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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	3 September 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 811 annex
Subject:	ANNEX 1 - PART 1/2 ANNEX to the Proposal for a Council Decision on the signing, on behalf of the European Union, of the Interim Agreement on Trade between the European Union and the United Mexican States

Delegations will find attached document COM(2025) 811 annex.

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Brussels, 3.9.2025
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ANNEX 1 – PART 1/2

ANNEX

to the

Proposal for a Council Decision

on the signing, on behalf of the European Union, of the Interim Agreement on Trade between the European Union and the United Mexican States

INTERIM AGREEMENT ON TRADE BETWEEN THE EUROPEAN UNION AND THE UNITED MEXICAN STATES

PREAMBLE

The European Union, hereinafter referred to as "the Union" or "the EU",

and

the United Mexican States, hereinafter referred to as "Mexico",

hereinafter jointly referred to as "the Parties" or individually referred to as "Party",

CONSIDERING the strong cultural, political and economic ties which unite them;

MINDFUL of the significant contribution to strengthen those ties made by the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, signed in Brussels on 8 December 1997;

CONSIDERING their joint commitment expressed in the Santiago Declaration of 27 January 2013 to modernise and replace the existing Economic Partnership, Political Coordination and Cooperation Agreement to reflect new political and economic realities and the advancements made in their strategic partnership;

EMPHASISING the comprehensive nature of their relationship and the importance of providing a coherent framework for its further promotion;

AFFIRMING their status as strategic partners and their determination to further enhance and deepen their partnership and their international cooperation and dialogue in order to advance their shared interests and values;

AFFIRMING their commitment to strengthen cooperation on bilateral, regional, bi-regional, and international issues of common concern;

RECOGNISING the interim character of this Agreement that will strengthen bilateral economic and trade relations between the Parties, subsumed under the Modernised Global Agreement and that this Agreement will cease to apply once the latter enters into force;

ACKNOWLEDGING the importance of a strong and effective multilateral system, based upon international law, in preserving peace, preventing conflicts and strengthening international security and in tackling common challenges;

REAFFIRMING their commitment to expand and diversify their trade relation in conformity with the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement") and the specific objectives and provisions set out in this Agreement;

CONVINCED that this Agreement will create a climate conducive to growth in sustainable economic relations between them, in particular in terms of trade and investment, which are essential to the realisation of economic and social development and technological innovation and modernisation;

WELCOMING the adoption of the Resolution 70/1 adopted by the General Assembly of the United Nations on 25 September 2015 containing the outcome document "Transforming our world: the 2030 Agenda for Sustainable Development" (hereinafter referred to as the "2030 Agenda"), the Paris Agreement under the United Nations Framework Convention on Climate Change, done at Paris on 12 December 2015 (hereinafter referred to as the "Paris Agreement"), as well as the Sendai Framework for Disaster Risk Reduction 2015-2030, adopted at the Third UN World Conference in Sendai on 18 March 2015, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, adopted at Addis Ababa on 13-16 July 2015, the World Humanitarian Summit Commitments, adopted at the World Humanitarian Summit in Istanbul on 23-24 May 2016, and the New Urban Agenda, adopted during the UN Conference on Housing and Sustainable Urban Development (Habitat III) in Quito on 20 October 2016 (hereinafter referred to as the "New Urban Agenda"), and calling for their swift implementation;

REAFFIRMING their commitment to overcome global challenges by promoting sustainable development in its economic, social and environmental dimensions, by contributing to the achievement of the Sustainable Development Goals (hereinafter referred to as the "SDGs") and targets of the 2030 Agenda;

REAFFIRMING their commitment to promote international trade in such a way as to contribute to sustainable development in its economic, social and environment dimensions, through partnerships involving all relevant stakeholders, including civil society and the private sector, and to implement this Agreement in a manner consistent with their respective laws and international labour and environmental commitments;

RECOGNISING the importance of strengthening their economic, trade and investment relations, and of promoting the liberalisation of trade and investment between them, to bring economic growth, create new opportunities for workers and the business communities of each Party, in particular small and medium-sized enterprises;

RECOGNISING that this Agreement contributes to enhancing consumer welfare and to ensuring a high level of living standards and consumer protection;

ENCOURAGING enterprises operating within their territory or subject to their jurisdiction to respect internationally recognised guidelines and principles of corporate social responsibility, including the OECD Guidelines for Multinational Enterprises, and to pursue best practices of responsible business conduct;

RECOGNISING that the provisions of this Agreement preserve the right of the Parties to regulate within their territories in conformity with their internal legislation and the Parties' flexibility to achieve legitimate policy objectives, such as public health, safety, environment, public morals and the promotion and protection of cultural diversity, among others;

RECOGNISING the importance of transparency, good governance and the rule of law in international trade and investment to the benefit of all stakeholders;

RESOLVED to contribute to the harmonious development and expansion of international trade and investment by removing obstacles thereto through this Agreement and to avoid creating new barriers to trade or investment between the Parties that could reduce the benefits of this Agreement;

HAVE AGREED AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1.1

Establishment of a Free Trade Area

The Parties establish by virtue of this Agreement a free trade area, consistent with Article XXIV of GATT 1994 and Article V of GATS.

ARTICLE 1.2

Objectives

The objectives of this Agreement are:

(a) the expansion and diversification of trade in goods, in conformity with Article XXIV of GATT 1994, between the Parties through the reduction or the elimination of customs duties and non-tariff barriers to trade;

(b) the facilitation of trade in goods, in particular through the provisions regarding customs and trade facilitation, standards, technical regulations and conformity assessment procedures as well as sanitary and phytosanitary measures, while preserving the right of each Party to regulate within its territory and to achieve public policy objectives;

(c) the liberalisation of trade in services, in conformity with Article V of GATS;

(d) the development of a framework conducive to increased investment flows by providing transparent, stable and predictable rules governing the conditions for establishment and operation of enterprises and the related movement of capital, and guaranteeing an appropriate balance between the liberalisation of investments and the right of each Party to regulate in order to achieve legitimate policy objectives;

(e) the effective and reciprocal opening of government procurement markets of the Parties;

(f) the promotion of innovation and creativity by ensuring an adequate and effective protection of intellectual property rights, in accordance with international obligations in force between the Parties, and the balance between this protection and the public interest;

(g) the conduct of trade and investment relations between the Parties in conformity with the principle of free and undistorted competition;

(h) the promotion of sustainable development and of the development of international trade in a manner that contributes to sustainable development, encompassing economic development, social development and environmental protection;

(i) the establishment of an effective, fair and predictable dispute settlement mechanism to solve disputes between the Parties on the interpretation or application of this Agreement.

ARTICLE 1.3

Definitions of General Application

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

(a) "administrative ruling of general application" means an administrative ruling or interpretation that applies to all persons and factual situations that fall generally within the scope of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include:

(i) a determination or ruling made in administrative or quasi-judicial proceedings that applies to a particular person, good or service of the other Party in a specific case; or

(ii) any other ruling that adjudicates with respect to a particular act or practice;

(b) "Agreement on Agriculture" means the Agreement on Agriculture in Annex 1A to the WTO Agreement;

(c) "agricultural good" means a product listed in Annex 1 to the Agreement on Agriculture;

(d) "aircraft repair and maintenance services during which an aircraft is withdrawn from service" means repair and maintenance activities undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include line maintenance;

(e) "Anti-dumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;

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

(g) "customs duty" means any duty or charge of any kind imposed on or in connection with the importation of a good, it includes any surtax or surcharge imposed in connection with such importation; but does not include any:

(i) charge equivalent to an internal tax imposed in accordance with Article 2.3;

(ii) anti-dumping or countervailing[1] duty applied in accordance with GATT 1994, the Anti-dumping Agreement and the SCM Agreement, as appropriate;

(iii) fee or other charge imposed on or in connection with the importation of a good that is limited in amount to the approximate cost of services rendered; and

(iv) premium offered or collected on an imported good arising out of a tendering system authorised for the administration of tariff rate quotas pursuant to Appendix 2-A-4 (Tariff Rate Quotas of Mexico);

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

(i) "days" means calendar days, including weekends and holidays;

(j) "DSU" means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;

(k) "enterprise" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately owned or governmentally owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

[1] For greater certainty, the definition of customs duty does not affect the rights and obligations of the Parties under Chapter 5 (Trade Remedies).

(l) "existing" means in effect on the date of entry into force of this Agreement;

(m) "freely convertible currency" means a currency which is widely traded in international foreign exchange markets and widely used in international transactions;

(n) "GATS" means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement;

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

(p) "goods" means both materials and products;

(q) "good of a Party" means a domestic good as this is understood in GATT 1994, and includes originating goods of that Party;

(r) "ground handling services" means the supply at an airport, on a fee or contract basis, of airline representation, administration and supervision services, passenger handling, baggage handling, ramp services, catering,[2] air cargo and mail handling, fuelling of an aircraft, aircraft servicing and cleaning, surface transport, and flight operation, crew administration and flight planning services; but does not include self-handling, security, line maintenance, aircraft repair and maintenance; and 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;

[2] Except the preparation of food.

(s) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, Chapter Notes and Subheading Notes and amendments thereto;

(t) "measure" includes any law, regulation, rule, procedure, decision, administrative action, requirement or practice;[3]

(u) "Modernised Global Agreement" or "MGA" means the Political, Economic and Cooperation Strategic Partnership Agreement between the European Union and its Member States, of the one part and the United Mexican States, of the other part, to be concluded;

(v) "national" means a natural person who has the nationality of one of the Member States of the European Union or of Mexico according to their respective law or is a permanent resident of a Party;

(w) "natural person" means[4]:

(i) in the case of the European Union, a person having the nationality of one of the Member States of the European Union according to its legislation;[5] and

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3 For greater certainty, "measure" includes failures to act.

4 This definition applies for the purposes of Chapters 10 to 19.

5 The definition of natural persons of the European Union also includes natural persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the laws and regulations of the Republic of Latvia, to receive a non-citizen's passport.

(ii) in the case of Mexico, a person having the nationality of Mexico according to its legislation;

a natural person who is a national of Mexico and has the nationality of one of the Member States of the European Union is deemed to be exclusively a natural person of the Party of his or her dominant and effective nationality;

(x) "OECD" means the Organization for Economic Co-operation and Development;

(y) "originating good" means a good qualifying as originating under the rules of origin set out in Chapter 3 (Rules of Origin and Origin Procedures);

(z) "person" means a natural person or an enterprise;

(aa) "person of a Party" means a national or an enterprise of a Party;

(bb) "preferential tariff treatment" means the rate of customs duty applicable to an originating good pursuant to Article 2.4 (Elimination or Reduction of Customs Duties);

(cc) "Safeguards Agreement" means the Agreement on Safeguards in Annex 1A to the WTO Agreement;

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

(ee) "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, but does not include the pricing of air transport services or the applicable conditions;

(ff) "service supplier" means a person that supplies or seeks to supply a service;

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

(hh) "state enterprise" means an enterprise that is owned or controlled by a Party;

(ii) "TBT Agreement" means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement;

(jj) "territory" means the territory where this Agreement applies pursuant to Article 33.7 (Territorial Application);

(kk) "third country" means a country or territory outside the territorial scope of application of this Agreement;

(ll) "Trade Council" means the Trade Council established pursuant to Article 33.1 of this Agreement;

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

(nn) "Vienna Convention on the Law of Treaties" means the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969;

(oo) "TEU" means the Treaty on European Union;

(pp) "TFEU" means the Treaty on the Functioning of the European Union;

(qq) "WTO" means the World Trade Organization; and

(rr) "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

ARTICLE 1.4

Relation to the WTO Agreement

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

ARTICLE 1.5

References to Laws and other Agreements

1. Unless otherwise indicated, any reference in this Agreement to laws, either generally or by reference to a specific statute, regulation or directive, shall be construed as a reference to the laws, as they may be amended.

2. Unless otherwise indicated, any reference, or incorporation by means of a reference in this Agreement to other agreements or legal instruments in whole or in part shall be construed as including:

(a) related annexes, protocols, footnotes, interpretative notes and explanatory notes; and

(b) successor agreements to which the Parties are party or amendments that are binding on the Parties, except where the reference affirms existing rights and obligations.

ARTICLE 1.6

Fulfilment of Obligations

1. Each Party shall adopt any general or specific measures required to fulfil the obligations under this Agreement, including those required to ensure observance thereof by central, regional or local governments and authorities, as well as non-governmental bodies in the exercise of powers delegated to them.

2. If either Party considers that the other Party

– has failed to respect any of the principles, rights or fundamental freedoms referred to in Article 2 of Part I of the Modernised Global Agreement; or

– has failed to comply with and implement any of its existing obligations under international disarmament and non-proliferation treaties and agreements or other international obligations referred to in Article 1.4 of Part II of the Modernised Global Agreement

it may take appropriate measures pursuant to the provisions in Article 2.3 paragraph 3 of Part IV of the Modernised Global Agreement (fulfilment of obligations). For the purpose of this paragraph, "appropriate measures" may include the suspension, in part or in full, of this Agreement.

The right conferred by this paragraph may be exercised by either Party, irrespective of whether the relevant provisions of the Modernised Global Agreement have entered into force or are being applied provisionally.

3. “Appropriate measures” referred to in paragraph 2 above shall be taken in full respect of international law and shall be proportionate to the failure to implement the obligations referred to in paragraph 2. Priority must be given to those which least disturb the functioning of this Agreement. It is understood that suspension, in part or in full, of this Agreement would be a measure of last resort.

CHAPTER 2

TRADE IN GOODS

SECTION A

General Provisions

ARTICLE 2.1

Definitions

For the purposes of this Chapter:

(a) "consular transactions" means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party or in the territory of a third party a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration or any other customs documentation required on or in connection with the importation of a good;

(b) "export licensing procedure" means an administrative procedure requiring the submission of an application or other documentation, other than that generally required for customs clearance purposes, to the relevant administrative body or bodies of the exporting Party as a prior condition for exportation from the territory of the exporting Party;

(c) "Import Licensing Agreement" means the Agreement on Import Licensing Procedures, set out in Annex 1A to the WTO Agreement.

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

ARTICLE 2.2

Scope

Unless otherwise provided for in this Agreement, this Chapter applies to trade in goods of a Party.

ARTICLE 2.3

National Treatment

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

2. For greater certainty, national treatment means, with respect to a level of government in Mexico other than at the federal level, or a level of government of or in a Member State of the European Union, treatment no less favourable than that accorded by that level of government to like, directly competitive or substitutable goods of Mexico or the Member State, respectively.

ARTICLE 2.4

Elimination or Reduction of Customs Duties

1. Unless otherwise provided for in this Agreement, each Party shall eliminate or reduce its customs duties on originating goods in accordance with Annex 2-A and shall not apply any customs duty upon the entry into force of this Agreement to originating goods classified in tariff lines of Chapters 1 to 97 of the Harmonized System other than those included respectively in Appendices 2-A-1or 2-A-2 to Annex 2-A.

2. Unless otherwise provided for in this Agreement, a Party shall not increase any existing customs duty, or adopt any new customs duty, on an originating good of the other Party.[6]

3. If a Party reduces its applied most-favoured-nation customs duty rate, that duty rate shall apply to originating goods of the other Party for as long as it is lower than the customs duty rate determined pursuant to Annex 2-A.

4. On request of a Party, the Parties shall consult to consider the possibility of improving the tariff treatment for market access of originating goods set out in Annex 2-A. The Trade Council may take a decision to modify Annex 2-A.[7]

5. For greater certainty, a Party may maintain or increase a customs duty on the originating good as authorised by the Dispute Settlement Body of the WTO.

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[6] For greater certainty, following a unilateral reduction of a customs duty, a Party may raise that customs duty to the level determined for the respective year of the tariff elimination schedule in accordance with Annex 2-A.

[7] For greater certainty; that modification shall supersede any customs duty rate or staging category set out in Annex 2-A.

ARTICLE 2.5

Export Duties, Taxes or Other Charges

1. A Party shall not adopt or maintain any tax or charge on the exportation of a good to the territory of the other Party that is in excess of that imposed on that good when destined for domestic consumption.

2. A Party shall not adopt or maintain any duty or charge of any kind imposed on, or in connection with, the exportation of a good to the territory of the other Party that is in excess of that imposed on that good when destined for domestic consumption.

3. Nothing in this Article shall prevent a Party from imposing on the exportation of a good a fee or charge that is permitted under Article 2.6.

ARTICLE 2.6

Fees and Formalities

1. Fees and other charges imposed by a Party on, or in connection with, the importation of a good of the other Party or exportation of a good to the other Party shall be limited in amount to the approximate cost of services rendered, and shall not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. A Party shall not apply a customs-processing fee on originating goods.[8]

3. Each Party shall publish all fees and charges it imposes in connection with importation or exportation in such a manner as to enable governments, traders and other interested parties to become acquainted with them.

4. A Party shall not require consular transactions, including related fees and charges, in connection with the importation of a good of the other Party.[9]

ARTICLE 2.7

Goods Re-Entered after Repair or Alteration

1. "repair or alteration" means any processing operation undertaken on a good to remedy operating defects or material damage and entailing the re-establishment of the good to its original function or to ensure compliance with technical requirements for its use, without which the good could no longer be used in the normal way for the purposes for which it was intended. Repair of a good includes restoration and maintenance but does not include an operation or process that:

(a) destroys the essential characteristics of a good, or creates a new or commercially different good;

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[8] For Mexico, the customs processing fee refers to the "Derecho de Trámite Aduanero".

[9] For greater certainty, the importing Party may require, the consularisation of documents by its consul with jurisdiction in the territory of the exporting Party:
(a) for investigation or audit purposes, or
(b) for the importation of household effects.

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

(c) is used to substantially change the function of a good.

2. A Party shall not apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration.

3. Paragraph 2 does not apply to a good imported in bond, into free trade zones, or in similar status, that is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.

4. A Party shall not apply a customs duty to a good, regardless of its origin, imported temporarily from the territory of the other Party for repair or alteration.

ARTICLE 2.8

Remanufactured Goods

1. "remanufactured good" means a good classified in Chapters 84 to 90 or in heading 9402 of the Harmonized System, except goods included in Annex 2-B, that:

(a) is entirely or partially produced from recovered materials of goods that have been used;

(b) has similar performance and working conditions as well as life expectancy as the like good in new condition; and

(c) is given the same warranty as the like good in new condition.

2. Unless otherwise provided for in this Agreement, a Party shall not accord to remanufactured goods of the other Party a treatment that is less favourable than that it accords to like goods in new condition.

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

(a) be identified as such for distribution or sale in its territory, including specifically labelled in order to prevent deception of consumers; and

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

4. For greater certainty, Article 2.9 applies to remanufactured goods. If a Party adopts or maintains import or export prohibitions or restrictions on used goods, it shall not apply those measures to remanufactured goods.

ARTICLE 2.9

Import and Export Restrictions

Unless otherwise provided for in Annex 2-C, a Party shall not adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994, including its Notes and Supplementary Provisions. To that end, Article XI of GATT 1994, including its Notes and Supplementary Provisions, are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.10

Import Licensing

1. Each Party shall adopt and administer any import licensing procedures in accordance with Articles 1 to 3 of the Import Licensing Agreement.

2. Each Party shall notify to the other Party any new import licensing procedure and any modification of existing import licensing procedures within 60 days after the date of its publication and, if possible, no later than 60 days before the new procedure or modification takes effect. The notification shall include the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement, as well as the electronic addresses of the official websites, referred to in paragraph 4 of this Article. A Party shall be deemed to comply with this provision if it notifies the relevant new import licensing procedure, or any modification thereof, to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement in accordance with paragraphs 1 to 3 of Article 5 of the Import Licensing Agreement.

3. On request of a Party, the other Party shall promptly provide any relevant information, including the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement, regarding any import licensing procedure that it intends to adopt, has adopted or maintains, or regarding any modification of existing licensing procedures.

4. Each Party shall publish on the relevant official websites the information it is required to publish pursuant to subparagraph 4(a) of Article 1 of the Import Licensing Agreement and shall ensure that the information specified in paragraph 2 of Article 5 of the Import Licensing Agreement is publicly available.

ARTICLE 2.11

Export Licensing

1. Each Party shall publish any new export licensing procedure, or any modification of an existing export licensing procedure including, if appropriate, on the relevant official websites. Such publication shall take place, if practicable, no later than 45 days before the procedure or modification takes effect, and in any event, no later than the date when the procedure or modification takes effect.

2. Each Party shall notify to the other Party its existing export licensing procedures within 60 days after the date of entry into force of this Agreement. Each Party shall notify to the other Party any new export licensing procedure and any modification of existing export licensing procedures, within 60 days after the date of its publication. These notifications shall include the reference to the source where the information required pursuant to paragraph 3 is published and, if appropriate, the address of the relevant official website.

3. The publication of export licensing procedures shall include the following information:

(a) the texts of its export licensing procedures and any modification thereof;

(b) the goods subject to each export licensing procedure;

(c) for each procedure, a description of the process for applying for an export license and any criteria an applicant has to fulfil to be eligible to apply for an export license, such as possessing an activity license, establishing or maintaining an investment, or operating through a particular form of establishment in a Party's territory;

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

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

(f) a description of any measure or measures being implemented through the export licensing procedure;

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

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

(i) any exemptions from or exceptions to the requirement to obtain an export license, how to request or use those exemptions or exceptions, and the criteria for granting them.

4. For greater certainty, nothing in this Article requires a Party to grant an export license, or prevents a Party from implementing its obligations or commitments under the United Nations Security Council Resolutions, as well as multilateral non-proliferation regimes and export control arrangements.

ARTICLE 2.12

Customs Valuation

The Parties affirm their rights and obligations under the Customs Valuation Agreement.

ARTICLE 2.13

Temporary Admission of Goods

1. Each Party shall grant temporary admission with total conditional relief from import duties, as provided for in its laws and regulations, for the following goods, regardless of their origin:

(a) goods intended for display or use at exhibitions, fairs, meetings, demonstrations or similar events;

(b) professional equipment, including equipment for the press or for sound or television broadcasting, software, cinematographic equipment, and any ancillary apparatus or accessories for such equipment, that is necessary for carrying out the business activity, trade or profession of a person visiting the territory of the Party to perform a specified task;

(c) containers, commercial samples, advertising films and recordings and other goods imported in connection with a commercial operation;

(d) goods imported for sports purposes;

(e) goods imported for humanitarian purposes; and

(f) animals imported for specific purposes.

2. Each Party may require that the goods benefiting from temporary admission in accordance with paragraph 1:

(a) are intended for re-exportation without having undergone any change except normal depreciation due to the use made of them;

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

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

(d) are accompanied by a security, if requested by the importing Party, in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the goods;

(e) can be identified when imported and exported;

(f) are re-exported within a specified period reasonably related to the purpose of the temporary admission; and

(g) are admitted in no greater quantity than is reasonable for their intended use.

3. Each Party shall permit goods temporarily admitted under this Article to be re-exported through any customs port or office other than the one through which they were admitted.

4. Each Party shall provide that the importer or other person responsible for goods admitted in accordance with this Article shall not be liable for failure to export the goods, within the period fixed for temporary admission, including any lawful extension, on presentation of satisfactory proof to the importing Party, in accordance with its customs legislation, that the goods were totally destroyed or irretrievably lost.

ARTICLE 2.14

Cooperation

1. Special provisions on administrative cooperation between the Parties in relation to preferential tariff treatment are set out in Annex 2-D.

2. The Parties shall annually exchange import statistics starting one year after the entry into force of this Agreement, until the Committee on Trade in Goods decides otherwise. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and of those receiving non-preferential treatment.

