet Nam shall make the request no later than one year prior to the expiration of the two-year transition period referred to in the first sentence of paragraph (A). The Parties shall give due consideration to that request. If the Committee grants Viet Nam’s request, Viet Nam shall provide to the Commission in writing a report on the measures it has taken to fulfill its obligations under Article 18.50 (Protection of Undisclosed Test or Other Data) and Article 18.52 (Biologics) no later than the date on which the extension period expires.

(C) Viet Nam’s implementation of Article 18.50 (Protection of Undisclosed Test or Other Data) and Article 18.52 (Biologics) during three years after the conclusion of the extension period referred to in paragraph (A) shall not be subject to dispute settlement under Chapter 28 (Dispute Settlement).

++ If there are unreasonable delays in Viet Nam in the initiation of the filing of marketing approval applications for new pharmaceutical products after Viet Nam implements its obligations under Article 18.50 (Protection of Undisclosed Test or Other Data) and Article 18.52 (Biologics) in connection with subparagraphs (f)(xxiii) and (f)(xxiv), Viet Nam may consider adopting measures to incentivize the timely initiation of the filing of these applications with a view to the introduction of new pharmaceutical products in its market. To that end, Viet Nam shall notify the other Parties through the Commission and consult with them on such a proposed measure. Such consultations shall begin within 30 days of a request from an interested Party, and shall provide adequate time and opportunity to resolve any concerns. In addition, any such measure shall respect legitimate commercial considerations and take into account the need for incentives for the development of new pharmaceutical products and for the expeditious marketing approval in Viet Nam of such products.
Annex 18-A

Annex to Article 18.7.2

1. Notwithstanding the obligations in Article 18.7.2 (International Agreements), and subject to paragraphs 2, 3 and 4 of this Annex, New Zealand shall:

   (a) accede to the UPOV 1991 within three years of the date of entry into force of this Agreement for New Zealand; or
   
   (b) adopt a *sui generis* plant variety rights system that gives effect to the UPOV 1991 within three years of the date of entry into force of this Agreement for New Zealand.

2. Nothing in paragraph 1 shall preclude the adoption by New Zealand of measures it deems necessary to protect indigenous plant species in fulfilment of its obligations under the Treaty of Waitangi, provided that such measures are not used as a means of arbitrary or unjustified discrimination against a person of another Party.

3. The consistency of any measures referred to in paragraph 2 with the obligations in paragraph 1 shall not be subject to the dispute settlement provisions of this Agreement.

4. The interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 28 (Dispute Settlement) shall otherwise apply to this Annex. A panel established under Article 28.7 (Establishment of a Panel) may be requested to determine only whether any measure referred to in paragraph 2 is inconsistent with a Party’s rights under this Agreement.
Annex 18-B

Chile

1. Nothing in Article 18.50.1 or Article 18.50.2 (Protection of Undisclosed Test or Other Data) or Article 18.52 (Biologics) prevents Chile from maintaining or applying the provisions of Article 91 of Chile’s Law No. 19.039 on Industrial Property, as in effect on the date of agreement in principle of this Agreement.

2. Notwithstanding Article 1.2 (Relation to Other Agreements), paragraph 1 is without prejudice to any Party’s rights and obligations under an international agreement in effect prior to the date of entry into force of this Agreement for Chile, including any rights and obligations under a trade agreement between Chile and another Party.
Annex 18-C

Malaysia

1. Malaysia may, for the purpose of granting protection as specified in Article 18.50.1 and Article 18.50.2 (Protection of Undisclosed Test or Other Data) and Article 18.52.1 (Biologics), require an applicant to commence the process of obtaining marketing approval for pharmaceutical products covered under those Articles within 18 months from the date that the product is first granted marketing approval in any country.

2. For greater certainty, the periods of protection referred to in Article 18.50.1 and Article 18.50.2 (Protection of Undisclosed Test or Other Data) and Article 18.52.1 (Biologics) shall begin on the date of marketing approval of the pharmaceutical product in Malaysia.
Annex 18-D

Peru

Part 1: Applicable to Article 18.46 and Article 18.48

To the extent that Andean Decision 486, *Common Industrial Property Regime*, and Andean Decision 689, *Adequacy of Certain Articles of Decision 486*, restricts Peru’s implementation of its obligations set forth in Article 18.46.3 (Patent Term Adjustments for Patent Office Delays) and Article 18.48.2 (Patent Term Adjustment for Unreasonable Curtailment), Peru commits to make its best efforts to obtain a waiver from the Andean Community that allows it to adjust its patent term in a way that is consistent with Article 18.46.3 and Article 18.48.2. Further, if Peru demonstrates that the Andean Community withheld its request for a waiver despite its best efforts, Peru will continue ensuring that it does not discriminate with respect to the availability or enjoyment of patent rights based on the field of technology, the place of invention, and whether products are imported or locally produced. Thus, Peru confirms that the treatment of pharmaceutical patents will be no less favourable than treatment of other patents in respect of the processing and examination of patent applications.

Part 2: Applicable to Article 18.50 and Article 18.52

1. If Peru relies, pursuant to Article 18.50.1(b) (Protection of Undisclosed Test or Other Data), on a marketing approval granted by another Party, and grants approval within six months of the date of the filing of a complete application for marketing approval filed in Peru, Peru may provide that the protection specified in Article 18.50.1(b) and Article 18.52 (Biologics), as applicable, shall begin with the date of the first marketing approval relied on. In implementing Article 18.50.1(b) and Article 18.52.1(b)(i), Peru may apply the period of protection established in Article 16.10.2(b) of the *United States – Peru Trade Promotion Agreement*, done at Washington, District of Columbia, April 12, 2006.

2. Peru may apply paragraph 1 to Article 18.50.2 (Protection of Undisclosed Test or Other Data).
1. In order to facilitate the enforcement of copyright on the Internet and to avoid unwarranted market disruption in the online environment, Article 18.82.3 and Article 18.82.4 (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 18.82.1(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 18.82.2(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 18.82.2(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 18.82.3 and Article 18.82.4 (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 18.82.1(a), legal incentives shall not mean the conditions for Internet Service Providers to qualify for the limitations provided for in Article 18.82.1(b), as set out in Article 18.82.3.
Annex 18-F

Annex to Section J

As an alternative to implementing Section J (Internet Service Providers), a Party may implement Article 17.11.23 of the United States – Chile Free Trade Agreement, done at Miami, June 6, 2003, which is incorporated into and made part of this Annex.
CHAPTER 19

LABOUR

Article 19.1: Definitions

For the purposes of this Chapter:

ILO Declaration means the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998);

labour laws means statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognised labour 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 labour;

   (c) the effective abolition of child labour, a prohibition on the worst forms of child labour and other labour 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:  

   (a) for Australia, Acts of the Commonwealth Parliament, or regulations made by the Governor-General in Council under delegated authority under an Act of the Commonwealth Parliament;

   (b) for Malaysia, the Federal Constitution, Acts of Parliament and subsidiary legislation or regulations made under Acts of Parliament;

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1 For Singapore, minimum wages may include wage payments and adjustments gazetted under the Employment Act and wage supplement schemes under the Central Provident Fund Act.

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.
(c) 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;

(d) 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.

**Article 19.2: Statement of Shared Commitment**

1. The Parties affirm their obligations as members of the ILO, including those stated in the ILO Declaration, regarding labour rights within their territories.

2. The Parties recognise that, as stated in paragraph 5 of the ILO Declaration, labour standards should not be used for protectionist trade purposes.

**Article 19.3: Labour 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:

   (a) freedom of association and the effective recognition of the right to collective bargaining;

   (b) the elimination of all forms of forced or compulsory labour;

   (c) the effective abolition of child labour and, for the purposes of this Agreement, a prohibition on the worst forms of child labour; and

   (d) the elimination of discrimination in respect of employment and occupation.

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.\(^5\)

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3 The obligations set out in Article 19.3, as they relate to the ILO, refer only to the ILO Declaration.

4 To establish a violation of an obligation under Article 19.3.1 or Article 19.3.2, 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.

5 For greater certainty, this obligation relates to the establishment by a Party in its statutes, regulations and practices thereunder, of acceptable conditions of work as determined by that Party.
Article 19.4: Non Derogation

The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party’s labour 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 19.3.1 (Labour Rights), if the waiver or derogation would be inconsistent with a right set out in that paragraph; or

(b) implementing Article 19.3.1 (Labour Rights) or Article 19.3.2 (Labour Rights), if the waiver or derogation would weaken or reduce adherence to a right set out in Article 19.3.1, or to a condition of work referred to in Article 19.3.2 (Labour Rights), 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.

Article 19.5: Enforcement of Labour Laws

1. No Party shall fail to effectively enforce its labour laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties after the date of entry into force of this Agreement.

2. 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 labour enforcement activities among the fundamental labour rights and acceptable conditions of work enumerated in Article 19.3.1 (Labour Rights) and Article 19.3.2 (Labour Rights), provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

3. Nothing in this Chapter shall be construed to empower a Party’s authorities to undertake labour law enforcement activities in the territory of another Party.
Article 19.6: Forced or Compulsory Labour

Each Party recognises the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour. Taking into consideration that the Parties have assumed obligations in this regard under Article 19.3 (Labour Rights), each Party shall also discourage, through initiatives it considers appropriate, the importation of goods from other sources produced in whole or in part by forced or compulsory labour, including forced or compulsory child labour.6

Article 19.7: Corporate Social Responsibility

Each Party shall endeavour to encourage enterprises to voluntarily adopt corporate social responsibility initiatives on labour issues that have been endorsed or are supported by that Party.

Article 19.8: Public Awareness and Procedural Guarantees

1. Each Party shall promote public awareness of its labour laws, including by ensuring that information related to its labour laws and enforcement and compliance procedures is publicly available.

2. Each Party shall ensure that persons with a recognised interest under its law in a particular matter have appropriate access to impartial and independent tribunals for the enforcement of the Party’s labour laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, judicial tribunals or labour tribunals, as provided for in each Party’s law.

3. Each Party shall ensure that proceedings before these tribunals for the enforcement of its labour laws: are fair, equitable and transparent; comply with due process of law; and do not entail unreasonable fees or time limits or unwarranted delays. Any hearings in these proceedings shall be open to the public, except when 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;

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6 For greater certainty, nothing in this Article authorises a Party to take initiatives that would be inconsistent with its obligations under other provisions of this Agreement, the WTO Agreement or other international trade agreements.
(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 that parties to these proceedings have the right to seek review or appeal, as appropriate under its law.

6. 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 labour laws and that these remedies are executed in a timely manner.

7. Each Party shall provide procedures to effectively enforce the final decisions of its tribunals in these proceedings.

8. 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.

Article 19.9: Public Submissions

1. Each Party, through its contact point designated under Article 19.13 (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. A Party may provide in its procedures that, to be eligible for consideration, a submission should, at a minimum:

   (a) raise an issue directly relevant to this Chapter;

   (b) clearly identify the person or organisation making the submission; and

   (c) explain, to the degree possible, how and to what extent the issue raised affects trade or investment between the Parties.

3. 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.

4. A Party may request from the person or organisation that made the submission additional information that is necessary to consider the substance of the submission.
Article 19.10: Cooperation

1. The Parties recognise the importance of cooperation as a mechanism for effective implementation of this Chapter, to enhance opportunities to improve labour standards and to further advance common commitments regarding labour matters, including workers’ wellbeing and quality of life and the principles and rights stated in the ILO Declaration.

2. In undertaking cooperative activities, the Parties shall be guided by the following principles:

   (a) consideration of each Party’s priorities, level of development and available resources;
   (b) broad involvement of, and mutual benefit to, the Parties;
   (c) relevance of capacity and capability-building activities, including technical assistance between the Parties to address labour protection issues and activities to promote innovative workplace practices;
   (d) generation of measurable, positive and meaningful labour outcomes;
   (e) resource efficiency, including through the use of technology, as appropriate, to optimise resources used in cooperative activities;
   (f) complementarity with existing regional and multilateral initiatives to address labour issues; and
   (g) transparency and public participation.

3. 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. Subject to the agreement of the Parties involved, cooperative activities may occur through bilateral or plurilateral engagement and may involve relevant regional or international organisations, such as the ILO, and non-Parties.

4. The funding of cooperative activities undertaken within the framework of this Chapter shall be decided by the Parties involved on a case-by-case basis.

5. In addition to the cooperative activities outlined in this Article, the Parties shall, as appropriate, caucus and leverage their respective membership in regional and multilateral fora to further their common interests in addressing labour issues.

6. Areas of cooperation may include:

   (a) job creation and the promotion of productive, quality employment, including policies to generate job-rich growth and promote sustainable enterprises and entrepreneurship;
(b) creation of productive, quality employment linked to sustainable growth and skills development for jobs in emerging industries, including environmental industries;

(c) innovative workplace practices to enhance workers’ well-being and business and economic competitiveness;

(d) human capital development and the enhancement of employability, including through lifelong learning, continuous education, training and the development and upgrading of skills;

(e) work-life balance;

(f) promotion of improvements in business and labour productivity, particularly in respect of SMEs;

(g) remuneration systems;

(h) promotion of the awareness of and respect for the principles and rights as stated in the ILO Declaration and for the concept of Decent Work as defined by the ILO;

(i) labour laws and practices, including the effective implementation of the principles and rights as stated in the ILO Declaration;

(j) occupational safety and health;

(k) labour administration and adjudication, for example, strengthening capacity, efficiency and effectiveness;

(l) collection and use of labour statistics;

(m) labour inspection, for example, improving compliance and enforcement mechanisms;

(n) addressing the challenges and opportunities of a diverse, multigenerational workforce, including:

(i) promotion of equality and elimination of discrimination in respect of employment and occupation for migrant workers, or in the areas of age, disability and other characteristics not related to merit or the requirements of employment;

(ii) promotion of equality of, elimination of discrimination against, and the employment interests of women; and

(iii) protection of vulnerable workers, including migrant workers, and low-wage, casual or contingent workers;
(o) addressing the labour and employment challenges of economic crises, such as through areas of common interest in the ILO *Global Jobs Pact*;

(p) social protection issues, including workers’ compensation in case of occupational injury or illness, pension systems and employment assistance schemes;

(q) best practice for labour relations, for example, improved labour relations, including promotion of best practice in alternative dispute resolution;

(r) social dialogue, including tripartite consultation and partnership;

(s) with respect to labour 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 organisations in each Party;

(t) corporate social responsibility; and

(u) other areas as the Parties may decide.

7. Parties may undertake activities in the areas of cooperation in paragraph 6 through:

(a) workshops, seminars, dialogues and other fora to share knowledge, experiences and best practices, including online fora and other knowledge-sharing platforms;

(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.

**Article 19.11: Cooperative Labour 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 19.13 (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 labour 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 programmes and capacity building, to encourage or assist the dialoguing Parties to identify and address labour matters.

**Article 19.12: Labour Council**

1. The Parties hereby establish a Labour Council (Council) composed of senior governmental representatives at the ministerial or other level, as designated by each Party.

2. The Council shall meet within one year of the date of entry into force of this Agreement. Thereafter, the Council shall meet every two years, unless the Parties decide otherwise.

3. The Council shall:

   (a) consider matters related to this Chapter;

   (b) establish and review priorities to guide decisions by the Parties about labour cooperation and capacity building activities undertaken pursuant to this Chapter, taking into account the principles in Article 19.10.2 (Cooperation);
(c) agree on a general work programme in accordance with the priorities established under subparagraph (b);

(d) oversee and evaluate the general work programme;

(e) review reports from the contact points designated under Article 19.13 (Contact Points);

(f) discuss matters of mutual interest;

(g) facilitate public participation and awareness of the implementation of this Chapter; and

(h) perform any other functions as the Parties may decide.

4. 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 implementation of this Chapter with a view to ensuring its effective operation and report the findings and any recommendations to the Commission.

5. The Council may undertake subsequent reviews as agreed by the Parties.

6. The Council shall be chaired by each Party on a rotational basis.

7. All Council decisions and reports shall be made by consensus and be made publicly available, unless the Council decides otherwise.

8. The Council shall agree on a joint summary report on its work at the end of each Council meeting.

9. The Parties shall, as appropriate, liaise with relevant regional and international organisations, such as the ILO and APEC, on matters related to this Chapter. The Council may seek to develop joint proposals or collaborate with those organisations or with non-Parties.

Article 19.13: Contact Points

1. Each Party shall designate an office or official within its labour 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 for that Party. 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;

(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 19.10.6 (Cooperation) and the needs of the Parties.

3. Contact points may develop and implement specific cooperative activities bilaterally or plurilaterally.

4. Contact points may communicate and coordinate activities in person or through electronic or other means of communication.

**Article 19.14: Public Engagement**

1. 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.

2. Each Party shall establish or maintain, and consult, a national labour consultative or advisory body or similar mechanism, for members of its public, including representatives of its labour and business organisations, to provide views on matters regarding this Chapter.

**Article 19.15: Labour Consultations**

1. The Parties shall make every effort through cooperation and consultation based on the principle of mutual respect to resolve any matter arising under this Chapter.

2. A Party (requesting Party) may, at any time, request labour consultations with another Party (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. The requesting Party shall circulate the request to the other Parties through their respective contact points.

3. The responding Party shall, unless agreed otherwise with the requesting Party, reply to the request in writing no later than seven days after the date of its receipt. The responding Party shall circulate the reply to the other Parties and enter into labour consultations in good faith.

4. A Party other than the requesting Party or the responding Party (the consulting Parties) that considers that it has a substantial interest in the matter may participate in the labour consultations by delivering a written notice to the other Parties within seven days of the date of circulation by the requesting Party of the request for labour consultations. The Party shall include in its notice an explanation of its substantial interest in the matter.
5. The Parties shall begin labour consultations no later than 30 days after the date of receipt by the responding Party of the request.

6. In the labour consultations:

   (a) each consulting Party shall provide sufficient information to enable a full examination of the matter; and

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

7. Labour consultations may be held in person or by any technological means available to the consulting Parties. If labour consultations are held in person, they shall be held in the capital of the responding Party, unless the consulting Parties agree otherwise.

8. The consulting Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter through labour consultations under this Article, taking into account opportunities for cooperation related to the matter. The consulting Parties may request advice from an independent expert or experts chosen by the consulting Parties to assist them. The consulting Parties may have recourse to such procedures as good offices, conciliation or mediation.

9. In labour consultations under this Article, a consulting Party may request another consulting Party to make available personnel of its government agencies or other regulatory bodies with expertise in the matter that is the subject of the labour consultations.

10. If the consulting Parties are unable to resolve the matter, any consulting Party may request that the Council representatives of the consulting Parties convene to consider the matter by delivering a written request to the other consulting Party through its contact point. The Party making that request shall inform the other Parties through their contact points. The Council representatives of the consulting Parties shall convene no later than 30 days after the date of receipt of the request, unless the consulting Parties agree otherwise, and shall seek to resolve the matter, including, if appropriate, by consulting independent experts and having recourse to such procedures as good offices, conciliation or mediation.

11. 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 Parties and to the public, unless they agree otherwise.

12. If the consulting Parties have failed to resolve the matter no later than 60 days after the date of receipt of a request under paragraph 2, the requesting Party may request the establishment of a panel under Article 28.7 (Establishment of a Panel) and, as provided in Chapter 28 (Dispute Settlement), thereafter have recourse to the other provisions of that Chapter.

13. No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with this Article.
14. A Party may have recourse to labour consultations under this Article without prejudice to the commencement or continuation of cooperative labour dialogue under Article 19.11 (Cooperative Labour Dialogue).

15. Labour consultations shall be confidential and without prejudice to the rights of any Party in any other proceedings.
November [-], 2015

The Honorable Pehin Dato Lim Jock Seng
Minister at the Prime Minister’s Office and
Second Minister of Foreign Affairs and Trade
Brunei Darussalam

Dear Minister Pehin Dato Lim Jock Seng:

I have the honor to confirm that the United States of America and Brunei Darussalam have reached agreement with respect to the “Brunei – United States Labour Consistency Plan”, a bilateral instrument in accordance with Chapter 19 of the TPP Agreement attached to this letter.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments. This agreement shall enter into force on the date of entry into force of the TPP Agreement between our two governments.

Sincerely,

Ambassador Michael B. G. Froman
November 2015

The Honorable Michael Froman  
United States Trade Representative  
600 17th Street, NW  
Washington, DC 20508

Dear Ambassador Froman:

I am pleased to receive your letter of [insert date], which reads as follows:

I have the honor to confirm that the United States of America and Brunei Darussalam have reached agreement with respect to the “Brunei – United States Labour Consistency Plan”, a bilateral instrument in accordance with Chapter 19 of the TPP Agreement attached to this letter.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments. This agreement shall enter into force on the date of entry into force of the TPP Agreement between our two governments.

I have the honor to confirm that the understanding referred to in your letter is shared by my Government, and that your letter and this letter in reply shall constitute an agreement between our two governments.

Sincerely,

PEHIN DATO LIM JOCK SENG  
Minister at the Prime Minister’s Office and  
Second Minister of Foreign Affairs and Trade
Brunei – United States Labour Consistency Plan

This Plan creates rights and obligations only as between Brunei Darussalam and the United States.

I. Preamble

The Governments of Brunei and the United States:

ACKNOWLEDGING that each Party commits under Chapter 19 (Labour) to obligations concerning its labour law and practice, including with regard to its statutes and regulations and the labour rights as stated in the ILO Declaration;

UNDERTAKE through this Plan the following commitments consistent with those obligations.

II. Legal Reforms

Brunei shall undertake the following legal reforms. In addition, Brunei shall undertake other changes, including the issuance of new or revised measures, that are required to fully implement the following legal reforms and any related changes required to ensure consistency across the legal framework.

A. Freedom of Association and Collective Bargaining

Prior Authorization of Union Registration

1. Brunei shall amend the implementing regulations to the TUA, Section 10(1)(b), to clarify that “unlawful” refers only to serious breaches of law; and shall amend the implementing regulations to the TUA, Section 11(1)(b), to clarify that “willfully…violated” requires intent to violate the law.

International Affiliation

2. Brunei shall amend relevant sections of the TUA, including Section 17, related to prior consent for international affiliation by a union or union confederation, consistent with the labour rights as stated in the ILO Declaration.

Interference in Union Activity, Autonomy and Administration

3. Brunei shall amend relevant sections of the TUA to ensure that workers’ organizations have adequate protection from acts of interference by employers and public authorities, including
by prohibiting such interference and applying effective procedures to expeditiously investigate allegations of interference, sanction violations and provide for appropriate remedies.

**Protection against Anti-Union Discrimination**

4. Brunei shall amend the TUA and the Employment Order (EO) to ensure that workers enjoy adequate remedies for all acts of anti-union discrimination in respect of their employment.

**Limits on Selection of Union Officers**

5. Brunei shall amend TUA, Section 16 to ensure workers’ right to elect their own representatives in full freedom without undue restrictions and ensure that only appropriate minimum standards are set that do not otherwise limit the workers’ ability to select their representatives.

**Procedures for collective bargaining and strikes**

6. Brunei shall amend relevant sections of the TUA to ensure workers’ right to bargain collectively, including by adopting measures that provide procedures for voluntary negotiation between employers or employers' organizations and workers' organizations.

