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Trade Policy Committee

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NOTE FOR THE ATTENTION OF THE TRADE POLICY COMMITTEE

SUBJECT: ***CETA Consolidated text***

ORIGIN: **Commission DG TRADE Dir. E.1**

Philipp Dupuis
Deputy Head of Unit, DG Trade E.1
Tel: +32-2-299.20.76
philipp.dupuis@ec.europa.eu

Annette Grunberg
Policy Officer, DG Trade E.1
Tel: +32-2-299.39.56
annette.grunberg@ec.europa.eu

OBJECTIVE: ***For Information***

Following the political break-through of October last year, negotiators have now finished their work and reached a complete outcome. Member States will find the full set of corresponding texts attached, including consolidated version of all chapters, annexes, declarations, understandings as well as side letters agreed with Canada. This is the complete outcome on the basis of which the EU and Canada will proceed with the legal

scrubbing and translations, before submitting the Agreement to the Council for conclusion. In the meantime, an EU-Canada Summit is being planned for September.

This document is Limited and should hence not be distributed outside the EU institutions.

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Consolidated CETA Text

Version of 1 August 2014

Draft Table of Contents for a Consolidated CETA Text

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1. PREAMBLE

CANADA EU CETA PREAMBLE TEXT

The parties resolve to

DESIRE to further strengthen their close economic relationship and build on their respective rights and obligations under the *Marrakesh Agreement Establishing the World Trade Organization* and other multilateral and bilateral instruments of cooperation;

CREATE an expanded and secure market for their goods and services through the reduction or elimination of barriers to trade and investment;

ESTABLISH clear, transparent and predictable mutually advantageous rules to govern their trade and investment;

REAFFIRMING their commitment to promote sustainable development and the development of international trade in such a way as to contribute to sustainable development in its economic, social and environmental dimensions;

DETERMINED to implement this Agreement in a manner consistent with the enhancement of the levels of labour and environmental protection and the enforcement of their labour and environmental laws and policies, building on their international commitments on labour and environment matters;

ENCOURAGE enterprises operating within their territory or subject to their jurisdiction to respect internationally recognized standards and principles of corporate social responsibility, notably the OECD Guidelines for multinational enterprises and to pursue best practices of responsible business conduct;

AND,

RECOGNIZING that the protection of investments, and investors with respect to their investments, stimulates mutually beneficial business activity;

RECOGNIZING the importance of international security, democracy, human rights and the rule of law for the development of international trade and economic cooperation;

REAFFIRMING their strong attachment to democracy and to fundamental rights as laid down in the Universal Declaration of Human Rights and sharing the view that the proliferation of weapons of mass destruction poses a major threat to international security;

RECOGNIZING that the provisions of this Agreement preserve the right to regulate within their territories and resolving to preserve their flexibility to achieve legitimate policy objectives, such as public health, safety, environment, public morals and the promotion and protection of cultural diversity; and

Preamble

AFFIRMING their commitments as Parties to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and recognizing that states have the right to preserve, develop and implement their cultural policies, and to support their cultural industries for the purpose of strengthening the diversity of cultural expressions, and preserving their cultural identity, including through the use of regulatory measures and financial support.

RECOGNIZING the strong link between innovation and trade, and the importance of innovation to future economic growth, Canada and the European Union affirm their commitment to encourage the expansion of cooperation in the area of innovation, as well as the related areas of research and development, and science and technology, and promoting the involvement of relevant public and private sector entities;

HAVE AGREED as follows:

2. INITIAL PROVISIONS AND GENERAL DEFINITIONS

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Section A – General Definitions

[Article X.01: Definitions of General Application

For purposes of this Agreement, unless otherwise specified:

Commission means the Trade Commission established under Article X.01 (Administration of the Agreement);

Coordinators means the Agreement Coordinators established under Article X.02 (Administration of the Agreement);

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

(a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, in respect of like, directly competitive or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(b) anti-dumping or countervailing duty that is applied pursuant to a Party's domestic law;

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

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

Customs Valuation Agreement means the WTO *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*;

days means calendar days, including weekends and holidays;

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

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

GATS means the WTO *General Agreement on Trade in Services*;

GATT 1994 means the WTO *General Agreement on Tariffs and Trade 1994*;

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

Harmonized System (HS) means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, Chapter Notes and subheading notes;

heading means a four-digit number, or the first four digits of a number, used in the nomenclature of the Harmonized System;

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

national means a natural person who is a citizen according to Article X.02, or is a permanent resident of a Party;

originating means qualifying under the rules of origin set out in [Chapter] X (Rules of Origin); ***Negotiators' note: Institutional leads agreed on Nov 29, 2012 to use the term Protocol for the text on Rules of Origin.***

person means a natural person or an enterprise;

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

preferential tariff treatment means the application of the respective duty rate under this Agreement to an originating good, pursuant to the tariff elimination schedule;

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

SCM Agreement means the WTO *Agreement on Subsidies and Countervailing Measures*;

SPS Agreement means the WTO *Agreement on the Application of Sanitary and Phytosanitary Measures*;

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

subheading means a six-digit number, or the first six digits of a number, used in the nomenclature of the Harmonized System;

tariff classification means the classification of a good or material under a chapter, heading or subheading of the Harmonized System;

tariff elimination schedule means Annex X.1;

TBT Agreement means the WTO *Agreement on Technical Barriers to Trade*;

TRIPS Agreement means the WTO *Agreement on Trade-Related Aspects of Intellectual Property Rights*;

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

Article X-02: Country-specific Definitions

For purposes of this Agreement, unless otherwise specified:

[**citizen** means, with respect to Canada, a natural person who is a citizen of Canada under Canadian legislation.]