ARTICLE 2.15

Committee on Trade in Goods

The Committee on Trade in Goods established by Article 33.4.1(a) (Sub-Committees and Other Bodies) shall:

(a) monitor the implementation and administration of this Chapter and its Annexes;

(b) promote trade in goods between the Parties, including through consultations on improving market access tariff treatment under this Agreement and other issues, as appropriate;

(c) provide a forum to discuss and resolve any issues related to this Chapter;

(d) promptly address barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures and, if appropriate, referring such matters to the Trade Committee for its consideration;

(e) recommend to the Trade Committee any modification of or addition to this Chapter;

(f) coordinate the data exchange for preference utilisation or any other information exchange on trade in goods between the Parties that it may decide;

(g) review any future amendments of the Harmonized System to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve any related conflict;

(h) perform any other functions that the Trade Committee may assign to it.

SECTION B

Trade in Agricultural Goods

ARTICLE 2.16

Scope

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

ARTICLE 2.17

Cooperation in Multilateral Fora

1. The Parties shall cooperate under the WTO to promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system, to advance agriculture negotiations, and to promote the establishment of any new disciplines facilitating trade in agricultural goods.

2. The Parties recognise that some export measures, such as export prohibitions, export restrictions or export taxes may have a detrimental effect on critical supplies of agricultural goods. In this respect, the Parties shall support the establishment of disciplines through an active participation in the relevant international fora.

ARTICLE 2.18

Export Competition

1. For the purposes of this Article:

(a) "export subsidies" means subsidies within the meaning of paragraph (e) of Article 1 of the Agreement on Agriculture; and

(b) "measures with equivalent effect" means export credits, export credit guarantees or insurance programmes, as well as other measures that have an equivalent effect to an export subsidy[10].

2. The Parties affirm their commitments in the Decision on Export Competition adopted on 19 December 2015 by the Ministerial Conference of the WTO in Nairobi to exercise utmost restraint with regard to any recourse to all forms of export subsidies and all export measures with equivalent effect and to enhance transparency and to improve monitoring in relation to all forms of export subsidies and all export measures with equivalent effect.

3. A Party shall not adopt or maintain any export subsidy on any agricultural good that is exported or incorporated in a good that is exported to the territory of the other Party.

4. A Party shall not maintain, introduce or reintroduce any other measure with equivalent effect on an agricultural good that is exported or incorporated in a good that is exported to the territory of the other Party, unless that measure with equivalent effect complies with the terms and conditions determined in the relevant WTO Agreement, decision or commitment.

5. With the aim of enhancing transparency and improving monitoring in relation to export subsidies and other measures with equivalent effect, a Party which has a reasonable doubt about an export subsidy or other measure with equivalent effect applied by the other Party on an agricultural good destined for export to the former Party, may require the necessary information on the measures applied from the other Party. The information required shall be provided without delay.

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10 In interpreting the term "measures with equivalent effect", for a specific case, the Parties may seek guidance in the relevant WTO rules as well as in the practice of the WTO membership.

ARTICLE 2.19

Administration of Tariff Rate Quotas

1. A Party applying tariff rate quotas in accordance with Annex 2-A shall:

(a) administer those tariff rate quotas in a timely manner and in a transparent, objective and non-discriminatory way in accordance with its law; and

(b) make publicly available in a timely and continuous manner all relevant information concerning quota administration, including the volume available, utilisation rates and eligibility criteria.

2. The Parties shall consult regarding any matter related to the administration of the tariff rate quotas. For that purpose, each Party shall designate a contact point to facilitate communication between the Parties and notify the other Party of its contact details. The Parties shall promptly notify each other of any changes to those contact details.

ARTICLE 2.20

Sub-Committee on Agriculture

1. The Sub-Committee on Agriculture established by Article 33.4.1(b) (Sub-Committees and Other Bodies) shall:

(a) monitor the implementation and administration of this Section, and promote cooperation in order to facilitate trade in agricultural goods between the Parties;

(b) provide a forum for the Parties to discuss developments in their agricultural programs and trade in agricultural goods between the Parties;

(c) address barriers, including non-tariff barriers, to trade in agricultural goods between the Parties;

(d) evaluate the impact of this Chapter on the agricultural sector of each Party, as well as the operation of the instruments of this Chapter, and recommend any appropriate action to the Committee on Trade in Goods;

(e) provide a forum to consult on matters related to this Section in coordination with other relevant committees, working groups or any other specialised body under this Agreement;

(f) undertake any other functions that the Committee on Trade in Goods may assign to it; and

(g) report the results of its work under this paragraph to the Committee on Trade in Goods for its consideration.

3. The Sub-Committee on Agriculture shall meet at least once a year, unless otherwise agreed.

4. When special circumstances arise, on request of a Party, the Sub-Committee on Agriculture shall meet, by agreement of the Parties, no later than 30 days after the date of such request.

SECTION C

Trade in Wine and Spirits

ARTICLE 2.21

Scope

This Section applies to wine products[11] and spirits classified under headings 2204, 2205 and 2208 of the Harmonized System.

[11] For greater certainty, "wine products" means wine and other wine products classified under headings 2204 and 2205 of the Harmonized System.

ARTICLE 2.22

Oenological Practices

1. The European Union shall authorise the importation and marketing in its territory for human consumption of wine originating in Mexico and produced in compliance with:

(a) product definitions authorised in Mexico by the laws and regulations referred to in Part A of Annex 2-E and

(b) oenological practices authorised and restrictions applied in Mexico pursuant to the laws and regulations referred to in Part A of Annex 2-E or otherwise approved for use in wines for export by the competent authority of Mexico, in so far as they are recommended and published by the International Organisation of the Vine and Wine (hereafter referred to as "OIV").

The authorisation of this paragraph is subject to the requirement that no alcohol or spirits are added to the wines with the exception of liquor wines to which alcohol of vine origin or grape spirit may be added. This subparagraph is without prejudice to the possibility of adding alcohol different from alcohol of vine origin in the production of "*vino generoso*", provided that such an addition is clearly displayed on the label.

2. Mexico shall authorise the importation and marketing in its territory for human consumption of wine originating in the European Union and produced in compliance with:

(a) product definitions authorised in the European Union by the laws and regulations referred to in Part B of Annex 2-E;

(b) oenological practices authorized and restrictions applied in the European Union pursuant to the laws and regulations referred to in Part B of Annex 2-E; and

(c) the fact that the addition of alcohol or spirits is excluded for all wines other than liqueur wines to which only alcohol of vine origin or grape spirit may be added.

3. Vine varieties that may be used in wines imported from a Party and marketed in the territory of the other Party are varieties of plants of the "*vitis vinifera*" and hybrids thereof, without prejudice to any more restrictive laws and regulations which a Party may have in respect of wine produced in its territory.

4. The Trade Council may modify Parts A and B of Annex 2-E for adding, deleting or updating the references to product definitions, and oenological practices and restrictions.

ARTICLE 2.23

Labelling of Wine Products and Spirits

1. A Party shall not require any of the following dates or their equivalent to be displayed on the container, label, or packaging of wine products or spirits:

(a) date of packaging;

(b) date of bottling;

(c) date of production or manufacture;

(d) date of expiration, "use by"' date, "use or consume by" date, "expire by" date;

(e) date of minimum durability, "best-by" date, "best quality before" date; or

(f) "sell-by" date.

A Party may require the display of a date of minimum durability in case of the addition of perishable ingredients or in case of a durability considered by the producer of less than or equal to twelve months.

2. A Party shall not require translations of trademarks, brand names or geographical indications to be displayed on containers, labels, or packaging of wine products or spirits.

3. A Party shall permit mandatory information, including translations, to be displayed on a supplementary label affixed to a container of wine products or spirits. Supplementary labels may be affixed to imported container of wine or spirit after importation but prior to offering the product for sale in the Party's territory, provided that the mandatory information of the original label is fully and accurately reflected.

4. A Party shall permit the use of identification lot codes provided that those codes are preserved from deletion.

5. A Party shall not apply a labelling measure to wine products and spirits that were marketed in the territory of that Party prior to the date on which the measure entered into force, except under exceptional circumstances.

6. A Party shall permit the use of drawings, figures, illustrations and claims or legends on bottles provided that they do not replace mandatory labelling information and do not mislead the consumer as to the real characteristics and composition of the wines products and spirits.

7. A Party shall not require that labels of wine products or spirits display allergen labelling with regard to allergens which have been used in the production and preparation of the wine products or spirit and which are not present in the final product.

8. For trade in wine between the Parties, wine originating in the European Union may be labelled in Mexico with an indication of the product type as specified in Part C of Annex 2-E.

9. Each Party shall protect the following names with regard to wine products and spirits, in conformity with the Paris Convention for the Protection of Industrial Property, done at Paris on 20 March 1883 (hereinafter referred to as "the Paris Convention"):

(a) the name of a Member State; and

(b) the name of the United Mexican States or Mexico and its States.

10. A Party shall permit labels of wine products or spirits to express the alcoholic content by volume in the following acronyms:

(a) % Alc. Vol.

(b) % Alc Vol.

(c) % alc. vol.

(d) % alc vol.

(e) % Alc.

(f) % Alc./Vol.

(g) Alc( )%vol.

(h) % alc/vol

(i) alc( )%vol

ARTICLE 2.24

Certification of Wine Products and Spirits

1. A Party may require, for wine products imported from the other Party and placed on its market, only the documentation and certification set out in Part D of Annex 2-E.

2. A Party shall not submit the import of wine products produced in the territory of the other Party to more restrictive import certification requirements than those laid down in this Agreement.

3. Each Party may apply its laws and regulations in order to identify adulterated or contaminated products after their final importation.

4. In case of a dispute, each Party shall recognise as reference methods, the methods of analysis complying with the standards recommended by international organisations such as the International Organization for Standardization (ISO) or, in case those methods do not exist, the methods of the OIV.

5. Each Party shall authorise the importation in its territory of spirits in accordance with the rules governing import documentation or certification and analysis reports as provided for in its laws and regulations.

6. The European Union shall require for the importation of Tequila and Mezcal into the European Union the presentation to its customs authorities of an export authenticity certificate of those products issued by the conformity assessment bodies accredited and approved by the Mexican authorities.[12] Mexico shall provide models of the export authenticity certificate of Tequila and Mezcal and notify any changes related to those certificates to the Sub-Committee on Trade in Wines and Spirits.

[12] For greater certainty, this is without prejudice to the laws and regulations of each Party for the marketing and commercialisation of those products.

7. A Party may introduce temporary additional import certification requirements for wines products and spirits imported from the other Party in response to legitimate public policy concerns, such as health or consumer protection, or in order to act against fraud. In such case, the Party shall provide to the other Party adequate information and sufficient time to permit the fulfilment of the additional requirements.

Such requirements shall not extend beyond the period of time necessary to respond to the particular public policy concern or risk of fraud in response to which they were introduced.

8. The Trade Council may modify Part D of Annex 2-E with regard to the documentation and certification referred to in paragraph 1.

ARTICLE 2.25

Applicable Rules

Unless otherwise provided for in this Agreement, importation and marketing of products covered by this Section, traded between the Parties, shall be conducted in compliance with the laws and regulations applying in the territory of the Party of importation.

ARTICLE 2.26

Transitional Measures

Products which, at the date of entry into force of this Agreement, have been produced and labelled in accordance with the laws and regulations of a Party and the existing agreements between the Parties, but do not comply with this Section may be marketed in the importing Party under the following conditions:

(a) by wholesalers or producers, for a period of two years; or

(b) by retailers, until stocks are exhausted.

ARTICLE 2.27

Notifications

Each Party shall ensure timely notification to the other Party of any amendments to laws and regulations on matters covered by this Section that have an impact on products traded between them.

ARTICLE 2.28

Cooperation on Trade in Wines and Spirits

1. The Parties shall cooperate on and address matters related to trade in wines and spirits, in particular:

(a) product definitions, certification and labelling; and

(b) the use of grape varieties in winemaking and labelling thereof.

2. To facilitate mutual assistance between the enforcement authorities of the Parties, each Party shall designate the competent authorities and bodies responsible for the implementation and application of matters covered by this Section. If a Party designates more than one competent authority or body, it shall ensure coordination between those authorities and bodies. In that case, a Party shall also designate a single liaison authority that should serve as the single contact point for the authority or body of the other Party.

3. The Parties shall inform each other of the names and addresses of the competent authorities and bodies referred to in paragraph 2, and any changes thereto, no later than six months after the date of entry into force of this Agreement.

4. The authorities and bodies referred to in this Article shall closely cooperate and seek ways for further improving assistance with each other in the application of this Section, in particular in order to combat fraudulent practices.

ARTICLE 2.29

Sub-Committee on Trade in Wines and Spirits

1. The Sub-Committee on Trade in Wines and Spirits established by Article 33.4.1(c) (Sub-Committees and Other Bodies) shall:

(a) monitor the implementation and administration of this Section;

(b) provide a forum for cooperation on matters relating to this Section and exchange of information; and

(c) ensure the proper functioning of this Section.

2. The Sub-Committee on Trade in Wines and Spirits may make recommendations and prepare decisions for the Trade Council which may be adopted as provided for in this Section.

SECTION D

Non-Tariff Market Access Commitments for Other Sectors

ARTICLE 2.30

Pharmaceuticals

Specific non-tariff market access commitments of each Party relating to pharmaceutical products and medical devices are set out in Annex 2-F.

ARTICLE 2.31

Motor Vehicles

Specific non-market access commitments of each Party relating to motor vehicles and equipment, and parts thereof, are set out in Annex 2-G.

CHAPTER 3

RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A

Rules of Origin

ARTICLE 3.1

Definitions

1. For the purposes of this Chapter:

(a) "chapters", "headings" and "subheadings" means the chapters (two-digit codes), the headings (four-digit codes) and sub-headings (six-digit codes) used in the nomenclature of the Harmonized System;

(b) "competent governmental authority" means in the case of Mexico, the designated authority within the Ministry of Economy (*Secretaría de Economía*), or its successor;

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

(d) "customs authorities" means the governmental authority that is responsible under the law of a Party for the administration, application and enforcement of customs laws and regulations;

(e) "exporter" means a person located in the territory of a Party who exports from the territory of that Party and makes out a statement on origin;

(f) "importer" means a person located in the territory of a Party who imports a good and claims preferential tariff treatment;

(g) "material" means any ingredient, raw material, component, part, or the like, used in the production of the product;

(h) "non-originating materials" means materials which do not qualify as originating under this Chapter;

(i) "originating materials" or "originating products" means materials or products which qualify as originating under this Chapter;

(j) "product" means the product being manufactured, even if it is intended as a material for later use in the production of another product; and

(k) "production" means any kind of working, processing or specific operations, including assembly.

ARTICLE 3.2

General Requirements

1. For the purposes of applying the preferential tariff treatment by a Party to the originating good of the other Party in accordance with this Agreement, the following products shall be considered as originating in the Party where the last production took place:

(a) products wholly obtained in that Party within the meaning of Article 3.4;

(b) products produced in that Party exclusively from originating materials; or

(c) products produced in that Party incorporating non-originating materials, provided they fulfil the conditions set out in Annex 3-A.

2. A product considered as originating in a Party in accordance with paragraph 1 has to meet all other applicable requirements of this Chapter for granting preferential tariff treatment based on a claim pursuant to Article 3.16.

3. If a product has acquired originating status, the non-originating materials used in the production of that product shall not be considered non-originating when that product is incorporated as a material in another product.

4. For the acquisition of the originating status, the product has to be produced as referred to in subparagraphs 1(a) to 1(c) without interruption in a Party.

ARTICLE 3.3

Cumulation of Origin

1. A product originating in a Party shall be considered as an originating product of the other Party if it is used as a material in the production of another product in that other Party[13].

2. Paragraph 1 does not apply if:

(a) the production of a product does not go beyond the operations referred to in Article 3.6; and

(b) the object of this production, as demonstrated on the basis of a preponderance of evidence, is to circumvent financial or tax law of the Parties.

[13] When the rules of origin for a material differ between the Parties, the origin of that material shall be determined in accordance with the rules of origin applicable to the exporting Party.

ARTICLE 3.4

Wholly Obtained Products

1. The following products shall be considered as wholly obtained in a Party:

(a) mineral products extracted from its soil or from its seabed;

(b) plants and vegetable products grown or harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products obtained from slaughtered animals born and raised there;

(f) products obtained by hunting or fishing conducted there;

(g) products obtained from aquaculture there, if aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants are born or raised from seed stock such as eggs, roes, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;

(h) products of sea fishing and other products taken from the sea outside any territorial sea by a vessel of a Party;

(i) products produced on board of a factory ship of a Party exclusively from products referred to in subparagraph (h);

(j) used articles collected there fit only for the recovery of raw materials, including those raw materials;

(k) waste and scrap resulting from production operations conducted there;

(l) products extracted from the seabed or subsoil thereof outside the territorial sea of a Party, provided that they have rights to exploit or work such seabed or subsoil; or

(m) goods produced there exclusively from the products specified in subparagraphs (a) to (l).

2. The terms "vessel of a Party" and "factory ship of a Party" in subparagraph 1(h) and 1(i) mean a vessel or a factory ship which:

(a) is registered in a Member State or in Mexico;

(b) sails under the flag of a Member State or Mexico; and

(c) meets one of the following conditions:

(i) it is at least 50 % owned by nationals of a Member State or Mexico; or

(ii) it is owned by enterprises which:

(A) have their head office and main place of business in the European Union or Mexico; and

(B) are at least 50 % owned by public entities, nationals or enterprises of a Member State or Mexico.

ARTICLE 3.5

Tolerances

1. If a product does not satisfy the requirements set out in Annex 3-A due to the use of a non-originating material in the production, that product shall nevertheless be considered as originating in a Party provided that:

(a) the total value of that non-originating material does not exceed 10 % of the ex-works price of the product; and

(b) any of the percentages set out in Annex 3-A for the maximum value or weight of non-originating materials are not exceeded through the application of this paragraph.

2. Paragraph 1 does not apply to products classified under Chapters 50 to 63, for which the tolerances set out in Notes 5 and 6 of Section A of Annex 3-A apply.

3. Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 3.4. If Annex 3-A requires that the materials used in the production of a product are wholly obtained, the tolerance provided for in paragraph 1 applies to the sum of those materials.

ARTICLE 3.6

Insufficient Working or Processing Operations

1. Notwithstanding Article 3.2.1(c), a product shall not be considered as originating in a Party if the production of the product in a Party consists only of the following operations performed on non-originating materials:

(a) operations to ensure the preservation of products in good condition during transport and storage such as ventilation, spreading out, drying, freezing, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations;

(b) simple addition of water or dilution that does not materially alter the characteristics of the product or dehydration or denaturation[14] of products;

(c) sifting, screening, sorting, classifying, grading or matching, including the making-up of sets of articles;

(d) sharpening, simple grinding or simple cutting;

(e) peeling, stoning or shelling of fruits, nuts or vegetables;

(f) husking;

(g) removing of grains;

(h) polishing or glazing of cereals and rice, partial or total milling of rice;

(i) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;

(j) changes of packaging, breaking up and assembly of packages;

(k) simple packaging operations;

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[14] Denaturation covers making alcohol unfit for human consumption by the addition of toxic or foul-tasting substances.

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

(m) washing, cleaning, the removal of dust, oxide, oil, paint or other coverings;

(n) simple painting and polishing operations;

(o) simple mixing of products[15], whether or not of different kinds;[16]

(p) assembly of parts classified as complete or finished article in accordance with General Interpretative Rule 2(a) of the General Rules for the Interpretation of the Harmonized System or other simple assembly of parts;

(q) disassembly of a product into parts or components;

(r) ironing or pressing of textiles and textile articles;

(s) slaughter of animals; or

(t) a combination of two or more operations specified in subparagraphs (a) to (s).

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15 Simple mixing of products covers mixing of sugar.

16 These operations do not apply to mixing and blending in Chapters 27 to 30, 32 to 35 and 38.

2. For the purposes of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance and the operations resulting from those skills, machines, apparatus or tools do not confer the essential character or properties of the good.

ARTICLE 3.7

Unit of Qualification

1. For the application of this Chapter the unit of qualification shall be the particular product, which is considered as the basic unit when classifying the product under the Harmonized System.

2. For a product composed of a group or assembly of articles, which is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;

3. For a consignment consisting of a number of identical products classified under the same heading, each product shall be considered individually when applying this Chapter.

ARTICLE 3.8

Accounting Segregation

1. If originating and non-originating fungible materials are used in the production of a good, the management of materials may be done by using an accounting segregation method without keeping the materials in separate stocks.

2. If originating and non-originating fungible products of Chapters 10, 15, 27, 28, 29, headings 32.01 to 32.07, or headings 39.01 to 39.14 are physically combined or mixed in stocks in a Party before exportation to the other Party, the management of those products may be done by using an accounting segregation method without keeping those products in separate stocks.

3. For the purposes of paragraphs 1 and 2, fungible materials or fungible products are materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished one from another, in the case of materials, once they are incorporated into the finished product.

4. The accounting segregation method used for managing stocks shall be applied pursuant to a stock management system which is in accordance with accounting principles generally accepted in the Party.

5. The stock management system must ensure at any time that the number of products obtained, which could be considered as originating products in a Party, is no more than the number that would have been obtained by using a method of physical segregation of the stocks.

6. A manufacturer using a stock management system must keep records of the operation of the system that are necessary for the customs authorities of the Party concerned to verify compliance with the provisions of this Chapter.

7. A Party may require that the use of accounting segregation pursuant to this Article is subject to prior authorisation by the customs authorities of that Party.

8. The customs authorities of a Party may make the granting of the authorisation referred to in paragraph 7 subject to any conditions they deem appropriate and may withdraw the authorisation if the manufacturer makes improper use thereof or fails to fulfil any of the other conditions set out in this Chapter.

ARTICLE 3.9

Accessories, Spare Parts and Tools

1. Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one product with the piece of equipment, machine, apparatus or vehicle in question.

2. The accessories, spare parts and tools referred to in paragraph 1 shall be disregarded in determining the origin of the product except for the purposes of calculating the maximum value of non-originating materials if a product is subject to a maximum value of non-originating materials set out in Annex 3-A.

ARTICLE 3.10

Sets

Sets, as defined in General Rule 3 for the Interpretation of the Harmonized System, shall be considered as originating in a Party if all of their components are originating goods. If a set is composed of originating and non-originating goods, the set as a whole shall be considered as originating in a Party, provided the value of the non-originating goods does not exceed 15 % of the ex-works price of the set.

ARTICLE 3.11

Neutral Elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the origin of the following elements which might be used in its production:

(a) fuel, energy, catalysts and solvents;

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

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

(d) machines, tools, dies and moulds;

(e) plant, equipment, 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) other materials which are not incorporated nor intended to be incorporated into the final composition of the product.

ARTICLE 3.12

Packing Materials, Packaging Materials and Containers

1. Packaging materials and containers in which the product is packaged for retail sale, if classified with the product pursuant to General Rule 5 for the Interpretation of the Harmonized System, shall be disregarded in determining the origin of the product, except for the purposes of calculating the maximum value of non-originating materials if a product is subject to a maximum value of non-originating materials in accordance with Annex 3-A.

2. Packing materials and containers in which a product is packed for shipment shall be disregarded in determining the origin of the product.

ARTICLE 3.13

Returned Goods

If originating goods of a Party exported from that Party to a third country are returned, they shall be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that the goods returned:

(a) are the same goods as those exported; and

(b) have not undergone any operation other than that necessary to preserve them in good condition while in that third country or while being exported.

ARTICLE 3.14

Non-Alteration

1. The goods declared for importation in a Party shall be the same goods as exported from the other Party in which they are considered originating. Those goods shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition, or other than adding or affixing marks, labels, seals or any other distinguishing signs, to ensure compliance with specific domestic requirements of the importing Party, prior to being declared for import.