7. Brunei shall amend relevant sections of the Trade Disputes Act (TDA), Section 9, to ensure workers’ right to strike, except in the limited circumstances noted in Section 7 and Section 8.

**Review and Appeal**

8. Brunei shall provide impartial and independent bodies or tribunals with jurisdiction to review any administrative decisions made under its labour laws, and ensure parties to those administrative decisions have access to those bodies or tribunals to review or appeal the decisions. Brunei shall amend relevant sections of its labour laws to clarify that administrative decisions are subject to review by such bodies or tribunals.

**Application of Other Laws**

9. Brunei shall ensure that laws or legal instruments, or provisions therein, are not applied or amended in a manner to undermine peaceful trade union-related activity protected by the TUA, TDA or EO.

**B. Forced Labour**

Brunei shall ensure effective enforcement in implementing the Passport Act, Section 12(g), which prohibits withholding of another person’s passport without lawful authority. Implementation shall include measures that make clear that: retention of a worker’s passport by an employer is illegal; employers and foreign workers must be fully informed of foreign workers’ right to retain their own passports; and foreign workers retain the right to access their passports at
any time, without delay or approval of any other individual, and without consequence to their status and relationship with their employer or recruitment agency.

C. Child Labour

Brunei shall amend relevant sections of the Employment Order to include a list of hazardous occupations prohibited for persons under 18 years of age.

D. Employment Discrimination

Brunei shall amend relevant sections of the Employment Order to prohibit discrimination in respect of employment and occupation, including on the basis of race, sex, color, religion, political opinion and national extraction.

E. Acceptable Conditions of Work

Brunei shall enact laws and regulations that provide for a minimum wage for private sector workers.

III. Institutional Reforms and Capacity Building

Brunei shall undertake necessary institutional changes and capacity building to implement the legal reforms required by this Plan, including: establish new administrative functions, procedures and mechanisms; expand and adequately train the labour inspectorate and relevant criminal system authorities; and provide the necessary resources to implement these changes.

Labour Inspectorate

1. Brunei shall revise internal inspection and other enforcement procedures for the labour inspectorate of its Department of Labour, to ensure effective enforcement of the new legal provisions, and train all relevant personnel on the reformed procedures and new provisions.

2. Brunei shall ensure its complaint mechanisms are effective, allow workers to confidentially and anonymously report violations of the labour laws, and include procedures for referring complaints to labour inspectors for follow up and for documenting and tracking the follow-up inspections and investigations conducted, including the status of an inspection or investigation, any violation identified, the existence or amount of any fine or sanctions imposed, and any remedies ordered.
IV. Transparency and Sharing of Information

A. Public Comment

1. Brunei shall provide for public comment, including using any existing procedures, of the draft laws and other measures that result from the commitments in this Plan.

2. Brunei shall, consistent with its existing procedures, publicly post on the applicable agency website the final legal instruments that result from the commitments in this Plan after their issuance.

B. Collaboration

Brunei and the United States shall collaborate on the development of the relevant legal reforms and other measures related to the implementation of this Plan.

C. Outreach and education

Brunei shall ensure an outreach program to inform and educate stakeholders, including employers and workers, on their rights under the revised laws and regulations; on the new administrative processes for the implementation of the revised laws and regulations; and on related remedies and courses of action available to stakeholders to enforce those rights.

V. Review

1. The United States and Brunei shall regularly assess progress in implementing this Plan, including follow-up enforcement and application of the amended laws and regulations and institutional reforms.

2. The United States and Brunei shall establish a Committee comprising senior officials from the Office of the U.S. Trade Representative and the Department of Labor for the United States and from the Ministry of Foreign Affairs and Trade and the Department of Labour, Ministry of Home Affairs for Brunei to monitor, assess and facilitate rapid response to any concerns about compliance with and implementation of the legal and institutional reforms under this Plan.

3. The United States and Brunei shall designate the responsible senior officials prior to the date of entry into force of this Agreement between the United States and Brunei and promptly inform the other Party of any subsequent changes.

4. The Committee shall meet, in person or by any technological means available, annually for seven years after the date of entry into force of this Agreement between the United States and
Brunei. At the request of either Brunei or the United States, the Committee shall continue to meet annually thereafter or as otherwise agreed.

5. Unless otherwise agreed, the Committee shall convene within 30 days after a request by Brunei or United States to determine actions necessary to address any concerns with regard to compliance with or implementation of the legal and institutional reforms under this Plan.

VI. Technical Assistance

1. Brunei may request cooperation, advice and technical assistance from the United States or other Parties to the Agreement or any relevant international organisation for the purpose of implementing this Plan.

2. Brunei and the United States shall endeavor to share expertise, and to exchange information and best practices for the purpose of implementing this Plan.

VII. Implementation

1. Brunei shall enact the legal and institutional reforms in Part II and Part III of this Plan prior to the date of entry into force of the TPP Agreement between the United States and Brunei.

2. This Plan shall be subject to consultations under Article 19.5 (Labour Consultations) of the Labour Chapter, except that with respect to paragraphs 2 and 3, the requirement to circulate the request and reply, respectively, to the other TPP Parties, shall not apply; and paragraph 4 shall not apply.

3. This Plan shall be subject to dispute settlement under Chapter 28 (Dispute Settlement) of the TPP Agreement, except for Article 28.13 (Third Party Participation), which shall not apply.
November [-], 2015

The Honorable Mustapa Mohamed
Minister of Trade and Industry
Ministry of Trade and Industry
Kuala Lumpur, Malaysia

Dear Minister Mustapa Mohamed:

I have the honor to confirm that the United States of America and Malaysia have reached agreement with respect to the “Malaysia – United States Labour Consistency Plan”, a bilateral instrument in accordance with Chapter 19 of the TPP Agreement attached to this letter.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments. This agreement shall enter into force on the date of entry into force of the TPP Agreement between our two governments.

Sincerely,

Ambassador Michael B. G. Froman
The Honorable Michael Froman  
United States Trade Representative  
600 17th Street, NW  
Washington, DC 20508

Dear Ambassador Froman:

I am pleased to receive your letter of [insert date], which reads as follows:

I have the honor to confirm that the United States of America and Malaysia have reached agreement with respect to the “Malaysia – United States Labour Consistency Plan”, a bilateral instrument in accordance with Chapter 19 of the TPP Agreement attached to this letter.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments. This agreement shall enter into force on the date of entry into force of the TPP Agreement between our two governments.

I have the honor to confirm that the understanding referred to in your letter is shared by my Government, and that your letter and this letter in reply shall constitute an agreement between our two governments.

Sincerely,

MUSTAPA MOHAMED  
Minister of Trade and Industry
Malaysia – United States Labour Consistency Plan

This Plan shall create rights and obligations only as between the Governments of Malaysia and the United States.

I. Preamble

The Governments of Malaysia and the United States:

ACKNOWLEDGING that each Party commits under Chapter 19 (Labour) to obligations concerning its labour law and practice, including with regard to its statutes and regulations and the labour rights as stated in the ILO Declaration;

ENDEAVORING to co-operate with each other and, recognizing as members of the ILO the governments may utilize the technical resources of the ILO in fulfilling the commitments of this Plan;

UNDERTAKE through this Plan the following specific commitments consistent with those obligations.

II. Legal Reforms

Consistent with its obligations under Chapter 19 (Labour), Malaysia shall enact the following legal reforms, and other changes that may be required to ensure consistency across its Acts, regulations and other measures.

A. Union Organization and Collective Bargaining

Judicial Review

1. Malaysia shall:

   (a) ensure that trade unions have a right to judicial review of administrative decisions regarding trade union registration; suspension, withdrawal or cancellation of trade union registration; and determinations of strike illegality;

   (b) amend the relevant sections of the Trade Union Act 1959 (ACT 262) to provide that where a trade union seeks judicial review of an administrative determination to suspend, withdraw or cancel trade union registration, the decision will be automatically stayed, pending that judicial review; and
(c) amend relevant sections of Act 262 to clarify that decisions of the Minister are subject to judicial review (relevant sections of current law include Sections 18(7) and 71A(4)).

**Government discretion in registering trade unions**

2. Malaysia shall:

(a) amend relevant sections of Act 262 to remove discretion of the Director General of Trade Unions (DGTU) to refuse to register a trade union when another exists, and to remove the discretion of the DGTU to refuse registration because the trade union is likely to be used for unlawful purposes contrary or inconsistent with its objects and rules (relevant sections of current law include Section 12(2) and Section 12(3)(a));

(b) amend the implementing regulations to Act 262 to limit the discretion of the DGTU and to clarify that “unlawful” refers only to serious breaches of law (relevant sections of current law include Section 12(3)(b), Section 12(3)(c), Section 12(3)(d) and Section 12(3)(e)(i)); and

(c) amend relevant sections of Act 262 to limit the DGTU’s discretion to deny registration of a union due to the proposed union’s name to only exceptional circumstances, such as creating a threat to public order or inflaming sensitivities related to race or religion (relevant sections of current law include Section 12(3)(e)(ii)).

**Government discretion to cancel trade union registration**

3. Malaysia shall:

(a) amend relevant sections of Act 262 and its implementing regulations to remove the discretion of the DGTU to cancel a trade union’s registration and to clarify that “unlawful” refers only to serious breaches of law (relevant sections of current law include Sections 15(1)(b)(ii) and Section 15(1)(b)(iii));

(b) amend relevant sections of Act 262 to limit the discretion of the DGTU to cancel a union’s registration (relevant sections of current law include Section 15(1)(b)(iv)); and

(c) amend the implementing regulations to Act 262 to limit cancellation of a trade union’s registration only to serious breaches of law (relevant sections of current law include Section 15(1)(b)(v)).
Cancellation of registration when two or more unions exist

4. Malaysia shall amend relevant sections of Act 262 to remove the discretion of the DGTU to cancel a union’s registration when two or more unions exist, and replace it with a process for determining representation of workers for the purposes of collective bargaining in a particular establishment, trade, occupation, or industry (relevant sections of current law include Section 15(2)).

Discretion to suspend a union

5. Malaysia shall amend the implementing regulations to Act 262 to clarify that “purposes prejudicial to or incompatible with…public order” shall not include the exercise of protected trade union activity (relevant sections of current law include Section 18(1)).

Restrictions on formation of unions in “similar” trades, occupations or industries

6. Malaysia shall amend relevant sections of Act 262, to remove the limitation on forming a union in only a “similar” trade, occupation or industry (relevant sections of current law include Section 2, Section 32 and Section 33).

Restrictions on formation of, and affiliation with, union federations or confederations in “similar” trades, occupations or industries

7. Malaysia shall amend relevant sections of Act 262 to remove the limitation on forming or affiliating with a union federation or confederation in only a “similar” trade, occupation or industry (relevant sections of current law include Section 72 and Section 74).

Affiliation with international unions

8. Malaysia shall amend relevant sections of Act 262 to remove the DGTU’s discretion in allowing trade unions to affiliate with an international union, and may provide that a union establish member consent through secret ballot vote of its members with a quorum, as established by the union’s constitution or by-laws, in order to affiliate with an international union (relevant sections of current law include Section 76A, Section 76B and Section 76C).

Restrictions on trade union membership and leadership (dismissed, suspended or retired workers)

9. Malaysia shall amend relevant sections of Act 262 to remove the prohibitions on dismissed, suspended and retired workers remaining as union members (relevant sections of current law include Section 26(1A) and Section 26(1)(a)).

Trade union leadership

10. Malaysia shall:
(a) amend relevant sections of Act 262 to allow non-citizens to run for election to union office if they have been legally working in Malaysia for at least three years (relevant sections of current law include Section 28(1)(a));

(b) amend relevant sections of Act 262 by deleting the term “employee of a political party” to remove that restriction on membership of the executive of a trade union (relevant sections of current law include Section 28(1)(c1));

(c) issue implementing regulations to Act 262 to establish that the meaning of “of any offence” is limited only to offences directly relevant to the integrity required to exercise trade union office, such as a breach of fiduciary duty (relevant sections of current law include Section 28(1)(d)); and

(d) amend relevant sections of Act 262 consistent with the above changes (relevant sections of current law include Section 30).

Collective bargaining

11. Malaysia shall amend relevant sections of the Industrial Relations Act 1967 (Act 177) to remove broad restrictions on the scope of collective bargaining, including the restrictions on terms and conditions of employment (relevant sections of current law include Section 13(3)).

Strikes

12. Malaysia shall amend relevant sections of Act 262 to provide for a quorum requirement in an enterprise union strike vote as two-thirds of the members and the consent of 50 percent plus 1 of the member votes cast (relevant sections of current law include Section 25A(1)(a));

13. Malaysia may establish after consulting with domestic stakeholders, a reasonable quorum requirement for a strike vote for non-enterprise unions and federations that would not hinder industrial level action; and

14. Malaysia shall amend the implementing regulations of Act 262 to limit the discretion of the DGTU in determining whether a strike would contravene provisions of law (relevant sections of current law include Section 40(6)).

Limitations on strike issues

15. Malaysia shall amend relevant sections of Act 177 to remove limitations on strikes on any matters covered by Act 177, Section 13(3) (relevant sections of current law include Section 44(e)).

Penal sanctions for peaceful strikes

16. Malaysia shall amend relevant sections of Act 177 to remove penal sanctions for peaceful strikes, regardless of whether such strikes are inconsistent with IRA provisions (relevant sections of current law include Section 46, Section 47 and Section 48).
Administrative discretion in dispute resolution

17. Malaysia shall amend relevant sections of Act 177, including by deleting “of his own motion or”, to remove administrative discretion to intervene in a trade dispute without the request of the parties (relevant sections of current law include Section 19(2) and Section 26(2)).

Representation in administrative or judicial hearings

18. Malaysia shall:

(a) amend relevant sections of Act 177 to allow employers, trade unions and trade unionists to choose their representatives in administrative hearings, including in proceedings regarding dismissals (relevant sections of current law include Sections 19B(2), Section 20(6) and Section 20(7));

(b) amend relevant sections of Act 177 to remove restrictions on representations in proceedings involving trade disputes (relevant sections of current law include Section 19B(1)(b)); and

(c) amend relevant sections of Act 177 to require only that representatives meet minimum qualifications essential to their responsibilities (relevant sections of current law include Section 27(1)).

Essential services

19. Malaysia shall amend relevant sections of Act 177, including the First Schedule – Essential Services, to limit the range of industries in which strikes are prohibited on the basis that the industries are essential services, consistent with the rights as stated in the ILO Declaration.

Subcontracting and outsourcing

20. Malaysia shall:

(a) ensure that the use of subcontracting or outsourcing is not used to circumvent the rights of association or collective bargaining;

(b) amend the implementing regulations to the Employment Act 1955 (Act 265), Section 2A; Sabah Labour Ordinance (Cap. 67), Section 2A; and Sarawak Labour Ordinance (Cap. 76), Section 2A, to provide guidance for the identification of the appropriate “employer(s)” for purposes of ensuring meaningful associational and other rights for workers who are provided to a principal either by a labour outsourcing company or a contractor-for-labour; and

(c) require that subcontracting and outsourcing arrangements be made in writing, and be subject to verification by the Ministry of Human Resources.
B. Forced Labour

Protections against the withholding of passports

1. Malaysia shall:

   (a) amend the implementing regulations to the Passport Act 1966 (Act 150) to reinforce that retaining a worker’s passport by his or her employer is illegal. Such regulations shall include requiring that foreign workers are fully informed of their right to retain their own passports and informing workers that they retain the right to access their passports at any time, without delay or approval of any other individual and without consequence to their status and relationship with their employer or recruitment agency;

   (b) amend the implementing regulations to Act 150 to require that private employers that utilize foreign workers in their operations (either through a direct employment relationship or through an employment agency) provide to each foreign worker a notice informing workers of their right to retain their passport and information on how to report violations of this right. Private employers with more than 10 foreign workers and recruitment agencies also shall post a notice to this effect;

   (c) amend the Workers’ Minimum Standards of Housing and Amenities Act 1990 (Act 446) so that it covers all sectors (beyond only plantations) and to require that private employers or recruitment agencies that provide housing to foreign workers provide secure facilities (for example, personal lockers) for the storage and safekeeping of workers’ passports and other valuables. These facilities must allow workers to access their passports at any time and without prior authorization; and

   (d) effectively enforce relevant laws and regulations to investigate and prosecute employers and recruitment agencies that retain employee passports.

Foreign worker recruitment practices, contracts and fees

2. Malaysia shall:

   (a) ensure that all entities that recruit foreign workers, whether a recruitment agency or a direct employer, are covered by the sections of the Private Employment Agencies Act of 1981 (Act 246), including provisions regarding limitations on the recruitment fees charged to a foreign worker;

   (b) amend relevant laws and regulations to provide that any government levies charged for employment of foreign workers are the obligation of the employer, rather than the foreign worker;
Subject to Legal Review for Accuracy, Clarity and Consistency

(c) amend its laws and regulations to provide that large-scale, repeated or egregious violations of labour law are punishable by a denial of future quota requests of the offending employer or by a revocation of the license of offending recruitment agency;

(d) ensure that any Memorandum of Understanding regarding the recruitment of foreign workers between Malaysia and a government of a country that provides such workers will require that recruitment agencies and employers provide foreign workers a valid written contract in their own language, including their terms of work, prior to their entrance into Malaysia; and

(e) amend relevant sections of Act 265 to prohibit contract substitution.

 Trafficking and forced labour victim protection services

3. Malaysia shall:

(a) issue necessary regulations to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670) to allow victims of trafficking to move freely to and from shelters; provide victims of trafficking access to legal counsel of their choice; allow victims of trafficking to work and find new employment under clearly established procedures; enable non-governmental organizations to own and operate shelters for trafficking victims; and

(b) waive any fees associated with the required pass provided through the Labour Department for foreign workers who are involved in an investigation of violations of labour law (other than forced labour, covered above) to remain in Malaysia and seek alternative employment.

Foreign worker housing and freedom of movement

4. Malaysia shall:

(a) amend the implementing regulations to Act 446 to require that private employers or recruitment agencies that provide housing for foreign workers provide notice informing workers, in a language that they understand, of their right to freedom of movement under Malaysian law and information on how to report violations of this right. Private employers with more than 10 foreign workers and recruitment agencies shall also be required to post the notice on their premises visible to workers; and

(b) amend the implementing regulations to Act 446 to require that private employers or recruitment agencies, which provide housing for foreign workers provide a notice, in a language the workers understand, informing those workers of their right to acceptable housing conditions under this Act and information on how to report violations of their right to acceptable housing conditions. Private employers with
more than 10 foreign workers and recruitment agencies shall also be required to post the notice on their premises visible to workers.

C. Child Labour

Malaysia shall:

(a) issue a list of hazardous types of work prohibited for persons under 18 years of age.

(b) amend the implementing regulations to the Children and Young Persons (Employment) Act 1966 (Act 350), Sabah Labour Ordinance (Cap. 67) and Sarawak Labour Ordinance (Cap. 76) to ensure that a minimum age of at least 13 is established for admission to light work.

D. Employment Discrimination

Malaysia shall amend relevant sections of the Act 265, Cap. 67 and Cap. 76 to prohibit discrimination, in respect of employment and occupation, including by amending Act 265, Section 34, 35 and 36, and relevant sections in Cap. 67 and Cap. 76 to remove the prohibitions on employment of women in certain occupations.

III. Institutional Reforms and Capacity Building

Malaysia shall undertake necessary institutional changes and capacity building to implement the amended statutes and regulations, including: establishing new administrative functions, procedures and mechanisms; expanding and adequately training labour inspectors and relevant criminal system authorities to effectively enforce the amended statutes and regulations; and providing the necessary resources to implement these changes.

A. Enforcement of Labour Laws and Protections

1. Malaysia shall:

(a) allocate resources necessary for the effective enforcement of its labour laws, including additional labour officer and dedicated inspector positions needed to enforce the new laws and practices resulting from this Plan;

(b) revise internal inspection and other enforcement procedures for the labour inspectorate to ensure effective enforcement of the new and existing legal provisions, including the prohibition on employers retaining passports of employees, and train all relevant personnel on the reformed procedures and new provisions;
(c) develop, in coordination with the ILO, a training program for labour inspectors and plan for increased labour inspections targeted at addressing forced labour and practices that increase workers’ vulnerability to forced labour, including violations of laws governing recruitment fees, recruitment practices, withholding of passports or other identity documents, contract substitution, wage payments below the legally required amount and unlawful deductions, withholding of workers’ wages in escrow, and living conditions of foreign workers, including restrictions on movement; and

(d) require the Enforcement Agencies Integrity Commission (EAIC) to report biannually statistics on the number of complaints received, investigations conducted and final disposition or remediation of those investigations that involve foreign workers (broken down by government agency and type of violation).

IV. Transparency and Sharing of Information

A. Public Comment

Consistent with its existing procedures, Malaysia shall provide for public comment the draft legal instruments that result from this Plan and publicly post final legal instruments on the applicable agency website.

B. Collaboration

Malaysia and the United States intend to collaborate on the development of the relevant reforms and instruments that result from this Plan.

C. Outreach and Education

To inform and educate stakeholders, including employers and workers, of their rights and responsibilities under Malaysian law, Malaysia shall launch an outreach program on the legal and institutional changes that result from this Plan, as well as related remedies and courses of action available to enforce those rights.

V. Government to Government Mechanism

1. The United States and Malaysia shall regularly assess progress in implementing this Plan, including follow-up enforcement and application of the amended laws and regulations and institutional reforms, and, to this end, agree to establish a standing bilateral Senior Officials Committee (SOC) comprising senior officials from the Office of the U.S. Trade Representative
and the Department of Labor for the United States and from the Ministry of International Trade and Industry and the Ministry of Human Resources for Malaysia to monitor, assess and facilitate rapid response to any concerns about compliance with and implementation of the legal and institutional reforms under this Plan.

2. The United States and Malaysia shall designate the responsible senior officials prior to entry into force of this Agreement between the United States and Malaysia and promptly inform the other Party of any subsequent changes.

3. The SOC shall meet, in person or by any technological means available, annually for seven years after the date of entry into force of this Agreement between the United States and Malaysia. SOC members shall be supported by technical-level officials, who shall meet as necessary. At the request of either Malaysia or the United States, the SOC shall continue to meet annually thereafter or as Malaysia and the United States otherwise agree.

4. At the request of either Malaysia or the United States, the SOC shall convene within 30 days to address any concerns with regard to compliance with or implementation of this Plan. Either Malaysia or the United States may request an ILO review and report on any such concern, in order to inform the discussions of the SOC and determinations of any actions necessary to address concerns.

VI. Technical Assistance

Malaysia and the United States shall endeavor to secure funding for technical assistance programming to directly facilitate implementation of the legal and institutional reforms in this Plan. Malaysia shall request the cooperation, advice and technical assistance of the ILO to help in such implementation and endeavor to conclude the negotiation of an agreement with the ILO for this purpose.

VII. Implementation

1. Malaysia shall enact the legal and institutional reforms in Parts II and III of this Plan prior to the date of entry into force of the TPP Agreement as between the United States and Malaysia, except as otherwise provided for in this Plan.