[CDN: Central means:

(a) with respect to Canada, the Federal Government; and

(b) with respect to the European Union, the European Union and Member States

Sub-central means all other levels of government within a Party including regional, territorial, provincial or local government.**]**

Negotiators' note for legal scrubbing: the issue of the definition of multi-layered governance to be re-discussed, including specific terminology to be used and whether general definition is needed here or could be addressed in specific chapters.

Geographical scope of application

Unless otherwise specified, this Treaty shall apply:

(a) [with respect to Canada, (i) the land territory, air space, internal waters and territorial sea of Canada; [(ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the *United Nations Convention on the Law of the Sea* done on 10 December 1982 (UNCLOS); and (iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS];]

(b) [with respect to the EU, the territories in which the Treaty on the European Union and the Treaty on the Functioning of the European Union Treaty are applied and under the conditions laid down in those Treaties.] [As regards those provisions

concerning the tariff treatment of goods, this Agreement shall also apply to those areas of the EU customs territory not covered by the first sentence.]

EU note for legal scrubbing: clarify the need for a clause linking this to territory, e.g. "References to "territory" in this Agreement shall be understood in this sense, unless explicitly stated otherwise"?

Negotiators' note for legal scrubbing: The coherence of the definitions in this Section with the definitions in the specific chapters needs to be verified. The Parties agree that in the course of the legal review certain definitions may be moved to or from specific chapters. In principle all definitions affecting more than one chapter should be here.

Section B – Initial Provisions

Article X.03: Establishment of the Free Trade Area

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

Article X.04: Relation to Other Agreements

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

2. [Others to be determined.]

[Negotiators' note for legal scrubbing: verify whether the clause in the SPS chapter on the termination of the EU-Canada Veterinary Agreement is to be moved here.]

Article X.05: Incorporation of Wines and Spirits Agreements

1. The Agreement between the European Economic Community and Canada concerning Trade and Commerce in Alcoholic Beverages, done at Brussels February 28, 1989, as subsequently amended, (the 1989 Agreement) and the Agreement between the European Community and Canada on Trade in Wines and Spirit Drinks, done at Niagara-on-the-Lake, September 16, 2003 (the 2003 Agreement) are incorporated into and made part of this Agreement, as amended by Annex X.05.

[EU note to legal scrub from e-mail of Jan 10, 2013: European Economic Community" will have to be changed in "European Union", except where reference is made to titles of existing Agreements (such as the wine and spirits Agreements of 1989 and 2003).]

2. In the event of any inconsistency between a provision of the 1989 or 2003 Agreement, as amended and incorporated into this Agreement, and any other provision of this Agreement, such a provision of the 1989 or 2003 Agreement prevails to the extent of the inconsistency.

Article X.06: Extent of Obligations

1. Each Party is fully responsible for the observance of all provisions of this Agreement.

2. Each Party shall ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement, including their observance, at all levels of government.

Negotiators' Note for legal scrubbing: May need to review terminology with respect to 'levels of government'.

Article X.07: Reference to Other Agreements

Where this Agreement refers to or incorporates by reference other agreements or legal instruments in whole or in part, such references include related footnotes, interpretative and explanatory notes. Except where the reference affirms existing rights, such reference also includes, as the case may be, successor agreements to which the Parties are party or amendments binding on the Parties.

EU note for legal scrubbing: verify the coherence with the drafting in the relevant provisions.

Article X.08: Rights and Obligations Relating to Water

1. The Parties recognize that water in its natural state, such as water in lakes, rivers, reservoirs, aquifers and water basins, is not a good or a product and therefore, except for Chapter XX – Trade and Environment and Chapter XX – Sustainable Development, is not subject to the terms of this Agreement.

2. Each Party has the right to protect and preserve its natural water resources and nothing in this Agreement obliges a Party to permit the commercial use of water for any purpose, including its withdrawal, extraction or diversion for export in bulk.

3. Where a Party permits the commercial use of a specific water source, it shall do so in a manner consistent with the Agreement.

Article X.09: Persons Exercising Delegated Government Authority
Unless otherwise specified in this Agreement, each Party shall ensure that a person that has been delegated regulatory, administrative or other governmental authority by a Party at any level of government acts in accordance with the Party's obligations as set out under this Agreement in the exercise of that authority.

Annex X.05 – Amendments to Wines and Spirits Agreements

Section 1

The 2003 Agreement shall be amended as follows:

a) Article 27(3), first indent, shall read "- adopting amendments to the Annexes of this Agreement by means of a decision."

[Note for Institutional Leads: CN and EU Wine and Spirits table leads agree that the word "decision" can be replaced with the most expansive approach agreed to at the institutional table for amending Annexes.]

b) Title VIII to be deleted

c) Article 8(1) – last 2 sentences- shall read as follows: "Either Contracting Party may seek consultations provided for in CETA Article 14.4. Should such consultations fail to resolve the matter, either Contracting party may notify, in writing, the other Contracting Party of its decision to refer the issue to arbitration under CETA Articles 14.6 through 14.10."

d) Article 9(2) first paragraph shall read as follows: "By way of derogation from paragraph 1, where a Contracting Party has invoked the objection procedure provided for in Article 8, the Contracting Parties shall act in accordance with the outcome of the consultations, unless the matter is referred to the arbitration procedure foreseen in CETA Articles 14.6 through 14.10, in which case: "

e) When CETA Articles 14.6 through 14.10 are applied in the course of the procedure referred to in Article 9(2) of the 2003 Wine and Spirits Agreement, they shall apply *mutatis mutandis*.