2. Storage of goods or consignments may take place in a third country provided they remain under customs supervision in that third country.

3. Without prejudice to the provisions of Section B, the splitting of consignments may take place in a third country if the splitting is carried out by the exporter or under the exporter's responsibility and provided the goods remain under customs supervision in that third country.

4. Compliance with paragraphs 1 to 3 shall be considered as satisfied unless the customs authorities have reasons to believe the contrary. In such a case, the importer, in accordance with the provisions of the law of each Party, shall provide evidence of compliance by appropriate means, including through contractual transport documents such as bills of lading, factual or concrete evidence based on marking, numbering of packages, or any evidence related to the goods themselves.

ARTICLE 3.15

Exhibitions

1. Originating products sent for exhibition in a third country and sold after the exhibition for importation in a Party, shall benefit on importation from the provisions of this Agreement provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these products from a Party to the third country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to a person in a Party;

(c) the products have been consigned during the exhibition or immediately thereafter in the same state in which they were sent for exhibition; and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A statement on origin must be made out in accordance with the provisions of Section B and submitted to the customs authorities of the importing Party in the normal manner. The name and address of the exhibition must be indicated thereon.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display, which is not organised for private purposes in shops or business premises with a view to the sale of those products, and during which the products remain under customs control.

4. The customs authorities of the importing Party may require evidence that the products have remained under customs control in the third country of exhibition, as well as additional documentary evidence of the conditions under which they have been exhibited.

SECTION B

Origin Procedures

ARTICLE 3.16

Claim for Preferential Tariff Treatment and Statement on Origin

1. The importing Party shall, on importation, grant preferential tariff treatment to a product originating in the other Party within the meaning of Article 3.2 based on a claim by the importer for preferential tariff treatment, provided all other applicable requirements of this Chapter are met.

2. The claim for preferential tariff treatment shall be based on a statement on origin issued in accordance with Article 3.18 provided by the exporter on an invoice or any other commercial document.

3. The claim for preferential tariff treatment and the statement on origin referred to in paragraph 2, shall be included in the customs import declaration, in accordance with the laws and regulations of the importing Party.

4. The importer making a claim based on a statement on origin referred to in paragraph 2 shall be in possession thereof and, when required, provide a copy of the statement on origin to the customs authority of the importing Party.

5. Paragraphs 2, 3 and 4 do not apply in the cases specified in Article 3.23.

ARTICLE 3.17

Claims for Preferential Treatment after Importation

1. Each Party shall provide that an importer may claim preferential tariff treatment after the importation and obtain refund of any excess duties paid for the imported good if the importer did not make a claim for preferential tariff treatment at the time of importation and the good concerned would have qualified at the time of importation for such claim as originating in accordance with Article 3.2.

2. The importer shall make a claim for preferential tariff treatment no later than one year after the date of importation. As a condition for granting preferential tariff treatment pursuant to paragraph 1, a Party may require that the importer:

(a) provides a copy of the statement of origin for the good concerned;

(b) submits all other documents necessary for the importation of the good; and

(c) declares that the good was originating at the time of importation.

ARTICLE 3.18

Conditions for Making out a Statement on Origin

1. A statement on origin as referred to in Article 3.16.2 may be made out by an exporter registered:

(a) in Mexico, as an exporter authorised by the competent governmental authority subject to any conditions which are considered appropriate to verify the originating status of the goods as well as the fulfilment of the other requirements of this Chapter; and

(b) in the European Union, as an exporter in accordance with the relevant European Union law (Registered Exporter System).

2. The customs authorities or the competent governmental authority shall grant to the registered exporter a number which shall appear on the statement on origin. The customs authorities or the competent governmental authority shall manage the registration process and may withdraw the registration in case of improper use by the exporter.

3. A statement on origin as referred to in Article 3.16.2 may be made out by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed 6 000 euros.

4. The exporter shall make out a statement on origin using one of the linguistic versions of Annex 3-B on an invoice or any other commercial document that describes the originating good in sufficient detail to enable its identification.

5. Statements on origin shall bear the original signature of the exporter in manuscript. An exporter registered in accordance with paragraph 1 shall not be required to sign such statements provided that the exporter accepts full responsibility towards the customs authorities or the competent governmental authority of the exporting Party for any statement on origin which identifies the exporter as if the statement on origin was signed in manuscript by that exporter.

6. The exporter making out a statement on origin shall be prepared to submit at any time, at the request of the customs authorities or the competent governmental authority of the exporting Party, all appropriate documents proving the originating status of the products concerned as well the fulfilment of the other requirements of this Chapter.

7. The exporter may make out a statement on origin when the goods to which it relates are exported or after exportation.

ARTICLE 3.19

Validity of the Statement on Origin

1. A statement on origin shall be valid for one year after the date it was made out.

2. A statement on origin may apply to:

(a) a single shipment of a product; or

(b) multiple shipments of identical products within any period specified in the statement on origin not exceeding 12 months.

ARTICLE 3.20

Importation by Instalments

If, at the request of an importer and in accordance with the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled goods within the meaning of General Rule 2(a) for the interpretation of the Harmonized System falling within Sections XV to XXI of the Harmonized System are imported by instalments, a single statement on origin for those goods shall be submitted, as required by the customs authorities, on the importation of the first instalment.

ARTICLE 3.21

Discrepancies and Minor Errors

1. Minor discrepancies between the statement on origin and the documents submitted to the customs office for carrying out the formalities for importing the goods shall not, because of that fact, render the statement on origin null and void, if it is duly established that this document corresponds to the products concerned.

2. The customs authorities of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors in the statement on origin, such as typing errors.

ARTICLE 3.22

Record Keeping Requirements

1. An importer claiming preferential tariff treatment for a good imported into a Party shall possess and keep the statement on origin made out by the exporter for three years after the date of importation of the product or for a longer period as the importing Party may specify.

2. An exporter who made out a statement on origin shall possess and keep a copy of the statement on origin, and of all other records demonstrating that the product satisfies the requirements to obtain originating status, for three years following the making out of that statement on origin, or for a longer period of time as the exporting Party may specify.

3. The records to be kept in accordance with this Article may be held in electronic form.

ARTICLE 3.23

Exemptions from the Statement on Origin

1. Goods sent as low-value packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating goods without requiring a statement on origin, provided that those goods are not imported by way of trade and have been declared as meeting the requirements of this Chapter, and that there is no doubt as to the veracity of that declaration.

2. Imports, which are occasional and consist solely of products for the personal use of the recipients or travellers or their families, shall not be considered as imports by way of trade if, from the nature and quantity of the goods, it is evident that no commercial purpose is intended, provided the importation does not form part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirement for a statement on origin.

3. The total value of the goods referred to in paragraph 1 shall not exceed 500 euros or its equivalent amount in the currency of the Party in the case of low value packages, or 1 200 euros or its equivalent amount in the currency of the Party in the case of goods which are part of a travellers' personal luggage.

4. Nothing in this Article shall be construed as preventing a Party from adopting appropriate customs controls to ensure compliance with the provisions set out in paragraphs 1 to 3.

ARTICLE 3.24

Verification of Origin and Administrative Cooperation

1. The Parties shall provide each other the addresses and contact information of the customs authorities or the competent governmental authority responsible for verifying the statements on origin.

2. In order to ensure the proper application of this Chapter, the Parties shall assist each other, through their customs authorities or the competent governmental authority, to verify whether goods are originating as well as the authenticity of the statements on origin and the accuracy of the information provided in those statements.

3. Verifications of the statements on origin shall be carried out at random or whenever the customs authorities of the importing Party have reasonable doubts as to the authenticity of the statements, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter.

4. For the purposes of implementing the provisions of paragraph 3, the customs authorities of the importing Party shall request in writing a verification of origin to the customs authority or the competent governmental authority of the exporting Party, by providing:

(a) the identity of the customs authority issuing the request;

(b) the name of the exporter to be verified;

(c) the subject and scope of the verification; and

(d) a copy of the statement on origin and, if applicable, any other relevant documentation.

5. The customs authority or the competent governmental authority of the exporting Party shall carry out the verification. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check that they consider appropriate.

6. The customs authority or the competent governmental authority of the exporting Party shall inform the customs authority requesting the verification of the results of this verification as soon as possible. The results shall be presented in a written report that clearly indicates whether the goods concerned can be considered as originating, the statement on origin is authentic and the other requirements of this Chapter are fulfilled. That written report shall include:

(a) the results of the verification;

(b) the description of the goods subject to verification and the tariff classification relevant for the application of the rules of origin;

(c) a description and explanation of the rationale concerning the originating status of the good; and

(d) if available, supporting documentation.

7. If in cases of reasonable doubts there is no reply within 10 months after the date of the verification request, or if the reply does not contain sufficient information to determine the authenticity of the document in question or the origin of the good, the requesting customs authority is entitled, except in exceptional circumstances, to refuse to grant preferential tariff treatment.

8. The importing Party shall notify the exporting Party within 60 days after the receipt of the written report, if there are differences in relation to the verification procedures of this Article, or in relation to the interpretation of the rules of origin, in determining whether a good qualifies as originating, and those differences can not be resolved through consultations between the customs authority requesting the verification and the customs authority or competent governmental authority responsible for performing the verification.

9. At the request of either Party, the Parties shall hold and conclude consultations within 90 days after the date of the notification referred to in paragraph 8 to resolve those differences. The period for concluding consultations may be extended, on a case by case basis, by mutual written consent between the Parties. The Parties shall seek to resolve those differences within the Sub-Committee on Customs, Trade Facilitation and Rules of Origin established by Article 33.4.1(d) (Sub-Committees and Other Bodies).

10. This Chapter does not prevent a customs authority of a Party from taking any other action that it considers necessary, pending a resolution of the differences referred in paragraph 8 under this Agreement.

ARTICLE 3.25

Confidentiality

1. Each Party shall maintain, in accordance with its law, the confidentiality of information provided by the other Party pursuant to this Chapter and shall protect that information from disclosure.

2. The customs authorities or the competent governmental authority of the importing Party may only use the information obtained from the other Party for the purposes of this Chapter.

3. The customs authorities or the competent governmental authority of the exporting Party shall not disclose confidential business information obtained from the exporter, unless otherwise provided for in this Chapter.

4. The importing Party shall not use the information obtained by its customs authority pursuant to this Chapter in any criminal proceedings carried out by a court or a judge, unless the exporting Party is formally informed in writing by the importing Party about the information it intends to use and the justification for the usage, and provided that no objection is raised by the exporting Party.

5. Nothing in this Agreement shall be construed as precluding a Party from using confidential information for the purposes of administration or enforcement of customs law related to this Chapter, or as otherwise required by law of the Party, including in administrative, quasi-judicial or judicial proceedings.

ARTICLE 3.26

Administrative Measures and Sanctions

A Party shall impose administrative measures and sanctions on any person who made out a document, or causes a document to be made out, which contains incorrect information for the purposes of obtaining a preferential tariff treatment for goods.

SECTION C

Other Provisions

ARTICLE 3.27

Application of the Chapter to Ceuta and Melilla

1. For the purposes of this Chapter, in the case of the European Union, the term "Party" does not include Ceuta and Melilla.

2. Originating goods of Mexico, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs treatment under this Agreement as that which is applied to goods originating in the customs territory of the European Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Union. Mexico shall grant to imports of goods covered by the Agreement and originating in Ceuta and Melilla the same customs treatment as that which is granted to goods imported from and originating in the European Union.

3. The rules of origin and origin procedures referred to in this Chapter shall apply *mutatis mutandis* to goods exported from Mexico to Ceuta and Melilla and to goods exported from Ceuta and Melilla to Mexico.

4. Ceuta and Melilla shall be considered as a single territory.

5. The exporter shall enter "Mexico" or "Ceuta and Melilla" in field 3 of the text of the statement on origin, depending on the origin of the good.

6. The Spanish customs authorities shall be responsible for the application and implementation of this Chapter in Ceuta and Melilla.

ARTICLE 3.28

The Principality of Andorra and the Republic of San Marino

The preferential tariff treatment of originating goods of Andorra and of San Marino and the determination of the origin of those goods are set out in Annex 3-C.

ARTICLE 3.29

Explanatory Notes

Explanatory notes regarding the interpretation, application and administration of this Chapter are set out in Annex 3-D.

ARTICLE 3.30

Transitional Provisions

1. For goods for which a claim for preferential tariff treatment and importation was made before the entry into force of this Agreement, the rules and conditions set out in Annex III to Decision No. 2/2000 of the EC-Mexico Joint Council of 23 March 2000 and its Appendices I to V shall be applicable for a maximum period of three years after the entry into force of this Agreement.

2. A proof of origin issued in accordance with the provisions of Annex III to Decision No. 2/2000 of the EC-Mexico Joint Council of 23 March 2000 and its Appendices I to V, for goods for which a claim for preferential tariff treatment has not been made by the date of entry into force of this Agreement, shall not be valid.

3. For goods which, at the entry into force of this Agreement, are either in transit from the exporting Party to the importing Party or under customs control in the importing Party without payment of import duties and taxes, a claim for preferential tariff treatment shall be made in accordance with Article 3.16, provided those goods fulfil the requirements of this Chapter.

ARTICLE 3.31

Amendments to the Chapter

The Trade Council may modify by decision the provisions of the Chapter and Annexes 3-A to 3-D.

ARTICLE 3.32

The Sub-Committee on Customs, Trade Facilitation and Rules of Origin

For the purposes of the effective implementation and operation of this Chapter, the functions of the Sub-Committee on Customs, Trade Facilitation and Rules of Origin are those listed in Article 4.17 (Sub-Committee on Customs, Trade Facilitation and Rules of Origin).

CHAPTER 4

CUSTOMS AND TRADE FACILITATION

ARTICLE 4.1

General Objectives

1. The Parties recognise the importance of customs and trade facilitation in the evolving global trading environment.

2. The Parties recognise that, for their import, export and transit requirements and procedures, they should take into consideration customs and international trade instruments and standards applicable in the area of customs and trade, such as the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures done at Kyoto on the 18 May 1973 and adopted by the World Customs Organization Council in June 1999, the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983, as well as the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization adopted in June 2005 (hereinafter referred to as "SAFE Framework of Standards") and the Customs Data Model of the World Customs Organization.

3. The Parties recognise that their laws and regulations shall be non-discriminatory, and that customs procedures shall be based upon the use of modern methods and effective controls to achieve the protection and facilitation of legitimate trade.

4. The Parties also recognise that their customs procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives and that they should be applied in a manner that is predictable, consistent and transparent.

5. In order to ensure transparency, efficiency, integrity and accountability of operations, each Party shall:

(a) simplify and review requirements and formalities wherever possible with a view to the rapid release and clearance of goods;

(b) work towards the further simplification and standardisation of data and documentation required by customs and other agencies, in order to reduce the time and costs thereof for traders or operators, including small and medium-sized enterprises; and

(c) ensure that the highest standards of integrity be maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments in the field of customs and trade facilitation.

6. The Parties agree to reinforce their cooperation with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.

ARTICLE 4.2

Transparency and Publication

1. Each Party shall provide, as appropriate, for regular consultations between border agencies and traders or other stakeholders within its territory.

2. Each Party shall promptly publish, in a non-discriminatory and easily accessible manner, including online and to the extent possible in the English language, its laws, regulations and general administrative procedures and guidelines, related to customs and trade facilitation matters. Those matters include:

(a) import, export and transit procedures, including port, airport and other entry-point procedures, and required forms and documents;

(b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

(d) rules for the classification or valuation of goods for customs purposes;

(e) laws, regulations and administrative rulings of general application relating to rules of origin;

(f) import, export or transit restrictions or prohibitions;

(g) penalty provisions against breaches of import, export or transit formalities;

(h) appeal procedures;

(i) agreements or parts thereof with any country or countries relating to importation, exportation or transit;

(j) procedures relating to the administration of tariff quotas;

(k) hours of operation and operating procedures for customs offices at ports and border crossing points; and

(l) enquiry points for information enquiries.

3. Each Party shall provide, in accordance with its laws and regulations, opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to customs and trade facilitation matters.

4. Each Party shall ensure, in accordance with its laws and regulations, that new or amended laws and regulations of general application related to customs and trade facilitation or any information thereon are made publicly available, as early as possible before their entry into force, in order to enable traders and other interested persons to become acquainted with them.

5. Each Party may provide that paragraphs 3 and 4 do not apply to changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 3 and 4, measures applied in urgent circumstances or minor changes to its domestic law and legal system.

6. Each Party shall establish or maintain one or more enquiry points to address enquiries of traders and other interested persons concerning customs and other trade facilitation matters and shall make information concerning the procedures for making such enquiries publicly available online.

7. A Party shall not require the payment of a fee for answering enquiries or providing required forms and documents.

8. The enquiry points shall provide an answer to enquiries and provide the forms and documents within a reasonable time period set by each Party, which may vary depending on the nature or complexity of the enquiry.

ARTICLE 4.3

Data and Documentation Requirements

1. With a view to simplifying and minimising the incidence and complexity of import, export and transit formalities, data and documentation requirements, each Party shall ensure, as appropriate, that those formalities, data and documentation requirements:

(a) are adopted and applied with a view to a rapid release of goods, provided the conditions for the release are fulfilled;

(b) are adopted and applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

(c) are the least trade-restrictive alternative, if two or more alternatives were reasonably available for fulfilling the policy objective or objectives in question; and

(d) are not maintained, including parts thereof, if no longer required.

2. Each Party shall apply common customs procedures and uniform customs data and documentation requirements for the release of goods throughout its territory. Nothing in this paragraph precludes a Party from differentiating its customs procedures and data and documentation requirements based on elements such as risk management, the nature and type of goods, or means of transport.

ARTICLE 4.4

Automation and Use of Information Technology

1. Each Party shall:

(a) use information technologies that expedite procedures for the release of goods in order to facilitate trade between the Parties;

(b) make electronic systems accessible to customs users;

(c) allow a customs declaration to be submitted in electronic format; and

(d) use electronic or automated risk-management systems.

2. Each Party shall adopt or maintain procedures allowing the electronic payment of duties, taxes, fees and charges collected by customs authorities incurred upon importation and exportation.

ARTICLE 4.5

Release of Goods

1. Each Party shall adopt or maintain procedures that:

(a) provide for the prompt release of goods within a period no longer than required to ensure compliance with its customs law and other trade-related laws and regulations;

(b) provide for advance electronic submission and processing of customs data and documentation and any other information prior to the arrival of the goods in order to enable 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 for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if that determination is not done prior to or promptly upon arrival, provided that all other regulatory requirements have been met; before releasing the goods, a Party may require that an importer provides sufficient guarantee in the form of a surety, a deposit, or other appropriate instrument, which shall not be higher than the amount required to secure payment of customs duties, taxes, fees and charges due for the goods covered by the guarantee and that shall be discharged when that guarantee is no longer required.

2. Each Party may adopt or maintain measures allowing traders or operators to benefit from further simplification of customs procedures, in accordance with its laws and regulations.

ARTICLE 4.6

Risk Management

1. Each Party shall adopt or maintain a risk-management system for customs control that enables its customs authorities to focus their inspection activities on high-risk consignments and expedite the release of low-risk consignments.

2. Each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

3. Each Party shall base risk management on the assessment of risk through appropriate selectivity criteria.

4. Each Party may also select, on a random basis, consignments for customs controls as part of its risk management.

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

ARTICLE 4.7

Advance Rulings

1. An advance ruling is a written decision provided by a Party through its customs authorities to an applicant prior to the importation into its territory of a good covered by the application that sets out the treatment that the Party shall provide to the good at the time of importation with regard to:

(a) the tariff classification of the good;

(b) the origin of the good[17]; and

(c) any other matters as the Parties may agree.

2. A Party shall issue the advance ruling in a reasonable, time-bound manner to the applicant that has submitted an application, including in electronic format, provided it contains all necessary information in accordance with the laws and regulations of that Party. A Party may request a sample of the good for which the applicant is seeking an advance ruling.

3. The advance ruling shall be valid for at least three years after its issuance unless the law, facts or circumstances supporting that ruling have changed.

[17] According to the Agreement on Rules of Origin of the WTO or Chapter 3 (Rules of Origin and Origin Procedures) of this Agreement.

4. 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 an administrative or judicial review, or if the application is not based on real and concrete facts, or does not relate to any intended use of the advance ruling. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

5. Each Party shall publish, at least:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

(b) the time limit by which it will issue an advance ruling; and

(c) the period of time for which the advance ruling will be valid.

6. If a Party revokes, modifies or annuls an advance ruling, it shall notify the applicant in writing setting out the relevant facts and the basis for its decision. A Party may only revoke, modify or annul an advance ruling with retroactive effect if the ruling was based on incomplete, incorrect, inaccurate, false or misleading information provided by the applicant.

7. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant and also on the applicant.

8. A Party shall provide, upon written request of an applicant, a review of the advance ruling or of the decision to revoke, modify or annul it.

9. Subject to any confidentiality requirements in its laws and regulations, a Party shall endeavour to make the substantive elements of its advance rulings publicly available, including online.

ARTICLE 4.8

Authorised Economic Operators

1. Each Party shall establish or maintain for operators who meet specified criteria (authorised economic operators, hereinafter referred to as "AEO") a trade facilitation partnership programme (hereinafter referred to as "AEO programme") in accordance with the SAFE Framework of Standards.

2. The specified criteria[18] to qualify as AEO shall be published and relate to compliance, or the risk of non-compliance, with the requirements specified in each Party's laws, regulations or procedures.

[18] A Party may use the criteria provided for in Article 7.7.2 of the WTO Agreement on Trade Facilitation.

3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail and shall allow the participation of small and medium-sized enterprises.

4. The AEO programme shall include specific benefits for AEO, taking into account the commitments of the Parties in accordance with Article 7.7.3 of the WTO Agreement on Trade Facilitation, adopted on 27 November 2014.

5. The Parties shall cooperate in establishing, if relevant and appropriate, the mutual recognition of their AEO programmes, provided that the programmes are compatible and based on equivalent criteria and benefits.

ARTICLE 4.9

Review or Appeal

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against a decision on a customs matter.

2. Each Party shall ensure that a person to whom it issues a decision on a customs matter has access within its territory to:

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

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

3. Each Party shall provide that a person who has applied to the customs authorities for a decision and has not obtained a decision on that application within the relevant time limits has the right of appeal.

4. Each Party shall provide that the person referred to in paragraph 2 receives an administrative decision with the reasons for that decision, so as to enable that person to have recourse to review or appeal procedures if necessary.

ARTICLE 4.10

Penalties

1. Each Party shall provide for penalties for failure to comply with its laws, regulations or procedural requirements related to customs or other legislation for the importation, exportation and transit of goods.

2. Each Party shall ensure that its customs laws and regulations provide that any penalties imposed for breaches of its customs laws, regulations or procedural requirements be proportionate and non-discriminatory.

3. Each Party shall ensure that a penalty imposed by its customs authorities for a breach of its customs laws, regulations or procedural requirements is imposed only on the person legally responsible for the breach.

4. Each Party shall ensure that the penalty imposed depends on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.

5. Each Party shall avoid incentives or conflicts of interest in the assessment and collection of penalties and duties.

6. Each Party is encouraged to consider voluntary disclosure prior to the discovery by the customs authorities of a breach of its customs laws, regulations or procedural requirements, as a potential mitigating factor when establishing a penalty.

7. Each Party shall ensure that if a penalty is imposed for a breach of its customs laws, regulations or procedural requirements, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure pursuant to which the amount or range of the penalty for the breach has been imposed.