2. This Plan shall be subject to consultations under Article 19.5 (Labour Consultations) of the Labour Chapter, except that with respect to paragraphs 2 and 3, the requirement to circulate the request and reply, respectively, to the other TPP Parties, shall not apply; and paragraph 4 shall not apply.

3. This Plan shall be subject to dispute settlement under Chapter 28 (Dispute Settlement) of the TPP Agreement, except for Article 28.13 (Third Party Participation), which shall not apply.
November [-], 2015

The Honorable Vu Huy Hoang  
Minister of Trade and Industry  
Ministry of Trade and Industry  
Hanoi, Vietnam

Dear Minister Vu Huy Hoang:

I have the honor to confirm that the United States of America and Viet Nam have reached agreement with respect to the “United States – Viet Nam Plan for the Enhancement of Trade and Labour Relations”, a bilateral instrument in accordance with Chapter 19 of the TPP Agreement attached to this letter.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments. This agreement shall enter into force on the date of entry into force of the TPP Agreement between our two governments.

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Ambassador Michael B. G. Froman
The Honorable Michael Froman  
United States Trade Representative  
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Washington, DC 20508

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Sincerely,

VU HUY HOANG
Minister of Trade and Industry
United States-Viet Nam Plan for the Enhancement of Trade and Labour Relations

This Plan shall create rights and obligations only as between Viet Nam and the United States.

I. Preamble

The Governments of the Socialist Republic of Viet Nam and the United States:

ACKNOWLEDGING that each Party commits under Chapter 19 (Labour) to obligations concerning its labour law and practice, including with regard to its laws and regulations and the labour rights as stated in the ILO Declaration;

RECOGNIZING the importance of enforcement of and compliance with their respective law;

UNDERTAKE through this Plan the following commitments consistent with those obligations.

II. Legal Reforms

1. Viet Nam shall enact the following legal reforms, either by amending existing laws, decrees or regulations or by issuing new laws, decrees or regulations and shall enact any additional changes required to ensure consistency across the legal code.

2. Viet Nam shall ensure that its laws and regulations permit workers, without distinction, employed by an enterprise to form a grassroots labour union (in Vietnamese to chuc cua nguoi lao dong) of their own choosing without prior authorisation. To operate, a grassroots labour union shall register with its choice of either the Viet Nam General Confederation of Labour (VGCL) or the competent government body. A grassroots labour union registered with the competent government body shall have the right autonomously to elect its representatives, adopt its constitution and rules, organize its administration, including managing its finances and assets, bargain collectively, and organize and lead strikes and other collective actions related to the occupational and socio-economic interests of the workers at its enterprise. For greater certainty, a grassroots labour union registered with the competent government body shall have no lesser rights in law and practice with regard to the labour rights as stated in the ILO Declaration than a grassroots labour union under the VGCL.

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1 For purposes of this Plan, “labour law” means all legally binding measures of a Party related to labour, including “labour laws” as defined in Article 19.1.
A. Ensure the Right of Workers to Freely Form and Join a Labour Union of Their Choosing

1. Viet Nam shall provide in its law and practice that workers may choose to establish grassroots labour unions through the VGCL or the competent government body, and shall establish the necessary legal procedures and registration mechanisms, through decrees or other means, for recognition of a grassroots labor union either by joining the VGCL or by registration with the competent government body. Viet Nam shall ensure that the procedures and mechanisms for registering grassroots labour unions are consistent with the labour rights as stated in the ILO Declaration, including with respect to transparency, the time periods for processing and membership requirements, and without prior authorisation or discretion.

2. Viet Nam shall provide in its law and practice that grassroots labour unions may, if they so choose, form or join organizations of workers, including across enterprises and at the levels above the enterprise, including the sectoral and regional levels, consistent with the labour rights as stated in the ILO Declaration and domestic procedures not inconsistent with those labour rights.

3. Viet Nam shall ensure in its law and practice that:

   (a) workers and labour unions registered with the competent government body may request and receive technical assistance and training from any Vietnamese or international worker organization legally operating in Viet Nam; and

   (b) on that request, such an organization or its representatives can provide the technical assistance and training for those workers and labour unions, to understand Vietnamese labour law, meet the requirements and procedures for establishing a labour union, organize a labour union and undertake labour union activities once organized, including to bargain collectively, strike, and conduct labour-related collective activities under the ILO Declaration.

B. Ensure labour unions are able to administer their affairs with autonomy

1. Viet Nam shall ensure that its law does not mandate a labour union registered with the competent government body to operate according to the Statutes of Viet Nam General Confederation of Labour and that its law provides the authority to any labour union registered with the competent government body to adopt and operate according to that union’s own statutes; and Viet Nam shall ensure that its law provides that a grassroots labour union registered with the competent government body is entitled to collect and manage its membership dues and to receive the grassroots union share of the two percent fee paid by the employer on a non-discriminatory basis. Relevant articles in current law include TUL Article 4(8), Article 6(2), Article 26 and Article 27.

2. Viet Nam shall ensure that its law does not provide for the exclusive privilege of a single labour union to engage and consult with the relevant authorities and its law provides for such
engagement and consultation without reference to a particular labour union. Relevant articles in current law include Trade Union Law (TUL) Article 10, Article 11, Article 12 and Article 13.

3. Viet Nam shall ensure that its law provides that labour unions registered with the competent government body have the right to ownership and management of their assets and property. Relevant articles in current law include TUL Article 28.

4. Noting that the Constitution of Viet Nam recognizes only labour unions affiliated with the VGCL as “socio-political organizations”, Viet Nam shall ensure that its law will not require labour unions registered with the competent government body to have mandatory political obligations and responsibilities that are inconsistent with the labour rights as stated in the ILO Declaration.

5. Viet Nam shall ensure that its law does not require that an upper-level labour union assist a grassroots labour union in its functions and does specify that an upper-level labour union may do so only on the specific request of a grassroots labour union. Relevant articles in current law include Labor Code (LC) Article 188(1) and Article 188(2).

C. Worker representation in non-unionized workplaces

Viet Nam shall ensure that its law does not require that an upper-level labour union represent non-unionized workers and does provide that an upper-level labour union can represent non-unionized workers only upon the request of those non-unionized workers and only with respect to that worker or those workers who have specifically requested such assistance. Relevant articles in current law include LC Article 188(3) and Article 210(2).

D. Selection of union officials

Viet Nam shall ensure that its law provides that: (1) all labour union officials on an executive board are elected by that labour union’s membership; and (2) the executive body can employ persons to assist with labour union activities. Relevant articles in current law include TUL Article 4(4) and Article 4(5).

E. Interference in organizational activity

1. Viet Nam shall ensure, for purposes of protecting the interests of the employees, including in collective bargaining, that, in its law and practice, it distinguishes between employees and those who have the interests of the employer, and prohibits employer interference with labour unions, consistent with the labour rights as stated in the ILO Declaration, while also respecting labour union rights of managerial and supervisory employees.

2. Viet Nam shall revise Article 24 of Decree 95/2013/ND-CP to expand protection against anti-union discrimination, including element of good faith bargaining, and sanctions sufficient to deter violations.
F. Consistency of other laws

Viet Nam shall ensure that no laws or legal instruments, or provisions therein, such as the law on association, are applied or amended in a manner to undermine labour union-related activity, including organizing labour unions, collective bargaining and strikes, or assisting with those activities, as provided in the LC, TUL and other Vietnamese labour-related laws.

G. Scope of strikes

1. Viet Nam shall ensure that its law allows for rights-based strikes, consistent with ILO guidance. Relevant articles in current law include LC Article 215(1).

2. Viet Nam shall ensure that its law provides for 50 percent plus one of the Executive Committee to be required to approve a strike. Relevant articles in current law include LC Article 212 and Article 213(1).

3. Acknowledging that collective bargaining at the sectoral level and for more than one enterprise is recognised under the LC Viet Nam shall ensure that strikes are permitted when organized for workers of different enterprises at the same levels at which collective bargaining is permitted under law, subject to compliance with domestic procedures that are not inconsistent with the labour rights as stated in the ILO Declaration. Relevant articles in current law include LC Article 215(2).

4. Viet Nam shall amend Decree 41/2013/ND-CP to delete Article 2.1.b of the Decree and the resultant list of affected entities to ensure that strikes are permitted in the exploration and exploitation of oil and gas and supply and production of gas.

5. Viet Nam shall amend Decree 46/2013/ND-CP to delete Article 8.1.

H. Forced Labour

1. Viet Nam shall provide by decree that forced labour as referred to in LC Article 3(10) includes “debt bondage”.

2. Viet Nam shall amend relevant Penal Code (PC) articles to apply appropriate criminal sanctions for the use of forced labour.

3. Viet Nam shall amend all relevant provisions, including the legal instruments implementing the law on drug control and law on administrative sanctions, to ensure that treatment in drug rehabilitation centers is medically appropriate and does not subject patients to conditions of forced or compulsory labour, consistent with international standards, and to require that drug abuser entry be voluntary or based on a court decision.
I. Discrimination

1. Viet Nam shall issue clarifying policy guidance explaining the application of LC Article 8 to make clear that the law prohibits discrimination based on color, race and national extraction.

2. Viet Nam shall amend its law to prohibit discrimination in “all aspects of employment.” Relevant articles include LC Article 8.

3. Viet Nam shall amend LC Article 160 to protect the occupational safety and health of women workers while removing prohibitions on women engaging in specified occupations.

III. Institutional Reforms and Capacity Building

Viet Nam shall undertake necessary institutional changes and capacity building to implement the amended laws and regulations, including: establish new administrative functions, procedures and mechanisms; expand and adequately training the labor inspectorate and relevant criminal system authorities to effectively enforce the amended laws and regulations; and provide the necessary resources, including hire additional staff as needed to implement these changes.

A. TPP National Contact Point

1. Viet Nam shall designate the appropriate office as its contact point under Article 19.10 (Contact Point) and ensure its adequate staffing.

2. Viet Nam shall establish and disseminate administrative procedures for the receipt and consideration of public submissions as provided for in Article 19.9 (Public Submissions).

B. Industrial Relations Activities

1. Viet Nam shall designate the competent government body and establish appropriate administrative processes within the competent government body, Ministry of Labour, Invalids and Social Affairs (MOLISA) and Departments of Labour, Invalids and Social Affairs (DOLISAs), as applicable, to apply legal reforms on and to ensure:

   (a) registration of grassroots labour unions consistent with Section II.A. of this Plan;

   (b) workers’ right to strike; and

   (c) effective recognition and protection of the right to bargain collectively.
2. Viet Nam shall establish industrial relations bodies and mechanisms, which shall provide mediation and conciliation services and develop and implement training programs for the resolution of disputes between workers and employers, consistent with LC Article 235(4), Article 72, Articles 195 through 198 and Articles 203 through 205.

3. Viet Nam shall designate and train an adequate number of personnel within MOLISA and DOLISAs and other appropriate bodies, as applicable, to implement the processes in paragraphs B.1 and 2.

C. Labor Inspection Capacity

1. Viet Nam shall revise internal inspection and other enforcement procedures for the labor inspectorate of MOLISA and DOLISAs to ensure effective enforcement of the new legal provisions and train all relevant MOLISA and DOLISAs personnel on the new provisions and procedures.

2. Viet Nam shall establish and implement an effective complaint mechanism in MOLISA and DOLISAs for workers to inform those authorities confidentially and anonymously of violations of the new legal provisions that includes, at a minimum, procedures for referring complaints to labor inspectors for follow up and for documenting and tracking the follow-up inspections and investigations conducted, including status, violations identified, fines and sanctions levied and remediation.

3. Viet Nam shall allocate sufficient resources necessary for MOLISA’s and DOLISAs’ enforcement of labor law, including 750-800 permanent labor inspectors for MOLISA by the end of 2016 and 1200 by the end of 2020, up from the existing 500.

D. Implementation of Procedures

Viet Nam shall develop and implement procedures, as needed, and train relevant local and national personnel responsible for criminal and civil law enforcement, both on the new legal reforms and procedures to ensure the exercise of labour union-related activity provided in the LC, TUL and other Vietnamese labour-related laws, as well as on the criminal prosecution of the use of forced labour.

E. Forced and Child Labour

1. Recognising that Viet Nam publicly released the National Child Labour Survey, including the findings and methodology, Viet Nam shall:

   (a) Develop and implement a strategy for targeting inspection and other enforcement activities to sectors where forced labour or child labour has been identified through
the National Child Labour Survey or otherwise, including at informal work sites and sub-contractors in the garment industry.

(b) Allow independent experts legally operating in Viet Nam to carry out research studies in sectors where forced labour or child labour has been identified and to publicly release their findings, source data and methodology.

2. Viet Nam shall take action, through MOLISA and other relevant ministries and departments, to ensure that treatment in drug rehabilitation centers is medically appropriate consistent with international standards, requires that drug abuser entry be voluntary or based on a court decision, and does not subject patients to conditions of forced or compulsory labour, including by establishing and implementing a mechanism for regular monitoring and public reporting by technical experts.

IV. Transparency and Sharing of Information

A. Budget Information

Viet Nam shall publicly disclose the annual MOLISA budget, including to the extent practicable disaggregated information on resource allocations and staffing related to the implementation of commitments made in this Plan.

B. Public Comment

1. Viet Nam shall provide for public comment, consistent with its existing procedures, the draft laws and regulations that result from the commitments in this Plan.

2. Viet Nam shall, consistent with its existing procedures, publicly post on the MOLISA or other applicable agency website the final legal instruments after their issuance.

3. Viet Nam shall make publicly available every six months for 10 years after the date of entry into force of the Trans-Pacific Partnership (TPP) Agreement between the United States and Viet Nam, the following:

(a) Detailed information on the status and final outcomes of applications for labour union registration, including the time taken to process the applications and the basis for denial, if applicable, as well as detailed information on collective bargaining agreements concluded and strikes declared.

(b) Statistics on the number of inspections and investigations conducted by MOLISA and DOLISAs, disaggregated by region, sector and internationally recognised labour right listed in Article 19.1 (Definitions), as well as statistics on the outcomes
of the inspections and investigations, including confirmed violations, fines and sanctions levied, and remediation.

C. Collaboration

Viet Nam and the United States intend to collaborate in good faith on the development of the relevant reforms and instruments prepared to implement this Plan.

D. Outreach and Education

Viet Nam shall launch an outreach program to inform and educate workers, employers and other stakeholders on their rights and responsibilities under the labour law, including the new laws and regulations amended under this Plan, and on the new administrative processes for their implementation, as well as related remedies and courses of action available to enforce those rights.

V. Review

The United States and Viet Nam shall regularly assess progress in implementing this Plan, including follow-up enforcement and application of the amended laws, decrees and regulations and institutional reforms, and, to this end, agree to the following actions:

A. Government-to-Government Mechanisms

Senior Officials Committee

1. The United States and Viet Nam hereby establish a standing bilateral Senior Officials Committee (SOC) composed of senior officials from the Office of the U.S. Trade Representative and the Department of Labor for the United States and from the Ministry of Industry and Trade and the Ministry of Labor, Invalids, and Social Affairs for Viet Nam to monitor, assess, and facilitate rapid response to any concerns about compliance with and implementation of the legal and institutional reforms under this Plan. The United States and Viet Nam shall designate the responsible senior officials prior to entry into force of the TPP Agreement for the United States and Viet Nam and promptly inform the other Party of any subsequent changes. The SOC shall meet, in person or by any technological means available, annually for 10 years after entry into force of the TPP Agreement between the United States and Viet Nam. SOC members shall be supported by technical-level officials, who shall meet semi-annually for 10 years. At the request of either Viet Nam or the United States, the SOC shall continue to meet annually thereafter or as Viet Nam and the United States otherwise agree. The SOC shall discuss and consider any reports or recommendations by the Technical Assistance Program (TAP) and the Labor Expert Committee (LEC) established below. At the request of either Viet Nam or the United States, the SOC shall convene within 30 days to determine action necessary to address any concerns with regard to compliance with or implementation of the legal and institutional reforms under this Plan. Viet
Nam and the United States together may request an ILO review and report on any such concern, in order to inform the discussions of the SOC and determinations of any actions necessary to address those concerns.

**Bilateral Review**

2. The United States and Viet Nam at the Ministerial level or their designees shall, in the third, fifth, and tenth year after entry into force of the TPP Agreement between the United States and Viet Nam, review and assess the implementation of this Plan, including the implementation of the legal and institutional reforms thereunder, in light of the obligations contained in Chapter 19 (Labour). In undertaking those reviews, the United States and Viet Nam shall consider the input of the SOC. If at the end of a review the United States continues to have concerns about Viet Nam’s compliance, the United States and Viet Nam shall consider taking appropriate action under the TPP Agreement.

**B. Supporting Mechanisms**

1. To support the governmental review mechanisms established above, the United States and Viet Nam agree to the following actions.

**Technical Assistance Program**

2. Viet Nam, with support from the United States, shall seek the establishment of a Technical Assistance Program (TAP) by the ILO in Viet Nam to provide continuous and regular support to Viet Nam to facilitate the implementation of the legal and institutional reforms described in this Plan. The TAP shall produce a public report two years after entry into force of the TPP Agreement between the United States and Viet Nam and bi-annually thereafter for eight years containing information and data relevant to assessing such implementation, including on industrial relations practices in Viet Nam. The report may provide recommendations for improvement in implementation. Viet Nam shall take into account the recommendations of the TAP.

**Labour Expert Committee**

3. The United States and Viet Nam hereby establish a Labor Expert Committee (LEC) comprising three members. The United States and Viet Nam shall agree on the Chair, who may be a representative of the ILO or other individual with expertise in international labour standards who shall be unbiased, objective and independent of either Party, within 30 days after entry into force of the TPP Agreement between the United States and Viet Nam. The United States and Viet Nam shall each appoint one member not affiliated with or taking instructions from either government, who shall have expertise in international labour standards, within 60 days after entry into force of the TPP Agreement between the United States and Viet Nam. The LEC shall produce a public report providing a factual review, including information and data on matters in Sections II, III, and IV, including subsection B.3, of this Plan relevant to Viet Nam’s application and implementation of the legal and institutional reforms under this Plan, including any challenges or concerns. The reports shall be produced at two and one-half years, four and one-half years, six
and one-half years, and eight and one-half years after entry into force of the TPP Agreement between the United States and Viet Nam. In its reports, the LEC also shall provide recommendations that are relevant to any identified concerns related to Viet Nam’s implementation of the legal and institutional reforms under this Plan. After such time, these reviews and reports shall continue at five-year intervals at the request of Viet Nam or the United States. The LEC shall consider the TAP reports and recommendations, including whether Viet Nam has implemented its recommendations, in its reviews. The LEC may request information from Viet Nam to ensure the timely development of its reports. Viet Nam shall cooperate with the LEC and provide any requested information to the extent practicable. The LEC shall solicit and consider the views of interested persons in the United States and Viet Nam, and consider information from any relevant public submissions made pursuant to Article 19.9 (Public Submissions).

VI. Technical Assistance

Viet Nam and the United States shall endeavor to secure funding for technical assistance programming to directly facilitate implementation of the legal and institutional reforms in this Plan. Viet Nam shall request the cooperation, advice, and technical assistance of the ILO to help in such implementation and endeavor to conclude the negotiation of an agreement with the ILO for this purpose. Viet Nam shall implement recommendations provided by the ILO as the result of this assistance. Viet Nam and the United States shall endeavor to work with other interested TPP Parties to support technical assistance programs relevant to implementation of the legal and institutional reforms in this Plan.

VII. Implementation

1. Viet Nam shall enact the legal and institutional reforms in Sections II and III of this Plan prior to the date of entry into force of the TPP Agreement between the United States and Viet Nam, except as otherwise noted in this Plan.

2. Viet Nam shall comply with paragraph II.A.2 of this Plan no later than five years from the date of entry into force of the TPP Agreement between the United States and Viet Nam.

3. This Plan shall be subject to consultations under Article 19.15 (Labour Consultations) of the Labour Chapter, except that with respect to paragraphs 2 and 3, the requirement to circulate the request and reply, respectively, to the other TPP Parties, shall not apply; and paragraph 4 shall not apply.

4. This Plan shall be subject to dispute settlement under Chapter 28 (Dispute Settlement) of the TPP Agreement, except for Article 28.13 (Third Party Participation), which shall not apply.

5. Chapter 29 (General Exceptions) also shall apply to this Plan.
VIII. Review of Implementation

1. The United States shall review the operation of paragraph II.A.2 of this Plan after the fifth anniversary of the date of entry into force of this Agreement between the United States and Viet Nam.

2. If, following the review in paragraph 1 of this Section and before the seventh anniversary of the date of entry into force of this Agreement between the United States and Viet Nam, the United States considers that Viet Nam has failed to comply with paragraph II.A.2 of this Plan, the United States shall notify Viet Nam, in writing, of its determination. Viet Nam may, within 30 days after the date of the delivery of the notice, request, in writing, a meeting to discuss the matter.

3. The United States shall agree to meet with Vietnam to discuss the matter within 30 days of the receipt of Viet Nam’s request. If Viet Nam does not make a request under paragraph 2 of this Section or, if the United States and Viet Nam do not agree that Viet Nam has complied with paragraph II.A.2 of this Plan within 60 days after the date of the receipt of a request under paragraph 2 of this Section, the United States may withhold or suspend any tariff reductions that are scheduled to come into effect thereafter.

4. If the United States withholds or suspends any tariff reductions under Paragraph 3 of this Section and Viet Nam considers that it is in compliance with paragraph II.A.2 of this Plan, Viet Nam may have recourse to dispute settlement under Chapter 28 (Dispute Settlement), except as otherwise specified in this Plan. Further, for purposes of this paragraph, Viet Nam’s request for the establishment of a panel under Article 28.7 shall be limited to the matter of whether Viet Nam has complied with paragraph II.A.2.

5. If in its final report the panel determines that Viet Nam is in compliance with paragraph II.A.2 of this Plan, the United States shall promptly apply the rate of duty set out in the U.S. schedule that would have applied had the United States not taken action under Paragraph 3 of this Section.