Section 2

Article 1 of the 1989 Agreement, as amended by Annex VIII to the 2003 Agreement, shall have the following definition added:

"competent authority" means any government or commission, board or other governmental agency of either Party that is authorised by law to control the sale of wines and distilled spirits.

Section 3

Article 2(2)(b) of the 1989 Agreement, as amended by Annex VIII to the 2003 Agreement, shall be replaced by the following:

(b) - requiring off site private wine store outlets in Ontario and British Columbia to sell only wines produced by Canadian wineries. The number of these off site private wine

store outlets authorised to sell only wines produced by Canadian wineries in these provinces shall not exceed 292 in Ontario and 60 in British Columbia.

Section 4

Article 4 of the 1989 Agreement, as amended by Annex VIII to the 2003 Agreement, shall be replaced by the following:

Article 4 – Commercial Treatment

1. Competent authorities shall, in exercising their responsibilities for the purchase, distribution and retail sale of product of the other Party, adhere to the provisions of GATT Article XVII concerning State trading enterprises, in particular to make any such decisions solely in accordance with commercial considerations and shall afford the enterprises of the other Party adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases.

2. Each Party shall take all possible measures to ensure that an enterprise that has been granted a monopoly in the trade and sale of wines and spirit drinks within its territory does not use its monopoly position to engage, either directly or indirectly, including through its dealings with its parent, subsidiaries or other enterprises with common ownership, in the sale of wine and spirit drinks in a market outside the territory where the enterprise has a monopoly position that causes an anti-competitive effect causing an appreciable restriction of competition in that market.

Section 5

Article 4(a) of the 1989 Agreement, as amended by Annex VIII to the 2003 Agreement, shall be replaced by the following:

4(a) – Pricing

1. Competent authorities of the Parties shall ensure that any mark-up, cost of service or other pricing measure is non-discriminatory, applies to all retail sales, and is in conformity of Article 2.

2. A cost of service differential may be applied to products of the other Party only in so far as it is no greater than the additional costs necessarily associated with the marketing of products of the other Party, taking into account additional costs resulting from, *inter alia*, delivery methods and frequency.

3. Each Party shall ensure that a cost of service is not applied to products of the other Party on the basis of the value of the product.

4. The cost of service differential shall be justified in line with standard accounting

procedures by independent auditors on the basis of an audit completed on request within one year of the entry into force of the Agreement between the European Union and Canada on trade in wines and spirit drinks and thereafter on request at intervals of not less than four years. The audits shall be made available to either Party within one year of a request being made.

5. Competent authorities shall update cost of service differential charges, as required, to reflect the commitment made in 4(a)(2).

6. Competent authorities shall make available applicable cost of service differential charges through publicly accessible means, such as their official website.

7. Competent authorities shall establish a contact point for questions and concerns originating from the other party with respect to cost of service differential charges. The other party will respond to requests in writing within 60 days of their receipt.

Section 6

The 1989 Agreement, as amended by Annex VIII to the 2003 Agreement, is modified by adding Article 4 (b):

Article 4 (b)
Blending Requirements

Neither Party may adopt or maintain any measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with any distilled spirits of the importing Party.

3. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

TITLE ON TRADE IN GOODS

Chapter X

National Treatment and Market Access for Goods

ARTICLE 1: OBJECTIVE

The Parties shall progressively liberalise trade in goods over a transitional period starting from the entry into force of this Agreement in accordance with the provisions of this Agreement.

ARTICLE 2: SCOPE

This Chapter applies to trade in goods of either Party, as defined in the Initial Provisions and General Definitions Chapter, except as otherwise provided in this Agreement.

ARTICLE 3: DEFINITIONS

For purposes of this Chapter [**EC**: the following definitions apply:]

Agricultural good: [means] A product listed in Annex 1 of the WTO Agreement on Agriculture with any subsequent changes agreed in the WTO to be automatically effective for this Agreement;

Customs duty: [means] Any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation **[EC:**. It**] [CN:,** but] does not include any:

(a) charge equivalent to an internal tax imposed consistently with Article [4 (National Treatment)] of this Agreement;

(b) duty imposed pursuant to a Party's domestic law consistently with Chapter ... [*Trade Remedies*]

(c) measure applied consistently with the provisions of Article VI or Article XIX of the GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures, the WTO Agreement on Safeguards, and Article 22 of the Dispute Settlement Understanding.

(d) fee or other charge imposed consistently with Article VIII of GATT;

ARTICLE 4: NATIONAL TREATMENT

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of the GATT 1994. To this end the obligations contained

in Article III of the GATT 1994, are incorporated into and made part of this Agreement.

2. The provisions of paragraph 1 mean, with respect to a measure taken by a government in Canada other than at the federal level or by a government of or in a European Union Member State, treatment no less favourable than that accorded by that government to like, directly competitive or substitutable goods, as the case may be, of Canada or the Member State respectively.