8. Each Party shall provide in its laws, regulations or procedures a fixed period within which its customs authorities may initiate proceedings to impose a penalty relating to a breach of its customs laws, regulations or procedures.

ARTICLE 4.11

Customs Cooperation and Mutual Administrative Assistance

1. The Parties shall ensure that their respective authorities cooperate on customs matters in order to ensure that the objectives set out in Article 4.1 are attained.

2. The Parties shall cooperate, among others, through:

(a) exchanging information concerning their customs laws and regulations and their implementation, and customs procedures, particularly in the following areas:

(i) simplification and modernisation of customs procedures;

(ii) border enforcement measures applied by their customs authorities;

(iii) facilitation of transit movements and transhipment;

(iv) dialogue with the business community; and

(v) supply chain security and risk management;

(b) working together on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework of Standards, including with respect to their AEO programmes and their mutual recognition referred to in Article 4.8;

(c) considering developing joint initiatives relating to import, export, other customs procedures and trade facilitation including technical assistance;

(d) strengthening their cooperation in the field of customs in international organisations such as the WTO and the World Customs Organization (hereinafter referred to as "WCO");

(e) establishing minimum standards, to the extent practicable, for risk-management techniques and related requirements and programmes; if relevant and appropriate, the Parties shall also consider mutual recognition of risk-management techniques, risk standards and security controls;

(f) endeavouring to harmonise their data requirements for import, export and other customs procedures by implementing common standards and data elements in accordance with the WCO Data Model; and

(g) maintaining a dialogue between their respective policy experts to promote the utility, efficiency and applicability of advance rulings.

3. The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of the Annex on Mutual Administrative Assistance in Customs Matters adopted by the Decision No 5/2004 of the EU-Mexico Joint Council of 15 December 2004, which is hereby incorporated and made part of this Agreement. Any exchange of information between the Parties in accordance with this Chapter shall be subject to the confidentiality of information and personal data protection requirements provided for in Article 10 of that Annex, *mutatis mutandis*, and to any confidentiality and privacy requirements provided for in the respective laws and regulations of the Parties.

ARTICLE 4.12

Single Window

1. Each Party shall endeavour to develop or maintain single window systems to facilitate a single electronic submission of all information required by customs and other legislation for the import, export and transit of goods.

2. The Parties shall endeavour to work together towards the interoperability and streamlining of their single window systems, including by sharing their respective experiences in developing and deploying their single window systems.

ARTICLE 4.13

Transit and Transhipment

1. Each Party shall ensure the facilitation and effective control of transit movements and transhipment operations through its territory.

2. Each Party shall endeavour to promote and implement regional transit arrangements with a view to facilitating trade between the Parties.

3. Each Party shall ensure that all concerned authorities and agencies in its territory cooperate and coordinate to facilitate traffic in transit.

4. Each Party shall allow goods intended for import to be moved under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 4.14

Post-Clearance Audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with its customs laws and regulations.

2. Each Party shall conduct post-clearance audits in a risk-based manner.

3. Each Party shall conduct post-clearance audits in a transparent manner. If an audit is conducted and conclusive results have been achieved, the Party shall notify, without delay, the person whose record is audited of the results, the reasons for the results and the rights and obligations of the audited person.

4. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative or judicial proceedings.

5. The Parties shall, to the extent practicable, use the result of a post-clearance audit in applying risk management.

ARTICLE 4.15

Customs Brokers

1. A Party shall not require in its customs laws and regulations the mandatory use of customs brokers.

2. Each Party shall publish its measures on the use of customs brokers.

3. Each Party shall apply transparent and objective rules if and when licensing customs brokers.

ARTICLE 4.16

Preshipment Inspections

A Party shall not require the mandatory use of pre-shipment inspections as defined in the WTO Agreement on Preshipment Inspection, in relation to tariff classification and customs valuation[19].

ARTICLE 4.17

Sub-Committee on Customs, Trade Facilitation and Rules of Origin

1. The Sub-Committee on Customs, Trade Facilitation and Rules of Origin shall report to the Trade Committee.

2. The Sub-Committee on Customs, Trade Facilitation and Rules of Origin established pursuant to Article 33.4.1(d) (Sub-Committees and Other Bodies) shall ensure the proper functioning of this Chapter, Chapter 3 (Rules of Origin and Origin Procedures), the Annex on Mutual Administrative Assistance in customs matters referred to in Article 4.11.3 and any additional customs-related provisions agreed between the Parties, and examine all matters arising from their application.

[19] For greater certainty, this Article does not preclude preshipment inspections for sanitary and phytosanitary purposes.

3. The Sub-Committee shall:

(a) prepare appropriate recommendations, as necessary, to the Trade Committee on:

(i) the implementation and administration of Chapter 3 (Rules of Origin and Origin Procedures); and

(ii) any amendments to Chapter 3 (Rules of Origin and Origin Procedures);

(b) adopt explanatory notes to facilitate the implementation of Chapter 3 (Rules of Origin and Origin Procedures);

(c) monitor the implementation and administration of this Chapter;

(d) provide a forum to consult and discuss all matters concerning customs, including in particular customs procedures, customs valuation, tariff regimes, customs nomenclature, customs cooperation and mutual administrative assistance in customs matters;

(e) provide a forum to consult and discuss matters relating to rules of origin, origin procedures and administrative cooperation;

(f) enhance cooperation on the development, application and enforcement of customs procedures, mutual administrative assistance in customs matters, rules of origin, origin procedures and administrative cooperation; and

(g) consider any other matter related to this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) as the Parties may agree.

4. The Sub-Committee on Customs, Trade Facilitation and Rules of Origin may examine the need for, and prepare for the Trade Council, decisions or recommendations on all matters arising from the implementation of this Chapter. The Trade Council shall have the power to adopt decisions on the implementation of this Chapter as appropriate, including in what concerns AEO programmes and their mutual recognition, joint initiatives relating to customs procedures and trade facilitation, and technical assistance.

5. The Parties may agree to hold *ad hoc* meetings for matters concerning customs cooperation, rules of origin or mutual administrative assistance.

CHAPTER 5

TRADE REMEDIES

SECTION A

Anti-Dumping and Countervailing Measures

ARTICLE 5.1

General Provisions

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

2. For the purposes of the application of provisional and definitive measures, the origin of the goods concerned shall be determined in accordance with the non-preferential rules of origin of each Party.

ARTICLE 5.2

Transparency and Due Process

1. Each Party shall conduct its procedures and apply anti-dumping and countervailing measures in a fair and transparent manner, in accordance with the relevant provisions of the Anti-Dumping Agreement and the SCM Agreement.

2. Each Party shall inform all interested parties, at a preliminary stage of the proceedings, and in any event before a final determination is made, of the essential facts under consideration, which form the basis for the decision whether to apply final measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement.

3. Each Party shall grant each interested party in an anti-dumping or countervailing duty investigation, full opportunity to defend its interests, provided it does not unduly delay the conduct of the investigation.

4. The definition of interested parties provided for in Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement applies.

ARTICLE 5.3

Imposition of Anti-Dumping and Countervailing Duties

The decision whether the amount of the anti-dumping or countervailing duty to be imposed shall be the full margin of dumping or amount of subsidy, or a lesser amount, is to be made by the authorities of the importing Party in accordance with the law of that Party.

ARTICLE 5.4

Final Determination

A Party shall, when making a final determination, take into account the information duly provided by all interested parties considered as such in accordance with its law.

ARTICLE 5.5

Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 31 (Dispute Settlement) concerning the interpretation or application of the provisions of this Section.

SECTION B

Global Safeguard Measures

ARTICLE 5.6

General Provisions

Each Party retains its rights and obligations pursuant to Articles XIX of GATT 1994 and 5 of the Agreement on Agriculture as well as under the Safeguards Agreement.

ARTICLE 5.7

Transparency

1. Notwithstanding Article 5.6, the Party initiating a global safeguard investigation or intending to impose global safeguard measures shall immediately provide, at the request of the other Party and provided the latter has a substantial interest, *ad hoc* written notification of all relevant information leading to the initiation of the global safeguard investigation or the imposition of global safeguard measures, including on the provisional findings, where relevant. This is without prejudice to Article 3.2 of the Agreement on Safeguards.

2. A Party imposing global safeguard measures shall endeavour to impose them in a way that least affects bilateral trade.

3. For the purposes of paragraph 2, if a Party considers that the legal requirements for the imposition of definitive safeguard measures are met, and intends to impose such measures, it shall notify the other Party and give the possibility to hold bilateral consultations. If no satisfactory solution has been reached within 30 days after the notification, the importing Party may adopt the definitive safeguard measure appropriate to remedy the problem.

4. For the purposes of this Article, a Party is deemed to have a substantial interest if it is among the five largest suppliers of the imported good during the most recent three-year period, measured in terms of either absolute volume or value.

ARTICLE 5.8

Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 31 (Dispute Settlement) concerning the interpretation or application of the provisions of this Section referring to rights and obligations under the WTO Agreement.

SECTION C

Bilateral Safeguard Measures

SUB-SECTION C.1

General Provisions

ARTICLE 5.9

Definitions

For the purposes of Section C:

(a) "competent investigating authority" means:

(i) in the case of the European Union, the European Commission; and

(ii) in the case of Mexico, the "Unidad de Prácticas Comerciales Internacionales de la Secretaría de Economía" (International Trade Practices Unit of the Ministry of the Economy), or its successor;

(b) "domestic industry" means, with respect to an imported product, the producers as a whole of the like or directly competitive products operating within the territory of a Party, or those producers whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products;

(c) "like product" means a product which is identical, that is alike in all respects, to the product under consideration, or in the absence of such product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration;

(d) "directly competitive product" means a product which may not be alike in all respects, but has a high degree of substitutability with the product under consideration as it fulfils the same functions[20];

(e) "serious injury" means a significant overall impairment of the position of a domestic industry;

(f) "threat of serious injury" means serious injury that, based on facts and not merely on allegation, conjecture or remote possibility, is clearly imminent; and

[20] In that regard, the authorities may analyse aspects such as the physical characteristics of those products, their technical specifications, final uses and channels of distribution. That list of aspects is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

(g) "transition period" means:

(i) a period of 10 years from the date of entry into force of this Agreement; or

(ii) the tariff elimination period for the goods set out in the tariff elimination schedule of a Party in Annex 2-A (Tariff Elimination Schedule), provided the tariff elimination period for the good concerned is 10 or more years, plus three years.

ARTICLE 5.10

Application of a Bilateral Safeguard Measure

1. Notwithstanding Section B, if as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of a Party is being imported into the territory of the other Party 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 like or directly competitive products, the importing Party may impose the measures provided for in paragraph 2 under the conditions and in accordance with the procedures established in this Section.

2. If the conditions in paragraph 1 are met, the importing Party may only impose bilateral safeguard measures which:

(a) suspend the further reduction of the rate of customs duty on the product concerned as provided for under this Agreement; or

(b) increase the rate of customs duty on the product concerned to a level which does not exceed the lesser of:

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

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

3. The Parties share the understanding that neither tariff rate quotas nor quantitative restrictions would be a permissible form of bilateral safeguard measure.

ARTICLE 5.11

Conditions and Limitations

1. A Party shall not apply a bilateral safeguard measure:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy the situations described in Articles 5.10 or 5.15;

(b) for a period exceeding two years; or

(c) beyond the expiration of the transition period.

The period referred to in subparagraph (b) may be extended by another year if the competent authorities of the importing Party determine, in conformity with the procedures specified in Section C, that the measure continues to be necessary to prevent or remedy the situations described in Articles 5.10 or 5.15 and to facilitate adjustment, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, does not exceed three years.

2. A Party shall only apply a bilateral safeguard measure to originating goods set out in Annex 2-A (Tariff Elimination Schedule), that are subject to preferential treatment under this Agreement.

3. In order to facilitate any adjustment in a situation where the expected duration of a bilateral safeguard measure exceeds one year, the Party that applies the measure shall, during the period of application, progressively liberalise the measure at regular intervals.

4. When a Party ceases to apply a bilateral safeguard measure, the rate of customs duty shall be the rate that would have been in effect for the product in accordance with Article 2.4 (Elimination or Reduction of Customs Duties).

ARTICLE 5.12

Provisional Measures

1. In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis, without complying with the requirements of Article 5.22.1, pursuant to a preliminary determination that there is clear evidence that imports of an originating good of the other Party have increased as a result of the reduction or elimination of a customs duty under this Agreement, and that such imports cause or threaten to cause the situations described in Articles 5.10 or 5.15.

2. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the relevant procedural rules established in Sub-Section C.2. The Party shall promptly refund any tariff increases if the subsequent investigation described in Sub-Section C.2 does not result in the imposition of a definitive measure in compliance with the requirements of Articles 5.10 or 5.15. The duration of any provisional measure shall be counted as part of the period referred to in Article 5.11.1(b). The importing Party shall inform the other Party upon imposing such provisional measures and it shall immediately refer the matter to the Trade Committee for examination if the other Party so requests.

ARTICLE 5.13

Compensation and Suspension of Concessions

1. A Party applying a bilateral safeguard measure shall consult with the other Party in order to mutually agree on appropriate trade-liberalising compensation in the form of concessions having substantially equivalent trade effects. The Party applying a bilateral safeguard measure shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure.

2. If the consultations referred to in paragraph 1 do not result in an agreement on trade-liberalising compensation within 30 days after the start of the consultations, the Party affected by the bilateral safeguard measure may suspend the application of concessions which have trade effects substantially equivalent to the bilateral safeguard measure of the other Party no later than 90 days after the measure is applied.

3. The Party affected by the bilateral safeguard measure shall notify the other Party in writing at least 30 days prior to the suspension of concessions in accordance with paragraph 2.

4. The obligation to provide compensation pursuant to paragraph 1 and the right to suspend concessions pursuant to paragraph 2 expire on the date of termination of the bilateral safeguard measure.

ARTICLE 5.14

Use of Safeguard Measures and Time Lapse in Between Measures

1. A Party shall not apply a safeguard measure referred to in this Section to the import of a product that has previously been subject to such a measure, unless a period of time has elapsed that is equal to half of that during which the safeguard measure was applied for the immediately preceding period.

2. A Party shall not apply, with respect to the same product and during the same period:

(a) a bilateral safeguard measure or a provisional safeguard measure under this Agreement; and

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

ARTICLE 5.15

Outermost Regions

1. If any originating good of Mexico is being imported directly into the territory of one or several outermost regions of the European Union in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of the outermost region concerned, the European Union, after having examined alternative solutions, may exceptionally impose safeguard measures limited to the territory of the outermost region concerned.

2. Without prejudice to paragraph 1, all the provisions of Section C applicable to bilateral safeguard measures are also applicable to any safeguard measure adopted in relation to the outermost regions of the European Union.

3. A bilateral safeguard measure limited to the outermost regions of the European Union shall apply only to goods subject to preferential treatment under this Agreement.

4. For the purposes of paragraph 1, "serious deterioration" means major difficulties in a sector of the economy producing like or directly competitive products. The determination of serious deterioration shall be based on objective factors, including the following elements:

(a) the increase in the volume of imports in absolute terms or relative to domestic production and to imports from other sources; and

(b) the effect of such imports on the situation of the relevant industry or the economic sector concerned, including the levels of sales, production, financial situation and employment.

SUB-SECTION C.2

Procedural Rules Applicable to Bilateral Safeguard Measures

ARTICLE 5.16

Applicable Law

For the application of bilateral safeguard measures, the competent investigating authority shall comply with the provisions of this Sub-Section and, in cases not covered by this Sub-Section, apply the rules established under the law of the Party concerned, as long as those rules are in conformity with the provisions of Section C.

ARTICLE 5.17

Initiation of a Safeguard Procedure

1. A competent investigating authority may initiate a safeguard procedure upon a written application made by or on behalf of the domestic industry, or in exceptional circumstances, on its own initiative. In the case of the European Union that application can be filed by one or more Member States of the European Union on behalf of the domestic industry. The application shall be deemed to have been made by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50 % of the total production of the like or directly competitive products produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 % of total national production of the like or directly competitive products produced by the domestic industry.

2. Once the investigation has been initiated, the application referred to in paragraph 1 shall promptly be made available to whom it may concern, except for the confidential information contained therein.

3. Upon initiation of a safeguard procedure, the competent investigating authority shall publish a notice of initiation of the procedure in the official journal of the Party. The notice shall identify the entity which filed the written application, if applicable, the imported good concerned, its heading, subheading or the tariff item number under which it is classified under the Harmonized System, the nature and timing of the determination to be made, the period within which interested parties may make their views known in writing and submit information, the place at which the written application and any other non-confidential documents filed in the course of the procedure may be inspected and the name, address and telephone number of the office to be contacted for more information. In case the competent investigating authority decides to hold a public hearing, the time and place of that public hearing may be either included in the notice of initiation or notified at any subsequent stage of the procedure, provided that such notice is given well in advance. In case no public hearing is scheduled at the beginning of the investigation, the notice of initiation shall include the period within which interested parties may apply to be heard orally by the competent investigating authority.

4. With respect to a safeguard procedure initiated on the basis of a written application filed by an entity asserting that it is representative of the domestic industry, the competent investigating authority shall not publish the notice of initiation pursuant to paragraph 3 without first assessing carefully that the application meets the requirements of its law and the requirements of paragraph 1, and includes reasonable evidence that imports of an originating good of the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and that such imports cause or threaten to cause the alleged serious injury or the alleged serious deterioration in the economic situation.

ARTICLE 5.18

Investigation

1. A Party may apply a safeguard measure only following an investigation by the competent investigating authority of that Party pursuant to the procedures established in this Sub-Section. This investigation shall include reasonable public notice to all interested parties, and public hearings or other appropriate means in which importers, exporters and other interested parties can present evidence and their views, including the opportunity to respond to the presentations of other parties.

2. Each Party shall ensure that its competent investigating authority completes any such investigation within one year following its date of initiation.

ARTICLE 5.19

Determination of Serious Injury or Threat Thereof and Causal Link

1. In the investigation to determine whether increased imports cause or threaten to cause serious injury to a domestic industry, the competent investigating authority shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry, in particular the rate and amount of the increase in imports of the product concerned in absolute terms and relative to domestic production, the share of the domestic market taken by the increased imports, and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment.

2. The determination that increased imports cause or threaten to cause the situations described in Articles 5.10 or 5.15, shall not be made unless the investigation demonstrates, based on objective evidence, the existence of a clear causal link between the increased imports of the product concerned and the situations described in Articles 5.10 or 5.15. If factors other than the increased imports are, at the same time, causing the situations described in Articles 5.10 or 5.15, such injury or threat thereof, or serious deterioration in the economic situation or threat thereof, shall not be attributed to the increased imports.

ARTICLE 5.20

Hearings

In the course of each safeguard procedure, the competent investigating authority shall:

(a) hold a public hearing, after providing reasonable notice, to allow all interested parties considered as such under the law of the Party concerned, to appear in person or through counsel, to present evidence and to be heard on the serious injury or threat thereof, or on the serious deterioration in the economic situation or threat thereof, and the appropriate remedy; or

(b) alternatively, in the case of the European Union, provide an opportunity to all interested parties to be heard provided they have made a written application within the period set out in the notice of initiation showing that they are likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally.

ARTICLE 5.21

Confidential Information

Any information which is by nature confidential or which is provided on a confidential basis shall, upon good cause being shown, be treated as such by the competent investigating authority. Such information shall not be disclosed without permission of the party submitting it. Parties providing confidential information shall be requested to furnish non-confidential summaries thereof or, if those parties indicate that such information cannot be summarised, the reasons why a summary cannot be provided. The summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the submitted confidential information. However, if the competent investigating authority finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it may disregard such information unless it can be demonstrated to its satisfaction from appropriate sources that the information is correct.

ARTICLE 5.22

Adoption, Notification, Consultation and Publication

1. If a Party considers that one of the situations set out in Articles 5.10 or 5.15 exists, it shall immediately refer the matter to the Trade Committee for examination. The Trade Committee may make any recommendation required to remedy the situations that have arisen. If no recommendation has been made by the Trade Committee aimed at remedying the situations, or no other satisfactory solution has been reached within 30 days of the matter being referred to the Trade Committee, the importing Party may adopt the bilateral safeguard measure appropriate to remedy the situations in accordance with Section C.

2. The competent investigating authority shall provide the exporting Party with all relevant information, which shall include evidence of serious injury or threat thereof, or of a serious deterioration, or threat thereof, in the economic situation caused by increased imports, a precise description of the product involved and the proposed bilateral safeguard measure, the proposed date of imposition and the expected duration of the proposed bilateral safeguard measure.

3. A Party shall promptly notify the other Party, in writing, when it:

(a) initiates a bilateral safeguard procedure under Section C;

(b) decides to apply a provisional bilateral safeguard measure;

(c) determines the existence of serious injury or threat thereof, or the serious deterioration in the economic situation or threat thereof, caused by increased imports, pursuant to Article 5.19;

(d) decides to apply or extend a bilateral safeguard measure; and

(e) decides to modify a bilateral safeguard measure previously adopted.

4. If a Party makes a notification pursuant to subparagraph 3(a), such notification shall include:

(a) a copy of the public version of the application and its annexes or, in the case of investigations initiated on the initiative of the competent investigating authority, of the relevant documents showing that the requirements of Article 5.17 are met, as well as a questionnaire detailing the points on which the interested parties must provide information; and

(b) a precise description of the imported good concerned.

5. If a Party makes a notification pursuant to subparagraphs 3(b) or (c), it shall include a copy of the public version of its determination and, if applicable, of the document providing the technical reasoning on which the determination is based.

6. If a Party makes a notification pursuant to subparagraph 3(d) concerning the application or extension of a bilateral safeguard measure, it shall include in that notification:

(a) a copy of the public version of its determination and, if applicable, of the document providing the technical reasoning on which the determination is based;

(b) evidence of serious injury or threat thereof, or of a serious deterioration in the economic situation or threat thereof, caused by increased imports of an originating good of the other Party, as a result of the reduction or elimination of a customs duty under this Agreement;

(c) a precise description of the originating good subject to the bilateral safeguard measure, including its heading, subheading or the tariff line under which it is classified under the Harmonized System;

(d) a precise description of the bilateral safeguard measure applied or extended;

(e) the initial date of application of the bilateral safeguard measure, its expected duration and, if applicable, a timetable for progressive liberalisation of the measure; and

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

7. At the request of the Party affected by the bilateral safeguard procedure under Section C, the other Party shall hold consultations with the requesting Party to review a notification made pursuant to subparagraphs 3(a) or (b).

8. The Party intending to apply or extend a bilateral safeguard measure shall notify the other Party and give the possibility to hold prior consultations to discuss the eventual application or extension. If no satisfactory solution has been reached within 30 days after the date of the notification the former Party may apply or extend such measure.

9. The competent investigating authority shall also publish its findings and reasoned conclusions reached on all relevant matters of fact and law in the official journal of the Party concerned, including the description of the imported good and the situation which has given rise to the imposition of measures in accordance with Articles 5.10 or 5.15, the causal link between such situation and the increased imports, and the form, level and duration of the measures.

10. The competent investigating authorities shall treat any confidential information in full compliance with Article 5.21.

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 6.1

Definitions

1. For the purposes of this Chapter:

(a) "competent authorities" means the competent authorities of each Party referred to in Annex 6-A;

(b) "emergency measure" means a sanitary or phytosanitary measure that is applied by the importing Party to goods of the other Party to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise in the importing Party; and

(c) "WTO SPS Committee" means the Committee on Sanitary and Phytosanitary Measures established pursuant to Article 12 of the SPS Agreement.