6. If the United States withholds or suspends any tariff reductions under Paragraph 3 of this Section and thereafter the United States and Viet Nam agree that Viet Nam has complied with paragraph II.A.2 of this Plan, the United States shall promptly apply the rate of duty set out in the U.S. schedule that would have applied had the United States not taken action under Paragraph 3 of this Section.
Chapter 20

Environment

Article 20.1: Definitions

For 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; and

**statute or regulation** means:

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\(^1\) 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.
for Australia, an Act of the Commonwealth Parliament, or a regulation made by the Governor-General in Council under delegated authority under an Act of the Commonwealth Parliament, that is enforceable at the central level of government;

for Brunei Darussalam, an Act, Order or a Regulation promulgated pursuant to the Constitution of Brunei Darussalam, enforceable by the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam;

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;

for Chile, a law of National Congress or decree of the President of the Republic, enacted as indicated by the Political Constitution of the Republic of Chile;

for Japan, a Law of the Diet, a Cabinet Order, or a Ministerial Ordinance and other Orders established pursuant to a Law of the Diet, that is enforceable by action of the central level of government;

for Malaysia, an Act of Parliament or regulation promulgated pursuant to an Act of Parliament that is enforceable by action of the federal government;

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;

for New Zealand, an Act of the Parliament of New Zealand or a regulation made under an Act of the Parliament of New Zealand by the Governor-General in Council, which is enforceable by action of the central level of government;

for Peru, a law of Congress, Decree or Resolution promulgated by the central level of government to implement a law of Congress that is enforceable by action of the central level of government;

for Singapore, an Act of the Parliament of Singapore, or a Regulation promulgated pursuant to an Act of the Parliament of Singapore, which is enforceable by action of the Government of Singapore;

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; and

for Viet Nam, a law of the National Assembly, an ordinance of the Standing Committee of the National Assembly, or a regulation promulgated by the central level of government to implement a law of the National Assembly or an ordinance of the Standing Committee of the National Assembly that is enforceable by action of the central level of government.
Article 20.2 Objectives

1. The objectives of this Chapter are to promote mutually supportive trade and environmental policies; 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.

2. Taking account of their respective national priorities and circumstances, the Parties recognize that enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance and complement the objectives of this Agreement.

3. 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 20.3: General Commitments

1. The Parties recognise the importance of mutually supportive trade and environmental policies and practices to improve environmental protection in the furtherance of sustainable development.

2. The Parties recognise 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.

3. Each Party shall strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection and to continue to improve its respective levels of environmental protection.

4. No Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties, after the date of entry into force of this Agreement for that Party.

5. The Parties recognise 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 4 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.

6. Without prejudice to paragraph 2, the Parties recognise 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.

7. 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 20.4: Multilateral Environmental Agreements**

1. The Parties recognise that multilateral environmental agreements to which they are party play an important role, globally and domestically, in protecting the environment and that their respective implementation of these agreements is critical to achieving the environmental objectives of these agreements. Accordingly, each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.

2. The Parties emphasise the need to enhance the mutual supportiveness between trade and environmental law and policies, through dialogue between the Parties on trade and environmental issues of mutual interest, particularly with respect to the negotiation and implementation of relevant multilateral environmental agreements and trade agreements.

**Article 20.5: Protection of the Ozone Layer**

1. The Parties recognise 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.

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3 For greater certainty, for each Party, this provision pertains to substances controlled by the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, 16 September 1987 (Montreal Protocol), including any future amendments thereto, as applicable to it.

4 A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex 20-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.
2. The Parties also recognise 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 20.12 (Cooperation Frameworks), 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.

**Article 20.6: Protection of the Marine Environment from Ship Pollution**

1. The Parties recognise 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.\(^5\), \(^6\), \(^7\), \(^8\)

\(^5\) If compliance with this provision is not established pursuant to footnote 4, 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.


\(^7\) A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex 20-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.

\(^8\) If compliance with this provision is not established pursuant to footnote 7, 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.
2. The Parties also recognise 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 20.12 (Cooperation Frameworks), 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 minimize ship-generated waste;
   (e) emissions from ships;
   (f) adequacy of port waste reception facilities;
   (g) increased protection in special geographic areas; and
   (h) enforcement measures including notifications to flag States and, as appropriate, by port States.

Article 20.7: Procedural Matters

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 ensure that an interested person residing or established in its territory 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.

3. Each Party shall ensure that judicial, quasi-judicial or administrative proceedings for the enforcement of its environmental laws are available under its law and that those proceedings are fair, equitable, transparent and comply with due process of law. Any hearings in these proceedings shall be open to the public, except when the administration of justice otherwise requires, and in accordance with its applicable laws.
4. Each Party shall ensure that persons with a recognised interest under its law in a particular matter have appropriate access to proceedings referred to in paragraph 3.

5. Each Party shall provide appropriate sanctions or remedies for violations of its environmental laws for the effective enforcement of those laws. Those sanctions or remedies may include a right to bring an action directly against the violator to seek damages or injunctive relief, or a right to seek governmental action.

6. Each Party shall ensure that it takes appropriate account of relevant factors in the establishment of the sanctions or remedies referred to in paragraph 5. Those factors may include the nature and gravity of the violation, damage to the environment and any economic benefit the violator derived from the violation.

Article 20.8: Opportunities for Public Participation

1. Each Party shall seek to accommodate requests for information regarding the Party’s implementation of this Chapter.

2. 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 20.9: Public Submissions

1. Each Party shall provide for the receipt and consideration of written submissions from persons of that Party regarding its implementation of this Chapter. Each Party shall respond in a timely manner to such submissions in writing and in accordance with domestic procedures, and make the submissions and its responses available to the public, for example by posting on an appropriate public website.

2. Each Party shall make its procedures for the receipt and consideration of written submissions readily accessible and publicly available, for example by posting on an appropriate public website. These procedures may provide that to be eligible for consideration the submission should:

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9 If available and appropriate, a Party may use an existing institutional body or mechanism for this purpose.
(a) be in writing in one of the official languages of the Party receiving the submission;

(b) clearly identify the person making the submission;

(c) provide sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be based;

(d) explain how, and to what extent, the issue raised affects trade or investment between the Parties;

(e) not raise issues that are the subject of ongoing judicial or administrative proceedings; and

(f) indicate whether the matter has been communicated in writing to the relevant authorities of the Party and the Party’s response, if any.

3. Each Party shall notify the other Parties of the entity or entities responsible for receiving and responding to any written submissions referred to in paragraph 1 within 180 days of the date of entry into force of this Agreement for that Party.

4. If a submission asserts that a Party is failing to effectively enforce its environmental laws and following the written response to the submission by that Party, any other Party may request that the Committee on Environment (Committee) discuss that submission and written response with a view to further understanding the matter raised in the submission and, as appropriate, to consider whether the matter could benefit from cooperative activities.

5. At its first meeting, the Committee shall establish procedures for discussing submissions and responses that are referred to it by a Party. These procedures may provide for the use of experts or existing institutional bodies to develop a report for the Committee comprised of information based on facts relevant to the matter.

6. No later than three years after the date of entry into force of this Agreement, and thereafter as decided by the Parties, the Committee shall prepare a written report for the Commission on the implementation of this Article. For the purposes of preparing this report, each Party shall provide a written summary regarding its implementation activities under this Article.

**Article 20.10: Corporate Social Responsibility**

Each Party should encourage enterprises operating within its territory or jurisdiction, to adopt voluntarily, into their policies and practices, principles of corporate social
responsibility that are related to the environment, consistent with internationally recognised standards and guidelines that have been endorsed or are supported by that Party.

**Article 20.11: Voluntary Mechanisms to Enhance Environmental Performance**

1. The Parties recognise that flexible, voluntary mechanisms, for example, voluntary auditing and reporting, market-based incentives, 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 recognise 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 natural resources and the environment in its territory; and

   (b) its relevant authorities, businesses and business organisations, 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 scientific and technical information;

   (b) if applicable and available, are based on relevant international standards, recommendations or guidelines, and best practices;

   (c) promote competition and innovation; and

   (d) do not treat a product less favourably on the basis of origin.

**Article 20.12: Cooperation Frameworks**
1. The Parties recognise the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits and to strengthen the Parties’ joint and individual capacities to protect the environment and to promote sustainable development as they strengthen their trade and investment relations.

2. Taking account of their national priorities and circumstances, and available resources, the Parties shall cooperate to address matters of joint or common interest among the participating Parties related to the implementation of this Chapter, when there is mutual benefit from that cooperation. This cooperation may be carried out on a bilateral or plurilateral basis between Parties and, subject to consensus by the participating Parties, may include non-governmental bodies or organisations and non-Parties to this Agreement.

3. Each Party shall designate the authority or authorities responsible for cooperation related to the implementation of this Chapter to serve as its national contact point on matters that relate to coordination of cooperation activities and shall notify the other Parties in writing within 90 days of the date of entry into force of this Agreement for that Party of its contact point. On notifying the other Parties of its contact point, or at any time thereafter through the contact points, a Party may:

   (a) share its priorities for cooperation with the other Parties, including the objectives of that cooperation; and

   (b) propose cooperation activities related to the implementation of this Chapter to another Party or Parties.

4. When possible and appropriate, the Parties shall seek to complement and use their existing cooperation mechanisms and take into account relevant work of regional and international organisations.

5. Cooperation may be undertaken through various means including: dialogues, workshops, seminars, conferences, collaborative programmes and projects; technical assistance to promote and facilitate cooperation and training; the sharing of best practices on policies and procedures; and the exchange of experts.

6. In developing cooperative activities and programmes, a Party shall, if relevant, identify performance measures and indicators to assist in examining and evaluating the efficiency, effectiveness and progress of specific cooperative activities and programmes and share those measures and indicators, as well as the outcome of any evaluation during or following the completion of a cooperative activity or programme, with the other Parties.

7. The Parties, through their contact points for cooperation, shall periodically review the implementation and operation of this Article and report their findings, which may include recommendations, to the Committee to inform its review under Article 20.19(3)(c) (Environment Committee and Contact Points). The Parties, through the Committee, may
periodically evaluate the necessity of designating an entity to provide administrative and operational support for cooperative activities. If the Parties decide to establish such an entity, the Parties shall agree on the funding of the entity, on a voluntary basis to support the entity’s operation.

8. Each Party shall promote public participation in the development and implementation of cooperative activities, as appropriate. This may include activities such as encouraging and facilitating direct contacts and cooperation among relevant entities and the conclusion of arrangements among them for the conduct of cooperative activities under this Chapter.

9. Where a Party has defined the environmental laws under Article 20.1 to include only laws at the central level of government (first Party), and where another Party (second Party) considers that an environmental law at the sub-central level of government of the first Party is not being effectively enforced by the relevant sub-central government through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties, the second Party may request a dialogue with the first Party. The request shall contain information that is specific and sufficient to enable the first Party to evaluate the matter at issue and an indication of how the matter is negatively affecting trade or investment of the second Party.

10. All cooperative activities under this Chapter are subject to the availability of funds and of human and other resources, and to the applicable laws and regulations of the participating Parties. The participating Parties shall decide, on a case-by-case basis, the funding of cooperative activities.

Article 20.13: Trade and Biodiversity

1. The Parties recognise the importance of conservation and sustainable use of biological diversity 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 recognise the importance of respecting, preserving and maintaining knowledge and practices of indigenous and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.

4. The Parties recognise the importance of facilitating access to genetic resources within their respective national jurisdictions, consistent with each Party’s international obligations. The Parties further recognise that some Parties 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 recognise 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 20.12 (Cooperation Frameworks), 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) the protection and maintenance of ecosystems and ecosystem services; and
   (c) access to genetic resources and the sharing of benefits arising from their utilization.

**Article 20.14: Invasive Alien Species**

1. The Parties recognise 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 recognise 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 7.5 (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 20.15: Transition to a Low Emissions and Resilient Economy**

1. The Parties acknowledge that transition to a low emissions economy requires collective action.

2. The Parties recognise that each Party’s actions to transition to a low emissions economy should reflect domestic circumstances and capabilities and, consistent with Article 20.12 (Cooperative Frameworks), Parties shall cooperate to address matters of joint or common interest. Areas of cooperation may include, but are not limited to: energy efficiency; development of cost-effective, low-emissions technologies and alternative, clean
and renewable energy sources; sustainable transport and sustainable urban infrastructure development; addressing deforestation and forest degradation; emissions monitoring; market and non-market mechanisms; low-emissions, resilient development and sharing of information and experiences in addressing this issue. Further, the Parties shall, as appropriate, engage in cooperative and capacity-building activities related to transitioning to a low emissions economy.

Article 20.16: Marine Capture Fisheries\textsuperscript{10}

1. The Parties acknowledge their role as major consumers, producers and traders of fisheries products and the importance of the marine fisheries sector to their development and to the livelihoods of their fishing communities, including artisanal or small-scale fisheries. The Parties also acknowledge that the fate of marine capture fisheries is an urgent resource problem facing the international community. Accordingly, the Parties recognise the importance of taking measures aimed at the conservation and the sustainable management of fisheries.

2. In this regard, the Parties acknowledge that inadequate fisheries management, fisheries subsidies that contribute to overfishing and overcapacity, and illegal, unreported and unregulated (IUU) fishing\textsuperscript{11} can have significant negative impacts on trade, development and the environment and recognise the need for individual and collective action to address the problems of overfishing and unsustainable utilisation of fisheries resources.

3. Accordingly, 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;

   (b) reduce bycatch of non-target species and juveniles, including through the regulation of fishing gear that results in bycatch and the regulation of fishing in areas where bycatch is likely to occur; and

   (c) promote the recovery of overfished stocks for all marine fisheries in which that Party’s persons conduct fishing activities.

\textsuperscript{10} For greater certainty, this Article does not apply with respect to aquaculture.

\textsuperscript{11} The term “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 Organisation (FAO), adopted in Rome, 2001.
Such a management system shall be based on the best scientific evidence available and on internationally recognised 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.\textsuperscript{12}

4. Each Party shall promote the long-term conservation of sharks, marine turtles, seabirds, and marine mammals, through the implementation and effective enforcement of conservation and management measures. Such measures should include, as appropriate:

   (a) for sharks: the collection of species specific data, fisheries bycatch mitigation measures, catch limits, and finning prohibitions;

   (b) for marine turtles, seabirds, and marine mammals: fisheries bycatch mitigation measures, conservation and relevant management measures, prohibitions, and other measures in accordance with relevant international agreements to which the Party is party.

5. The Parties recognise that the implementation of a fisheries management system that is designed to prevent overfishing and overcapacity and to promote the recovery of 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\textsuperscript{13} 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 for fishing\textsuperscript{14} that negatively affect\textsuperscript{15} fish stocks that are in an overfished\textsuperscript{16} condition; and

\textsuperscript{12} These instruments include, among others, and as they may apply, 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, 4 December 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, 24 November 1993 and the 2001 IUU Fishing Plan of Action.

\textsuperscript{13} 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.

\textsuperscript{14} For the purposes of this paragraph, “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.

\textsuperscript{15} The negative effect of such subsidies shall be determined based on the best scientific evidence available.

\textsuperscript{16} 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
(b) subsidies provided to any fishing vessel\textsuperscript{17} while listed by the flag State or a relevant Regional Fisheries Management Organisation or Arrangement for IUU fishing in accordance with the rules and procedures of that organisation or arrangement and in conformity with international law.

6. Subsidy programmes that are established by a Party before the date of entry into force of this Agreement for that Party and which are inconsistent with paragraph 5(a) shall be brought into conformity with that paragraph as soon as possible and no later than three years\textsuperscript{18} of the date of entry into force of this Agreement for that Party.

7. In relation to subsidies that are not prohibited by paragraph 5 (a) or (b), and taking into consideration a Party’s social and developmental priorities, including food security concerns, 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.

8. With a view to achieving the objective of eliminating subsidies that contribute to overfishing and overcapacity, the Parties shall review the disciplines in paragraph 5 at regular meetings of the Committee.

9. Each Party shall notify the other Parties, within one year of the date of entry into force of this Agreement for it 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.

\textsuperscript{17} The term “fishing vessels” 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.

\textsuperscript{18} Notwithstanding this paragraph, and solely for the purpose of completing a stock assessment that it has already initiated, Viet Nam may request an extension of two additional years to bring any subsidy programmes into conformity with Article 20.16.5(a) by providing a written request to the Committee no later than six months before the expiry of the three-year period provided for in this paragraph. Viet Nam’s request shall include the reason for the requested extension and the information about its subsidy programmes as provided for in Article 20.16.10. Viet Nam may avail itself of this one-time extension upon providing a request in accordance with this paragraph unless the Committee decides otherwise within 60 days of receiving the request. No later than the date on which the additional two-year period expires, Viet Nam shall provide to the Committee in writing a report on the measures it has taken to fulfill its obligation under Article 20.16.5(a).
10. 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: 19

(a) programme name;
(b) legal authority for the programme;
(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 (for example, overexploited, depleted, fully exploited, recovering or underexploited);
(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.

11. Each Party shall also provide, to the extent possible, information in relation to other fisheries subsidies that the Party grants or maintains that are not covered by paragraph 5, in particular fuel subsidies.

12. A Party may request additional information from the notifying Party regarding the notifications under paragraphs 9 and 10. The notifying Party shall respond to that request as quickly as possible and in a comprehensive manner.

13. The Parties recognise the importance of concerted international action to address IUU fishing as reflected in regional and international instruments 20 and shall endeavour to improve cooperation internationally in this regard, including with and through competent international organisations.

19 Sharing information and data on existing fisheries subsidy programmes does not prejudice their legal status, effects or nature under the GATT 1994 or the SCM Agreement and is intended to complement WTO data reporting requirements.

20 Regional and international instruments include, among others, and as they may apply, the 2001 IUU Fishing Plan of Action, the 2005 Rome Declaration on IUU Fishing, done at Rome on 12 March 2005, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome, 22 November 2009, as well as instruments establishing and adopted by Regional Fisheries Management Organisations, which are defined as intergovernmental fisheries organisations or arrangements, as appropriate, that have the competence to establish conservation and management measures.
14. In support of efforts to combat IUU fishing practices and to help deter trade in products from species harvested from those practices, each Party shall:

(a) cooperate with other Parties to identify needs and to build capacity to support the implementation of this Article;

(b) support monitoring, control, surveillance, compliance and enforcement systems, including by adopting, reviewing, or revising, as appropriate measures to:

(i) deter vessels that are flying its flag and its nationals from engaging in IUU fishing activities; and

(ii) address the transhipment at sea of fish or fish products caught through IUU fishing activities;

(c) implement port State measures;

(d) strive to act consistently with relevant conservation and management measures adopted by Regional Fisheries Management Organisations of which it is not a member so as not to undermine those measures; and

(e) endeavour not to undermine catch or trade documentation schemes operated by Regional Fisheries Management Organisations or Arrangements or an intergovernmental organisation whose scope includes the management of shared fisheries resources, including straddling and highly migratory species, where that Party is not a member of those organisations or arrangements.

15. Consistent with Article 26.2.2 (Publication), 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 that results from IUU fishing.

Article 20.17: Conservation and Trade

1. The Parties affirm the importance of combating the illegal take\(^{21}\) 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

\(^{21}\) The term “take” means captured, killed or collected and with respect to a plant, also means harvested, cut, logged or removed.
wild fauna and flora, and reduces the economic and environmental value of these natural resources.

2. Accordingly, each Party shall adopt, maintain and implement laws, regulations and any other measures to fulfill its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).22, 23, 24

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) endeavour 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 wetlands;

   (b) maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management and wild fauna and flora conservation, and endeavour to enhance public participation and transparency in these institutional frameworks; and

22 For the purposes of this Article, a Party’s CITES obligations include existing and future amendments to which it is a Party and any existing and future reservations, exemptions, and exceptions applicable to it.

23 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 fulfill its obligations under CITES in a manner affecting trade or investment between the Parties.

24 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.
(c) endeavour to develop and strengthen cooperation and consultation with interested non-governmental entities 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\textsuperscript{25}, were taken or traded in violation of that Party’s law or another applicable law\textsuperscript{26}, 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 endeavour 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 recognise 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 recognise 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 endeavour 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 creating and participating in law enforcement networks.

**Article 20.18: Environmental Goods and Services**

1. The Parties recognise the importance of trade and investment in environmental goods and services as a means of improving environmental and economic performance and addressing global environmental challenges.

\textsuperscript{25} For greater certainty, for the purposes of this paragraph, each Party retains the right to determine what constitutes “credible evidence.”

\textsuperscript{26} 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.
2. The Parties further recognise the importance of this Agreement to promoting trade and investment in environmental goods and services in the free trade area.

3. Accordingly, the Committee shall consider issues identified by a Party or Parties related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade. The Parties shall endeavour to address any potential barriers to trade in environmental goods and services that may be identified by a Party, including by working through the Committee and in conjunction with other relevant committees established under this Agreement, as appropriate.

4. The Parties may develop bilateral and plurilateral cooperative projects on environmental goods and services to address current and future global trade-related environmental challenges.

**Article 20.19: 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 for it, 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 ("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 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) provide periodic reports to the Commission regarding the implementation of this Chapter;
   
   (c) provide a forum to discuss and review cooperative activities under this Chapter;
   
   (d) consider and endeavour to resolve matters referred to it under Article 20.21 (Senior Representative Consultations);
   
   (e) coordinate with other committees established under this Agreement as appropriate; and
   
   (f) perform any other functions as the Parties may decide.
4. The Committee shall meet within one year of the date of entry into force of this Agreement. Thereafter, the Committee shall meet every two years unless the Committee agrees otherwise. The Chair of the Committee and the venue of its meetings shall rotate among each of the Parties in English alphabetical order, unless the Committee agrees otherwise.

5. All decisions and reports of the 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 Committee shall be made available to the public, unless the Committee agrees otherwise.

7. During the fifth year after the date of entry into force of this Agreement, the Committee shall:
   
   (a) review the implementation and operation of this Chapter;
   
   (b) report its findings, which may include recommendations, to the Parties and the Commission; and
   
   (c) undertake subsequent reviews at intervals to be decided by the Parties.

8. The 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 recognise 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 20.20: Environment Consultations**

1. The Parties shall at all times endeavour 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 other Parties through their respective contact points.
3. A Party other than the requesting or the responding Party that considers it has a substantial interest in the matter (a participating Party) may participate in the consultations by delivering a written notice to the contact point of the requesting and responding Parties no later than seven days after the date of circulation of the request for consultations. The participating 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 20.21: Senior Representative Consultations**

1. If the consulting Parties have failed to resolve the matter under Article 20.20 (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 other Parties.

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 any other Party that considers it has a substantial interest in the matter may participate in the consultations.

**Article 20.22: Ministerial Consultations**

1. If the consulting Parties have failed to resolve the matter under Article 20.21 (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 20.20 (Environmental Consultations), Article 20.21 (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 20.23: Dispute Resolution**

1. If the consulting Parties have failed to resolve the matter under Article 20.20 (Environmental Consultations), Article 20.21 (Senior Representative Consultations) and Article 20.22 (Ministerial Consultations) within 60 days after the date of receipt of a request under Article 20.20 (Environmental Consultations), or any other period as the consulting Parties may agree, the requesting Party may request consultations under Article 28.5 (Consultations) or request the establishment of a panel under Article 28.7 (Establishment of a Panel).

2. Notwithstanding Article 28.14 (Role of Experts), in a dispute arising under Article 20.17.2 (Conservation and Trade) a panel convened under Chapter 28 (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 28.17.4 (Initial Report).

3. Before a Party initiates dispute settlement under this Agreement for a matter arising under Article 20.3.4 or Article 20.3.6 (General Commitments), that Party shall consider whether it maintains environmental laws that are substantially equivalent in scope to the environmental laws that would be the subject of the dispute.

4. If a Party requests consultations with another Party under Article 20.20 (Environment Consultations) for a matter arising under Article 20.3.4 or Article 20.3.6 (General Commitments), and the responding Party considers that the requesting Party does not maintain environmental laws that are substantially equivalent in scope to the environmental laws that would be the subject of the dispute, the Parties shall discuss the issue during the consultations.
Annex 20-A

For Australia, the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

For Brunei Darussalam, the *Customs (Prohibition and Restriction on Imports and Exports), Order*.