3. This Article does not apply to a measure, including that measure's continuation, prompt renewal or amendment, in respect of Canadian excise duties on absolute alcohol, as listed under tariff item 2207.10.90 in Canada's Schedule of Concessions annexed to the Marrakesh Protocol (Schedule V), used in manufacturing under the existing provisions of the *Excise Act, 2001*, 2002, c.22, as amended.

ARTICLE 5: REDUCTION AND ELIMINATION OF CUSTOMS DUTIES ON IMPORTS

1. Each Party shall reduce or eliminate customs duties on goods originating in either Party in accordance with Annex X-5 and the Schedules set out therein (hereinafter referred to as "the Schedules"). For the purposes of this Chapter, "originating" means originating in either Party under the rules of origin set out in Chapter X (Rules of Origin and Origin Procedures).

2. For each good, the base rate of customs duties, to which the successive reductions are to be applied under paragraph 1, shall be that specified in Annex X-5.

3. For goods that are subject to tariff preferences as listed in a Party's Schedule, each Party shall apply to originating goods of the other Party the lesser of the customs duties resulting from a comparison between the rate calculated in accordance with that Party's Schedule and its applied Most Favoured Nation (MFN) rate.

4. On the request of either Party, the Parties may consult to consider accelerating and broadening the scope of the elimination of customs duties on imports between the Parties. A decision by the Parties in the CETA Joint Committee on the acceleration or elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules for that good when approved by each Party in accordance with its applicable legal procedures.

ARTICLE 6: RESTRICTION ON DUTYDRAWBACK, DUTY DEFERRAL AND DUTY SUSPENSION PROGRAMS

1. Subject to paragraph 2, a Party may not refund, defer or suspend a customs duty paid or payable on a good that is non-originating imported into its territory on the express condition that the good, or an identical, equivalent or similar substitute, is used as a material in the production of another good that is subsequently exported to the territory of the other Party under preferential tariff treatment pursuant to this Agreement.

2. Paragraph 1 does not apply to a Party's regime of tariff reduction, suspension or remission, either permanent or temporary, where the reduction, suspension or remission is not expressly conditioned on the exportation of a product.

3. Paragraph 1 does not apply until 3 years after the date of entry into force of this Agreement.

ARTICLE 7: DUTIES, TAXES OR OTHER FEES AND CHARGES ON EXPORTS

Neither Party may maintain or institute any duties, taxes or other fees and charges imposed on, or in connection with, the exportation of goods to the other Party, or any internal taxes or fees and charges on goods exported to the other Party, that are in excess of those that would be imposed on those goods when destined for internal sale.

ARTICLE 8: STANDSTILL

1. Upon the entry into force of this Agreement neither Party may increase any customs duty existing at entry into force, or adopt any new customs duty, on a good originating in the Parties.

2. Notwithstanding this provision, a Party may:

(a) modify a tariff outside this Agreement on a good for which no tariff preference is claimed under this Agreement;

(b) increase a customs duty to the level established in its Schedule following a unilateral reduction; or

(c) maintain or increase a customs duty as authorized by this Agreement or any agreement under the WTO Agreement.

3. Notwithstanding paragraphs 1 and 2, only Canada may apply a special safeguard under Article 5 of the WTO Agreement on Agriculture. A special safeguard may only be applied with respect to goods classified in items with the notation "SSG" in Canada's Schedule to this Agreement. The use of this special safeguard is therefore limited to imports not subject to tariff preference and, in the case of imports subject to a tariff rate quota, to imports over the access commitment.

Kommentiert [A1]: CDA & EU have agreed to review the language during legal scrub.

ARTICLE 9: TEMPORARY SUSPENSION OF PREFERENTIAL TARIFF TREATMENT

1. Where a Party has made a finding, in accordance with paragraph 2:
   (a) of systematic breaches of customs legislation regarding claims of preferential tariff treatment under this Agreement in respect of a good exported or produced by a person of the other Party; or
   (b) that the other Party systematically and unjustifiably refuses to cooperate with respect to the investigation of breaches of customs

legislation under Article 13(4) of Chapter x (Customs and Trade Facilitation), and the Party requesting cooperation has reasonable grounds to conclude that a person of the other Party has committed systematic breaches of customs legislation based on objective, compelling and verifiable information;

the Party may temporarily suspend, in accordance with paragraphs 3 through 6, the preferential tariff treatment under this Agreement with respect to the good concerned of that person.

2. A finding pursuant to paragraph 1 may be made where:

(a) a Party has concluded that a person of the other Party has committed systematic breaches of customs legislation in order to obtain preferential tariff treatment under this Agreement as a result of an investigation based on objective, compelling and verifiable information; or

(b) if the other Party systematically and unjustifiably refuses to cooperate with respect to the investigation of breaches of customs legislation under Article 13(4) of Chapter x (Customs and Trade Facilitation), and the Party requesting cooperation has reasonable grounds to conclude that a person of the other Party has committed systematic breaches of customs legislation in order to obtain preferential tariff treatment under this Agreement based on objective, compelling and verifiable information.

3. A Party that has made a finding pursuant to paragraph 2, shall:
(a) Notify the customs authority of the other Party and provide the information and evidence upon which the finding was based;
(b) Engage in consultations with the customs authority with a view to achieving a mutually acceptable resolution that addresses the concerns that resulted in the finding; and
(c) Provide written notice to that person of the other Party, including providing the information that is the basis of the finding.