2. The definitions in Annex A of the SPS Agreement, as well as those of the Codex Alimentarius (Codex), the World Organisation for Animal Health (hereinafter referred to as "WOAH") and the International Plant Protection Convention, signed in Rome on 6 December 1951 (hereinafter referred to as "IPPC") apply to this Chapter.

ARTICLE 6.2

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 trade between them;

(b) reinforce and further the implementation of the SPS Agreement;

(c) strengthen communication, consultation and cooperation between the Parties, in particular between their competent authorities;

(d) ensure that sanitary and phytosanitary measures implemented by the Parties do not create unnecessary barriers to trade;

(e) improve consistency, certainty and transparency of the sanitary and phytosanitary measures of each Party and their implementation; and

(f) encourage the development and adoption of international standards, guidelines and recommendations by the relevant international organisations and enhance the implementation thereof by the Parties.

ARTICLE 6.3

Scope

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

ARTICLE 6.4

Relation to the SPS Agreement

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

ARTICLE 6.5

Resources for Implementation

Each Party shall use the necessary resources to implement effectively this Chapter.

ARTICLE 6.6

Equivalence

1. The Parties acknowledge that the recognition of the equivalence of sanitary and phytosanitary measures of the other Party is an important means to facilitate trade.

2. The importing Party shall recognise sanitary and phytosanitary measures of the exporting Party as equivalent to its own measures if the exporting Party objectively demonstrates to the importing Party that its measures achieve the appropriate level of sanitary and phytosanitary protection of the importing Party.

3. The importing Party has the right to make the final determination as to whether a sanitary or phytosanitary measure applied by the exporting Party achieves its appropriate level of sanitary and phytosanitary protection.

4. A Party shall, when assessing or determining the equivalence of a measure of the other Party, take into account among others and if relevant:

(a) decisions of the WTO SPS Committee;

(b) the work of the relevant international organisations;

(c) any knowledge and past experience in trading with the other Party; and

(d) information provided by the other Party.

5. Each Party shall base its assessment, determination and maintenance of equivalence on standards, guidelines, and recommendations of the relevant international standardisation bodies or, as appropriate, on a risk assessment.

6. The importing Party shall promptly initiate the assessment to determine the equivalence if it receives a request for an equivalence assessment from the other Party that is supported by the required information.

7. When the importing Party concludes the equivalence assessment, it shall promptly notify its determination to the other Party.

8. When the importing Party has determined that it recognises the measure of the exporting Party as equivalent, the importing Party shall promptly initiate the necessary legislative or administrative measures to implement the recognition.

9. Without prejudice to Article 6.16, if a Party intends to adopt, modify or repeal a measure which is subject to an equivalence determination affecting trade between the Parties, that Party shall:

(a) notify the other Party of its intention at an appropriate early stage where any comments submitted from the other Party can be taken into account;

(b) provide, on request of the other Party, information and the rationale concerning its planned changes.

10. The importing Party shall maintain its recognition of equivalence for the time that the measure, which is subject to the intended change, remains in effect.

11. The Parties shall discuss the intended modifications notified pursuant to subparagraph 9(a) on the request of either Party. The importing Party shall review any information submitted pursuant to subparagraph 9(b) without undue delay.

12. If a Party adopts, modifies or repeals a sanitary or phytosanitary measure that is subject to an equivalence determination by the other Party, the importing Party shall maintain its recognition of equivalence provided that the measures of the exporting Party concerning the product continue to achieve the appropriate level of sanitary or phytosanitary protection of the importing Party. On request of a Party, the Parties shall promptly discuss the determination made by the importing Party.

ARTICLE 6.7

Risk Assessment

1. The Parties recognise the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific principles and conform to the relevant international standards, guidelines and recommendations.

2. If a Party considers that a specific sanitary or phytosanitary measure adopted or maintained by the other Party is constraining, or has the potential to constrain, its exports and that measure is not based on a relevant international standard, guideline or recommendation, or a relevant standard, guideline or recommendation does not exist, that Party may request information from the other Party. The requested Party shall provide to the requesting Party an explanation of the reasons and relevant information regarding that measure.

3. If the relevant scientific evidence is insufficient, a Party may provisionally adopt a sanitary or phytosanitary measure on the basis of available pertinent information including from the relevant international organisations. In such circumstances, that Party shall seek to obtain the additional information necessary for a more objective risk assessment and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.

4. Recognising the rights and obligations of the Parties pursuant to the relevant provisions of the SPS Agreement, nothing in this Chapter shall be construed as preventing a Party from:

(a) establishing the level of sanitary or phytosanitary protection it determines to be appropriate in accordance with Article 5 of the SPS Agreement;

(b) establishing or maintaining an approval procedure that requires a risk assessment to be conducted before that Party grants a product access to its market; or

(c) adopting or maintaining sanitary or phytosanitary precautionary measures in accordance with paragraph 7 of Article 5 of the SPS Agreement.

5. Each Party shall ensure that its sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between the Parties where identical or similar conditions prevail. A Party shall not apply sanitary and phytosanitary measures in a manner that would constitute a disguised restriction to trade between the Parties.

6. A Party conducting a risk assessment shall:

(a) take into account relevant guidance of the WTO SPS Committee and international standards, guidelines and recommendations;

(b) consider risk management options that are no more trade restrictive than required to achieve the level of sanitary or phytosanitary protection it has determined to be appropriate in accordance with paragraph 3 of Article 5 of the SPS Agreement, taking into account technical and economic feasibility, and

(c) take into account the objective of minimising negative effects on trade when determining the appropriate level of sanitary or phytosanitary protection in accordance with paragraph 4 of Article 5 of the SPS Agreement, and select a risk management option that is no more trade restrictive than required to achieve the sanitary or phytosanitary objective, taking into account technical and economic feasibility.

7. On request of the exporting Party, the importing Party shall inform the exporting Party of the progress made with regard to a specific risk assessment concerning a market access request of the exporting Party, and of any delay that may occur during the process.

8. Without prejudice to Article 6.16, a Party shall not stop the importation of a product of the other Party solely for the reason that the Party is undertaking a review of its sanitary or phytosanitary measures, if the importing Party permitted the importation of that product of the other Party at the time the review was initiated.

ARTICLE 6.8

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

General

1. The Parties recognise that the adaptation of sanitary and phytosanitary measures to regional pest or disease conditions is an important means to protect animal and plant life or health, and to facilitate trade.

2. The Parties shall recognise the concepts of pest- or disease- free areas and areas of low pest or disease prevalence. The determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.

3. The exporting Party claiming that areas within its territory are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Party that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For that purpose, the exporting Party shall, on request of the importing Party, provide reasonable access for inspection, testing and other relevant procedures.

4. When determining the areas referred to in paragraph 2 by regionalisation decisions, the Parties shall take into account the relevant guidance of the WTO SPS Committee and base their measures on international standards, guidelines and recommendations, or, in case those do not achieve the appropriate level of sanitary or phytosanitary protection of the Party, on a risk assessment appropriate to the circumstances.

5. For the determination of areas referred to in paragraph 2, the importing Party shall take into account any relevant information of and prior experience with the authorities of the exporting Party.

6. The importing Party may determine that an expedited process can be used to evaluate a request from the exporting Party for recognition of pest- or disease-free areas or areas of low pest or disease prevalence.

7. If the exporting Party does not agree with the determination of the importing Party, the importing Party shall provide a justification to the exporting Party.

8. On request of the importing Party, the exporting Party shall provide a full explanation and supporting data for the determinations and decisions covered by this Article. During those processes, the Parties shall endeavour to avoid unnecessary disruption to trade.

Animals, Animal Products and Animal By-Products

9. The Parties recognise the principle of zoning which they agree to apply in their trade. The Parties also recognise the official animal health status as determined by the WOAH.

10. The importing Party shall normally base its own determination of the animal health status of the exporting Party on the evidence provided by the exporting Party in accordance with the SPS Agreement and the WOAH Terrestrial Animal Health Code and the WOAH Aquatic Animal Health Code.

11. The importing Party shall assess any additional information received from the exporting Party without undue delay and normally within 90 days after receipt. The importing Party may request an on-site inspection to the exporting Party and shall carry out any inspection in accordance with the principles set out in Article 6.11 and within 90 days following receipt of the request for inspection by the exporting Party unless otherwise agreed between the Parties.

12. The Parties recognise the concept of compartmentalisation and shall cooperate on this matter.

Plants and Plant Products

13. The Parties recognise the concepts of pest free areas, pest free places of production and pest free production sites, as well as areas of low pest prevalence as means to protect plant life or health, and to facilitate trade as specified in relevant IPPC International Standards for Phytosanitary Measures (hereinafter referred to as "ISPM"), which they agree to apply to goods traded between them.

14. On request of the exporting Party, the importing Party shall, when adopting or maintaining phytosanitary measures, take into account pest free areas, pest free places of production, pest free production sites, as well as areas of low pest prevalence established by the exporting Party in accordance with the relevant international standards, guidelines and recommendations.

15. The exporting Party shall identify pest free areas, pest free places of production, pest free production sites or areas of low pest prevalence and provide that information to the other Party. On request, the exporting Party shall provide a full explanation and supporting data in accordance with the relevant ISPM or otherwise as appropriate.

16. Without prejudice to Article 6.16, the importing Party shall, in principle, base its own determination of the plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement and the relevant ISPM.

17. The importing Party shall assess any additional information received from the exporting Party without undue delay and normally within 90 days after receipt. The importing Party may request an on-site inspection to the exporting Party and shall carry out any inspection in accordance with the principles set out in Article 6.11 and within 6 months following receipt of the request for inspection by the exporting Party unless otherwise agreed between the Parties. When agreeing on a different period, the Parties shall take into account the biology of the pest and the crop concerned.

ARTICLE 6.9

Transparency

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

2. In implementing this Article, each Party shall take into account relevant guidance of the WTO SPS Committee as well as international standards, guidelines and recommendations.

3. 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 notify a proposed sanitary or phytosanitary measure which may affect trade between the Parties and normally allow at least 60 days after the notification for the other Party to provide written comments. If feasible and appropriate, that Party should allow more than 60 days for comments and shall consider any reasonable request from the other Party to extend the time period for comments. On request, the Party shall respond to the written comments of the other Party in an appropriate manner.

4. The Parties shall:

(a) pursue transparency as regards sanitary and phytosanitary measures applicable to trade;

(b) enhance mutual understanding of the sanitary or phytosanitary measures of each Party and their application; and

(c) exchange information on matters related to the development and application of sanitary or phytosanitary measures with a view to minimising their negative effects on trade between the Parties.

5. Each Party shall, on request of the other Party and normally within 15 days after the receipt of the request, provide information on:

(a) import requirements that apply for the import of specific products; and

(b) progress on the application for the approval of specific products.

6. The information referred to in subparagraph 4(c) and paragraph 5 is deemed to be provided if it has been made available by notification to the WTO in accordance with the relevant rules and procedures or if the information has been made available free of fees on a publicly accessible official website of the Party.

7. On request, a Party shall provide to the other Party the relevant information that the Party considered to develop the proposed measure, as appropriate and to the extent permitted by the confidentiality and privacy requirements of the Party providing the information.

8. A Party may request the other Party to discuss, if appropriate and feasible, about any trade concern in relation to a proposed sanitary or phytosanitary measure and about the availability of alternative, significantly less trade-restrictive approaches for achieving the objective of that measure.

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

10. Each Party shall ensure that the text or the notice of a sanitary or phytosanitary measure specifies the date on which the measure takes effect and the legal basis for the measure.

11. The exporting Party shall notify the importing Party in a timely and appropriate manner:

(a) of a significant sanitary or phytosanitary risk related to the current trade;

(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 pest or disease status, such as the presence and evolution of pests or diseases, including the application of regionalisation decisions; and

(d) 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 a period of more than six months between the date of publication of a sanitary or phytosanitary measure that may affect trade between the Parties 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 the other Party, on request, information on all sanitary or phytosanitary measures related to the importation of a product into its territory.

ARTICLE 6.10

Trade Facilitation

Approval Procedures

1. The Parties recognise that each Party has the right to develop and apply approval procedures to ensure the fulfillment of the appropriate level of sanitary and phytosanitary protection of the importing Party while minimising negative effects on trade.

2. Each Party shall ensure that all sanitary and phytosanitary approval procedures affecting trade between the Parties:

(a) are undertaken and completed without undue delay; and

(b) are not conducted in a manner which would constitute an arbitrary or unjustifiable discrimination against the other Party.

3. Each Party shall endeavour to ensure that products exported to the other Party meet the appropriate level of sanitary or phytosanitary protection of the importing Party. To that end, the exporting Party shall establish and carry out appropriate control measures, including risk-based on-site inspections where appropriate. The importing Party may require that the relevant competent authority of the exporting Party objectively demonstrates, to the satisfaction of the importing Party, that its import requirements are fulfilled.

4. If the importing Party requires a product to be approved prior to importation, that Party shall, on request of the exporting Party, promptly make available information about sanitary and phytosanitary import procedures. The importing Party shall in particular ensure that:

(a) the standard processing period of each procedure is published or that the anticipated processing period is communicated on request to the exporting Party;

(b) the competent authority of the importing Party, when receiving an application, promptly examines the completeness of the documentation and informs the exporting Party in a precise and complete manner of all missing elements;

(c) the competent authority of the importing Party transmits as soon as possible the results of the procedure in a precise and complete manner to the exporting Party so that corrective action, if necessary, may be taken;

(d) the competent authority of the importing Party proceeds, even if the application is missing elements, as far as practicable with the procedure if the exporting Party so requests; and

(e) the competent authority of the importing Party informs the exporting Party, on request, of the stage of the procedure including an explanation of any delay.

5. If a Party requires for the approval process a risk assessment, that Party shall under normal circumstances promptly, and normally within one year after the date of receipt of the required information for the exportation of the product, make that risk assessment available.

6. Each Party shall endeavour to apply reasonable timelines for all steps of its approval processes and shall promptly start those processes on receipt of an application from the other Party.

7. Each Party shall avoid unnecessary duplication and administrative burdens with respect to:

(a) any documentation, information or action that it requires of the applicant as part of its approval processes; and

(b) any information the Party evaluates as part of the approval processes.

8. Each Party shall promptly make available any changes to its required approval processes or related requirements. Except in duly justified circumstances related to its level of protection, each Party shall provide a transition period between the publication of any changes to its approval processes or related requirements and their entry into force to allow the other Party to become familiar with and adapt to such changes. Each Party shall endeavour to accommodate and avoid lengthening the approval process for applications submitted prior to the publication of the changes. If the change of the approval processes reduces burdens, the entry into force shall not be unnecessarily delayed.

9. On request, a Party shall provide, in a timely manner, to the other Party information on the stage of the approval procedure.

Specific Plant Health related Conditions

10. In accordance with applicable standards agreed under the IPPC, each Party shall maintain adequate information on its pest status, which may include surveillance, eradication and containment programmes and their results, in order to support the categorisation of pests and to justify phytosanitary import measures.

11. Each Party shall endeavour to establish and update a list of regulated pests for products for which a phytosanitary concern exists. The list shall contain:

(a) the quarantine pests not present within any part of its territory;

(b) the quarantine pests present but not widely distributed and under official control; and

(c) the regulated non-quarantine pests.

12. Each Party shall limit its import requirements for plants or plant products for which a phytosanitary concern exists to measures ensuring the absence of regulated pests. Such import requirements shall be applicable to the entire territory of the exporting Party taking into account the regional conditions.

13. Consignments of products for which phytosanitary measures exist shall be accepted on the basis of adequate guarantees provided by the exporting Party without pre-clearance programs. The importing Party may, based on a system approach, confer the related activities for the trade of products to the competent authority of the exporting Party.

14. The Parties shall only adopt phytosanitary measures that are technically justified, consistent with the pest risk involved and represent the least restrictive measures available.

15. For the purpose of implementing paragraphs 10 to 14, the Parties shall take into account the relevant ISPM.

Specific Sanitary and Phytosanitary Import Requirements

16. If several sanitary or phytosanitary measures are available to achieve the appropriate level of protection of the importing Party, the Parties shall, on request of the exporting Party, establish a technical dialogue with a view to avoid unnecessary trade disruption and to select the most practicable solution.

ARTICLE 6.11

Audits

1. In order to determine the ability of the exporting Party to provide the required assurances and to comply with the sanitary and phytosanitary measures of the importing Party, the importing Party shall have the right to audit, subject to the provisions of this Article, the competent authorities and associated or designated inspection systems of the exporting Party.

2. The importing Party may determine that it is necessary to carry out an audit as one of the tools to assess the official inspection and certification systems of the exporting Party. Such audit shall follow a systems-based approach which relies on the examination of a sample of system procedures, documents or records and, where required, on-site inspections of facilities within the scope of the audit.

3. Audits shall focus primarily on evaluating the effectiveness of the official inspection and certification systems as well as the capacity of the exporting Party to comply with the sanitary and phytosanitary import requirements and related control measures, rather than on evaluating specific establishments or facilities, in order to determine the ability of the exporting Party's competent authorities to have and maintain control and deliver the required assurances to the importing country.

4. In conducting an audit, the importing Party shall take into account relevant guidance of the WTO SPS Committee and act in conformity with relevant international standards, guidelines, and recommendations.

5. The importing Party shall determine the nature and frequency of audits taking into account the inherent risks of the product, the track record of past import checks and other available information, such as audits and inspections carried-out by the competent authority of the exporting Party.

6. Each Party shall endeavour to reduce the frequency and number of audits. If the importing Party considers it necessary to carry out an audit as one of the tools to assess the official inspection and certification systems of the exporting Party, as well as the capacity of the exporting Party to comply with the sanitary and phytosanitary import requirements and related control measures, the following shall apply:

(a) for the first export request for a specific product, the importing Party shall carry out an audit on a representative sample of the other Party; and

(b) for any subsequent export request for the same product, with the aim to shorten the time of the approval procedure, the importing Party shall carry out an audit to the exporting Party only in duly justified circumstances. If the importing Party carries out an audit, it shall provide an explanation to the exporting Party.

7. Prior to the audit, the competent authorities of the importing Party and of the exporting Party shall discuss and lay down in an audit plan:

(a) the rationale for, and the objectives and scope of the audit;

(b) the criteria or requirements against which the exporting Party will be assessed; and

(c) the itinerary and procedures for conducting the audit.

Unless otherwise agreed by the Parties, the importing Party shall provide the exporting Party an audit plan at least 30 days prior to the audit.

8. The importing Party shall provide information about the results of the audit in writing to the exporting Party by means of an audit report that sets out findings, conclusions and recommendations.

9. The importing Party shall provide the draft audit report to the exporting Party, normally within 30 days of the conclusion of the audit.

10. The importing Party shall provide the exporting Party with the opportunity to comment on the findings of the audit. The importing Party may take any such comments into account before drawing conclusions and taking any action. The importing Party shall provide a final report in writing to the exporting Party normally within two months after the date of receipt of those comments.

11. The exporting Party shall inform the importing Party of any corrective actions taken on the basis of the importing Party's findings and conclusions.

12. Each Party shall ensure that procedures are in place to prevent the disclosure of confidential information obtained during an audit of the competent authorities of the exporting Party, including procedures to remove any confidential information from a final audit report before that report is made publicly available.

13. Any measures taken as a result of audits shall be proportionate to the risks identified and shall not be more trade restrictive than required to achieve the appropriate level of sanitary or phytosanitary protection of the importing Party. If so requested, consultations regarding the situation shall be held in accordance with Article 6.19. The Parties shall consider any information provided through such consultations.

14. Each Party shall bear its own costs associated with the audit.

ARTICLE 6.12

Import Checks

1. Each Party shall ensure that its import checks are risk-based, carried out without undue delay and applied in a proportionate and non-discriminatory manner.

2. Each Party shall ensure that products exported to the other Party meet the sanitary and phytosanitary requirements of the importing Party.

3. Each Party shall make available to the other Party, on request, information on its import procedures including the frequency of import checks regarding sanitary and phytosanitary measures and the factors it considers as determining the risks associated with importations.

4. If an import check reveals that a product does not comply with the relevant import requirements, the importing Party shall:

(a) base its action on an assessment of the risk involved and ensure that the action is not more trade-restrictive than necessary to achieve its appropriate level of sanitary or phytosanitary protection;

(b) inform the importer or its representative of the reasons for the non-compliance, the legal basis for the action and, as appropriate, on the place of disposal of that consignment; and

(c) provide to the importer or its representative the opportunity to provide additional information for assisting that Party in taking a decision.

5. If a Party prohibits or restricts the importation of a good of the other Party on the basis of a negative result of an import check, the importing Party, shall, in accordance with its law, if requested by the competent authority of the exporting Party or the operator responsible for the consignment, provide in writing through normal channels the reason for the prohibition or restriction, the legal basis or authorisation for the action and, as appropriate, information on the place of disposal of that consignment.[21]

6. If the rejected consignment is accompanied by a sanitary or phytosanitary certificate, the importing Party shall inform the competent authority of the exporting Party and provide all appropriate information, including the legal basis for the action, detailed laboratory results and methods. The importing Party shall maintain physical and electronic documentation regarding the identification, collection, sampling, transportation and storage of the test sample and the analytical methods used on the test sample. The importing Party shall also inform the importer or its representative on the disposal of that consignment. In the case of pest interceptions, the notification shall indicate the pest at species level whenever feasible.

7. If the 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.

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[21] For greater certainty, nothing in this Article prevents an importing Party from disposing of a consignment which is found to have an infectious pathogen or pest that can, if urgent action is not taken, spread and cause damage to human, animal or plant life or health in-the territory of that Party.

8. Notwithstanding paragraph 6, the importing Party shall provide to the exporting Party, on request, available information on goods from the exporting Party that were found not to be in conformity to a sanitary or phytosanitary measure of the importing Party.

9. Any fees imposed with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures shall not be higher than the actual cost of the service.

ARTICLE 6.13

Certification

1. If a Party requires a sanitary or phytosanitary certificate for the importation of a good such certificate shall be based on the international standards of the Codex, the IPPC and the WOAH.

2. Each Party shall ensure that its certificates, including any attestations, are prepared in a manner that avoids imposing unnecessary burdens for the trade between the Parties.

3. The importing Party shall promptly provide to the other Party, on request, information on the certificates required for a specific product.

4. The Parties shall strengthen their cooperation in developing model certificates with a view to reducing administrative burdens and facilitating access to their respective markets.

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

6. Each Party shall accept the exchange of original certificates either by a paper-based system or by a secure method of electronic data transmission that offers an equivalent certification guarantee. The exporting Party may provide electronic official certification if the importing Party has determined that equivalent security guarantees are provided, including the use of a digital signature and the guarantee of the authenticity of the document.

ARTICLE 6.14

Application of SPS Measures

1. Without prejudice to Article 6.8, each Party shall apply its sanitary or phytosanitary measures to the territory of the other Party.

2. In order to avoid an arbitrary or unjustifiable discrimination, the same import requirements shall apply to the territory of the exporting Party where identical or similar sanitary or phytosanitary conditions exist.

3. For the first export request for a specific product, the importing Party shall promptly start the approval procedure for an application of the other Party or, as the case may be, of one or a group of Member States of the European Union. The approval procedure shall follow the procedure set out in Article 6.10 and, in case of an application of a group of Member States where identical or similar sanitary or phytosanitary conditions exist, shall not take longer than for an application of one Member State.

4. For a subsequent export request related to the same product, the importing Party shall approve the application no later than six months after the reception of the request, except in duly justified cases. Information requests shall be limited to what is necessary and shall take into account information already available to the importing Party, such as information on the legislative framework and previous audit reports.