For Canada, the *Ozone-depleting Substances Regulations, 1998* of the *Canadian Environmental Protection Act, 1999* (CEPA).

For Chile, *Supreme Decree N° 238* (1990) of the Ministry of Foreign Affairs and *Law N° 20.096*.

For Japan, the *Law concerning the Protection of the Ozone Layer through the Control of Specified Substances and Other Measures* (Law No. 53, 1988).

For Malaysia, the *Environmental Quality Act 1974*.

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 New Zealand, the *Ozone Layer Protection Act 1996*.

For Peru, the *Supreme Decree No. 033-2000-ITINCI*.

For Singapore, the *Environmental Protection and Management Act*, including regulations made thereunder.

For the United States, 42 U.S.C §§ 7671-7671q (*Stratospheric Ozone Protection*).

For Viet Nam, the *Law on Environmental Protection 2014*; the Joint Circular No. 47/2011/TTLT-BCT-BTNMT dated 30 December 2011 of the Ministry of Industry and Trade, the Ministry of Natural Resources and Environment, regulating the management of import, export and temporary import for re-export of ODS according to Montreal protocol; the Decision No. 15/2006/QD-BTNMT dated 08 September 2006 of the Minister of the Ministry of Natural Resources and Environment, issuing list of refrigeration equipments using CFC prohibited for import.
Annex 20-B


For Brunei Darussalam, the Prevention of Pollution of the Sea Order 2005; the Prevention of Pollution of the Sea (Oil) Regulations 2008; and the Prevention of the Pollution of the Seas (Noxious Liquid Substances in Bulk) Regulations, 2008.

For Canada, the Canada Shipping Act, 2001 and its related regulations.

For Chile, the Decree N°1.689 (1995) of the Ministry of Foreign Affairs.


For Malaysia, the Act 515 Merchant Shipping (Oil Pollution) Act 1994; Merchant Shipping Ordinance 1952 (amended in 2007 by Act A1316); and the Environmental Quality Act 1974.

For Mexico, the Section 132 of the General Law on Ecological Equilibrium and Environmental Protection (Ley General del Equilibrio Ecológico y la Protección al Ambiente – LGEEPA).

For New Zealand, the Maritime Transport Act 1994.

For Peru, the Decree Law No. 22703; and the 1978 Protocol by Decree Law No. 22954 (March 26, 1980).

For Singapore, the Prevention of Pollution of the Sea Act, including regulations made thereunder.

For the United States, the Act to Prevent Pollution from Ships, 33 U.S.C §§ 1901-1915.

For Viet Nam, the Law on Environmental Protection 2014; the Maritime Code 2005; the Circular 50/2012/TT-BGTVT dated 19 December 2012 of the Ministry of Transport, regulating the management of receiving and processing oil-containing liquid waste from sea vessels at Viet Nam’s sea ports; the National Technical Regulation on Marine Pollution Prevention Systems of Ships QCVN 26: 2014/BGTVT.
CHAPTER 21

COOPERATION AND CAPACITY BUILDING


1. The Parties acknowledge the importance of cooperation and capacity building activities and shall undertake and strengthen these activities to assist in implementing this Agreement and enhancing its benefits, which are intended to accelerate economic growth and development.

2. The Parties recognise that cooperation and capacity building activities may be undertaken between two or more Parties, on a mutually agreed basis, and shall seek to complement and build on existing agreements or arrangements between them.

3. The Parties also recognise that the involvement of the private sector is important in these activities, and that SMEs may require assistance in participating in global markets.

Article 21.2: Areas of Cooperation and Capacity Building

1. The Parties may undertake and strengthen cooperation and capacity building activities to assist in:

   (a) implementing the provisions of this Agreement;

   (b) enhancing each Party’s ability to take advantage of the economic opportunities created by this Agreement; and

   (c) promoting and facilitating trade and investment of the Parties.

2. Cooperation and capacity building activities may include, but are not necessarily limited to, the following areas:

   (a) agricultural, industrial and services sectors;

   (b) promotion of education, culture and gender equality; and

   (c) disaster risk management.

3. The Parties recognise that technology and innovation provides added value to cooperation and capacity building activities, and may be incorporated into cooperation and capacity building activities under this Article.
4. The Parties may undertake cooperation and capacity building activities through modes such as: dialogue, workshops, seminars, conferences, collaborative programmes and projects; technical assistance to promote and facilitate capacity building and training; the sharing of best practices on policies and procedures; and the exchange of experts, information and technology.

Article 21.3: Contact Points for Cooperation and Capacity Building

1. Each Party shall designate and notify a contact point on matters relating to the coordination of cooperation and capacity building activities in accordance with Article 27.5 (Contact Points).

2. A Party may make a request for cooperation and capacity building activities related to this Agreement to another Party or Parties through the contact points.

Article 21.4: Committee on Cooperation and Capacity Building

1. The Parties hereby establish a Committee on Cooperation and Capacity Building (Committee), composed of government representatives of each Party.

2. The Committee shall:

   (a) facilitate the exchange of information between the Parties in areas including, but not limited to, experiences and lessons learned through cooperation and capacity building activities undertaken between the Parties;

   (b) discuss and consider issues or proposals for future cooperation and capacity building activities;

   (c) initiate and undertake collaboration, as appropriate, to enhance donor coordination and facilitate public-private partnerships in cooperation and capacity building activities;

   (d) invite, as appropriate, international donor institutions, private sector entities, non-governmental organisations or other relevant institutions, to assist in the development and implementation of cooperation and capacity building activities;

   (e) establish ad hoc working groups, as appropriate, which may include government representatives, non-government representatives or both;

   (f) coordinate with other committees, working groups and any other subsidiary body established under this Agreement as appropriate, in support of the development and implementation of cooperation and capacity building activities;
(g) review the implementation or operation of this Chapter; and

(h) 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 as necessary.

4. The Committee shall produce an agreed record of its meetings, including decisions and next steps and, as appropriate, report to the Commission.

Article 21.5: Resources

Recognising the different levels of development of the Parties, the Parties shall work to provide the appropriate financial or in-kind resources for cooperation and capacity building activities conducted under this Chapter, subject to the availability of resources and the comparative capabilities that different Parties possess to achieve the goals of this Chapter.

Article 21.6: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.
CHAPTER 22

COMPETITIVENESS AND BUSINESS FACILITATION

Article 22.1: Definitions

For the purposes of this Chapter:

supply chain means a cross-border network of enterprises operating together as an integrated system to design, develop, produce, market, distribute, transport, and deliver products and services to customers.

Article 22.2: Committee on Competitiveness and Business Facilitation

1. The Parties recognise that, in order to enhance the domestic, regional and global competitiveness of their economies, and to promote economic integration and development within the free trade area, their business environments must be responsive to market developments.

2. Accordingly, the Parties hereby establish a Committee on Competitiveness and Business Facilitation (Committee), composed of government representatives of each Party.

3. The Committee shall:

   (a) discuss effective approaches and develop information sharing activities to support efforts to establish a competitive environment that is conducive to the establishment of businesses, facilitates trade and investment between the Parties, and promotes economic integration and development within the free trade area;

   (b) explore ways to take advantage of the trade and investment opportunities that this Agreement creates;

   (c) provide advice and recommendations to the Commission on ways to further enhance the competitiveness of the Parties’ economies, including recommendations aimed at enhancing the participation of SMEs in regional supply chains;

   (d) explore ways to promote the development and strengthening of supply chains within the free trade area in accordance with Article 22.3 (Supply Chains); and
Subject to Legal Review in English, Spanish and French
for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Version

(e) engage in other activities as the Parties may decide.

4. The Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter as necessary.

5. 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, such as international donor institutions, enterprises and non-governmental organisations.

Article 22.3: Supply Chains

1. The Committee shall explore ways in which this Agreement may be implemented so as to promote the development and strengthening of supply chains in order to integrate production, facilitate trade and reduce the costs of doing business within the free trade area.

2. The Committee shall develop recommendations and promote seminars, workshops or other capacity building activities with appropriate experts, including private sector and international donor organisations, to assist participation by SMEs in supply chains in the free trade area.

3. The Committee shall, as appropriate, work with other committees, working groups and any other subsidiary body established under this Agreement, including through joint meetings, to identify and discuss measures affecting the development and strengthening of supply chains. The Committee shall ensure that it does not duplicate the activities of these other bodies.

4. The Committee shall identify and explore best practices and experiences relevant to the development and strengthening of supply chains between the Parties.

5. The Committee shall commence a review of the extent to which this Agreement has facilitated the development, strengthening and operation of supply chains in the free trade area during the fourth year after the date of entry into force of this Agreement. Unless the Parties agree otherwise, the Committee shall conduct further reviews every five years thereafter.

6. In conducting its review, the Committee shall consider the views of interested persons that a Party has received pursuant to Article 22.4 (Engagement with Interested Persons) and provided to the Committee.

7. No later than two years after the commencement of a review under paragraph 5, the Committee shall submit a report to the Commission containing the Committee’s findings and recommendations on ways in which the Parties can promote and strengthen the development of supply chains in the free trade area.
8. Following the Commission’s consideration of the report, the Committee shall make the report publicly available, unless the Parties agree otherwise.

**Article 22.4: Engagement with Interested Persons**

The Committee shall establish mechanisms appropriate to provide continuing opportunities for interested persons of the Parties to provide input on matters relevant to enhancing competitiveness and business facilitation.

**Article 22.5: Non-Application of Dispute Settlement**

No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.
CHAPTER 23

DEVELOPMENT

Article 23.1: General Provisions

1. The Parties affirm their commitment to promote and strengthen an open trade and investment environment that seeks to improve welfare, reduce poverty, raise living standards and create new employment opportunities in support of development.

2. The Parties acknowledge the importance of development in promoting inclusive economic growth, as well as the instrumental role that trade and investment can play in contributing to economic development and prosperity. Inclusive economic growth includes a more broad-based distribution of the benefits of economic growth through the expansion of business and industry, the creation of jobs, and the alleviation of poverty.

3. The Parties acknowledge that economic growth and development contribute to achieving the objectives of this Agreement of promoting regional economic integration.

4. The Parties also acknowledge that effective domestic coordination of trade, investment and development policies can contribute to sustainable economic growth.

5. The Parties recognise the potential for joint development activities between the Parties to reinforce efforts to achieve sustainable development goals.

6. The Parties also recognise that activities carried out under Chapter 21 (Cooperation and Capacity Building) are an important component of joint development activities.

Article 23.2: Promotion of Development

1. The Parties acknowledge the importance of each Party’s leadership in implementing development policies, including policies that are designed for its nationals to maximise the use of the opportunities created by this Agreement.

2. The Parties acknowledge that this Agreement has been designed in a manner that takes into account the different levels of economic development of the Parties, including through provisions that support and enable the achievement of national development goals.
3. The Parties further recognise that transparency, good governance and accountability contribute to the effectiveness of development policies.

**Article 23.3: Broad-Based Economic Growth**

1. The Parties acknowledge that broad-based economic growth reduces poverty, enables sustainable delivery of basic services, and expands opportunities for people to live healthy and productive lives.

2. The Parties recognise that broad-based economic growth promotes peace, stability, democratic institutions, attractive investment opportunities, and effectiveness in addressing regional and global challenges.

3. The Parties also recognise that generating and sustaining broad-based economic growth requires sustained high-level commitment by their governments to effectively and efficiently administer public institutions, invest in public infrastructure, welfare, health and education systems, and foster entrepreneurship and access to economic opportunity.

4. The Parties may enhance broad-based economic growth through policies that take advantage of trade and investment opportunities created by this Agreement in order to contribute to, among other things, sustainable development and the reduction of poverty. These policies may include those related to the promotion of market-based approaches aimed at improving trading conditions and access to finance for vulnerable areas or populations, and SMEs.

**Article 23.4: Women and Economic Growth**

1. The Parties recognise that enhancing opportunities in their territories for women, including workers and business owners, to participate in the domestic and global economy contributes to economic development. The Parties further recognise the benefit of sharing their diverse experiences in designing, implementing and strengthening programmes to encourage this participation.

2. Accordingly, the Parties shall consider undertaking cooperative activities aimed at enhancing the ability of women, including workers and business owners, to fully access and benefit from the opportunities created by this Agreement. These activities may include providing advice or training, such as through the exchange of officials, and exchanging information and experience on:

   (a) programmes aimed at helping women build their skills and capacity, and enhance their access to markets, technology and financing;

   (b) developing women’s leadership networks; and
Article 23.5: Education, Science and Technology, Research and Innovation

1. The Parties recognise that the promotion and development of education, science and technology, research and innovation can play an important role in accelerating growth, enhancing competitiveness, creating jobs, and expanding trade and investment among the Parties.

2. The Parties further recognise that policies related to education, science and technology, research and innovation can help Parties maximise the benefits derived from this Agreement. Accordingly, Parties may encourage the design of policies in these areas that take into consideration trade and investment opportunities arising from this Agreement, in order to further increase those benefits. Those policies may include initiatives with the private sector, including those aimed at developing relevant expertise and managerial skills, and enhancing enterprises’ ability to transform innovations into competitive products and start-up businesses.

Article 23.6: Joint Development Activities

1. The Parties recognise that joint activities between the Parties to promote maximisation of the development benefits derived from this Agreement can reinforce national development strategies, including, where appropriate, through work with bilateral partners, private companies, academic institutions and non-governmental organisations.

2. When mutually agreed, two or more Parties shall endeavour to facilitate joint activities between relevant government, private and multilateral institutions so that the benefits derived from this Agreement might more effectively advance each Party’s development goals. These joint activities may include:

   (a) discussion between Parties to promote, where appropriate, alignment of Parties’ development assistance and finance programmes with national development priorities;

   (b) consideration of ways to expand engagement in science, technology and research to foster the application of innovative uses of science and technology, promote development and build capacity;

   (c) facilitation of public and private sector partnerships that enable private enterprises, including SMEs, to bring their expertise and resources to cooperative ventures with government agencies in support of development goals; and
(d) involvement of the private sector, including philanthropic organisations and businesses, and non-governmental organisations in activities to support development.

Article 23.7: Committee on Development

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

2. The Committee shall:

   (a) facilitate the exchange of information on Parties’ experiences regarding the formulation and implementation of national policies intended to derive the greatest possible benefits from this Agreement;

   (b) facilitate the exchange of information on Parties’ experiences and lessons learned through joint development activities undertaken under Article 23.6 (Joint Development Activities);

   (c) discuss any proposals for future joint development activities in support of development policies related to trade and investment;

   (d) invite, as appropriate, international donor institutions, private sector entities, non-governmental organisations or other relevant institutions to assist in the development and implementation of joint development activities;

   (e) carry out other functions as the Parties may decide in respect of maximising the development benefits derived from this Agreement; and

   (f) consider issues associated with the implementation and operation of this Chapter, with a view towards considering ways the Chapter may enhance the development benefits of this Agreement.

3. The Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter as necessary.

4. In carrying out its functions, the Committee may work with other committees, working groups and any other subsidiary body established under this Agreement.

Article 23.8: Relation to Other Chapters

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.
Article 23.9: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.
CHAPTER 24

SMALL AND MEDIUM-SIZED ENTERPRISES

Article 24.1: 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 all 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 the Party considers useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall include in its website links to:

   (a) the equivalent websites of the other Parties; and

   (b) the websites of its government agencies and other appropriate entities that provide information the Party considers useful to any person interested in trading, investing, or doing business in that Party’s territory.

3. Subject to each Party’s laws and regulations, the information described in paragraph 2(b) may include:

   (a) customs regulations and procedures;

   (b) regulations and procedures concerning intellectual property rights;

   (c) technical regulations, standards, and sanitary and phytosanitary measures relating to importation and exportation;
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Version

(d) foreign investment regulations;
(e) business registration procedures;
(f) employment regulations; and
(g) taxation information.

When possible, each Party shall endeavour to make the information available in English.

4. Each Party shall regularly review the information and links on the website referred to in paragraphs 1 and 2 to ensure that such information and links are up-to-date and accurate.

**Article 24.2: Committee on SMEs**

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

2. The Committee shall:

   (a) identify ways to assist SMEs of the Parties to take advantage of the commercial opportunities under this Agreement;

   (b) exchange and discuss each Party’s experiences and best practices in supporting and assisting SME exporters with respect to, among other things, training programmes, trade education, trade finance, identifying commercial partners in other Parties, and establishing good business credentials;

   (c) develop and promote seminars, workshops or other activities to inform SMEs of the benefits available to them under this Agreement;

   (d) explore opportunities for capacity building to assist the Parties in developing and enhancing SME export counselling, assistance and training programmes;

   (e) recommend additional information that a Party may include on the website referred to in Article 24.1 (Information Sharing);

   (f) review and coordinate the Committee’s work programme with those of other committees, working groups and any subsidiary body established under this Agreement, as well as those of other relevant international bodies, in order not to duplicate those work programmes and to identify appropriate opportunities for cooperation to improve the ability of SMEs to engage in trade and investment opportunities provided by this Agreement;
(g) facilitate the development of programmes to assist SMEs to participate and integrate effectively into the global supply chain;

(h) exchange information to assist in monitoring the implementation of this Agreement as it relates to SMEs;

(i) submit a report of its activities on a regular basis and make appropriate recommendations to the Commission; and

(j) consider any other matter pertaining to SMEs as the Committee may decide, including any issues raised by SMEs regarding their ability to benefit from this Agreement.

3. The Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter as necessary.

4. The Committee may seek to collaborate with appropriate experts and international donor organisations in carrying out its programmes and activities.

Article 24.3: Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.
CHAPTER 25
REGULATORY COHERENCE

Article 25.1: Definitions

For the purposes of this Chapter:

covered regulatory measure means the regulatory measure determined by each Party to be subject to this Chapter in accordance with Article 25.3 (Scope of Covered Regulatory Measures); and

regulatory measure means a measure of general application related to any matter covered by this Agreement adopted by regulatory agencies with which compliance is mandatory.

Article 25.2: General Provisions

1. For the purposes of this Chapter, regulatory coherence refers to the use of good regulatory practices in the process of planning, designing, issuing, implementing and reviewing regulatory measures in order to facilitate achievement of domestic policy objectives, and in efforts across governments to enhance regulatory cooperation in order to further those objectives and promote international trade and investment, economic growth and employment.

2. The Parties affirm the importance of:

(a) sustaining and enhancing the benefits of this Agreement through regulatory coherence in terms of facilitating increased trade in goods and services and increased investment between the Parties;

(b) each Party’s sovereign right to identify its regulatory priorities and establish and implement regulatory measures to address these priorities, at the levels that the Party considers appropriate;

(c) the role that regulation plays in achieving public policy objectives;

(d) taking into account input from interested persons in the development of regulatory measures; and

(e) developing regulatory cooperation and capacity building between the Parties.
Article 25.3: Scope of Covered Regulatory Measures

Each Party shall promptly, and no later than one year after the date of entry into force of this Agreement for that Party, determine and make publicly available the scope of its covered regulatory measures. In determining the scope of covered regulatory measures, each Party should aim to achieve significant coverage.

Article 25.4: Coordination and Review Processes or Mechanisms

1. The Parties recognise that regulatory coherence can be facilitated through domestic mechanisms that increase interagency consultation and coordination associated with processes for developing regulatory measures. Accordingly, each Party shall endeavour to ensure that it has processes or mechanisms to facilitate the effective interagency coordination and review of proposed covered regulatory measures. Each Party should consider establishing and maintaining a national or central coordinating body for this purpose.

2. The Parties recognise that while the processes or mechanisms referred to in paragraph 1 may vary between Parties depending on their respective circumstances (including differences in levels of development and political and institutional structures), they should generally have as overarching characteristics the ability to:

   (a) review proposed covered regulatory measures to determine the extent to which the development of such measures adheres to good regulatory practices, which may include but are not limited to those set out in Article 25.5 (Implementation of Core Good Regulatory Practices), and make recommendations based on that review;

   (b) strengthen consultation and coordination among domestic agencies so as to identify potential overlap and duplication and to prevent the creation of inconsistent requirements across agencies;

   (c) make recommendations for systemic regulatory improvements; and

   (d) publicly report on regulatory measures reviewed, any proposals for systemic regulatory improvements, and any updates on changes to the processes and mechanisms referred to in paragraph 1.

Each Party should generally produce documents that include descriptions of those processes or mechanisms and that can be made available to the public.

Article 25.5: Implementation of Core Good Regulatory Practices

1. To assist in designing a measure to best achieve the Party’s objective, each Party should generally encourage relevant regulatory agencies, consistent with its laws and regulations, to conduct regulatory impact assessments when developing proposed covered
regulatory measures that exceed a threshold of economic impact, or other regulatory impact, where appropriate, as established by the Party. Regulatory impact assessments may encompass a range of procedures to determine possible impacts.

2. Recognising that differences in the Parties’ institutional, social, cultural, legal and developmental circumstances may result in specific regulatory approaches, regulatory impact assessments conducted by a Party should, among other things:

   (a) assess the need for a regulatory proposal, including a description of the nature and significance of the problem;

   (b) examine feasible alternatives, including, to the extent feasible and consistent with laws and regulations, their costs and benefits, such as risks involved as well as distributive impacts, recognising that some costs and benefits are difficult to quantify and monetise;

   (c) explain the grounds for concluding that the selected alternative achieves the policy objectives in an efficient manner, including, if appropriate, reference to the costs and benefits and the potential for managing risks; and

   (d) rely on the best reasonably obtainable existing information including relevant scientific, technical, economic or other information, within the boundaries of the authorities, mandates and resources of the particular regulatory agency.

3. When conducting regulatory impact assessments, a Party may take into consideration the potential impact of the proposed regulation on SMEs.

4. Each Party should ensure that new covered regulatory measures are plainly written and are clear, concise, well organised and easy to understand, recognising that some measures address technical issues and that relevant expertise may be needed to understand and apply them.

5. Subject to its laws and regulations, each Party should ensure that relevant regulatory agencies provide public access to information on new covered regulatory measures and, where practicable, make this information available online.

6. Each Party should review, at intervals it deems appropriate, its covered regulatory measures to determine whether specific regulatory measures it has implemented should be modified, streamlined, expanded or repealed so as to make the Party’s regulatory regime more effective in achieving the Party’s policy objectives.

7. Each Party should, in a manner it deems appropriate, and consistent with its laws and regulations, provide annual public notice of any covered regulatory measure that it reasonably expects its regulatory agencies to issue within the following 12-month period.

8. To the extent appropriate and consistent with its law, each Party should encourage its relevant regulatory agencies to consider regulatory measures in other Parties, as well as
relevant developments in international, regional and other fora when planning covered regulatory measures.

**Article 25.6: Committee on Regulatory Coherence**

1. The Parties hereby establish a Committee on Regulatory Coherence (Committee), composed of government representatives of the Parties.

2. The Committee shall consider issues associated with the implementation and operation of this Chapter. The Committee shall also consider identifying future priorities, including potential sectoral initiatives and cooperative activities, involving issues covered by this Chapter and issues related to regulatory coherence covered by other Chapters of this Agreement.