4. If the customs authorities have not achieved a mutually acceptable resolution after 30 days, the Party that has made the finding shall refer the issue to the Joint Customs Cooperation Committee.

5. If the Joint Customs Cooperation Committee has not resolved the issue after 60 days, the Party which has made the finding may temporarily suspend the preferential tariff treatment under this Agreement with respect to that good of that person. The temporary suspension shall not apply to a good that is already in transit between the Parties on the day that the temporary suspension comes into effect.

6. The temporary suspensions shall apply only for a period commensurate with the impact on the financial interests of the Party concerned resulting from the situation responsible for the finding referred to in paragraph 2, but not longer

than 90 days. Where a Party has reasonable grounds based on objective, compelling and verifiable information that the conditions that gave rise to the initial suspension have not changed after the expiry of the 90 day period, the Party concerned may renew the suspension for a further period of no longer than 90 days. The original suspension and any renewed suspensions shall be subject to periodic consultations within the Joint Customs Cooperation Committee.

ARTICLE 10: FEES AND OTHER CHARGES

1. In accordance with Article VIII of GATT 1994, no Party may adopt or maintain a fee or charge imposed on or in connection with importation or exportation of a good of a Party that is not commensurate with the cost of services rendered or that represents an indirect protection to domestic goods or a taxation of imports for fiscal purposes.

2. Paragraph 1 does not prevent a Party from imposing a customs duty or a charge set out in paragraphs a), b), [or] c) [or e)] of the definition of customs duty in this agreement.

ARTICLE 11: GOODS RE-ENTERED AFTER REPAIR OR ALTERATION

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

   (a) destroys the essential characteristics of a good or creates a new or commercially different good;
   (b) transforms an unfinished good into a finished good; or
   (c) is used to substantially change the function of a good.

2. Except as otherwise provided, 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.[1]

Kommentiert [AG2]: For legal scrubbing: improve reference to the exception in footnote

Kommentiert [NJ-3]: * Note of the Negotiator: the code of the tariff lines referenced in the footnote will be updated during the course of legal scrub to reflect the customs tariff of 2014, paralleling the same concordance that will be done on tariff schedules to update them to 2014.

[1] For the following goods of HS Chapter 89 , regardless of their origin, that re-enter the territory of Canada from the territory of the European Union, and are registered under the *Canada Shipping Act*, Canada may apply to the value of repair or alteration of such goods, the rate of customs duty for such goods in accordance with its Schedule to Annex X.5 (Tariff Elimination): 8901.10.00, 8901.30.00, 8901.90.10, 8901.90.90, 8904.00.00, 8905.20.10, 8905.20.20, 8905.90.10, 8905.90.90, 8906.90.19, 8906.90.90

3. Paragraph 2 does not apply to a good imported in bond, into free trade zones, or in similar status, that is 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 12: IMPORT AND EXPORT RESTRICTIONS

1. Except as otherwise provided in this Agreement, neither Party may 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 the GATT 1994. To this end Article XI of the GATT 1994 is incorporated into and made a part of this Agreement.

2. In the event that a Party adopts or maintains a prohibition or restriction on the importation from or exportation to a non-Party of a good, that Party may:

(a) limit or prohibit the importation from the territory of the other Party of a good of that non-Party; or

b) limit or prohibit the exportation of a good to that non-Party through the territory of the other Party.

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

4. This Article does not apply to a measure, including that measure's continuation, prompt renewal or amendment, in respect of the following:

i. the export of logs of all species. If a Party ceases to require export permits for logs destined for a non-Party, that Party will permanently cease requiring export permits for logs destined for the other Party.

Kommentiert [AG4]: Lawyers to check when doing legal scrubbing; to consider whether "non-Party" is not better replaced by "third Party".

ii. for a period of three years following the entry into force of this Agreement, the export of unprocessed fish pursuant to Newfoundland and Labrador's applicable legislation; and

iii. Canadian excise duties on absolute alcohol, as listed under tariff item 2207.10.90 in Canada's Schedule of Concessions annexed to the Marrakesh Protocol (Schedule V), used in manufacturing under the existing provisions of the *Excise Act, 2001*, 2002, c.22, as amended.

iv. the importation of used vehicles in the territory of a Party that do not conform to that Party's safety and environmental requirements..

ARTICLE 13: OTHER PROVISIONS RELATED TO TRADE IN GOODS

Each Party shall endeavour to ensure that a product of the other Party that has been imported into and lawfully sold or offered for sale in any place in the territory of the importing Party may also be sold or offered for sale throughout the territory of the importing Party.

ARTICLE 14: COMMITTEE ON TRADE IN GOODS

1. The functions of the Committee on Trade in Goods shall include:

   (a) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate;

   (b) recommending to the Joint Committee a modification of or addition to any provision of this Agreement related to the Harmonized System; and

   (c) promptly addressing issues related to movement of goods through the Parties' ports of entry.

2. The Committee on Trade in Goods may present to the CETA Joint Committee draft decisions on the acceleration or elimination of a customs duty on a good.

3. The Committee on Agriculture:

   (a) shall meet within 90 days of a request by a Party;

   (b) shall provide a forum for the Parties to discuss issues related to agriculture goods covered by this Agreement; and

   (c) shall refer to the Committee on Trade in Goods any matter under sub-paragraph (b) on which it has been unable to reach agreement.