ARTICLE 6.15

Elimination of Redundant Control Measures

1. The Parties recognise that the exporting Party is responsible for ensuring that establishments, facilities and products eligible for exports meet the applicable sanitary requirements of the importing Party.

2. If the importing Party maintains a list of approved establishments or facilities for the import of a specific good, it shall, on request of the exporting Party accompanied by the appropriate guarantees, approve an establishment or facility situated in the territory of the exporting Party without prior inspection thereof, subject to the following conditions and procedures:

(a) the importing Party has authorised the import of the good on the basis of an evaluation of the control system on animal health and food safety conditions applied by the competent authorities of the exporting Party;

(b) the establishment or facility concerned has been approved by the competent authority of the exporting Party;

(c) the competent authority of the exporting Party has the authority to suspend or withdraw the approval of the establishment or facility concerned; and

(d) the exporting Party has provided the relevant information requested by the importing Party.

3. The importing Party shall include the establishments or facilities on the list of approved establishments or facilities normally within 45 days after the date of receipt of the request of the exporting Party. The list shall be made publicly available.

4. The importing Party shall have the right to audit the control system of the exporting Party after the export approval. Those audits may include on-site inspection of a representative number of establishments or facilities included in the list of approved establishments or facilities, or of those requested for approval by the exporting Party. If the importing Party identifies as a result of the audit serious recurrent cases of non-compliance, the importing Party may suspend the recognition of the control system of the competent authority of the exporting Party.

5. In duly justified circumstances, the importing Party may refuse the approval of establishments or facilities that are considered as non-compliant with its requirements. In such a case, the importing Party shall notify the exporting Party of the refusal to approve establishments or facilities and provide a justification for that refusal.

6. The importing Party may carry out audits in accordance with Article 6.11 as part of the approval procedure. Such audits shall be limited to the structure, organisation and responsibilities of the competent authority responsible for the approval of the establishment or facility and the sanitary guarantees regarding the compliance with the requirements of the importing Party. Those audits may include on-site inspection of a representative number of establishments or facilities listed as approved establishments or facilities or for which a request for approval was made by the exporting Party.

7. Based on the results of such audits, the importing Party may modify the list of establishments or facilities.

8. This Article does not apply to measures relating to plants and plant products.

ARTICLE 6.16

Emergency Measures

1. The importing Party may, on serious grounds, provisionally adopt the emergency measures necessary for the protection of human, animal or plant life or health.

2. A Party that adopts an emergency measure shall promptly notify that measure in writing to the other Party. The Party that has adopted an emergency measure shall take into consideration any information provided by the other Party.

3. After adopting an emergency measure, the Party shall review the rationale thereof normally within six months, provided that the relevant information is available, and inform on request the other Party of the results of the review. A Party shall not maintain the emergency measure unless the urgent problem or the threat persists. If the Party maintains the emergency measure, that measure should be periodically reviewed.

4. A Party that adopts an emergency measure shall, in order to avoid unnecessary disruptions to trade, provide the most suitable and proportionate solution for consignments in transport between the Parties, taking into account the identified risk.

ARTICLE 6.17

Cooperation

1. The Parties shall explore, in accordance with this Chapter, options for further cooperation and information exchange between the Parties on sanitary and phytosanitary matters of mutual interest. Those options may include trade facilitation initiatives.

2. The Parties shall cooperate to facilitate the implementation of this Chapter and may jointly identify initiatives on sanitary and phytosanitary matters with the aim of eliminating unnecessary barriers to trade between the Parties.

3. The Parties may promote cooperation in all multilateral fora, in particular with the relevant international standardisation bodies.

ARTICLE 6.18

Exchange of Information

Without prejudice to other provisions of this Chapter, a Party may request information from the other Party on matters arising under this Chapter. The requested Party shall endeavour to provide, in conformity with its own confidentiality and privacy requirements, available information to the requesting Party within a reasonable period of time, and if possible, by electronic means.

ARTICLE 6.19

Consultations

1. Each Party may request consultations on specific trade concerns relating to sanitary and phytosanitary measures.

2. The Parties shall hold those consultations within 30 days after the receipt of the request, unless the Parties agree otherwise.

3. The Parties shall endeavour to provide all relevant information necessary to reach a mutually agreed solution that avoids unnecessary disruption to trade.

ARTICLE 6.20

Contact Points

1. Each Party shall designate a contact point for the implementation of this Chapter and notify the other Party of the contact details including the indication of the official in charge.

2. The Parties shall promptly notify each other of any change of those contact details.

ARTICLE 6.21

Sub-Committee on Sanitary and Phytosanitary Measures

1. The Sub-Committee on Sanitary and Phytosanitary Measures established pursuant to Article 33.4.1(e)(Sub-Committees and Other Bodies) shall:

(a) provide a forum to improve the Parties' understanding of sanitary and phytosanitary matters that relate to the implementation of this Chapter, including the regulatory processes related to SPS measures;

(b) monitor the implementation of this Chapter and consider any matter relating to this Chapter, including all matters which may arise in relation to its implementation;

(c) provide a forum for discussion of concerns from the application of sanitary or phytosanitary measures with a view to reaching mutually acceptable solutions and promptly addressing any matters that may create unnecessary obstacles to trade between the Parties;

(d) exchange information, expertise and experiences on sanitary and phytosanitary matters;

2. The Sub-Committee on Sanitary and Phytosanitary Measures may:

(a) identify areas for cooperation on sanitary and phytosanitary measures which may include technical assistance;

(b) promote cooperation on sanitary and phytosanitary matters under discussion in multilateral fora, including the WTO SPS Committee and international standardisation bodies; and

(c) establish working groups consisting of expert-level representatives of the Parties, to address specific sanitary or phytosanitary matters, which may invite, with the modalities to be decided, other experts to participate, including from non-governmental organisations.

CHAPTER 7

COOPERATION ON ANIMAL WELFARE AND ANTI-MICROBIAL RESISTANCE

ARTICLE 7.1

Objectives

The objectives of this Chapter are to provide a framework for dialogue and cooperation with a view to enhancing the protection and welfare of animals and reaching a common understanding concerning animal welfare standards, and to strengthen the fight against the development of anti-microbial resistance.

ARTICLE 7.2

Animal Welfare

1. The Parties recognise that animals are sentient beings.

2. The Parties recognise the value of the World Organisation for Animal Health (WOAH) animal welfare standards, and shall endeavour to improve their implementation while respecting their right to determine the level of their science-based measures based on the WOAH animal welfare standards.

3. The Parties shall endeavour to cooperate in international fora with the aim of promoting further development of good animal welfare practices and their implementation. The Parties recognise the value of increased research collaboration in the area of animal welfare.

ARTICLE 7.3

Anti-Microbial Resistance

1. The Parties recognise that anti-microbial resistance is a serious threat to human and animal health. Misuse of anti-microbials in animal production, including non-therapeutic use, can contribute to anti-microbial resistance that may represent a risk to human and animal health. The Parties recognise that the nature of the threat requires a transnational and "One Health"[22] approach.

2. The Parties shall cooperate to reduce the use of anti-microbials in animal production and to ban their use as growth promotors with the aim of combatting anti-microbial resistance in line with the "One Health" approach.

[22] "One Health" as defined by the World Health Organisation (WHO) is an approach combining policies in multiple sectors to achieve better public health outcomes.

3. The Parties shall cooperate in and follow existing and future guidelines, standards, recommendations and actions developed in relevant international organisations, initiatives and national plans aiming to promote the prudent and responsible use of anti-microbials in animal husbandry and veterinary practices.

4. The Parties shall promote cooperation in all multilateral fora, in particular in the international standard setting bodies.

ARTICLE 7.4

Working Group on Animal Welfare and Anti-Microbial Resistance

1. The Parties shall endeavour to exchange information, expertise and experiences in the fields of animal welfare and combatting anti-microbial resistance with the aim of implementing Articles 7.2 and 7.3.

2. To that end, the Parties shall establish a working group on animal welfare and anti-microbial resistance which shall share information with the Sub-Committee on Sanitary and Phytosanitary Measures, as appropriate. The representatives of the Parties in the working group may jointly decide to invite experts for specific activities.

ARTICLE 7.5

Non-Application of Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 31 (Dispute Settlement) concerning the interpretation or application of the provisions of this Chapter.

CHAPTER 8

RECOGNITION OF THE PARTIES' RIGHT
TO REGULATE THE ENERGY SECTOR

ARTICLE 8.1

Recognition of the Parties' Right to Regulate the Energy Sector

1. The Parties confirm their full respect for their respective sovereignty, which includes the ownership and management of all hydrocarbons in the subsoil of their respective territories by the state or by the relevant public authorities, and their respective sovereign right to regulate with respect to matters addressed in this Chapter in accordance with their respective law, in the full exercise of their democratic processes.

2. In the case of Mexico, the European Union, without prejudice to its rights and remedies available under this Agreement,[23] recognizes that:

(a) Mexico reserves its sovereign right to reform its Constitution (Constitución Política de los Estados Unidos Mexicanos) and its domestic legislation regarding the energy sector, including hydrocarbons and electricity;

[23] For greater certainty, these rights and remedies include those arising from Mexico's obligations pursuant to the provisions in Chapter 10 (Investment) and the related annexes.

(b) Mexico has the direct, inalienable, and imprescriptible ownership of all hydrocarbons in the subsoil of the national territory, including the continental shelf and the exclusive economic zone located outside the territorial sea and adjacent thereto, in strata or deposits, regardless of their physical conditions pursuant to Mexico's Constitution; and

(c) Mexico reserves its sovereign right to adopt or maintain measures regarding the energy sector, including hydrocarbons and electricity.

CHAPTER 9

TECHNICAL BARRIERS TO TRADE

ARTICLE 9.1

Objective

The objective of this Chapter is to facilitate trade in goods between the Parties by preventing, identifying and eliminating unnecessary technical barriers to trade, enhancing transparency and promoting greater regulatory cooperation.

ARTICLE 9.2

Scope

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures, as defined in Annex 1 to the TBT Agreement, that may affect trade in goods between the Parties.

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

(a) technical specifications prepared by procuring entities for their own production or consumption requirements; or

(b) sanitary and phytosanitary measures covered by Chapter 6 (Sanitary and Phytosanitary Measures).

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

ARTICLE 9.3

Relation with the TBT Agreement

Articles 2 to 9 and Annexes 1 and 3 to the TBT Agreement are hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 9.4

International Standards

1. The Parties recognise the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment, good regulatory practice and reducing unnecessary technical barriers to trade. To that end, the Parties shall use relevant international standards as a basis for their technical regulations, except when the Party developing the technical regulation can demonstrate that such international standards would be ineffective or inappropriate for the fulfilment of the legitimate objectives pursued.

2. In addition to the obligations set out in Articles 2 and 5 and Annex 3 of the TBT Agreement, each Party shall consider, among others, the Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995.[24]

3. Standards developed by international organisations including those listed in Annex 9-A shall be considered to be relevant international standards, provided that in their development those organisations have complied with the principles and procedures set out in the Decision of the WTO Committee on Technical Barriers to Trade on Principles for the Development of International Standards, Guides and Recommendations.[25]

[24] WTO Document G/TBT/1/Rev. 13, dated 8 March 2017, as may be revised.
[25] Contained in WTO Document G/TBT/1/Rev. 13, dated 8 March 2017, as may be revised.

4. At the request of either Party the Trade Committee may by decision update the list in Annex 9-A.

5. With a view to harmonising standards on as wide a basis as possible, each Party shall encourage the standardisation bodies within its territory, as well as the regional standardisation bodies of which the Party or the standardisation bodies within its territory are members, to:

(a) participate, within the limits of their resources, in the preparation of international standards by relevant international standardisation bodies;

(b) use relevant international standards as a basis for the standards they develop, except where such international standards would be ineffective or inappropriate, for instance because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems;

(c) avoid duplication of, or overlap with, the work of international standardisation bodies;

(d) review national and regional standards not based on relevant international standards at regular intervals, with a view to increasing their convergence with relevant international standards;

(e) cooperate with the relevant standardisation bodies of the other Party in international standardisation activities 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; that cooperation may be undertaken in international standardisation bodies or at regional level;

(f) foster bilateral cooperation with the standardisation bodies within the territory of the other Party, as well as the regional standardisation bodies of which the other Party or the standardisation bodies within its territory are members;

(g) make publicly available through a website their work programs containing a list of the standards they are currently preparing and of the standards they have adopted.

6. Article 9.6 of this Chapter and Articles 2 or 5 of the TBT Agreement apply to a draft technical regulation or a draft conformity assessment procedure, which makes a standard mandatory through incorporation or referencing.

ARTICLE 9.5

Conformity Assessment Procedures

1. The Parties recognise that different mechanisms exist to facilitate the acceptance of the results of conformity assessment, including:

(a) voluntary agreements between the conformity assessment bodies within the territories of the Parties;

(b) agreements on the mutual acceptance of the results of conformity assessment procedures with regard to specific technical regulations, carried out by bodies located within the territory of the other Party;

(c) use of accreditation procedures to qualify conformity assessment bodies;

(d) government designation or, if applicable, approval of conformity assessment bodies;

(e) recognition by a Party of the results of conformity assessment bodies within the territory of the other Party; and

(f) acceptance of the supplier's declaration of conformity by the importing Party.

2. Recognising the differences in the conformity assessment procedures in their respective territories:

(a) the European Union shall, as provided for in its laws and regulations, apply the regime of supplier's declaration of conformity; and

(b) Mexico shall, as provided for in its laws and regulations, accept as an assurance that a product conforms to the requirements of Mexico's technical regulations, including technical regulations enacted after the entry into force of this Agreement, and without additional requirements, certificates issued by conformity assessment bodies within the territory of the European Union and that have been accredited by a Mexican accreditation entity and approved by the competent authority.

In this regard, Mexico shall accord to conformity assessment bodies within the territory of the European Union treatment no less favourable than that it accords to conformity assessment bodies within its own territory.

Nothing in this subparagraph shall preclude Mexico from verifying the results of individual conformity assessment procedures, as long as it does not require that a product is subject to conformity assessment procedures in the territory of Mexico duplicating the conformity assessment procedures already conducted in the territory of the European Union, except on a random or infrequent basis for the purpose of surveillance, audit or in response to information indicating non-conformity.

3. Notwithstanding paragraph 2, a Party may introduce requirements for mandatory third party testing or certification for products if compelling reasons related to the protection of human health and safety justify the introduction of such requirements or certification.

4. Nothing in this Article shall preclude a Party from requesting that a conformity assessment in relation to specific products is performed by specified governmental bodies of that Party. In such cases, the Party shall:

(a) limit the conformity assessment fees to the approximate cost of the services rendered and, on request of an applicant for conformity assessment, explain how the fees imposed are limited in amount to the approximate cost of the services rendered;

(b) make publicly available the conformity assessment fees; and

(c) on request of the other Party, and in addition to the obligations set out in Articles 5.2.3, 5.2.4 and 5.2.8 of the TBT Agreement, explain:

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

(ii) how the Party ensures that the confidentiality of the information required is respected in a manner that ensures the protection of legitimate commercial interests; and

(iii) the procedure to review complaints concerning the operation of the conformity assessment procedure.

5. Each Party shall publish online, preferably on a single website:

(a) any procedures, criteria and other conditions that it may use as a basis for determining whether conformity assessment bodies are competent to receive accreditation, approval, designation or other recognition, if applicable, including recognition granted pursuant to a mutual recognition agreement; and

(b) a list of the bodies that it has approved, designated or otherwise recognised to perform such conformity assessment and relevant information on the scope of the approval, designation or other recognition of each body.

6. A Party may submit a substantiated request to the other Party to enter into negotiations to conclude a mutual recognition agreement on the mutual acceptance of the results of conformity assessment procedures for a particular sector. If the other Party refuses to enter into such negotiations, it shall explain the reasons for its decision.

7. Article 9.7 applies, *mutatis mutandis*, to conformity assessment procedures.

8. If a Party requires a conformity assessment procedure, it shall:

(a) select conformity assessment procedures proportionate to the risks involved as determined on the basis of a risk assessment; and

(b) on request, provide information to the other Party on the criteria used for the conformity assessment procedures for specific products.

9. If a Party requires a third party conformity assessment procedure and it has not reserved this task to a specified governmental body as referred to in paragraph 4, it shall:

(a) preferably use accreditation to qualify conformity assessment bodies;

(b) make best use of international standards for accreditation and conformity assessment, as well as international agreements involving the Parties' accreditation bodies, for example, through the mechanisms of the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF);

(c) join or, as applicable, encourage its conformity assessment bodies to join any functioning international agreements or arrangements for harmonisation or facilitation of acceptance of conformity assessment results;

(d) ensure that when more than one conformity assessment body has been designated for a particular product or set of products, economic operators have a choice amongst them to carry out the conformity assessment procedure;

(e) ensure that there are no conflicts of interest between accreditation bodies and conformity assessment bodies; and

(f) allow conformity assessment bodies to rely on testing or inspections carried out by conformity assessment bodies within the territory of the other Party in relation to the conformity assessment. Nothing in this subparagraph shall be construed as prohibiting a Party from requiring those conformity assessment bodies within the territory of the other Party to meet the same requirements that its own conformity assessment body is required to meet.

ARTICLE 9.6

Transparency

1. In accordance with its respective rules and procedures and without prejudice to Chapter 28 (Good Regulatory Practices), when developing technical regulations and conformity assessment procedures, which may have a significant effect on trade, each Party shall, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise:

(a) allow persons of the other Party to participate in its public consultation process on terms no less favourable than those accorded to its own persons; and

(b) make the results of the consultation process public on an official website.

2. Each Party shall endeavour to consider methods to provide additional transparency in the development of technical regulations and conformity assessment procedures, including the use of electronic tools and public outreach or public consultations.

3. If appropriate, each Party shall encourage non-governmental bodies including standardisation bodies within its territory to comply with paragraphs 1 and 2.

4. Each Party shall ensure that any document laying down a technical regulation or conformity assessment procedure contains sufficient detail to adequately inform interested persons and the other Party about whether and how their trade interests might be affected.

5. Each Party shall publish online, preferably on a single website or official gazette, all proposals for new or amended technical regulations and conformity assessment procedures of central and sub-central levels of government, and their final versions, which a Party is required to notify or publish in accordance with the TBT Agreement.[26]

6. Each Party shall ensure that its adopted technical regulations and conformity assessment procedures are published on a website free of charge.

[26] For greater certainty, a Party may comply with this obligation by ensuring that the proposed measures and their final versions are published on, or otherwise accessible through, the WTO's official website.

7. Each Party shall publish 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, except in the cases provided for in Articles 2.10 and 5.7 of the TBT Agreement.

8. Each Party shall endeavour to publish proposals for new technical regulations and conformity assessment procedures of sub-central or local governments, as the case may be, 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, in accordance with the procedures set out in Articles 2.9 or 5.6 of the TBT Agreement.

9. For the purposes of determining whether a proposed technical regulation or conformity assessment procedure may have a significant effect on trade and must thus be notified in accordance with the relevant provisions of the TBT Agreement which are incorporated in this Agreement pursuant to Article 9.3, a Party shall consider, among others, the relevant Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995, as referred to in Article 9.4.2.

10. Each Party shall, on request of the other Party, provide information regarding the objectives of, legal basis and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

11. Each Party shall allow a period of at least 60 days following its transmission to the WTO Central Registry of Notifications of proposed technical regulations and conformity assessment procedures for the other Party to provide written comments, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise. A Party shall consider any reasonable request from the other Party to extend the comment period. A Party that is able to extend the comment period beyond 60 days, for example to 90 days, is encouraged to do so.

12. Each Party shall endeavour 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.

13. If a Party receives written comments on its proposed technical regulation or conformity assessment procedure from the other Party, it shall:

(a) on request of the other Party, discuss the written comments with the participation of its competent regulatory authority at a time when those comments can be taken into account; and

(b) reply in writing to the comments no later than the date of publication of the technical regulation or conformity assessment procedure.

14. Each Party shall publish on a website its responses to comments it receives, if possible no later than the date of publication of the adopted technical regulation or conformity assessment procedure.

15. Each Party shall notify 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 notified under Articles 2.9, 3.2, 5.6 or 7.2 of the TBT Agreement.

16. No later than the date of publication of a final technical regulation or conformity assessment procedure that may have a significant effect on trade, each Party shall make publicly available online:

(a) an explanation of the objectives and of how the final technical regulation or conformity assessment procedure achieves them; and

(b) the results of the impact assessment provided for in Article 9.7, if carried out, in accordance with its rules and procedures.

17. For the purposes of Articles 2.12 and 5.9 of the TBT Agreement, "reasonable interval" means normally a period of not less than six months, except when this would be ineffective for the fulfilment of the legitimate objectives pursued.

18. 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, except when this would be ineffective for the fulfilment of the legitimate objectives pursued.

ARTICLE 9.7

Technical Regulations

1. Each Party shall carry out, in accordance with its respective rules and procedures, a regulatory impact assessment of planned technical regulations.

2. Each Party shall assess the available regulatory and non-regulatory alternatives to a proposed technical regulation that may fulfil the Party's legitimate objectives, in accordance with Article 2.2 of the TBT Agreement.

3. If a Party has not used international standards as a basis for its technical regulations, a Party shall, on request of the other Party, identify any substantial deviation from the relevant international standards and explain the reasons why those standards have been judged inappropriate or ineffective for the objective pursued, and provide the scientific or technical evidence on which this assessment is based.

4. In addition to Article 2.3 of the TBT Agreement, each Party shall review technical regulations with a view to increasing their convergence with relevant international standards. Each Party shall take into account, among others, any new development in the relevant international standards and whether the circumstances that have given rise to divergences from any relevant international standard continue to exist.

ARTICLE 9.8

Regulatory Cooperation

1. The Parties recognise that a broad range of regulatory cooperation mechanisms exist that can help to eliminate or avoid the creation of technical barriers to trade.

2. A Party may propose to the other Party sector specific regulatory cooperation activities in areas covered by this Chapter. Those proposals shall be transmitted to the contact point designated pursuant to Article 9.11 and shall consist of:

(a) information exchanges on regulatory approaches and practices;

(b) initiatives to further align technical regulations and conformity assessment procedures with relevant international standards; or

(c) technical advice and assistance on mutually agreed terms and conditions to improve practices related to the development, implementation and review of technical regulations, standards and conformity assessment procedures and metrology.

The other Party shall give due consideration to the proposal and shall reply within a reasonable period of time.

3. The Parties shall encourage cooperation between their respective organisations responsible for standardisation, conformity assessment, accreditation and metrology, whether they are public or private, on issues covered by this Chapter.

4. Nothing in this Article shall be construed as requiring a Party to:

(a) deviate from domestic procedures for preparing and adopting regulatory measures;

(b) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(c) achieve any particular regulatory outcome.

ARTICLE 9.9

Marking and Labelling

1. For the purposes of this Article and in accordance with paragraph 1 of Annex 1 to the TBT Agreement, a technical regulation may include or deal exclusively with the requirements of marking and labelling applied to a product, process or production method.

2. The Parties affirm that their technical regulations that include or deal exclusively with marking or labelling comply with Article 2 of the TBT Agreement.