3. In identifying future priorities, the Committee shall take into account the activities of other committees, working groups and any other subsidiary body established under this Agreement and shall coordinate with them in order to avoid duplication of activities.

4. The Committee shall ensure that its work on regulatory cooperation offers value in addition to initiatives underway in other relevant fora and avoids undermining or duplicating such efforts.

5. Each Party shall designate and notify a contact point to provide information, on request by another Party, regarding the implementation of this Chapter in accordance with Article 27.5 (Contact Points).

6. The Committee shall meet within one year of the date of entry into force of this Agreement, and thereafter as necessary.

7. At least once every five years after the date of entry into force of this Agreement, the Committee shall consider developments in the area of good regulatory practices and in best practices in maintaining processes or mechanisms referred to in Article 25.4.1 (Coordination and Review Processes or Mechanisms), as well as the Parties’ experiences in implementing this Chapter with a view towards considering whether to make recommendations to the Commission for improving the provisions of this Chapter so as to further enhance the benefits of this Agreement.

**Article 25.7: Cooperation**

1. The Parties shall cooperate in order to facilitate the implementation of this Chapter and to maximise the benefits arising from it. Cooperation activities shall take into consideration each Party’s needs, and may include:

   (a) information exchanges, dialogues or meetings with other Parties;
(b) information exchanges, dialogues or meetings with interested persons, including with SMEs, of other Parties;

(c) training programmes, seminars and other relevant assistance;

(d) strengthening cooperation and other relevant activities between regulatory agencies; and

(e) other activities that Parties may agree.

2. The Parties further recognise that cooperation between Parties on regulatory matters can be enhanced through, among other things, ensuring that each Party’s regulatory measures are centrally available.

**Article 25.8: Engagement with Interested Persons**

The Committee shall establish appropriate mechanisms to provide continuing opportunities for interested persons of the Parties to provide input on matters relevant to enhancing regulatory coherence.

**Article 25.9: Notification of Implementation**

1. For the purposes of transparency, and to serve as a basis for cooperation and capacity building activities under this Chapter, each Party shall submit a notification of implementation to the Committee through the contact points designated pursuant to Article 27.5 (Contact Points) within two years of the date of entry into force of this Agreement for that Party and at least once every four years thereafter.

2. In its initial notification, each Party shall describe the steps that it has taken since the date of entry into force of this Agreement for that Party, and the steps that it plans to take to implement this Chapter, including those to:

   (a) establish processes or mechanisms to facilitate effective interagency coordination and review of proposed covered regulatory measures in accordance with Article 25.4 (Coordination and Review Processes or Mechanisms);

   (b) encourage relevant regulatory agencies to conduct regulatory impact assessments in accordance with Article 25.5.1 (Implementation of Core Good Regulatory Practices) and Article 25.5.2;

   (c) ensure that covered regulatory measures are written and made available in accordance with Article 25.5.4 (Implementation of Core Good Regulatory Practices) and Article 25.5.5;
(d) review its covered regulatory measures in accordance with Article 25.6 (Implementation of Core Good Regulatory Practices); and

(e) provide information to the public in its annual notice of prospective covered regulatory measures in accordance with Article 25.7 (Implementation of Core Regulatory Practices).

3. In subsequent notifications, each Party shall describe the steps, including those set out in paragraph 2, that it has taken since the previous notification, and those that it plans to take to implement this Chapter, and to improve its adherence to it.

4. In its consideration of issues associated with the implementation and operation of this Chapter, the Committee may review notifications made by a Party pursuant to paragraph 1. During that review, Parties may ask questions or discuss specific aspects of that Party’s notification. The Committee may use its review and discussion of a notification as a basis for identifying opportunities for assistance and cooperative activities to provide assistance in accordance with Article 25.7 (Cooperation).

**Article 25.10: Relation to Other Chapters**

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.

**Article 25.11: Non-Application of Dispute Settlement**

No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for any matter arising under this Chapter.
CHAPTER 26

TRANSPARENCY AND ANTI-CORRUPTION

Section A: Definitions

Article 26.1: 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 authorised competence;

administrative ruling of general application means an administrative ruling or interpretation 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;

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;

official of a public international organisation means an international civil servant or any person who is authorised by a public international organisation to act on its behalf; 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
Section B: Transparency

Article 26.2: 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 Parties to become acquainted with them.

2. To the extent possible, each Party shall:
   
   (a) publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and
   
   (b) provide interested persons and other Parties with a reasonable opportunity to comment on those proposed measures.

3. To the extent possible, when introducing or changing the laws, regulations or procedures referred to in paragraph 1, each Party shall endeavour to provide a reasonable period between the date when those laws, regulations or procedures, proposed or final in accordance with its legal system, are made publicly available and the date when they enter into force.

4. With respect to a proposed regulation of general application of a Party’s central level of government respecting any matter covered by this Agreement that is likely to affect trade or investment between the Parties and that is published in accordance with paragraph 2(a), each Party shall:

   (a) publish the proposed regulation in an official journal, or on an official website, preferably online and consolidated into a single portal;

   (b) endeavour to publish the proposed regulation:

      (i) no less than 60 days in advance of the date on which comments are due; or

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1 For the United States, the obligations in Section C shall not apply to conduct outside the jurisdiction of federal criminal law and, to the extent they involve preventive measures, shall apply only to those measures covered by federal law governing federal, state and local officials.

2 A Party may, consistent with its legal system, comply with its obligations that relate to a proposed regulation in this Article by publishing a policy proposal, discussion document, summary of the regulation or other document that contains sufficient detail to adequately inform interested persons and other Parties about whether and how their trade or investment interests may be affected.
(ii) within another period in advance of the date on which comments are due that provides sufficient time for an interested person to evaluate the proposed regulation, and formulate and submit comments;

(c) to the extent possible, include in the publication under subparagraph (a) an explanation of the purpose of, and rationale for, the proposed regulation; and

(d) consider comments received during the comment period, and is encouraged to explain any significant modifications made to the proposed regulation, preferably on an official website or in an online journal.

5. Each Party shall, with respect to a regulation of general application adopted by its central level of government respecting any matter covered by this Agreement that is published in accordance with paragraph 1:

(a) promptly publish the regulation on a single official website or in an official journal of national circulation; and

(b) if appropriate, include with the publication an explanation of the purpose of and rationale for the regulation.

Article 26.3: 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 applying measures referred to in Article 26.2.1 (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 26.4: 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. Those tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, with respect to the tribunals or procedures referred to in paragraph 1, the parties to a proceeding are provided with the right to:

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

   (b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the relevant authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its domestic law, that the decision referred to in paragraph 2(b) shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

Article 26.5: Provision of Information

1. If a Party considers that any proposed or actual measure may materially affect the operation of this Agreement or otherwise substantially affect another Party’s interests under this Agreement, it shall, to the extent possible, inform that other Party of the proposed or actual measure.

2. On request of another Party, a Party shall promptly provide information and respond to questions pertaining to any proposed or actual measure that the requesting Party considers may affect the operation of this Agreement, whether or not the requesting Party has been previously informed of that measure.

3. A Party may convey any request or provide information under this Article to the other Parties through their contact points.

4. Any information provided under this Article shall be without prejudice as to whether the measure in question is consistent with this Agreement.

Section C: Anti-Corruption

Article 26.6: Scope

1. The Parties affirm their resolve to eliminate bribery and corruption in international trade and investment. Recognising the need to build integrity within both the public and private sectors and

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3 For greater certainty, review need not include merits (de novo) review, and may take the form of common law judicial review. The correction of final administrative actions may include a referral back to the body that took that action.
that each sector has complementary responsibilities in this regard, the Parties affirm their adherence to the APEC Conduct Principles for Public Officials, July 2007, and encourage observance of the APEC Code of Conduct for Business: Business Integrity and Transparency Principles for the Private Sector, September 2007.

2. The scope of this Section is limited to measures to eliminate bribery and corruption with respect to any matter covered by this Agreement.

3. The Parties recognise that the description of offences adopted or maintained in accordance with this Section, and of the applicable legal defences 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 26.7: Measures to Combat Corruption

1. Each Party shall adopt or maintain legislative and other measures as may be necessary to establish as criminal offences under its law, in matters that affect international trade or investment, when committed intentionally, by any person subject to its jurisdiction:4

   (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 organisation, directly or indirectly, of an undue advantage,5 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

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4 A Party that is not a party to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, including its Annex, done at Paris, November 21, 1997, may satisfy the obligations in subparagraphs (a), (b) and (c) by establishing the criminal offences described in those subparagraphs in respect of ‘in the exercise of his or her official duties’ rather than ‘in relation to the performance of his or her official duties’.

5 For greater certainty, a Party may provide in its law that it is not an offence if the advantage was permitted or required by the written laws or regulations of a foreign public official’s country, including case law. The Parties confirm that they are not endorsing those written laws or regulations.
(d) the aiding or abetting, or conspiracy\textsuperscript{6} in the commission of any of the offences described in subparagraphs (a) through (c).

2. Each Party shall make the commission of an offence described in paragraph 1 or 5 liable to sanctions that take into account the gravity of that offence.

3. Each Party shall adopt or maintain measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for offences described in paragraph 1 or 5. In particular, each Party shall ensure that legal persons held liable for offences described in paragraph 1 or 5 are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, which include monetary sanctions.

4. No Party shall allow a person subject to its jurisdiction to deduct from taxes expenses incurred in connection with the commission of an offence described in paragraph 1.

5. 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:

   (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.\textsuperscript{7}

6. Each Party shall consider adopting or maintaining measures to protect, against any unjustified treatment, any person who, in good faith and on reasonable grounds, reports to the competent authorities any facts concerning offences described in paragraph 1 or 5.

**Article 26.8: Promoting Integrity among Public Officials**

\textsuperscript{6} Parties may satisfy the commitment regarding conspiracy through applicable concepts within their legal systems, including \textit{asociación ilícita}.

\textsuperscript{7} For the United States, this commitment applies only to issuers that have a class of securities registered pursuant to 15 U.S.C 78 l or that are otherwise required to file reports pursuant to 15 U.S.C 78o (d). For greater certainty, the Parties recognise that individual cases or specific discretionary decisions related to the enforcement of anti-corruption laws are subject to each Party’s laws and legal procedures.
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 endeavour, in accordance with the fundamental principles of its legal system, to adopt or maintain:

   (a) measures to provide adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption, and the rotation, if appropriate, of those individuals to other positions;

   (b) measures to promote transparency in the behaviour 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 and other appropriate public officials 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 acts of corruption to appropriate authorities, if those acts come to their notice in the performance of their functions.

2. Each Party shall endeavour to adopt or maintain codes or standards of conduct for the correct, honourable 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 consider establishing procedures through which a public official accused of an offence described in Article 26.7.1 (Measures to Combat Corruption) may, where appropriate, 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 26.9: Application and Enforcement of Anti-Corruption 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 26.7.1 (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 anti-corruption 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 26.7.1 (Measures to Combat Corruption).

Article 26.10: 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 organisations and community-based organisations, 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:

(a) undertake public information activities and public education programmes that contribute to non-tolerance of corruption;

(b) adopt or maintain measures to encourage professional associations and other non-governmental organisations, if appropriate, in their efforts to encourage and assist enterprises, in particular SMEs, in developing internal controls, ethics and compliance programmes 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 programmes or measures, including those that contribute to preventing and detecting bribery and corruption in international trade and investment; and

(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 endeavour to encourage private enterprises, taking into account their structure and size, to:

(a) develop and adopt sufficient internal auditing controls to assist in preventing and detecting acts of corruption in matters affecting international trade or investment; and

8 For greater certainty, the Parties recognise that individual cases or specific discretionary decisions related to the enforcement of anti-corruption laws are subject to each Party’s laws and legal procedures.
(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 offence described in Article 26.7.1 (Measures to Combat Corruption).

Article 26.11: Relation to Other Agreements

Subject to Article 26.6.4 (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, November 15, 2000, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, with its Annex, done at Paris, November 21, 1997, or the Inter-American Convention Against Corruption, done at Caracas, March 29, 1996.

Article 26.12: Dispute Settlement

1. Chapter 28 (Dispute Settlement), as modified by this Article, shall apply to this Section.

2. A Party may only have recourse to the procedures set out in this Article and Chapter 28 (Dispute Settlement) if it considers that a measure of another Party is inconsistent with an obligation under this Section, or that another Party has otherwise failed to carry out an obligation under this Section, in a manner affecting trade or investment between Parties.

3. No Party shall have recourse to dispute settlement under this Article or Chapter 28 (Dispute Settlement) for any matter arising under Article 26.9 (Application and Enforcement of Anti-Corruption Laws).

4. Article 28.5 (Consultations) shall apply to consultations under this Section, with the following modifications:

   (a) a Party other than a consulting Party may make a request in writing to the consulting Parties to participate in the consultations, no later than seven days after the date of circulation of the request for consultations, if it considers that its trade or investment is affected by the matter at issue. That Party shall include in its request an explanation of how its trade or investment is affected by the matter at issue. That Party may participate in consultations if the consulting Parties agree; and

   (b) the consulting Parties shall involve officials of their relevant anti-corruption authorities in the consultations.

5. The consulting Parties shall make every effort to find a mutually satisfactory solution to the matter, which may include appropriate cooperative activities or a work plan.
ANNEX 26-A. TRANSPARENCY AND PROCEDURAL FAIRNESS FOR PHARMACEUTICAL PRODUCTS AND MEDICAL DEVICES

Paragraph 26-A.1: Principles

The Parties are committed to facilitating high-quality healthcare 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 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;

(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.

Paragraph 26-A.2: 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 programmes operated by the national health care authorities, the Party shall:

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9 For greater certainty, the Parties confirm that the purpose of this Annex is to ensure transparency and procedural fairness of relevant aspects of Parties’ applicable systems relating to pharmaceutical products and medical devices, without prejudice to the obligations in Chapter 26 (Transparency and Anti-corruption), 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.

10 For purposes of this Annex, each Party shall define the scope of the products subject to its statutes and regulations for pharmaceutical products and medical devices in its territory and make such information publicly available.

11 This Annex shall not apply to government procurement of pharmaceutical products and medical devices. Where a public entity providing healthcare services engages in government procurement for pharmaceutical products or medical devices, formulary development and management with respect to such activity by the national healthcare authority shall be considered an aspect of such government procurement.

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(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;

(b) disclose procedural rules, methodologies, principles, and guidelines used to assess such proposals;

(c) afford applicants, and where 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 healthcare authorities;

(e) make available:

(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 such a review process includes, at a minimum, a substantive reconsideration of the application and

that may be invoked at the request of an applicant directly affected by such recommendation or determination by a Party’s national healthcare authorities not to list a pharmaceutical or medical device for reimbursement; and

(f) provide written information to the public regarding such recommendations or determinations, while protecting information considered to be confidential under the Party’s law.

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12 This Annex shall not apply to procedures undertaken for the purpose of post-market subsidisation of pharmaceutical products or medical devices procured by public healthcare entities where the pharmaceutical products or medical devices eligible for consideration are based on the products or devices that are procured by public healthcare entities.

13 In those cases in which a Party’s national healthcare 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.

14 For greater certainty, each Party may define the persons or entities that qualify as an “applicant” under its laws, regulations, and procedures.

15 For greater certainty, the review process described in subparagraph (i) may include a review process as described in subparagraph (ii) other than one by the same expert or group of experts.

16 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 such 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.
Paragraph 26-A.3: 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 Internet site registered in the territory of the Party, and on other Internet sites 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.

Paragraph 26-A.4: Consultation

1. To facilitate dialogue and mutual understanding of issues relating to this Annex, 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 Annex. Such consultations shall take place within 3 months of the delivery of the request, except in exceptional circumstances or unless the consulting Parties otherwise agree.17

2. Consultations shall involve officials responsible for the oversight of the national healthcare authority or officials from each Party responsible for national healthcare programmes and other appropriate government officials.

Paragraph 26-A.5: Definitions

For purposes of this Annex—

**national health care authority** means, with respect to a Party listed in the schedule to this Annex, 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 programme;

**national health care programme** means a health care programme 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 the amount of such reimbursement.

Paragraph 26-A.6: Disputes

The dispute settlement procedures provided for in Chapter 28 (Dispute Settlement) shall not apply to this Annex.

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17 Nothing in this paragraph shall be construed as requiring a Party to review or change decisions regarding specific applications.
Further to the definition of national healthcare authorities in Paragraph 26-A.5, **national healthcare authorities** shall mean:

For Australia: the Pharmaceutical Benefits Advisory Committee (PBAC), with respect to PBAC’s role in making determinations in relation to the listing of pharmaceutical products for reimbursement under the Pharmaceutical Benefits Scheme.

For Brunei Darussalam: the Ministry of Health. For greater certainty Brunei Darussalam does not currently operate a national healthcare programme within the scope of this Annex.

For Canada: The Federal Drug Benefits Committee. For greater certainty, Canada does not currently operate a national healthcare programme within the scope of this Annex.

For Chile: the Undersecretary of Public Health. For greater certainty, Chile does not currently operate a national healthcare programme within the scope of this Annex.

For Japan: Central Social Insurance Medical Council with respect to its role in making recommendations in relation to the listing or setting amount of reimbursement for new pharmaceutical products.

For Malaysia: the Ministry of Health. For greater certainty, Malaysia does not currently operate a national healthcare programme within the scope of this Annex.

For New Zealand: the Pharmaceutical Management Agency (PHARMAC), with respect to PHARMAC’s role in the listing of a new pharmaceutical for reimbursement on the Pharmaceutical Schedule, in relation to formal and duly formulated applications by suppliers in accordance with the Guidelines for Funding Applications to PHARMAC.

For Peru: The Viceministry of Public Health. For greater certainty, Peru does not currently operate a national healthcare programme within the scope of this Annex.

For Singapore: the Drug Advisory Committee (DAC) of the Ministry of Health with respect to the DAC’s role in the listing of pharmaceutical products. For greater certainty, Singapore does not currently operate a national healthcare programme within the scope of this Annex.

For the United States: The Centers for Medicare & Medicaid Services (CMS), with respect to CMS’s role in making Medicare national coverage determinations.

For Viet Nam: the Ministry of Health. For greater certainty, Viet Nam does not currently operate a national healthcare programme within the scope of this Annex.

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18 For the purposes of New Zealand, pharmaceutical means a “medicine” as defined in the Medicines Act 1981 as at the date of signature of this Agreement on behalf of New Zealand.
CHAPTER 27

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Article 27.1: Establishment of the Trans-Pacific Partnership Commission

The Parties hereby establish a Trans-Pacific Partnership Commission (Commission) which shall meet at the level of Ministers or senior officials, as mutually determined by the Parties. Each Party shall be responsible for the composition of its delegation.

Article 27.2: Functions of the Commission

1. The Commission shall:

   (a) consider any matter relating to the implementation or operation of this Agreement;

   (b) review within 3 years of entry into force of this Agreement and at least every 5 years thereafter the economic relationship and partnership among the Parties;

   (c) consider any proposal to amend or modify this Agreement;

   (d) supervise the work of all committees and working groups established under this Agreement;

   (e) establish the Model Rules of Procedure for Arbitral Tribunals referred to in Article 28.11.2 and Article 28.12, and, where appropriate, amend such Model Rules of Procedure for Arbitral Tribunals;

   (f) consider ways to further enhance trade and investment between the Parties;

   (g) review the roster of panel chairs established under Article 28.10 every 3 years, and when appropriate, constitute a new roster; and

   (h) determine whether the Agreement may enter into force for an original signatory notifying pursuant to paragraph 4 of Article 30.5.1 (Entry into Force).

2. The Commission may:

   (a) establish, refer matters to, or consider matters raised by, any ad hoc or standing committee or working group;
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency

Subject to Authentication of English, Spanish and French Versions

(b) merge or dissolve any subsidiary bodies 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, any modifications of 1:

(i) the Schedules contained in Annex 2-D (Tariff Elimination), by accelerating tariff elimination;

(ii) the rules of origin established in Annex 3-D (Specific Rules of Origin); or

(iii) the lists of entities and covered goods and services and thresholds contained in each Party’s Annex to Chapter 15 (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 the Agreement;

(g) seek the advice of non-governmental persons or groups on any matter falling within the Commission’s functions; and

(h) take such other action as the Parties may agree.

3. Pursuant to paragraph 1(b), the Commission shall review the operation of this Agreement with a view to updating and enhancing this Agreement, through negotiations, as appropriate, to ensure that the disciplines contained in the Agreement remain relevant to the trade and investment issues and challenges confronting the Parties.

4. In conducting a review pursuant to paragraph 3, the Commission shall take into account:

(a) the work of all committees, working groups and any other subsidiary bodies established under this Agreement;

(b) relevant developments in international fora; and

(c) as appropriate, input from non-governmental persons or groups of the Parties.

1 Chile shall implement the actions of the Commission through Acuerdos de Ejecución, in accordance with article 54, numeral 1, fourth paragraph, of the Constitución Política de la República de Chile.
Article 27.3: Decision-Making

1. The Commission and all subsidiary bodies established under this Agreement shall take all decisions by consensus, except as otherwise provided in this Agreement, or as the Parties decide otherwise.\(^2\) Except as otherwise provided in this Agreement, the Commission or subsidiary body shall be deemed to have acted by consensus if no Party present at any meeting when a decision is taken objects to the proposed decision.

2. For the purposes of subparagraph (f) of Article 27.2.2 (Functions of the Commission), a decision of the Commission shall be taken by agreement of all Parties. A decision shall be deemed to be reached if a Party which does not indicate agreement when the Commission considers the issue does not object in writing to the interpretation considered by the Commission within 5 days of that consideration.

Article 27.4: Rules of Procedure of the Commission

1. The Commission shall meet within one year of entry into force of this Agreement and thereafter as the Parties may decide, including as necessary to fulfil its functions under Article 27.2. Meetings of the Commission shall be chaired successively by each Party.

2. The Party chairing a session of the Commission shall provide any necessary administrative support for such session, and shall notify the Parties of any decision of the Commission.

3. Except as otherwise provided for in this Agreement, the Commission and any subsidiary body established under this Agreement shall carry out its work through whatever means are appropriate, which may include electronic mail, videoconferencing or other means.

4. The Commission and any subsidiary body established under this Agreement may establish rules of procedures for the conduct of its work.

Article 27.5: Contact Points

1. Each Party shall designate an overall contact point 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. Each Party shall notify the other Parties in writing of its designated contact points no later than 60 days from the date of entry into force of this Agreement for that Party. Each Party shall notify its contact points to any Party for which this Agreement enters into force at a later date, no later than 30 days from the date on which the other Party has notified its contact points.

\(^2\) For greater certainty, any such decision on alternative decision-making by Parties shall itself be taken by consensus.
Article 27.6: Administration of Dispute Settlement Proceedings

1. Each Party shall:
   (a) designate an office to provide administrative assistance to the arbitral tribunals established under Chapter 28 (Dispute Settlement) for proceedings in which it is a disputing Party and to perform such related functions as the Commission may direct; and
   (b) notify the other Parties of the location of its designated office.