4. The Parties note the cooperation and exchange of information on agriculture issues under the annual Canada-EU Agriculture Dialogue, as confirmed in letters exchanged on July 14, 2008 between the Director-General of the Directorate General for Agriculture and Rural Development of the European Commission and the Deputy Minister of Agriculture and Agri-Food Canada on the establishment of the annual Canada-EU Agriculture Dialogue. As appropriate the Agriculture Dialogue may be used for the purpose of paragraph 2.

Annex X.5

Tariff Elimination

1. Except as otherwise provided in this Annex, the Parties shall eliminate all customs duties on originating goods, of Chapters 1 through 97 of the Harmonized System that provide for an MFN rate of customs duty, imported from the other Party upon the date of entry into force of this Agreement.

2. For originating goods from the other Party set out in each Party's Schedule attached to this Annex, the following staging categories apply to the elimination of customs duties by each Party pursuant to Article 5 (1):

   (a) duties on originating goods provided for in the items in staging category A in a Party's Schedule shall be duty-free on the date this Agreement enters into force;

   (b) duties on originating goods provided for in the items in staging category B in a Party's Schedule shall be removed in 4 equal stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 4;

   (c) duties on originating goods provided for in the items in staging category C in a Party's Schedule shall be removed in 6 equal stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 6; and

   (d) duties on originating goods provided for in the items in staging category D in a Party's Schedule shall be removed in 8 equal stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 8;

      (i) For greater certainty, where the EU applies a customs duty for the following items:

         1001.10.00*
         ex 1001.90.99 (high quality common wheat)*
         1002.00.00*

      at a level and in a manner so that the duty-paid import price for a specified cereal will not be greater than the effective intervention price (or in the event of a modification of the current system, the effective support price) increased by 55% as set out in [EU Regulation – Commission Regulation (EC) No. 1031/2008 of 19 September 2008], the EU shall apply the tariff elimination staging category towards any calculated duty that would be applied as per the above regulation, as follows:

Year	Applied Duty
1	87.5% of the duty calculated as per EC Reg. 1031/2008
2	75% of the duty calculated as per EC Reg. 1031/2008
3	62.5% of the duty calculated as per EC Reg. 1031/2008
4	50% of the duty calculated as per EC Reg. 1031/2008
5	37.5% of the duty calculated as per EC Reg. 1031/2008
6	25% of the duty calculated as per EC Reg. 1031/2008
7	12.5% of the duty calculated as per EC Reg. 1031/2008
8 and following	0% of the duty calculated as per EC Reg. 1031/2008 (duty-free)

** Note of the Negotiator: the code of these tariff lines will have to be updated in order to reflect changes in the EU Common Customs Tariff nomenclature. This operation will be done within the framework of the overall process of updating tariff schedules*; and

(e) duties on originating goods provided for in the items in staging category S in a Party's Schedule shall be removed in 3 equal stages beginning on the fifth anniversary of the date of entry into force of this agreement, and such goods shall be duty-free, effective January 1 of year 8.

(f) the ad valorem component of the customs duties on originating goods provided for in the items in staging category AV0+EP in a Party's Schedule shall be eliminated upon the date of entry into force of this Agreement; the tariff elimination shall apply to the ad valorem duty only; the specific duty resulting from the entry price system applicable for these originating goods shall be maintained.

(g) duties on originating goods provided for in the items in staging category E in a Party's schedule are exempt from tariff elimination.

3. For purposes of this Annex and each Party's Schedule, year 1 means the year this Agreement enters into force as provided in Article XX.XX (Final Provisions - Entry into Force).

4. For purposes of this Annex and a Party's Schedule, Year 2 shall begin on January 1 following the date of entry into force of this Agreement, with each subsequent tariff reduction taking effect on January 1 of each subsequent year.

5. The base rate for determining the interim staged rate of customs duty for an item shall be the most favoured nation customs duty rate applied on June 9, 2009.

6. For the purpose of the elimination of customs duties in accordance with Article 5, interim staged rates shall be rounded down at least to the nearest

tenth of a percentage point or, if the rate of duty is expressed in monetary units, at least to the nearest 0.001 of the official monetary unit of the Party.

Tariff Rate Quotas

7. For the administration in Year 1 of each tariff rate quota established under this Agreement, the Parties shall calculate the volume of that tariff rate quota by discounting the volume corresponding to the period running between the 1st of January and the date of entry into force of the Agreement.

8. Processed shrimps transitional tariff rate quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQShrimps" in the EU's Schedule shall be duty-free in the years specified below:

Processed shrimps, classified in the following tariff lines:

- 1605.20.10 shrimps and prawns, prepared or preserved, in airtight containers; or
- 1605.20.99 shrimps and prawns, prepared or preserved, in immediate packings of a net content of >2kg (excluding shrimps and prawns in airtight containers)

Year	Aggregate Annual Quantity (Metric Tonnes)[2]
1 through to 7	23,000

(b) The European Union shall:

i) Administer this tariff rate quota on a first-come first-served basis;

ii) Administer this tariff rate quota on a calendar year basis with the full in-quota quantity to be made available on January 1st of each year; and

iii) Not impose any end-use restriction on the imported good as a condition of the application for or use of this tariff rate quota.

(c) Prepared or preserved shrimps and prawns exported from Canada under Section B of Appendix X.X(Origin Quotas) shall not be imported into the EU under this tariff rate quota.