3. If a Party requires mandatory marking or labelling of products, that Party shall:

(a) endeavour to only require information which is relevant for consumers or users of the product or for indicating the product's conformity with the mandatory technical requirements;

(b) not require any prior approval, registration or certification of the labels or markings of products, or the payment of any fee, as a precondition for placing on its market products that otherwise comply with its mandatory technical requirements, unless it is necessary in view of the risk of the products to human, animal or plant life or health, the environment or national security;

(c) if the Party requires the use of a unique identification number by economic operators, issue that number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;

(d) provided it is not misleading, contradictory or confusing in relation to the information required in the importing Party of the goods, permit the following:

(i) information in other languages in addition to the language required in the importing Party of the goods;

(ii) internationally accepted nomenclatures, pictograms, symbols or graphics; and

(iii) additional information to that required in the importing Party of the goods;

(e) accept that labelling, including supplementary labelling and corrections to labelling, takes place after importation but prior to offering the product for sale, as an alternative to labelling at the place of origin, unless such labelling must be carried out at the place of origin for reasons of public health or safety or due to a requirement related to a geographical indication of the exporting Party; and

(f) endeavour to accept non-permanent or detachable labels, or the inclusion of relevant information for marking or labelling in the accompanying documentation, rather than in labels physically attached to the product, unless such labelling is required for reasons of public health or safety.

ARTICLE 9.10

Information Exchange and Discussions

1. A Party may request the other Party to provide information on any matter covered by this Chapter. The other Party shall provide that information within a reasonable period of time.

2. A Party may request the other Party to discuss any concern that arises under this Chapter, including any draft or proposed technical regulation or conformity assessment procedure of the other Party, if it considers that the technical regulation or conformity assessment procedure might have a significant adverse effect on trade between the Parties. The request shall be in writing and identify:

(a) the concern;

(b) the provisions of this Chapter to which the concern relates; and

(c) the reasons for the request, including a description of the requesting Party's concern.

3. For greater certainty, a Party may also request the other Party to discuss any concern that arises under this Chapter with respect to technical regulations or conformity assessment procedures of regional or local governments, as the case may be, on the level directly below that of the central government, and that may have a significant effect on trade.

4. The Parties shall discuss the concern raised within 60 days after the date of the request in person or by video or teleconference and shall endeavour to resolve the concern as expeditiously as possible. If the requesting Party considers that the concern is urgent, it may request that any discussions take place within a shorter timeframe. The responding Party shall give positive consideration to that request. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

5. Unless the Parties agree otherwise, the discussions and any information exchanged in the course of the discussions shall be without prejudice to the rights and obligations of the Parties under this Agreement, the WTO Agreement or any other agreement to which both Parties are party.

6. Requests for information or discussions shall be submitted through the respective contact point designated pursuant to Article 9.11.

ARTICLE 9.11

Contact Points

1. Each Party shall designate a contact point to facilitate cooperation and coordination under this Chapter and notify the other Party of its contact details. The Parties shall promptly notify each other of any changes to those contact details.

2. The contact points shall work jointly to facilitate the implementation of this Chapter and cooperation between the Parties on all TBT matters. The contact points shall in particular be responsible for:

(a) organising information exchange and discussions referred to in Article 9.10.6;

(b) promptly addressing any issue that the other Party raises related to the development, adoption, application or enforcement of standards, technical regulations or conformity assessment procedures;

(c) on request of a Party, arranging discussions on any matter arising under this Chapter;

(d) exchanging information on developments in non-governmental, regional and multilateral fora related to standards, technical regulations and conformity assessment procedures; and

(e) facilitating the identification of possible needs for technical assistance.

ARTICLE 9.12

Sub-Committee on Technical Barriers to Trade

The Committee on Technical Barriers to Trade established pursuant to Article 33.4.1(g) (Sub-Committees and other Bodies) shall:

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

(b) enhance cooperation in the development and improvement of standards, technical regulations and conformity assessment procedures;

(c) establish priority areas of mutual interest for future work under this Chapter and consider proposals for new initiatives;

(d) monitor and discuss developments under the TBT Agreement; and

(e) take any other steps that the Parties consider will assist them in implementing this Chapter and the TBT Agreement.

CHAPTER 10

INVESTMENT LIBERALISATION

ARTICLE 10.1

Definitions

1. For the purposes of this Chapter:

(a) "covered enterprise" means an enterprise which is established in accordance with point (e) by an investor of a Party in the territory of the other Party, in accordance with applicable law, and which is in existence at the date of entry into force of this Agreement or is established thereafter;

(b) "economic activity" means an activity of an industrial, commercial or professional character, and an activity of craftsmen, including the supply of services, except an activity performed in the exercise of governmental authority;

(c) "enterprise" means an enterprise as defined in Article 1.3 (Definitions of General Application), or a branch or a representative office thereof[27];

[27] For Mexico, a representative office shall not be considered as an enterprise, unless it is established as a branch.

(d) "enterprise of the European Union" or "enterprise of Mexico" means an enterprise set up in accordance with the law of the European Union or its Member States, or of Mexico and engaged in substantive business operations[28] in the territory of the European Union or of Mexico, respectively;[29]

shipping companies established outside the European Union or Mexico and controlled by nationals of a Member State of the European Union or of Mexico, respectively, shall also be beneficiaries of the provisions of this Chapter, if their vessels are registered in accordance with the law of a Member State of the European Union or of Mexico, as appropriate, and fly the flag of that Member State of the European Union or of Mexico;

(e) "establishment" means the setting up, including the acquisition[30], of an enterprise in the European Union or in Mexico;

(f) "investor of a Party" means a Party or natural person or an enterprise of a Party, other than a branch or representative office, that seeks to establish, is establishing or has established an enterprise in accordance with point (e) within the territory of the other Party;

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28 In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the European Union understands that the concept of an "effective and continuous link" with the economy of a Member State of the European Union enshrined in Article 54 of the TFEU is equivalent to the concept of "substantive business operations".

29 For greater certainty, a branch or a representative office of an enterprise of a third country shall not be considered to be an enterprise of the European Union or an enterprise of Mexico.

30 The term "acquisition" includes capital participation in an enterprise with a view to establishing or maintaining lasting economic links.

(g) "investor of a third country" means an investor that seeks to establish, is establishing or has established an enterprise in accordance with point (e) within the territory of a Party, that is not an investor of a Party;

(h) "operation" means the conduct, management, maintenance, use, enjoyment, sale or other disposal of an enterprise.

ARTICLE 10.2

Scope

1. This Chapter applies to measures adopted or maintained by:[31]

(a) the central, regional or local governments or authorities of that Party; and

(b) any person, including a state enterprise or any other non-governmental body in the exercise of powers delegated by central, regional, or local governments or authorities.

[31] For greater certainty, this Chapter covers measures by entities listed under subparagraphs (a) and (b), which are adopted or maintained either directly or indirectly by instructing, directing or controlling other entities with regard to those measures.

2. This Chapter does not apply to measures of a Party insofar as they are covered by Chapter 18 (Financial Services).

ARTICLE 10.3

Right to Regulate

The Parties affirm the right to regulate within their territories to achieve legitimate policy objectives, such as public health, social services, public education, safety, environment, public morals, social or consumer protection, privacy and data protection, the promotion and protection of cultural diversity, or competition.

ARTICLE 10.4

Relation to Other Chapters

If an inconsistency arises between this Chapter and Chapter 18 (Financial Services), the latter shall prevail to the extent of the inconsistency.

ARTICLE 10.5

Scope

1. This Chapter applies to measures adopted or maintained by a Party affecting the establishment of an enterprise or the operation of such an enterprise by an investor of the other Party in its territory.

2. This Chapter does not apply to:

(a) activities performed in the exercise of governmental authority within the territory of the respective Party;

(b) government procurement of a good or service purchased for governmental purposes, and not with a view to commercial resale or use in the production of a good or supply of a service for commercial sale, irrespective of whether that procurement constitutes a covered procurement within the meaning of Article 21.1 (Definitions);

(c) audio-visual services;

(d) national maritime cabotage;[32]

(e) air services, or related services in support of air services[33], other than the following:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) selling and marketing of air transport services;

(iii) computer reservation system services; and

(iv) ground handling services.

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[32] For the European Union, without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in a Member State of the European Union and another port or point located in that same Member State of the European Union, including on its continental shelf, as provided in the United Nations Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in a Member State of the European Union.
For Mexico, national maritime cabotage under this Chapter covers the navigation that any vessel performs by sea, between ports or places located within the Mexican marine zones and Mexican shores.

[33] For greater certainty, "air services or related services in support of air services" also include the following services: rental of aircraft with crew, airport operation services and services provided by 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, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services.

3. Articles 10.6 to 10.8 do not apply to subsidies[34] or grants provided by a Party, including government-supported loans, guarantees and insurance.

4. Articles 10.6 to 10.10 do not apply to new services, as set out in Annex VII (Understanding on New Services Not Classified in the United Nations Provisional Central Product Classification 1991).

5. This Chapter does not bind a Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.

[34] For greater certainty, subsidies are covered under Chapter 24 (Subsidies).

ARTICLE 10.6

Market Access

In the sectors or subsectors where market access commitments are undertaken, a Party shall not adopt or maintain, with respect to market access through establishment or operation by investors of the other Party or by covered enterprises, either on the basis of its entire territory or on the basis of a territorial subdivision, a measure[35] that:

(a) limits the number of enterprises that may carry out a specific economic activity, whether in the form of numerical quotas, monopolies, exclusive rights or the requirement of an economic needs test;

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

(c) limits the total number of operations or the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

[35] Subparagraphs 2(a), (b) and (c) do not cover measures adopted or maintained in order to limit the production of an agricultural or fishery product.

(d) restricts or requires specific types of legal entity or joint venture through which an investor of the other Party may carry out an economic activity; or

(e) limits the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of an economic activity in the form of numerical quotas or the requirement of an economic needs test.

ARTICLE 10.7

National Treatment

1. Each Party shall accord to investors of the other Party and to their covered enterprises treatment no less favourable than the treatment it accords, in like situations, to its own investors and to their enterprises, respectively, with respect to their establishment in its territory.

2. Each Party shall accord to investors of the other Party and to their covered enterprises, treatment no less favourable than the treatment it accords, in like situations, to its own investors and to their enterprises, respectively, with respect to their operation in its territory.

3. The treatment to be accorded by a Party pursuant to paragraphs 1 and 2 means, with respect to a regional level of government of Mexico, treatment no less favourable than the most favourable treatment accorded, in like situations, by that regional level of government to investors of Mexico, and to their enterprises in the territory of that regional government.

4. The treatment to be accorded by a Party pursuant to paragraphs 1 and 2 means, with respect to a government of or in a Member State of the European Union, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to its own investors, and to their enterprises in its territory.

ARTICLE 10.8

Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of the other Party and to their covered enterprises treatment no less favourable than the treatment it accords, in like situations, to investors and enterprises, respectively, of any third country with respect to their establishment in its territory.

2. Each Party shall accord to investors of the other Party and to their covered enterprises treatment no less favourable than the treatment it accords, in like situations, to investors and enterprises, respectively, of any third country with respect to the operation of enterprises in its territory.

3. Paragraphs 1 and 2 shall not be construed as obliging a Party to extend to the investors of the other Party the benefit of any treatment resulting from measures providing for recognition, including of the standards or criteria for the authorisation, licencing or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures.

4. For greater certainty, the treatment referred to in this Article does not include treatment accorded to investors of a third country and their enterprises by provisions concerning the settlement of investment disputes provided for in other international agreements concluded between a Party and a third country. The substantive provisions in other international agreements do not in themselves constitute treatment as referred to in paragraphs 1 and 2, and thus cannot give rise to a breach of this Article. Measures applied pursuant to such provisions may constitute treatment under this Article.

ARTICLE 10.9

Performance Requirements

1. A Party shall not, in connection with the establishment or the operation of an enterprise of an investor of a Party or of a third country in the territory of that Party, impose or enforce any requirement or enforce any commitment or undertaking to:[36]

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

[36] For greater certainty, a condition for the receipt or continued receipt of an advantage referred to in paragraph 2 does not constitute a "commitment or undertaking" for the purposes of paragraph 1.

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

(c) purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from natural persons or enterprises in its territory;

(d) 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 such enterprise;

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

(f) provide access to or transfer a particular technology, a production process or other proprietary knowledge to a natural person or enterprise in its territory;

(g) supply exclusively from the territory of the Party to a specific regional or the world market, goods or services that such enterprise produces;

(h) locate the headquarters of that enterprise for a specific regional or the world market in its territory; or

(k) restrict the exportation or sale for export.

2. A Party shall not condition the receipt or continued receipt of an advantage, in connection with the establishment or the operation of an enterprise of an investor of a Party or of a third country in its territory, on compliance with any requirement to:

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

(b) purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods from natural persons or enterprises in its territory;

(c) 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 such enterprise;

(d) restrict sales of goods or services in its territory that such enterprise produces or supplies by relating those sales in any way to the volume or value of its exports or foreign exchange earnings; or

(e) restrict the exportation or sale for export.

3. Nothing in paragraph 2 shall be construed as preventing a Party from conditioning the receipt or continued receipt of an advantage, in connection with the establishment or the operation of an enterprise of an investor of a Party or of a third country, 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.

4. Subparagraph 1(f) does not apply if:

(a) 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 a judicial or administrative process to be a violation of the Party's competition law; or

(b) a Party authorises use of an intellectual property right in accordance with Articles 31 and 31*bis* 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.

5. Subparagraphs 1(a), (b) and (c) and 2(a) and (b), do not apply to qualification requirements for goods or services with respect to participation in export promotion and foreign aid programmes.

6. Subparagraphs 2(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

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

8. This Article does not preclude enforcement of any commitment, undertaking or requirement between private parties other than a Party, where a Party did not impose or require the commitment, undertaking or requirement.

9. This Article is without prejudice to commitments of a Party made under the WTO Agreement.

ARTICLE 10.10

Senior Management and Board of Directors

1. A Party shall not require that an enterprise that is a covered enterprise appoint natural persons of any particular nationality to senior management positions.

2. A Party shall not require that the board of directors of an enterprise of that is a covered enterprise be composed of nationals or residents in the territory of the Party, or a combination thereof.

ARTICLE 10.11

Formal Requirements

Notwithstanding Articles 10.7 and 10.8, a Party may require an investor of the other Party or its covered enterprise to provide routine information concerning that enterprise solely for informational or statistical purposes. The Party shall protect that information which is confidential from any disclosure that would prejudice the competitive position of the investor or the covered enterprise. Nothing in this Article shall be construed as preventing a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

ARTICLE 10.12

Non-Conforming Measures and Exceptions

1. Articles 10.7 to 10.10 do not apply to:

(a) an existing non-conforming measure that is maintained by a Party at the level of:

(i) the European Union, as set out in its List to Annex I (Reservations for Existing Measures);

(ii) a central government, as set out by that Party in its List to Annex I (Reservations for Existing Measures);

(iii) a regional government, as set out by that Party in its List to Annex I (Reservations for Existing Measures); or

(iv) a local government

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

(c) any amendment to a non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 10.7 to 10.10.

2. Articles 10.7 to 10.10 do not apply to a measure that a Party adopts or maintains with respect to sectors, subsectors or activities as set out in its List to Annex II (Reservations for Future Measures).

3. A Party shall not, under a measure adopted after the date of entry into force of this Agreement and covered by its List to Annex II (Reservations for Future Measures), require directly or indirectly an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of a covered enterprise existing at the time the measure becomes effective.

4. Article 10.6 does not apply to a measure that a Party adopts or maintains with respect to committed sectors or subsectors as set out in its Schedule to Annex III (Market Access Commitments).

5. Articles 10.7 and 10.8 do not apply to any measure that constitutes an exception, exemption or waiver from Articles 3 or 4 of the TRIPS Agreement, as provided in Articles 3 to 5 of that Agreement.

6. Without prejudice to paragraphs 1 to 5, within five years after the date of entry into force of this Agreement, Mexico may notify to the European Union a draft Trade Council decision to modify Annexes I (Reservations for Existing Measures), II (Reservations for Future Measures) and III (Specific Commitments and Limitations on Market Access):

(a) in Appendix I-B-2 (List of Mexico. Reservations Applicable at Sub-Central Level) to Annex I (Reservations for Existing Measures) and Appendix III-B-2 (Schedule of Mexico. Limitations Applicable at Sub-Central Level) to Annex III (Specific Commitments and Limitations on Market Access) any existing non-conforming measures maintained at the sub-federal level of government; and

(b) in Appendix I-B-1 (List of Mexico. Reservations Applicable at Central Level) to Annex I (Reservations for Existing Measures) and Appendix II-B (List of Mexico) to Annex II (Reservations for Future Measures) its performance requirements.

The European Union shall review that draft within a period of three months and consult with Mexico any related issues. After consultation, the Trade Council shall adopt the modifications to the annexes referred to in this paragraph. The modified annexes shall apply as of the date of adoption of the modifications.

ARTICLE 10.13

Denial of Benefits

A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of that Party and to investments of that investor if:

(a) an investor of a third country owns or controls the enterprise; and

(b) the denying Party adopts or maintains a measure with respect to that third country, or with respect to natural persons or enterprises of that third country, that prohibits transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to that investor or to its investments.

ARTICLE 10.14

Sub-Committee on Services and Investment

The Sub-Committee on Services and Investment established pursuant to Article 33.4.1(h) (Sub-Committees and Other Bodies) shall:

(a) provide a forum for the Parties to consult on issues related to this Chapter, including:

(i) difficulties which may arise in the implementation of this Chapter;

(ii) possible improvements of this Chapter, in particular in light of experience and developments in other international fora and under other agreements of the Parties; and

(b) prepare decisions to be adopted or actions to be taken by the Trade Council pursuant to this Chapter.

CHAPTER 11

CROSS-BORDER TRADE IN SERVICES

ARTICLE 11.1

Definitions

1. For the purposes of this Chapter:

(a) "cross-border trade in services" or "cross-border supply of services" means the supply of a service:

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

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

(b) "enterprise" means an enterprise as defined in Article 1.3 (Definitions of General Application), or a branch or a representative office thereof;

(c) "enterprise of the European Union" or "enterprise of Mexico" means an enterprise set up in accordance with the law of the European Union or its Member States, or of Mexico and engaged in substantive business operations[37] in the territory of the European Union or of Mexico, respectively;[38]

shipping companies established outside the European Union or Mexico and controlled by nationals of a Member State of the European Union or of Mexico, respectively, shall also be beneficiaries of the provisions of this Chapter if their vessels are registered in accordance with the law of a Member State of the European Union or of Mexico, as appropriate, and fly the flag of that Member State of the European Union or of Mexico;

(d) "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; and

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[37] In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the European Union understands that the concept of an "effective and continuous link" with the economy of a Member State of the European Union enshrined in Article 54 of the TFEU is equivalent to the concept of "substantive business operations".

[38] For greater certainty, a branch or a representative office of an enterprise of a third country shall not be considered to be an enterprise of the European Union or an enterprise of Mexico.

(e) "service supplier of a Party" means a natural person or an enterprise of a Party other than a branch or a representative office that seeks to supply or supplies a service.

ARTICLE 11.2

Scope

1. This Chapter applies to measures of a Party affecting cross-border trade in services by service suppliers of the other Party. Those 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, in connection with the supply of a service, services which are required by a Party to be offered to the public generally, including distribution, transport or telecommunications networks; and

(d) the provision of any form of financial security, including a bond, as a condition for the supply of a service.

2. This Chapter does not apply to:

(a) audio-visual services;

(b) national maritime cabotage;[39]

(c) measures of a Party insofar as they are covered by Chapter 18 (Financial Services);

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

[39] For the European Union, without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Chapter covers transportation of passengers or goods between a port or point located in a Member State of the European Union and another port or point located in that same Member State of the European Union, including on its continental shelf, as provided in the United Nations Convention on the Law of the Sea; and traffic originating and terminating in the same port or point located in a Member State of the European Union.
For Mexico, national maritime cabotage under this Chapter covers the navigation that any vessel performs by sea, between ports or places located within the Mexican marine zones and Mexican shores.

(e) government procurement of a good or service purchased for governmental purposes, and not with a view to commercial resale, or use in the production of a good or supply service for commercial sale, irrespective of whether that procurement constitutes a covered procurement within the meaning of Article 21.1 (Definitions);

(f) subsidies[40] or grants provided by a Party, including government-supported loans, guarantees and insurance; and

(g) air services or related services in support of air services[41], other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) selling and marketing of air transport services;

[40] For greater certainty, subsidies are covered under Chapter 24 (Subsidies).

[41] For greater certainty, air services or related services in support of air services also include: rental of aircraft with crew, airport operation services and services provided by 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, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services.

(iii) computer reservation system services; and

(iv) ground handling services.

3. Articles 11.4 to 11.7 do not apply to new services as set out in Annex VII (Understanding on New Services Not Classified in the United Nations Provisional Central Product Classification 1991).

ARTICLE 11.3

Right to Regulate

The Parties affirm the right to regulate within their territories to achieve legitimate policy objectives, such as public health, social services, public education, safety, environment, public morals, social or consumer protection, privacy and data protection, the promotion and protection of cultural diversity, or competition.

ARTICLE 11.4

Market Access

In the sectors or subsectors where market access commitments are undertaken, a Party shall not adopt or maintain, either on the basis of its entire territory or on the basis of a territorial subdivision, measures imposing limitations on:

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

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

(c) 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.

ARTICLE 11.5

Local Presence

A Party shall not require a service supplier of the other 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 11.6

National Treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than the treatment it accords, in like situations, to its own services and service suppliers.

2. The treatment to be accorded by Mexico pursuant to paragraph 1 is, with respect to a regional level of government of Mexico, treatment no less favourable than the most favourable treatment accorded, in like situations, by that regional level of government to its own services and service suppliers.

3. The treatment to be accorded by the European Union pursuant to paragraph 1 is, with respect to a government of or in a Member State of the European Union, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to its services and service suppliers.

ARTICLE 11.7

Most-Favoured-Nation Treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than the treatment it accords, in like situations, to services and service suppliers of a third country.

2. Paragraph 1 shall not be construed as obliging a Party to extend to services and service suppliers of the other Party the benefit of any treatment resulting from measures providing for recognition, including of the standards or criteria for the authorisation, licencing or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures.

ARTICLE 11.8

Non-Conforming Measures and Exceptions

1. Articles 11.5 to 11.7 do not apply to:

(a) any existing non-conforming measure of a Party that is maintained by:

(i) the European Union, as set out in its List to Annex I (Reservations for Existing Measures);

(ii) a national government, as set out by that Party in its List to Annex I (Reservations for Existing Measures);

(iii) a regional government, as set out by that Party in its List to Annex I (Reservations for Existing Measures); or

(iv) a local government;

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

(c) any amendment to a non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 11.5 to 11.7.

2. Articles 11.5 to 11.7 do not apply to a measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its List to Annex II (Reservations for Future Measures).

3. Article 11.4 does not apply to any measure of a Party with respect to committed sectors or subsectors as set out in its Annex III (Specific Commitments and Limitations on Market Access).

4. Within five years after the date of entry into force of this Agreement, Mexico may notify to the European Union a draft Trade Council decision to modify Appendix I-B-2 (List of Mexico. Reservations Applicable at Sub-Central Level) to Annex I (Reservations for Existing Measures) and Appendix III-B-2 (Schedule of Mexico. Limitations Applicable at Sub-Central Level) to Annex III (Specific Commitments and Limitations on Market Access) with any existing non-conforming measures maintained at the sub-federal level of government.

The European Union shall review that draft within a period of three months and consult with Mexico any related issues. After consultation, the Trade Council shall adopt the modifications to the annexes referred to in this paragraph. The modified annexes shall apply as of the date of adoption of the modifications.