2. Each Party shall be responsible for the operation and costs of its designated office.

Article 27.7: Reporting on Progress Related to Transitional Measures

1. At each regular meeting of the Commission, any Party which has a Party specific transition period for any obligation under this Agreement shall report on its plans for and progress towards implementing the obligation.

2. In addition, any such Party shall provide a written report to the Commission on its plans for and progress towards implementing each such obligation as follows:
   (a) for any transition period of three years or less, the Party shall provide a written report six months before the expiration of the transition period;
   (b) for any transition period of more than three years, the Party shall provide a yearly written report on the anniversary date of entry into force of this Agreement for it, beginning on the third anniversary, and six months before the expiration of the transition period.

3. Any Party may request additional information regarding a Party’s progress towards achieving implementation. The reporting Party shall promptly reply to such requests.

4. No later than the date on which a transition period expires, a Party with a specific transition period shall provide written notification to the other Parties of what measure it has taken to implement the obligation for which it has a transition period.

5. If a Party fails to provide such notification, the matter shall be automatically placed on the agenda for the next regular meeting of the Commission. In addition, any Party may request that the Commission meet promptly, by whatever appropriate means, to discuss the matter.
CHAPTER 28

DISPUTE SETTLEMENT

Section A: Dispute Settlement

Article 28.1: Definitions

For the purposes of this Chapter:

complaining Party means a Party that requests the establishment of a panel pursuant to Article 28.7.1 (Establishment of a Panel);

consulting Party means a Party that requests consultations pursuant to Article 28.5.1 (Consultations) and the Party to which the request for consultations is made;

disputing Party means a complaining Party or a responding Party; Panel means a panel established pursuant to Article 28.7 (Establishment of a Panel);

perishable goods means perishable agricultural and fish goods classified in HS Chapters 1 through 24;

responding Party means a Party that has been complained against pursuant to Article 28.7.1 (Establishment of a Panel);

Rules of Procedure means the rules referred to in Article 28.12 (Rules of Procedure for Panels) and established in accordance with Article 27.2.1(e) (Functions of the Commission); and

third Party means a Party, other than a disputing Party, that delivers a written notice in accordance with Article 28.13 (Third Party Participation).

Article 28.2: Cooperation

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.
**Article 28.3: Scope**

1. Except as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply:

   (a) with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement;

   (b) wherever a Party considers that an actual or proposed measure of another Party is or would be inconsistent with the obligations of this Agreement or that another Party has otherwise failed to carry out its obligations under this Agreement; or

   (c) wherever 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 (Rules of Origin and Origin Procedures), Chapter 4 (Textiles and Apparel), Chapter 5 (Customs Administration and Trade Facilitation), Chapter 8 (Technical Barriers to Trade), Chapter 10 (Cross-Border Trade in Services) or Chapter 15 (Government Procurement) is being nullified or impaired as a result of the application of a measure of another Party that is not inconsistent with this Agreement.

2. No later than 6 months after the effective date when Members of the WTO have the right to initiate non-violation nullification or impairment complaints under Article 64 of the TRIPS Agreement, the Parties shall consider whether to amend paragraph 1(c) to include Chapter 18 (Intellectual Property Rights).

3. An instrument entered into by two or more Parties in connection with the conclusion of the Agreement:

   (a) does not constitute an instrument related to this Agreement within the meaning of Article 31(2)(b) of the Vienna Convention on the Law of Treaties done at Vienna on 23 May 1969 and shall not affect the rights and obligations under this Agreement of Parties not subject to a particular instrument; and

   (b) may be subject to the dispute settlement procedures under this Chapter for any matter arising under that instrument if that instrument so provides.

**Article 28.4: Choice of Forum**

1. Where a dispute regarding any 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 or other panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of other fora.

Article 28.5: Consultations

1. Any Party may request in writing consultations with any other Party with respect to any matter described in Article 28.3 (Scope). In a request for consultations, the requesting Party shall set out the reasons for the request, including identification of the actual or proposed measure\(^1\) or other matter at issue and an indication of the legal basis for the complaint. The requesting Party shall circulate the request to all Parties through the Contact Points designated in accordance with Article 27.5 (Contact Points).

2. The Party to which a request for consultations is made shall, unless otherwise mutually agreed, reply to the request in writing within seven days after the date of its receipt. That Party shall circulate the reply to the other Parties and enter into consultations in good faith.

3. A Party other than the Party requesting consultations or the Party to which the request is made that considers it has a substantial interest in the matter may participate in the consultations by delivering a written notice to the other Parties within seven days of the date of delivery of the request for consultation. The Party shall include in its notice an explanation of its substantial interest in the matter.

4. Unless the consulting Parties agree otherwise, they shall enter into consultations within a period of no more than:

   (a) 15 days after the date of receipt of the request for matters concerning perishable goods; or
   
   (b) 30 days after the date of receipt of the request for all other matters.

5. Consultations may be held in person or by any technological means available to the consulting Parties. If in person, consultations shall be held in the capital of the Party to which the request for consultations was made under paragraph 1, unless the consulting Parties otherwise agree.

6. The consulting Parties shall make every attempt to reach a mutually satisfactory resolution of the matter through consultations under this Article. To this end:

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\(^1\) Parties shall, in the case of proposed measures, make every effort to make any request under this provision within 60 days of the publication of the proposed measure, without prejudice to the right to make such requests at any time.
(a) each consulting Party shall provide sufficient information to enable a full examination of how the actual or proposed measure might affect the operation and application of this Agreement; and

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

7. In consultations under this Article, a consulting Party may request another consulting Party to make available personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations.

8. Consultations shall be confidential and without prejudice to the rights of any Party in any further proceedings.

Article 28.6: Good Offices, Conciliation and Mediation

1. Parties may at any time agree to voluntarily undertake an alternative method of dispute resolution such as good offices, conciliation or mediation.

2. Proceedings involving good offices, conciliation or mediation shall be confidential and without prejudice to the rights of the Parties in any other proceedings.

3. Parties participating in proceedings under this Article may suspend or terminate such proceedings at any time.

4. If the disputing Parties agree, good offices, conciliation or mediation may continue while the dispute proceeds for resolution before a panel convened under Article 28.7 (Establishment of a Panel).

Article 28.7: Establishment of a Panel

1. A Party that requested consultations pursuant to paragraph 1 of Article 28.5 (Consultations) may request, by means of a written notification addressed to the responding Party, the establishment of a panel if the consulting Parties fail to resolve the matter within:

   (a) 60 days after the date of receipt of the request for consultations under Article 28.5.1;

   (b) 30 days after the date of receipt of the request for consultations under Article 28.5.1 in a matter regarding perishable goods; or
2. At the same time, the complaining Party shall circulate the request to all Parties through the contact points designated in accordance with Article 27.5 (Contact Points).

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. A panel shall be established upon delivery of a request.

5. Unless otherwise agreed by the disputing Parties, the panel shall be composed in a manner consistent with the provisions of this Chapter and the Rules of Procedure.

6. Where 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 such complaints whenever feasible.

8. A panel may not be established to review a proposed measure.

**Article 28.8: Terms of Reference**

1. Unless the disputing Parties otherwise agree within 20 days from the date of delivery of the request for the establishment of the 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 pursuant to Article 28.7.1 (Establishment of a Panel); and

   (b) make findings and determinations, and any requested recommendations, together with its reasons therefor, as provided for in Article 28.16.4 (Initial Report).

2. If, in its panel request, a complaining Party has claimed that a measure nullifies or impairs benefits in the sense of Article 28.3(c) (Scope), the terms of reference shall so indicate.

**Article 28.9: Composition of Panels**

1. The panel shall comprise three members.

2. Unless they otherwise agree, the disputing Parties shall apply the following procedures in selecting a panel:
(a) Within 20 days of the delivery of the request for the establishment of a panel under Article 28.7.1 (Establishment of a Panel), the complaining Party or Parties, on the one hand, and the responding Party, on the other, shall appoint a panellist and notify each other of those appointments.

(b) If the complaining Party or Parties fail to appoint a panellist within the period specified in subparagraph (a), the dispute settlement proceedings shall lapse at the end of that period.

(c) If the responding Party fails to appoint a panellist within the period set out in subparagraph (a), the panellist not yet appointed shall be chosen by the complaining Party or Parties:

(i) from the responding Party’s list established under Article 28.10.11 (Qualification of Panellists and Roster Members); or

(ii) where the responding Party has not established a list under Article 28.10.11 (Qualification of Panellists and Roster Members), from the roster of panel chairs established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members); or

(iii) where no roster of panel chairs has been established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members), by random selection from a list of three candidates nominated by the complaining Party or Parties.

within 35 days of the delivery of the request for the establishment of a panel under Article 28.7.1 (Establishment of a Panel).

(d) For appointment of the chair of the panel:

(i) the disputing Parties shall endeavour to agree on the appointment of a chair of the panel;

(ii) if the disputing Parties fail to appoint a chair pursuant to subparagraph (d)(i) by the time the second panellist has been appointed or within 35 days of the delivery of the request for the establishment of a panel under Article 28.7.1 (Establishment of a Panel), whichever is longer, the two panellists appointed shall, by common agreement, appoint the third panellist from the roster established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members). The third panellist shall serve as chair.
(iii) If the two panellists do not agree to the third panellist under subparagraph (d)(ii) within 43 days of the delivery of the request for the establishment of a panel under Article 28.7.1 (Establishment of a Panel), then the two panellists shall make the appointment with the agreement of the disputing Parties.

(iv) If the two panellists fail to appoint the chair of the panel in accordance with subparagraph (d)(iii) within 55 days of the delivery of the request for the establishment of the panel, the disputing Parties shall select the third panellist by random selection from the roster established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members) within 60 days of the delivery of the request for the establishment of the panel.

(ivbis) Notwithstanding paragraph 9.2(d)(iv), where the two panellists fail to appoint the chair of the panel in accordance with paragraph 9.2(d)(iii) within 55 days of the delivery of the request for the establishment of the panel, either disputing Party may elect to have the chair of the panel be appointed by an independent third party from the roster established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members), provided that the following conditions are met:

(A) Any costs associated with such appointment are borne by the electing Party;

(B) The request to the independent third party to appoint the chair of the panel shall be made jointly by the disputing Parties. Any subsequent communication between either disputing Party and the independent third party shall be copied to the other disputing Party. Neither disputing Party shall have any influence on the appointment process;

(C) Where the third party is unable or unwilling to complete the appointment as requested within 60 days of the delivery of the request for the establishment of the panel, then the chair of the panel shall be chosen within a further 5 days using the random selection process set out in paragraph 9.2(d)(iv).

(v) If a roster has not been established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members), and subparagraphs 2(d)(i) – (iv) cannot apply, the complaining Party or Parties, on the one hand, and the responding Party, on the other hand, may nominate three candidates and the third panellist shall be randomly selected from those candidates that have been nominated within 60 days of the delivery of the
request for the establishment of a panel under Article 28.7.1 (Establishment of a Panel).

(vbis) Notwithstanding paragraph (9)(2)(d)(v), where a roster has not been established pursuant to Article 28.10.3 (Qualification of Panellists and Roster Members), and subparagraphs 2(d)(i) to (v) cannot apply, either disputing Party may, following the nomination of candidates pursuant to paragraph 9.2(d)(v), elect to have the chair of the Panel be appointed by an independent third party from those candidates that have been nominated, providing that the following conditions have been met:

(A) Any costs associated with such appointment are borne by the electing Party;

(B) The request to the independent third party to appoint the chair of the panel shall be made jointly by the disputing Parties. Any subsequent communication between either disputing Party and the independent third party shall be copied to the other disputing Party. Neither disputing Party shall have any influence on the appointment process;

(C) Where the third party is unable or unwilling to complete the appointment as requested within 60 days of the delivery of the request for the establishment of the panel, then the chair of the panel shall be chosen within a further 5 days using the random selection process set out in paragraph 9.2(d)(v).

Unless agreed otherwise by the disputing Parties, the chair of the panel shall not be a national of any of the disputing Parties or a third Party.

3. Except in the case of a dispute arising under Chapter 19 (Labour), 20 (Environment), or 26 (Transparency and Anti-corruption) each disputing Party shall endeavour to select panellists who have expertise or experience relevant to the subject matter of the dispute.

4. In addition to the requirements set out in Article 28.10.1 (Qualification of Panellists and Roster Members), in any dispute arising under Chapter 20 (Environment), panellists other than those selected from the Roster or appointed under paragraph 9.2(d)(i)-(iii) and (v) shall have expertise or experience in environmental law or practice.

5. In addition to the requirements set out in Article 28.10.1 (Qualification of Panellists), in any dispute arising under Chapter 19 (Labour), panellists other than those selected from the Roster or appointed under paragraph 9.2(d)(i)-(iii) and (v) shall have expertise or experience in labour law or practice.
6. In addition to the requirements set out in Article 28.10.1 (Qualification of Panellists), in any dispute arising under section B of Chapter 26 (Transparency and Anti-corruption), panellists other than those selected from the Roster or appointed under paragraph 9.2(d)(i)-(iii) and (v) shall have expertise or experience in anti-corruption law or practice.

7. If a panellist selected under paragraph 9.2(c) or 9.2(d)(iv) is unable to serve on the panel, the disputing Parties shall meet within seven days of learning that the panellist is unavailable to select another panellist from among the remaining members of the list (in the case of paragraph 9.2(c)) or the roster (in the case of paragraph 9.2(d)(iv)).

8. If a panellist appointed under this Article resigns or becomes unable to serve on the panel, either during the course of the proceeding or at such time as the panel is reconvened pursuant to Article 28.19 (Non-Implementation – Compensation and Suspension of Benefits) or 28.20 (Compliance Review), a replacement panellist shall be appointed within 15 days in accordance with the selection procedures prescribed in paragraph 2 for the appointment of the original panellist and the replacement shall have all the powers and duties of the original panellist. The work of the panel shall be suspended pending the appointment of the replacement panellist, and all relevant 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.

9. If a disputing Party believes that a panellist is in violation of the code of conduct referred to in Article 28.10(1)(d) (Qualification of Panellists and Roster Members), the disputing Parties shall consult and, if they agree, that panellist shall be removed and a new panellist shall be selected in accordance with this Article.

**Article 28.10: Qualification of Panellists and Roster Members**

**Qualification of Panellists**

1. All panellists shall:

   (a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

   (b) be chosen strictly on the basis of objectivity, reliability, and sound judgment;

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

   (d) comply with the code of conduct contained in the Rules of Procedure.
2. An individual may not serve as a panellist for a dispute in which he or she has participated pursuant to Article 28.6 (Good Offices, Conciliation and Mediation).

Roster of Panel Chairs

3. Within 120 days of entry into force of this Agreement, those Parties for whom the agreement has come into force pursuant to Article 30.5.1(a) (Entry into Force) shall establish a roster of panel chairs.

4. If the Parties have been unable to establish a roster within the time specified in paragraph 3, the Commission shall convene immediately to appoint individuals to the roster. Taking into account the nominations made pursuant to paragraph 6 and the qualifications set out in paragraph 1, the Commission shall issue a joint decision establishing the roster within 180 days of the date of entry into force of this Agreement.

5. The roster shall consist of at least 15 individuals, unless the Parties agree otherwise.

6. Each Party may nominate up to two individuals for the roster, which may include up to one national of any Party.

7. The Parties shall appoint individuals to the roster by consensus. The roster may include up to one national of each Party.

8. Once established pursuant to paragraph 3 or if reconstituted following a review by the Parties, a roster shall remain in effect for a minimum of three years, and shall remain in effect thereafter until the Parties constitute a new roster. Members of the roster may be reappointed.

9. The Parties may appoint a replacement at any time if a roster member is no longer willing or available to serve.

10. Subject to paragraphs 6 and 7, acceding Parties may nominate up to two individuals for the roster at any time who, thereafter, may be included on the roster by consensus of the Parties.

Party Specific Indicative List

11. At any time after the date of entry into force of this Agreement, a Party may establish a list of individuals who are willing and able to serve as panellists.

12. This list may include individuals who are nationals of that Party or non-nationals. Each Party may appoint any number of individuals to the list and appoint additional individuals or replace the list member at any time.

13. A Party which establishes a list in accordance with paragraph 11 of this Article shall promptly make it available to the other Parties.
Article 28.11: Functions of Panels

1. The function of a panel is to make an objective assessment of the matter before it, including an examination of the facts of the case and the applicability of and conformity with this Agreement, and make such findings, determinations and recommendations as are called for in its terms of reference and necessary for the resolution of the dispute.

2. Unless otherwise agreed by the disputing Parties, the panel shall perform its functions and conduct its proceedings in a manner consistent with the provisions of this Chapter and the Rules of Procedure.

3. The panel shall consider this Agreement in accordance with applicable rules of interpretation under international law as reflected in Articles 31 and 32 of the Vienna Convention on the Law of Treaties (1969). In addition, with respect to any obligation of any WTO agreement that has been incorporated into this Agreement, the panel shall also consider relevant interpretations in reports of panels and the WTO Appellate Body adopted by the WTO Dispute Settlement Body. The findings, determinations and recommendations of the panel shall not add to or diminish the rights and obligations of the Parties under this Agreement.

4. A panel shall take its decisions by consensus; provided that where a panel is unable to reach consensus it may take its decisions by majority vote.

Article 28.12: Rules of Procedure for Panels

1. The Rules of Procedure, as established under this Agreement in accordance with Article 27.2.1(e), shall ensure:

   (a) a right to at least one hearing before the panel at which each disputing Party may present views orally;

   (b) that, subject to subparagraph (f), any hearing before the panel shall be open to the public, unless the disputing Parties agree otherwise;

   (c) an opportunity for each disputing Party to provide an initial and a rebuttal written submission;

   (d) that, subject to paragraph (f), each disputing Party shall make its best efforts to release to the public any written submission, written version of an oral statement, and written response to a request or question from the panel, as soon as possible after they are filed and, if not already released, will release all such documents by the time the final panel report is issued;
(e) that the panel shall consider requests from non-governmental entities located in the territory of any 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) the protection of confidential information;

(g) that written submissions and oral arguments shall be made in English, unless the disputing Parties agree otherwise; and

(h) that unless otherwise agreed by the disputing Parties, hearings shall be held in the capital of the responding Party.

Article 28.13: Third Party Participation

A Party that is not a disputing Party and that considers it has an interest in the matter before the panel shall, on delivery of a written notice to the disputing Parties, be entitled to attend all hearings, to make written submissions, to present views orally to the panel, and to receive written submissions of the disputing Parties. Such delivery shall occur no later than 10 days after the date of circulation of the request for the establishment of the panel pursuant to Article 28.7.2 (Establishment of a Panel).

Article 28.14: Role of Experts

At the request of a disputing Party or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the disputing Parties so agree and subject to such terms and conditions as the disputing Parties may agree. The disputing Parties shall have an opportunity to comment on any information or advice so obtained.

Article 28.15: Suspension or Termination of Proceedings

1. The panel may suspend its work at any time at the request of the complaining Party or, if there is more than one complaining Party, at the joint request of the complaining Parties for a period not to exceed 12 consecutive months. The panel shall suspend its work at any time if the disputing Parties so request. In the event of such a suspension, all relevant 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 has been suspended for more than 12 consecutive months, the authority for establishment of the panel shall lapse unless the disputing Parties agree otherwise.
2. The panel shall terminate its proceedings where the disputing Parties jointly request it to do so.

Article 28.16: Initial Report

1. The report of the panel shall be drafted without the presence of any Party.

2. The panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the disputing Parties and any third Parties, and on any information or advice put before it pursuant to Article 28.14 (Role of Experts). At the joint request of the disputing Parties, the panel may make recommendations for the resolution of the dispute.

3. The panel shall present to the disputing Parties an initial report within 150 days after the last panellist is appointed. In cases of urgency, including those related to perishable goods, the panel shall endeavour to do so within 120 days after the last panellist is appointed.

4. The initial report shall contain:

   (a) findings of fact;

   (b) the determination of the panel as to whether:

      (i) the measure at issue is inconsistent with the obligations under this Agreement;

      (ii) a Party has otherwise failed to carry out its obligations under this Agreement; or

      (iii) a disputing Party’s measure is causing nullification or impairment in the sense of Article 28.3(c) (Scope);

   (c) any other determination requested in the terms of reference;

   (d) recommendations, if the disputing Parties have jointly requested them, for resolution of the dispute; and

   (e) the reasons for the findings and determinations.

5. In exceptional cases, if the panel considers it cannot release its initial report within 150 days, or within 120 days in cases of urgency, it shall inform the disputing Parties in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. Any delay shall not exceed a further period of 30 days unless the disputing Parties
otherwise agree.

6. Panellists may furnish separate opinions on matters not unanimously agreed.

7. A disputing Party may submit written comments to the panel on its initial report within 15 days of the presentation of the report or within such other period as the disputing Parties may agree.

8. After considering any written comments by the disputing Parties on the initial report, the panel may modify its report and make any further examination it considers appropriate.

**Article 28.17: Final Report**

1. The panel shall present a final report to the disputing Parties, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the disputing Parties otherwise agree. The disputing Parties shall release the final report to the public within 15 days thereafter, subject to the protection of confidential information.

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

**Article 28.18: Implementation of Final Report**

1. The Parties recognize the importance of prompt compliance with determinations made by panels under Article 28.17 (Final Report) in achieving the aim of the dispute settlement procedures of this chapter, which is to secure a positive solution to disputes.

2. If in its final report the panel determines that:
   
   (a) a measure at issue is inconsistent with a Party’s obligations under this Agreement;
   
   (b) a Party has otherwise failed to carry out its obligations under this Agreement; or
   
   (c) a Party’s measure is causing nullification or impairment in the sense of Article 28.3(c) (Scope);

   the responding Party shall, whenever possible, eliminate the non-conformity or the nullification or impairment.

3. Unless the disputing Parties decide otherwise, the responding Party shall have a reasonable period of time in which to eliminate the non-conformity or nullification or impairment if it is not practicable to comply immediately.
4. The disputing Parties shall endeavour to agree on the reasonable period of time. Where the disputing Parties fail to agree on the reasonable period of time within 45 days of the presentation of the panel’s report under Article 28.17.1 (Final Report), any disputing Party may, within 60 days of the presentation of the panel’s report under Article 28.17.1 (Final Report), refer the matter to the panel chair to determine the reasonable period of time through arbitration.

5. The panel chair shall take into consideration as a guideline that the reasonable period of time should not exceed 15 months from the presentation of the panel’s final report to the disputing Parties under Article 28.17.1 (Final Report). However, that time may be shorter or longer, depending upon the particular circumstances.

6. The panel chair shall determine the reasonable period of time within 90 days of the date of referral to the panel chair pursuant to subparagraph 4.

7. The disputing Parties may agree to vary the procedures set out in paragraphs 4 to 6 of this article for the determination of the reasonable period of time.