** Note of the Negotiator: the code of this tariff line will have to be updated in order to reflect changes in the EU Common Customs Tariff nomenclature. This operation will be done within the framework of the overall process of updating tariff schedules.*

[2] Expressed in net weight.

9. Frozen cod transitional tariff rate quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQCod" in the EU's Schedule shall be duty-free in the years specified below:

Frozen cod, classified in the following tariff line:
- 0304.29.29 frozen fillets of cod 'Gadus morhua, Gadus ogac' and of fish of species 'Boreogadus saida'

Year	Aggregate Annual Quantity (Metric Tonnes)[3]
1 through to 7	1,000

(b) The European Union shall:

i) Administer this tariff rate quota on a first-come first-served basis;

ii) Administer this tariff rate quota on a calendar year basis with the full in-quota quantity to be made available on January 1st of each year; and

iii) Not impose any specific end-use restriction on the imported good as a condition of the application for or use of this tariff rate quota.

** Note of the Negotiator: the code of this tariff line will have to be updated in order to reflect changes in the EU Common Customs Tariff nomenclature. This operation will be done within the framework of the overall process of updating tariff schedules.*

10. Low and Medium Quality Common Wheat transitional tariff rate quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQCW" in the EU's Schedule shall be duty-free in the years specified below:

Common wheat of a quality, other than high quality, classified in the following tariff line:
- 1001.90.99*

The following aggregate duty-free quantities shall include, beginning in year 1, the 38,853 tonne allocation to Canada as set out in [Commission Regulation (EC) No. 1067/2008 of 30 October 2008].

Year	Aggregate Annual Quantity (Metric Tonnes)
1 through to 7	100,000

(b) The European Union shall administer this tariff rate quota in accordance with the terms of Commission Regulation (EC) No. 1067/2008 of 30 October 2008.

[3] Expressed in net weight.

** Note of the Negotiator: the code of this tariff line will have to be updated in order to reflect changes in the EU Common Customs Tariff nomenclature. This operation will be done within the framework of the overall process of updating tariff schedules.*

11. Sweetcorn Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQSC" in the EU's Schedule shall be duty-free in the years specified below:

Tariff Line(s) Covered:

- 0710.40.00 (only available during the time period leading up to the elimination of duties for such good as per the staging category applicable to this item in the EU's Schedule.)
- 2005.80.00

Year	Aggregate Annual Quantity (Metric Tonnes[4])
1	1,333
2	2,667
3	4,000
4	5,333
5	6,667
6 and each subsequent year	8,000

(b) The European Union shall:

- Administer this tariff rate quota on a first-come first-served basis; and

- Administer this tariff rate quota on a calendar year basis with the full in-quota quantity to be made available on January 1st of each year.

[4] Expressed in net weight.

12. Bison Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQB3" in the EU's Schedule shall be duty-free in the years specified below:

Bison classified in the following Tariff Lines:

- 0201.10.00, 0201.20.20, 0201.20.30, 0201.20.50, 0201.20.90, 0201.30.00, 0202.10.00, 0202.20.10, 0202.20.30, 0202.20.50, 0202.20.90, 0202.30.10, 0202.30.50, 0202.30.90, 0206.10.95, 0206.29.91, 0210.20.10, 0210.20.90, 0210.99.51, 0210.99.59

Year	Aggregate Annual Quantity (Metric Tonnes – Carcass Weight Equivalent)
1 and each subsequent year	3,000

(b) When calculating quantities imported, the conversion factors specified in paragraph 22 of this Annex shall be utilized to convert Product Weight to Carcass Weight Equivalent.

(c) The European Union shall:

- Administer this tariff rate quota on a first-come first-served basis; and

- Administer this tariff rate quota on a calendar year basis with the full in-quota quantity to be made available on January 1st of each year.

13. Fresh/Chilled Beef and Veal Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQB1" in the EU's Schedule shall be duty-free in the years specified below:

Beef and veal classified in the following Tariff Lines:

- 0201.10.00, 0201.20.20, 0201.20.30, 0201.20.50, 0201.20.90, 0201.30.00, 0206.10.95

Year	Aggregate Annual Quantity (Metric Tonnes – Carcass Weight Equivalent)
1	5,140
2	10,280
3	15,420
4	20,560
5	25,700
6 and each subsequent year	30,840

The aggregate annual duty-free quantities in the table above shall be increased, beginning in year 1, by 3,200 metric tonnes product weight (4,160 metric tonnes carcass weight equivalent) resulting from the application of Council Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef.

(b) When calculating quantities imported, the conversion factors specified in paragraph 22 of this Annex shall be utilized to convert Product Weight to Carcass Weight Equivalent.

(c) The European Union shall administer this tariff rate quota, including the additional quantities as outlined in paragraph 13(a), either , through an import licensing system as outlined in the [declaration] or as otherwise agreed to between the Parties.

(d) Notwithstanding subparagraph (c), [paragraphs 20 and 21] shall apply.

14. Frozen/Other Beef and Veal Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TQB2" in the EU's Schedule shall be duty-free in the years specified below:

Beef and veal classified in the following Tariff Lines:

- 0202.10.00, 0202.20.10, 0202.20.30, 0202.20.50, 0202.20.90, 0202.30.10, 0202.30.50, 0202.30.90, 0206.29.91, 0210.20.10, 0210.20.90, 0210.99.51, 0210.99.59

Year	Aggregate Annual Quantity (Metric Tonnes – Carcass Weight Equivalent)
1	2,500
2	5,000
3	7,500
4	10,000
5	12,500
6 and each subsequent year	15,000

(b) When calculating quantities imported, the conversion factors specified in paragraph 22 of this Annex shall be utilized to convert Product Weight to Carcass Weight Equivalent.