ARTICLE 11.9

Denial of Benefits

A Party may deny the benefits of this Chapter to a service supplier of the other Party that is an enterprise of that Party and to services of that service supplier if:

(a) a person of a third country owns or controls the enterprise; and

(b) the denying Party adopts or maintains a measure with respect to that third country or to enterprises or natural persons of that third country, that prohibits transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

CHAPTER 12

TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

ARTICLE 12.1

Definitions

For the purposes of this Chapter:

(a) "business person" means, for Mexico, a national of the European Union who enters the territory of Mexico, without the purpose of establishing temporary or permanent residence, to:

(i) commercially trade goods or provide services;

(ii) establish, develop or manage an enterprise;

(iii) conduct business contacts and negotiations for the sale of goods and services, or similar activities;

(iv) provide specialised services for installation, repair, maintenance, supervision or training of workers, previously agreed or considered in a contract of technology transfer, patents and trademarks, for the sale of commercial or industrial equipment or machinery, or any other production process of an enterprise established in the territory of a Party, during the term of the guarantee contract, sale or service;

(v) attend assemblies or sessions of the board of directors of a legally established enterprise in Mexico; or

(vi) promote goods or services, advise clients, receive orders, negotiate contracts and exhibit, participate or attend congresses, fairs, conventions or similar;

(b) "business visitors for purposes of establishment of an enterprise" means natural persons working in a senior position who are responsible for setting up an enterprise, who do not offer or provide services or engage in any economic activity other than required for the purpose of the establishment of that enterprise and do not receive remuneration from a source located within the host Party;

(c) "contractual service suppliers" means natural persons employed by an enterprise of a Party which itself is not an agency for placement and supply of services of personnel and is not acting through such an agency, which is not established in the territory of the other Party and which has concluded a *bona fide* contract to supply services with a final consumer in the other Party, requiring the presence on a temporary basis of its employees in that Party, in order to fulfil the contract to supply services;[42]

(d) "independent professionals" means, for the European Union, natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who are not established in the territory of the other Party and who have concluded a *bona fide* contract, other than through an agency for placement and supply services of personnel, to supply services with a final consumer in the other Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to supply services;[43]

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[42] The service contract referred to in subparagraph (c) shall comply with the requirements of the laws and regulations of the Party where the contract is executed.

[43] The service contract referred to in subparagraph (d) shall comply with the requirements of the laws and regulations of the Party where the contract is executed.

(e) "intra-corporate transferees" means natural persons who have been employed by an enterprise of a Party or have been partners in an enterprise of a Party, who are temporarily transferred to an enterprise of a Party, including a subsidiary, branch or parent company of that enterprise in the territory of the other Party,[44] and who are:

(i) "managers" or "executives", meaning persons working in a senior position within an enterprise, who primarily direct the management of the enterprise[45] in the other Party and receive general supervision or direction principally from the board of directors or from stockholders of the business or their equivalent, and who at least:

(A) direct the enterprise or a department or subdivision thereof;

(B) supervise and control the work of other supervisory, professional or managerial employees; and

(C) have the personal authority to recruit and dismiss or to recommend recruitment, dismissal or other personnel-related actions;

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[44] For greater certainty, managers or executives and specialists may be required to demonstrate that they possess the professional qualifications and experience needed in the enterprise to which they are transferred.

[45] For greater certainty, while managers or executives do not directly perform tasks concerning the actual supply of the services, they may, in the course of executing their duties to primarily direct the management of the enterprise, perform tasks that may be necessary for the provision of the services.

(ii) "specialists", meaning persons working in an enterprise who possess specialised knowledge essential to the enterprise's areas of activity, techniques or management, assessed taking into account the knowledge specific to the enterprise and whether the person has a high level of qualification; or

(iii) "trainee employees", meaning, for the European Union, persons who have been employed by an enterprise which is not a representative office for at least one year, possess a university degree and are temporarily transferred for career development purposes or to obtain training in business techniques or methods;[46]

(f) "investors" means, for Mexico, natural persons of the European Union seeking to enter Mexico for a temporary stay or that are already in Mexico and intending to:

(i) explore different establishment alternatives;

(ii) perform or supervise an establishment;

[46] The recipient enterprise may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For Czechia, Germany, Spain, France, Hungary Lithuania and Austria, training must be linked to the university degree which has been obtained.

(iii) represent a foreign enterprise or perform business transactions; or

(iv) develop, administer or provide advice or key technical services to the operation of an enterprise 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; and

(g) "short-term business visitors" means natural persons who are seeking entry and temporary stay into the territory of the other Party, who are not engaged in making direct sales to the general public, who do not receive remuneration from a source located within the host Party and who are:

(i) "business sellers", meaning short-term business visitors who are representatives of a supplier of services or goods of a Party for the purposes of negotiating the sale of services or goods, or entering into agreements to sell services or goods for that supplier, are not engaged in the supply of a service in the framework of a contract concluded between an enterprise that has no commercial presence in the territory of the other Party and a consumer in that territory, and are not commission agents;

(ii) "installers and maintainers", meaning, in respect of the entry and temporary stay in the European Union, short-term business visitors possessing specialised knowledge essential to a seller's or lessor's contractual obligations, performing services or training personnel 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 and related services, purchased or leased from an enterprise located outside the territory of the European Union, throughout the duration of the warranty or service contract and, in respect of the entry and temporary stay in Mexico, short-term business visitors that provide specialised 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 for an established enterprise in Mexico; or

(iii) "other short-term business visitors", meaning, for Mexico, short-term visitors that attend business administration meetings, conferences or trade fairs and perform management or executive duties in an enterprise or its subsidiaries or affiliates that are established in Mexico.

ARTICLE 12.2

Objectives, Scope and General Provisions

1. This Chapter reflects the Parties' desire of facilitating the entry and temporary stay of natural persons of a Party into the territory of the other Party for business purposes and the need to establish transparent criteria for this purpose.

2. This Chapter applies to measures directly relating to the entry and temporary stay of natural persons of a Party into the territory of the other Party for business purposes that are business visitors for purposes of establishment of an enterprise, intra-corporate transferees, investors, business sellers, contractual service suppliers and independent professionals.

3. This Chapter does not apply to measures affecting natural persons seeking access to the employment market of a Party, nor to measures regarding citizenship or nationality, residence or employment on a permanent basis.

4. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under this Chapter. The sole fact of requiring a visa for natural persons of a certain country and not for those of others shall not be regarded as nullifying or impairing benefits under this Chapter.

5. Each Party shall apply the measures covered by this Chapter expeditiously in order to avoid delays or undue damages in trade in goods or services, or in establishment activities under this Agreement.

6. The Parties shall endeavour to develop and adopt common criteria and common interpretations for the implementation of this Chapter.

7. Each Party shall allow the entry and temporary stay for business purposes of natural persons of the other Party who comply with the immigration laws and regulations of the former Party applicable to the entry and temporary stay, in accordance with this Chapter, including the provisions of Annexes I (Reservations for Existing Measures), II (Reservations for Future Measures), III, (Specific Commitments and Limitations on Market Access), IV (Business Visitors for Purposes of Establishment of an enterprise, Intra-Corporate Transferees, Investors and Short-Term Business Visitors), V (Contractual Services Suppliers and Independent Professionals) and VI (Reservations for Financial Services).

8. A Party may, in accordance with its laws and regulations and on a non-discriminatory basis, derogate from its commitments on entry and temporary stay set out in its Annexes IV (Business Visitors for Purposes of Establishment of an Enterprise) and V (Contractual Services Suppliers and Independent Professionals) in cases where the entry and temporary stay of a natural person of another Party might adversely affect:

(a) the settlement of a collective labour dispute that is in progress at the place or intended place of employment; or

(b) the employment of any person who is involved in that dispute.

ARTICLE 12.3

Obligations in Other Chapters

1. This Chapter does not impose any obligation on a Party regarding its immigration measures, except as specifically provided herein.

2. Without prejudice to any decision to allow entry and temporary stay to a natural person of the other Party in accordance with this Chapter, including the length of stay permissible pursuant to any such decision:

(a) the obligations of Articles 10.6 (Market Access), 10.7 (National Treatment), 10.9 (Performance Requirements) and 10.10 (Senior Management and Board of Directors), subject to Articles 10.5 (Scope), 10.12 (Non-Conforming Measures and Exceptions), 18.2 (Scope) and 18.12 (Reservations and non-Conforming Measures), to the extent that the measure affects the treatment of natural persons for business purposes present in the territory of the other Party, are hereby incorporated into and made part of this Chapter and apply to measures affecting treatment of natural persons for business purposes present in the territory of the other Party under the categories of business visitors for purposes of establishment of an enterprise, intra-corporate transferees and, for Mexico, investors, as defined in Article 12.1 of this Chapter; and

(b) the obligations of Articles 11.4 (Market Access), 11.5 (Local Presence) and 11.6 (National Treatment), subject to Articles 11.2.2 (Scope), 11.8 (Non-Conforming Measures and Exceptions), 18.2 (Scope) and 18.12 (Reservations and Non-Conforming Measures), to the extent that the measure affects the treatment of natural persons for business purposes present in the territory of the other Party, are hereby incorporated into and made part of this Chapter and apply to the measures affecting treatment of natural persons for business purposes present in the territory of the other Party under the categories of contractual service suppliers and, for the European Union, independent professionals, for all sectors listed in Annex V (Contractual Services Suppliers and Independent Professionals) and short-term business visitors, in accordance with Annex IV (Business Visitors for Purposes of Establishment of an Enterprise, Intra-Corporate Transferees, Investors and Short-Term Business Visitors).

3. For greater certainty, paragraph 2 applies to the measures affecting the treatment of natural persons present in the territory of the other Party for business purposes and falling within the relevant categories and who are supplying financial services, as defined in Article 18.1 (Definitions). Paragraph 2 does not apply to measures relating to the granting of temporary entry to natural persons of a Party or of a third country.

ARTICLE 12.4

Business Visitors for Purposes of Establishment of an Enterprise, Intra-corporate Transferees and Investors

1. Subject to Article 10.5 (Scope), each Party shall allow the entry and temporary stay in its territory of business visitors for purposes of establishment of an enterprise and intra-corporate transferees of the other Party in accordance with Annex IV (Business Visitors for Purposes of Establishment of an enterprise, Intra-Corporate Transferees, Investors and Short-Term Business Visitors).

2. Subject to Article 10.5 (Scope), Mexico shall allow the entry and temporary stay in its territory of investors in accordance with Annex IV (Business Visitors for Purposes of Establishment of an Enterprise, Intra-Corporate Transferees, Investors and Short-Term Business Visitors).

3. A Party shall not adopt or maintain limitations on the total number of natural persons that are allowed entry and temporary stay in accordance with paragraphs 1 and 2, in a specific sector or sub-sector, in the form of numerical quotas or the requirement of an economic needs test either on the basis of a regional subdivision or on the basis of its entire territory.

4. The permissible length of stay shall be:[47]

(a) for the European Union, up to three years for managers or executives and specialists, up to one year for trainee employees, and up to 90 days within any six-month period for business visitors for purposes of establishment of an enterprise; and

(b) for Mexico, one year which may be extended three times, for one year each time, for intra-corporate transferees and investors, and up to 180 days for business visitors for purposes of establishment of an enterprise.

5. The Parties shall grant family members of intra-corporate transferees treatment in accordance with Annex 12-A.

[47] The length of stay for business visitors for purposes of establishment of an enterprise is without prejudice to the rights granted by a Party to nationals or citizens of the other Party under bilateral visa waivers.

ARTICLE 12.5

Short Term Business Visitors

Subject to Article 11.2 (Scope) and Annex IV (Business Visitors for Purposes of Establishment of an Enterprise, Intra-Corporate Transferees, Investors and Short-Term Business Visitors), a Party shall:

(a) allow the entry and temporary stay of short term business visitors;

(b) not adopt or maintain limitations on the total number of short term business visitors in a specific sector in the form of numerical quotas either on the basis of a regional subdivision or on the basis of its entire territory; and

(c) not adopt or maintain economic needs tests for short term business visitors.

ARTICLE 12.6

Contractual Service Suppliers

1. Each Party shall allow the entry and temporary stay in its territory of contractual service suppliers of the other Party in accordance with Annex V (Contractual Services Suppliers and Independent Professionals).

2. Unless otherwise specified in Annex V (Contractual Services Suppliers and Independent Professionals), a Party shall not adopt or maintain limitations on the total number of contractual service suppliers of the other Party allowed entry and temporary stay, in the form of numerical quotas or the requirement of an economic needs test.

ARTICLE 12.7

Independent Professionals

1. The European Union shall allow the entry and temporary stay in its territory of independent professionals of Mexico in accordance with Annex V (Contractual Services Suppliers and Independent Professionals).

2. Unless otherwise specified in Annex V (Contractual Services Suppliers and Independent Professionals), the European Union shall not adopt or maintain limitations on the total number of independent professionals of Mexico allowed entry and temporary stay, in the form of numerical quotas or the requirement of an economic needs test.

ARTICLE 12.8

Transparency

1. Each Party shall make publicly available information on the requirements and procedures for entry and temporary stay, including relevant forms and documents, and explanatory materials that will enable interested persons of the other Party to become acquainted with applicable requirements and procedures.

2. The information referred to in paragraph 1 shall include, if applicable, information on the following:

(a) categories of visa, permits or any similar type of authorisation regarding entry and temporary stay;

(b) documentation required and conditions to be met;

(c) method of filing an application and options on where to file, such as consular offices or online;

(d) application fees and indicative processing time;

(e) maximum period of stay under each type of authorisation described in subparagraph (a);

(f) conditions for any available extensions or renewal;

(g) rules regarding accompanying dependents;

(h) available review or appeal procedures; and

(i) relevant laws of general application pertaining to the entry and temporary stay of natural persons.

ARTICLE 12.9

Dispute Settlement

A Party shall not have recourse to dispute settlement under Chapter 31 (Dispute Settlement) regarding a refusal to grant entry and temporary stay under this Chapter unless the matter involves a pattern of practice.

CHAPTER 13

DOMESTIC REGULATION

ARTICLE 13.1

Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to licensing and qualification requirements and procedures, as well as technical standards[48], affecting trade in services or the pursuit of any other economic activity with respect to which a Party has undertaken a commitment pursuant to Articles 10.6 (Market Access), 10.7 (National Treatment), 11.4 (Market Access), 11.6 (National Treatment), subject to any terms, limitations, conditions or qualifications as set out in its schedule pursuant to Articles 10.12 (Non-Conforming Measures and Exceptions) and 11.8 (Non-Conforming Measures and Exceptions).

2. Notwithstanding paragraph 1, Article 13.6 applies to measures adopted or maintained by a Party relating to licensing and qualification requirements and procedures, as well as technical standards, affecting trade in services or the pursuit of any other economic activity.

[48] For greater certainty, as far as measures relating to technical standards are concerned, this Chapter only applies to such measures affecting trade in services.

3. This Chapter does not apply to measures adopted or maintained by a Party covered under Chapter 18 (Financial services).

ARTICLE 13.2

Development of Measures

A Party that adopts or maintains measures relating to licensing requirements and procedures, qualification requirements and procedures, shall:

(a) ensure that those measures are based on objective and transparent criteria;[49]

(b) ensure that the competent authority reaches and administers its decisions in an independent manner;

(c) ensure that the procedures do not in themselves unduly prevent the fulfilment of any requirements;

[49] For greater certainty, competent authorities may assess the weight to be given to those criteria which may include competence, ability to supply a service or any other economic activity, and potential health or environmental impacts of an authorisation decision.

(d) ensure that the procedures are impartial and adequate for applicants to demonstrate whether they meet the requirements, if any; and

(e) not require an applicant, to the extent practicable, to approach more than one competent authority for each application for authorisation.[50]

ARTICLE 13.3

Administration of Measures

If authorisation is required for the supply of a service or the pursuit of any other economic activity, the competent authorities of a Party shall:

(a) permit an applicant, to the extent practicable, to submit an application at any time;

(b) allow a reasonable period of time for the submission of an application if specific time periods for applications exist;

(c) schedule examinations at reasonably frequent intervals, if examinations are required, and provide a reasonable period of time for an applicant to request to take the examination;

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

(d) endeavour to accept applications in electronic format, taking into account their competing priorities and resource constraints;

(e) accept copies of documents authenticated in accordance with the Party's domestic law, in place of original documents, unless they require original documents to protect the integrity of the authorisation process;

(f) ensure that the authorisation fees[51] charged by the competent authorities are reasonable and transparent and do not in themselves restrict the supply of the relevant service or the pursuit of any other economic activity;

(g) provide, to the extent practicable, an indicative timeframe for processing of an application;

(h) ascertain without undue delay, to the extent practicable, the completeness of an application for processing under the law of the Party;

[51] Authorisation fees include licensing fees and fees relating to qualification procedures; they 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.

(i) if an application is considered complete for processing under the law of the Party, ensure that the processing of the application is finalised and that the applicant is informed of the decision within a reasonable period of time after the submission of the application, to the extent possible in writing;[52]

(j) provide at the request of the applicant and without undue delay information concerning the status of the application;

(k) if an application is considered incomplete for processing under the law of the Party, within a reasonable period of time and to the extent practicable:

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

(ii) provide, at the request of the applicant, guidance on why the application is considered incomplete;

[52] The competent authorities can meet this requirement by informing an applicant in advance in writing, including through a published measure, that lack of response after a specified period of time from the date of submission of the application indicates either acceptance or rejection of the application. For greater certainty, informing in writing may include information provided in electronic form.

(iii) provide the applicant with the opportunity[53] to submit the additional information that is required to complete the application; and

(iv) where none of the above is practicable, and the application is rejected due to incompleteness, ensure that the applicant is informed within a reasonable period of time;

(l) if an application is rejected, inform the applicant, to the extent possible, either on their own initiative or on request of the applicant, of the reasons for rejection and, where applicable, the procedures for resubmission of an application; and

(m) ensure that authorisation, once granted, enters into effect without undue delay subject to the applicable terms and conditions.

[53] For greater certainty, such opportunity does not require a competent authority to provide extensions of deadlines.

ARTICLE 13.4

Limited Numbers of Licences

1. If the number of licences available for a given activity is limited because of the scarcity of available natural resources or technical capacity, a Party shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch, conduct and completion of the procedure.

2. In establishing the rules for the selection procedure, a Party may take into account legitimate policy objectives, including considerations of health, safety, consumer protection, competition, the protection of the environment and the preservation of cultural heritage.

ARTICLE 13.5

Technical Standards

Each Party shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body designated to develop technical standards to do so through open and transparent processes.

ARTICLE 13.6

Transparency

A Party that requires authorisation for the supply of a service or the pursuit of any other economic activity shall provide the information necessary for service suppliers or persons seeking to supply a service and persons pursuing or seeking to pursue any other economic activity to comply with the requirements and procedures for obtaining, maintaining, amending and renewing that authorisation. That information shall include, where it exists:

(a) authorisation fees;

(b) contact information of relevant competent authorities;

(c) procedures for appeal or review of decisions concerning applications;

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

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

(f) indicative timeframes for the processing of an application;

(g) requirements and procedures; and

(h) applicable technical standards.

ARTICLE 13.7

Review

Following the entry into force of additional disciplines developed in accordance with paragraph 4 of Article VI of GATS, the Parties shall review those disciplines. If the review concludes that those disciplines would improve this Agreement, the Parties shall determine whether they should be incorporated into this Agreement.

CHAPTER 14

MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

ARTICLE 14.1

General Provisions

1. Nothing in this Chapter shall prevent a Party from requiring that natural persons possess the necessary qualifications or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

2. Each Party shall encourage the relevant professional bodies or authorities, as appropriate, in its respective territories to develop and provide joint recommendations on mutual recognition of professional qualifications, to the Sub-Committee on Services and Investment established pursuant to Article 33.4.1(h) (Sub-Committees and Other Bodies).

3. The joint recommendations referred to in paragraph 2 shall be supported by evidence of:

(a) the economic value of an envisaged agreement on mutual recognition of professional qualifications (hereinafter referred to as "Mutual Recognition Agreement"); and

(b) the compatibility of the respective regimes, that is, the extent to which the criteria applied by each Party for the authorisation and licensing are compatible.

4. The Sub-Committee shall review any joint recommendation within a reasonable period of time after its receipt.

5. If the joint recommendation is consistent with this Agreement, the Parties shall take the necessary steps to negotiate a Mutual Recognition Agreement, if appropriate through their competent authorities or designees authorised by a Party. If appropriate, the Trade Council may adopt the arrangements for the mutual recognition of professional qualification by decision.

6. When negotiating mutual recognition agreements or when developing joint recommendations, the Parties or the relevant professional bodies or authorities, respectively, are encouraged to follow the Guidelines for the negotiation of a Mutual Recognition Agreement set out in Annex 14-A.

CHAPTER 15

DELIVERY SERVICES

ARTICLE 15.1

Definitions

For the purposes of this Chapter:

(a) "delivery services" means postal and courier or express services, which include the collection, sorting, transport and delivery of postal items;

(b) "express delivery services" means the collection, sorting, transport and delivery of postal items at accelerated speed and enhanced reliability that may include value added elements such as collection from point of origin, personal delivery to the addressee, tracing, possibility of changing the destination and addressee in transit or confirmation of receipt;

(c) "express mail services" means international express delivery services supplied through a voluntary association of designated postal operators under Universal Postal Union (UPU) such as the EMS Cooperative;

(d) "license" means an authorisation granted to an individual supplier by a regulatory authority setting out procedures, obligations and requirements specific to the delivery services sector;

(e) "postal item" means an item weighing up to 31.5 kg addressed in the final form in which it is to be carried by any type of supplier of delivery service, whether public or private, and that may include items such as a letter, parcel, newspaper and catalogue;

(f) "postal monopoly" means the exclusive right to supply specified delivery services within the territory of a Party, pursuant to the law of that Party; and

(g) "universal service" means the permanent provision of a delivery service of a specified quality pursuant to the law of a Party at all points in the territory of that Party at affordable prices for all users.

ARTICLE 15.2

Objective

This Chapter sets out the principles of the regulatory framework specific for all delivery services.

ARTICLE 15.3

Universal Service

1. Each Party has the right to define the kind of universal service obligation it wishes to adopt or maintain and shall administer that obligation in a transparent, non-discriminatory and neutral manner with regard to all suppliers which are subject to the obligation.

2. If a Party requires inbound express mail services to be supplied on a universal service basis, it shall not accord preferential treatment to this service over other international express delivery services.

ARTICLE 15.4

Universal Service Funding

1. A Party shall not impose fees or other charges on the supply of a non-universal delivery service for the purpose of funding the supply of a universal service.

2. Paragraph 1 does not apply to generally applicable taxation measures or administrative fees.

ARTICLE 15.5

Prevention of Market Distortive Practices

Each Party shall ensure that a supplier of delivery services subject to a universal service obligation or a postal monopoly does not engage in distortive practices for the market such as:

(a) using revenues derived from the supply of such service to cross-subsidise the supply of an express delivery service or any non-universal delivery service; and

(b) unjustifiably differentiating among customers such as businesses, large volume mailers or consolidators with respect to tariffs or other terms and conditions for the supply of a delivery service which is subject to a universal service obligation or a postal monopoly.

ARTICLE 15.6

Licenses

1. A Party requiring a license for the provision of delivery services shall make publicly available:

(a) all licensing requirements and the period of time required to reach a decision concerning an application for a license; and

(b) the terms and conditions of licenses.

2. The procedures, obligations and requirements of a license shall be transparent, non-discriminatory and based on objective criteria.

3. A Party shall ensure that the applicant is informed of the reasons for denial of a license in writing.

ARTICLE 15.7

Independence of the Regulatory Body

1. Each Party shall establish or maintain regulatory bodies which shall be legally distinct and functionally independent from any supplier of delivery services. A Party retaining ownership or control of enterprises providing delivery services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

2. Each Party shall ensure that the regulatory bodies referred to in paragraph 1 perform their tasks in a transparent and timely manner, and that they have adequate financial and human resources to carry out the tasks assigned to them.

3. The decisions of and the procedures used by the regulatory body shall be impartial with respect to all market participants.