Article 28.19: Non-Implementation – Compensation and Suspension of Benefits

1. The responding Party shall, if so requested by the complaining Party or Parties, enter into negotiations with the complaining Party or Parties within 15 days of receipt of such request, with a view to developing mutually acceptable compensation, in circumstances where:

   a) the responding Party has notified the complaining Party or Parties that it does not intend to eliminate the non-conformity or the nullification or impairment; or

   b) following the expiry of the reasonable period of time established in accordance with Article 28.18 (Implementation of Final Report), there is disagreement between the disputing Parties as to whether the responding Party has eliminated the non-conformity or the nullification or impairment;

2. A complaining Party may suspend benefits in accordance with paragraph 2bis if that complaining Party and the responding Party have:

   (a) been unable to agree on compensation within 30 days after the period for developing such compensation has begun; or

   (b) agreed on compensation but the relevant complaining Party considers that the responding Party has failed to observe the terms of the agreement.

2bis. A complaining Party may, at any time after the conditions set out in paragraph 2 are met in relation to that complaining Party, provide written notice to the responding Party that it
intends to suspend the application to the responding Party of benefits of equivalent effect. The notice shall specify the level of benefits that the Party proposes to suspend. The complaining Party may begin suspending benefits 30 days after the later of the date on which it provides notice under this paragraph or the panel issues its determination under paragraph 5, as the case may be.

3. Compensation and the suspension of benefits and the payment of a monetary assessment shall be temporary measures. None of these measures is preferred to full implementation through elimination of the non-conformity or the nullification or impairment. Compensation, and suspension of benefits and the payment of a monetary assessment shall only be applied until such time as the responding Party has eliminated the non-conformity or the nullification or impairment, or a mutually satisfactory solution is reached.

4. In considering what benefits to suspend pursuant to paragraph 2, the complaining Party shall apply the following principles and procedures:

(a) it should first seek to suspend benefits in the same subject matter as that in which the panel has determined non-conformity or nullification or impairment to exist;

(b) if it considers that it is not practicable or effective to suspend benefits in the same subject matter and that the circumstances are serious enough, it may suspend benefits in a different subject matter. The communication pursuant to paragraph 2 in which it announces such a decision shall indicate the reasons on which it is based; and

(c) in applying the principles set out in subparagraphs (a) and (b), the complaining Party shall take into account:

(i) the trade in the good, the supply of the service or other subject matter in which the panel has found the non-conformity or nullification or impairment, and the importance of such trade to that Party;

(ii) that goods, all financial services covered under Chapter 11 (Financial Services), services other than such financial services and each section in Chapter 18 (Intellectual Property), are each distinct subject matters; and

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2 For greater certainty, the phrase “the level of benefits that the Party proposes to suspend” refers to the level of concessions under this Agreement the suspension of which a complaining Party considers will have an effect equivalent to that of the non-conformity, or nullification or impairment in the sense of Article 28.3(c) (Scope), determined to exist by the panel in its final report issued under Article 28.17.1 (Final Report).
(iii) the broader economic elements related to the nullification or impairment and the broader economic consequences of the suspension of benefits.

5. If the responding Party considers that:

(a) the level of benefits proposed to be suspended is manifestly excessive or the complaining Party has failed to follow the principles and procedures set out in paragraph 4; or

(b) it has eliminated the non-conformity or the nullification or impairment that the panel has determined to exist;

it may, within 30 days after the complaining Party provides notice under paragraph 2, 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 delivery of the request and shall present its determination to the disputing Parties within 90 days after it reconvenes to review a request under subparagraph (a) or (b), or within 120 days for a request under subparagraphs (a) and (b). If the panel determines that the level of benefits proposed to be suspended is manifestly excessive, it shall determine the level of benefits it considers to be of equivalent effect.

6. Unless the panel has determined that the responding Party has 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 5 or, if the panel has not determined the level, the level the complaining Party has proposed to suspend under paragraph 2bis. If the panel determines that the complaining Party has not followed the principles and procedures set out in paragraph 4, the panel shall set out in its award the extent to which the complaining Party may suspend benefits in which subject matter in order to ensure full compliance with the principles and procedures set out in paragraph 4. The complaining Party may suspend benefits only in a manner consistent with the panellist’s award.

7. The complaining Party may not suspend benefits if, within 30 days after it provides written notice of intent to suspend benefits or, if the panel is reconvened under paragraph 5, within 20 days after the panel provides its determination, the responding Party provides written notice to the complaining Party that it will pay a monetary assessment. The disputing Parties shall consult, beginning no later than ten days after the responding Party, with a view to reaching agreement on the amount of the assessment. If the Parties are unable to reach an agreement within 30 days after consultations begin and are not engaged in discussions regarding the use of a fund under paragraph 8, the amount of the assessment shall be set at a level, in U.S. dollars, equal to 50 percent of the level of the benefits the panel has determined under paragraph 5 to be of equivalent effect or, if the panel has not determined the level, 50 percent of the level that the complaining Party has proposed to suspend under paragraph 2.
8. If a monetary assessment is to be paid to the complaining Party, then it shall be paid in U.S. currency, or in an equivalent amount of the currency of the responding Party or in another currency agreed to by the disputing Parties in equal, quarterly installments beginning 60 days after the responding Party gives notice that it intends to pay an assessment. Where the circumstances warrant, the disputing Parties may decide that an assessment shall be paid into a fund designated by the disputing Parties for appropriate initiatives to facilitate trade between the Parties, including by further reducing unreasonable trade barriers or by assisting carrying out its obligations under this Agreement.

9. At the same time as the payment of its first quarterly installment, the responding Party shall provide to the complaining Party a plan of the steps it intends to take to eliminate the non-conformity or the nullification or impairment.

10. A responding Party may pay a monetary assessment in lieu of suspension of benefits for a maximum of 12 months from the date on which it has provided written notice under paragraph 7 unless the complaining Party agrees to an extension.

11. A responding Party seeking an extension shall make a written request no later than 30 days before the expiration of the 12 month period. The disputing Parties shall determine the length and terms of any extension, including the amount of the assessment.

12. The complaining Party may suspend the application to the responding Party of benefits in accordance with paragraph 6, if:

   (a) the responding Party fails to make a payment or fails to make the payment under paragraph 13 after electing to do so;

   (b) the responding Party fails to provide the plan as required under paragraph 9; or

   (c) the monetary assessment period, including any extension, has elapsed and the responding Party has not yet eliminated the non-conformity or the nullification or impairment.

13. If the responding Party notified the complaining Party under paragraph 7 regarding the possible use of a fund and the disputing Parties have not agreed on the use of a fund within 3 months of the date of the responding Party’s notice, and this time period has not been extended by agreement of the disputing Parties, the responding Party may elect to make the monetary assessment payment equal to 50 per cent of the amount determined under paragraph 5. If this election is made the payment must be made within nine months of the responding Party’s notice under paragraph 7 in U.S. currency, or in an equivalent amount of the currency of the responding Party or in another currency agreed to by the disputing Parties. If the election is not made, the complaining Party may suspend the application of benefits in the amount determined under paragraph 5 at the end of the election period.
14. The complaining Party shall accord sympathetic consideration to the notice by the responding Party regarding the possible use of the fund referred to in paragraphs 8 and 13.

Article 28.20: Compliance Review

1. Without prejudice to the procedures in Article 28.19 (Non-Implementation – Compensation and Suspension of Benefits), if the responding Party considers that it has eliminated the non-conformity or the nullification or impairment found by the panel, it may refer the matter to the panel by providing written notice to the complaining Party or Parties. The panel shall issue its report on the matter within 90 days after the responding Party provides notice.

2. If the panel decides that the responding Party has eliminated the non-conformity or the nullification or impairment, the complaining Party or Parties shall promptly reinstate any benefits suspended under Article 28.19 (Non-Implementation – Compensation and Suspension of Benefits).

Section B: Domestic Proceedings and Private Commercial Dispute Settlement

Article 28.21: Private Rights

No Party may provide for a right of action under its domestic law against any other Party on the ground that a measure of the other Party is inconsistent with its obligations under this Agreement, or that the other Party has otherwise failed to carry out its obligations under this Agreement.

Article 28.22: Alternative Dispute Resolution

1. Each Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
CHAPTER 29
EXCEPTIONS AND GENERAL PROVISIONS

Section A: Exceptions

Article 29.1: General Exceptions

1. For the purposes of Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Textiles and Apparel), Chapter 5 (Customs Administration and Trade Facilitation), Chapter 7 (Sanitary and Phytosanitary Measures), Chapter 8 (Technical Barriers to Trade) and Chapter 17 (State-Owned Enterprises and Designated Monopolies), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.1

2. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

3. For the purposes of Chapter 10 (Cross-Border Trade in Services), Chapter 12 (Temporary Entry for Business Persons), Chapter 13 (Telecommunications), Chapter 14 (Electronic Commerce), and Chapter 17 (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 The Parties understand that the measures referred to in Article XIV(b) of GATS include environmental measures necessary to protect human, animal or plant life or health.

4. Nothing in this Agreement shall be construed to prevent a Party from taking action, including maintaining or increasing a customs duty, that is authorised 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.

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1 For the purposes of Chapter 17 (State-Owned Enterprises and Designated Monopolies), Article XX of 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 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 17 (State-Owned Enterprises and Designated Monopolies), Article XIV of GATS (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 designated monopoly) affecting the purchase or supply of services, or affecting activities the end result of which is the supply of services.
Article 29.2: Security Exceptions

Nothing in this Agreement shall be construed to:

(a) require a Party to furnish or allow access to any 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 29.3: Temporary Safeguard Measures

1. 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.

2. 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.

3. Any measure adopted or maintained under paragraph 1 or 2 shall:

(a) not be inconsistent with Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 11.3 (National Treatment) and Article 11.4 (Most-Favoured-Nation Treatment);  

(b) be consistent with the Articles of Agreement of the International Monetary Fund;

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4 Without prejudice to the general interpretation of Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 11.3 (National Treatment), and Article 11.4 (Most-Favoured-Nation Treatment), the fact that a measure adopted or maintained pursuant to paragraph 1 or 2 differentiates between investors on the basis of residency does not necessarily mean that the measure is inconsistent with Article 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 11.3 (National Treatment) and Article 11.4 (Most-Favoured-Nation Treatment).
(c) avoid unnecessary damage to the commercial, economic and financial interests of any other 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 18 months in duration; however, in exceptional circumstances, a Party may extend such measure for additional periods of one year, by notifying the other Parties in writing within 30 days of the extension, unless after consultations more than one half of the Parties advise, in writing, within 30 days of receiving the notification that they do not agree that the extended measure is designed and applied to satisfy subparagraphs (c), (d) and (h), in which case the Party imposing the measure shall remove the measure, or otherwise modify the measure to bring it into conformity with subparagraphs (c), (d) and (h), taking into account the views of the other Parties, within 90 days of receiving notification that more than one half of the Parties do not agree;

(f) not be inconsistent with Article 9.7 (Expropriation and Compensation);5

(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 any restricted assets;6 and

(h) not be used to avoid necessary macroeconomic adjustment.

4. Measures referred to in paragraphs 1 and 2 shall not apply to payments or transfers relating to foreign direct investment.7

5. A Party shall endeavour to provide that any measures adopted or maintained under paragraph 1 or 2 be price-based, and if such measures are not price-based, the Party shall explain the rationale for using quantitative restrictions when it notifies the other Parties of the measure.

6. 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

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5 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 9-B(3)(b) (Expropriation).

6 The term “restricted assets” in this subparagraph refers only to 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.

7 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 foreign direct investment.
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

this Agreement, mutatis mutandis. Any measures adopted or maintained 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.

7. 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 adopted or maintained by it.

(i) In the case of capital movements, promptly respond to any other Party that requests consultations in relation to the measures adopted by it, 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 adopted by it are not taking place under the framework of the WTO Agreement, a Party, if requested, shall promptly commence consultations with any interested Party.

Article 29.4: Taxation Measures

1. For the purposes of this Article:

designated authorities means:

(a) for Australia, the Secretary to the Treasury or an authorised representative of the Secretary;

(b) for Brunei Darussalam, the Minister of Finance or the Minister’s authorised representative;

(c) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance;

(d) for Chile, the Undersecretary of the Ministry of Finance (Subsecretario de Hacienda);
Subject to Legal Review in English, Spanish and French for Accuracy, Clarity and Consistency
Subject to Authentication of English, Spanish and French Versions

(e) for Japan, the Minister for Foreign Affairs and the Minister of Finance;

(f) for Malaysia, the Minister of Finance or the Minister’s authorised representative;

(g) for Mexico, the Minister of Finance and Public Credit (Secretario de Hacienda y Crédito Público);

(h) for New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commissioner;

(i) for Peru, the General Director of International Economy, Competition and Productivity Affairs (Director General de Asuntos de Economía Internacional, Competencia y Productividad del Ministerio de Economía y Finanzas);

(j) for Singapore, the Chief Tax Policy Officer, Ministry of Finance;

(k) for the United States, the Assistant Secretary of the Treasury (Tax Policy); and

(l) for Viet Nam, the Minister of Finance,

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) and (c) of that definition.

2. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. Nothing in this Agreement shall affect the rights and obligations of 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

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8 For the purposes of consultations between the designated authorities of the relevant Parties, the contact point of Japan is the Ministry of Finance.
Chapter 28 (Dispute Settlement) or Article 9.18 (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 (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 GATT 1994; and
   
   (b) Article 2.16 (Export Duties, Taxes or other Charges) shall apply to taxation measures.

6. Subject to paragraph 3:
   
   (a) Article 10.3 (National Treatment) and Article 11.6.1 (Cross-Border Trade) shall apply to taxation measures on income, on capital gains, on the taxable capital of corporations, or on the value of an investment or property9 (but not on the transfer of that investment or property), 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 9.4 (National Treatment), Article 9.5 (Most-Favoured-Nation Treatment), Article 10.3 (National Treatment), Article 10.4 (Most-Favoured-Nation Treatment), Article 11.3 (National Treatment), Article 11.4 (Most-Favoured-Nation Treatment), Article 11.6.1 (Cross-Border Trade) and Article 14.4 (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, on the value of an investment or property10 (but not on the transfer of that investment or property), or taxes on estates, inheritances, gifts and generation-skipping transfers; and

   (c) Article 14.4 (Non-Discriminatory Treatment of Digital Products) shall apply to taxation measures on income, on capital gains, on the taxable income of corporations, or on the value of an investment or property (but not on the transfer of that investment or property), 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,

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9 This is without prejudice to the methodology used to determine the value of such investment or property under Parties’ respective laws.
10 This is without prejudice to the methodology used to determine the value of such investment or property under Parties’ respective laws.
but nothing in the Articles referred to in subparagraphs (a), (b) and (c) shall apply to:

(d) any most-favoured-nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;

(e) a non-conforming provision of any existing taxation measure;

(f) the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;

(g) an amendment to a non-conforming provision of any existing taxation measure 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;¹¹

(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, superannuation fund or other arrangement to provide pension, superannuation or similar benefits, on a requirement that the Party maintain continuous jurisdiction, regulation or supervision over that trust, plan, fund or other arrangement; or

(j) any excise duty on insurance premiums to the extent that such tax would, if levied by the other Parties, be covered by subparagraph (e), (f) or (g).

7. Subject to paragraph 3, and without prejudice to the rights and obligations of the Parties under paragraph 5, Article 9.9.2 (Performance Requirements), Article 9.9.3 and Article 9.9.5 shall apply to taxation measures.

8. Article 9.7 (Expropriation and Compensation) shall apply to taxation measures. However, no investor may invoke Article 9.7 (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 9.7 (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 9.18 (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 9.18 (Submission of a Claim to Arbitration).

¹¹ 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.
9. Nothing in this Agreement shall prevent Singapore from adopting taxation measures no more trade restrictive than necessary to address Singapore’s public policy objectives arising out of its specific constraints of space.

Article 29.5: Tobacco Control Measures

A Party may elect to deny the benefits of Section B of Chapter 9 (Investment) with respect to claims challenging a tobacco control measure of the Party. Such a claim shall not be submitted to arbitration under Section B of Chapter 9 (Investment) if a Party has made such an election. If a Party has not elected to deny benefits with respect to such claims by the time of the submission of such a claim to arbitration under Section B of Chapter 9 (Investment), a Party may elect to deny benefits during the proceedings. For greater certainty, if a Party elects to deny benefits with respect to such claims, any such claim shall be dismissed.

Article 29.6: Treaty of Waitangi

1. 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, trade in services and investment, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Maori in respect of matters covered by this Agreement, including in fulfilment of its obligations under the Treaty of Waitangi.

2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 28 (Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 28.7 (Establishment of a Panel) may be requested to determine only whether any measure referred to in paragraph 1 is inconsistent with a Party’s rights under this Agreement.

Section B: General Provisions

Article 29.7: Disclosure of Information

12 For greater certainty, this Article does not prejudice: (i) the operation of Article 9.14 (Denial of Benefits); or (ii) a Party’s rights under Chapter 28 (Dispute Settlement) in relation to a tobacco control measure.

13 A tobacco control measure means a measure of a Party related to the production or consumption of manufactured tobacco products (including products made or derived from tobacco), their distribution, labeling, packaging, advertising, marketing, promotion, sale, purchase, or use, as well as enforcement measures, such as inspection, recordkeeping, and reporting requirements. For greater certainty, a measure with respect to tobacco leaf that is not in the possession of a manufacturer of tobacco products or that is not part of a manufactured tobacco product is not a tobacco control measure.
Nothing in this Agreement shall be construed to require a Party to furnish or allow access to information, the disclosure of which would be contrary to its law or would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 29.8: Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources

Subject to each Party's international obligations, each Party may establish appropriate measures to respect, preserve and promote traditional knowledge and traditional cultural expressions.
CHAPTER 30

FINAL PROVISIONS

Article 30.1: Annexes, Appendices and Footnotes

The Annexes, Appendices, and footnotes to this Agreement shall constitute an integral part of this Agreement.

Article 30.2: Amendments

The Parties may agree, in writing, to amend this Agreement. When so agreed by all Parties and approved in accordance with the applicable legal procedures of each Party, an amendment shall enter into force 60 days after the date on which all Parties have notified the Depositary in writing of the approval of the amendment in accordance with their respective applicable legal procedures, or on such other date as the Parties may agree.

Article 30.3: 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 this Agreement provides otherwise, consult on whether to amend this Agreement.

Article 30.4: Accession

1. This Agreement is open to accession by:
   (a) any State or separate customs territory that is a member of APEC, and
   (b) such other State or separate customs territory as the Parties may agree,

that is prepared to comply with the obligations set out in the Agreement, subject to such terms and conditions as may be agreed between the State or customs territory and the Parties, and following approval in accordance with the applicable legal procedures of each Party and acceding State or customs territory.

2. A State or separate customs territory may seek to accede to this Agreement by submitting a request in writing to the Depositary.

3. (a) Following receipt of a request under paragraph 2 to accede, the Commission shall, provided in the case of paragraph 1(b) that the Parties so agree, establish
a working group to negotiate the terms and conditions for the accession. Membership in the working group shall be open to all interested Parties.

(b) After completing its work, the working group shall provide a written report to the Commission. If the working group has reached agreement with the accession candidate on proposed terms and conditions for accession, the report shall set out those terms and conditions, a recommendation to the Commission to approve them, and a proposed Commission decision inviting the accession candidate to become a Party to the Agreement.

3bis. For purposes of paragraph 3:

(a) A decision of the Commission shall be deemed to be taken only where:

(i) all Parties have indicated agreement to the establishment of a working group to consider the request for accession, or

(ii) if a Party does not indicate agreement when the Commission considers the issue, that Party has not objected in writing to the establishment of a working group to consider the request for accession within 7 days of the Commission’s consideration.

(b) A decision of the working group shall be deemed to be taken only where:

(i) all Parties that are members of the working group have indicated agreement, or

(ii) if a Party that is a member of the working group does not indicate agreement when the working group considers an issue, that Party has not objected in writing within 7 days of the working group’s consideration.

4. If the Commission adopts a decision approving the terms and conditions for an accession and inviting an accession candidate to become a Party, the Commission shall specify a period, which may be subject to extension by agreement of the Parties, during which the accession candidate may deposit an instrument of accession indicating that it accepts those terms and conditions.

5. An accession candidate shall become a Party to this Agreement, subject to the terms and conditions approved in the Commission’s decision, on the later of:

(a) 60 days after the date on which the candidate deposits an instrument of accession with the Depositary indicating that it accepts those terms and conditions; or

(b) the date on which all Parties have notified the Depositary that they have completed their respective applicable legal procedures.
Article 30.5: Entry into Force

1. This Agreement shall enter into force 60 days after the date on which all original signatories have notified the Depositary in writing of the completion of their applicable legal procedures.

2. In the event that not all original signatories have notified the Depositary in writing of the completion of their applicable legal procedures within a period of two years of the date of the signature of this Agreement, it shall enter into force 60 days after the expiry of this period if at least six of the original signatories, which together account for at least 85 per cent of the combined gross domestic product of the original signatories in 2013, have notified the Depositary in writing of the completion of their applicable legal procedures within this period.

3. In the event that this Agreement does not enter into force under paragraph 1 or 2, it shall enter into force 60 days after the date on which at least six of the original signatories, which together account for at least 85 per cent of the combined gross domestic product of the original signatories in 2013, have notified the Depositary in writing of the completion of their applicable legal procedures.

4. After the date of entry into force of this Agreement under paragraph 2 or 3, an original signatory for which the Agreement has not entered into force shall notify the Parties of the completion of its applicable legal procedures and its intention to become a Party to this Agreement. The Commission shall determine within 30 days of the date of the notification by that original signatory whether the Agreement shall enter into force with respect to the notifying original signatory.

5. Unless the Commission and the notifying original signatory agree otherwise, this Agreement shall enter into force for that notifying original signatory referred to in paragraph 4, 30 days after the date on which the Commission makes an affirmative determination.

Article 30.6: Withdrawal

1. Any Party may withdraw from this Agreement by providing written notice of withdrawal to the Depositary. A withdrawing Party shall simultaneously notify the other Parties of its withdrawal through the contact points.

2. A withdrawal shall take effect six months after a Party provides written notice to the Depositary under paragraph 1, unless the Parties agree on a different period. If a Party withdraws, this Agreement shall remain in force for the remaining Parties.

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1 For the purposes of this Article, gross domestic products shall be based on data of the International Monetary Fund using current prices (U.S. dollars).
Article 30.7: Depositary

1. The original English, Spanish, and French texts of this Agreement shall be deposited with New Zealand, which is hereby designated as the Depositary of this Agreement.

2. The Depositary shall promptly provide certified copies of the original texts of this Agreement and of any amendments to this Agreement to each signatory State, acceding State and acceding separate customs territory.

3. The Depositary shall promptly inform each signatory and acceding State or separate customs territory, and provide them with the date and a copy, of:

   (a) a notification under Article 30.2 (Amendments), Article 30.4.5 (Accession) or Article 30.5 (Entry into Force);

   (b) a request to accede to this Agreement under Article 30.4.2 (Accession);

   (c) the deposit of an instrument of accession under Article 30.4.4 (Accession); and

   (d) a notice of withdrawal provided under Article 30.6 (Withdrawal).

Article 30.8: Authentic Texts

The English, Spanish, and French texts of this Agreement are equally authentic. In the event of any divergence between those texts, the English text shall prevail.