(c) The European Union shall administer this tariff rate quota either through an import licensing system as outlined in the [declaration] or as otherwise agreed to between the Parties.

(d) Notwithstanding subparagraph (c), [paragraphs 20 and 21] shall apply.

15. High Quality Fresh, Chilled and Frozen Meat of Bovine Animals Tariff Rate Quota

Originating goods that are exported from Canada and are imported into the EU through the EU's existing WTO tariff quota for high quality fresh, chilled and frozen meat of bovine animals covered by CN codes 0201 and 0202 and for products covered by CN codes 0206 10 95 and 0206 29 91 of 11,500 tonnes product weight, as set out in Commission Implementing Regulation (EU) No 593/2013 of 21 June 2013, shall be duty-free on the date this Agreement enters into force.

16. Pork Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items listed with the notation "TQP" in the EU's Schedule shall be duty-free in the years specified below:

Tariff Lines Covered:

- 0203.12.11, 0203.12.19, 0203.19.11, 0203.19.13, 0203.19.15, 0203.19.55, 0203.19.59, 0203.22.11, 0203.22.19, 0203.29.11, 0203.29.13, 0203.29.15, 0203.29.55, 0203.29.59, 0210.11.11, 0210.11.19, 0210.11.31, 0210.11.39

Year	Aggregate Annual Quantity (Metric Tonnes – Carcass Weight Equivalent)
1	12,500
2	25,000
3	37,500
4	50,000
5	62,500
6 and each subsequent year	75,000

The aggregate annual duty-free quantities in the table above shall be increased, beginning in year 1, by 4,624 metric tonnes product weight (5,549 metric tonnes carcass weight equivalent) pursuant to the volume established in the EU's Canada-specific WTO tariff quota for pig-meat.

(b) When calculating quantities imported, the conversion factors specified in paragraph 22 of this Annex shall be utilized to convert Product Weight to Carcass Weight Equivalent.

(c) The European Union shall administer this tariff rate quota, including the additional quantities from the EU's Canada-specific WTO tariff quota for pig-meat, either through an import licensing system as outlined in the [declaration] or as otherwise agreed to between the Parties.

(d) Notwithstanding subparagraph (c), [paragraphs 20 and 21] shall apply.

17. Cheese Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TRQ Cheese" in Canada's Schedule shall be duty-free in the years specified below:

Tariff Lines Covered:

- 0406.10.10, 0406.20.11, 0406.20.91, 0406.30.10, 0406.40.10, 0406.90.11, 0406.90.21, 0406.90.31, 0406.90.41, 0406.90.51, 0406.90.61, 0406.90.71, 0406.90.81, 0406.90.91, 0406.90.93, 0406.90.95, 0406.90.98.

Year	Aggregate Annual Quantity (Metric Tonnes[5])
1	2,667
2	5,333
3	8,000
4	10,667
5	13,333
6 and each subsequent year	16,000

(b) Canada shall administer this tariff rate quota either through an import licensing system as outlined in the [declaration] or as otherwise agreed to between the Parties.

(c) Notwithstanding subparagraph (b), [paragraphs 20 and 21] shall apply.

18. Industrial Cheese Tariff Rate Quota

(a) Originating goods in the following aggregate quantities and provided for in items with the notation "TRQ Industrial Cheese" in Canada's Schedule shall be duty-free in the years specified below:

Industrial Cheese, classified in the following Tariff Lines:

- 0406.10.10, 0406.20.11, 0406.20.91, 0406.30.10, 0406.40.10, 0406.90.11, 0406.90.21, 0406.90.31, 0406.90.41, 0406.90.51, 0406.90.61, 0406.90.71, 0406.90.81, 0406.90.91, 0406.90.93, 0406.90.95, 0406.90.98

Industrial Cheese shall refer to cheese used as ingredients for further food processing (secondary manufacturing) imported in bulk (not for retail sales).

[5] Expressed in net weight.

Year	Aggregate Annual Quantity (Metric Tonnes[6])
1	283
2	567
3	850
4	1,133
5	1,417
6 and each subsequent year	1,700

(b) Canada shall administer this tariff rate quota either through an import licensing system as outlined in the [declaration] or as otherwise agreed to between the Parties.

(c) Notwithstanding subparagraph (b), [paragraphs 20 and 21] shall apply.

[6] Expressed in net weight.

19. WTO Cheese Tariff Rate Quota

Canada shall reallocate, beginning in year 1, 800 tonnes of Canada's 20,411,866 kilogram WTO Tariff Rate Quota for cheese to the EU.

20. Underfill mechanism

With respect to the tariff rate quotas set out in [paragraphs 13, 14, 16, 17 and 18]:

(i) If there were to be under-fill of a tariff rate quota, defined as less than 75% physical imports under the tariff rate quota in a given year, the Parties shall meet, under the request of any of the Parties, in the framework of the Sub-Committee on Agriculture established under Article X of Chapter Y in order to address early the underlying causes of the under-fill or any other question affecting the smooth operation of the tariff rate quota.

(ii) If there were to be under-fill of a tariff rate quota, defined as less than 75% utilisation in a given year for 3 consecutive years, and where such under-fill is not linked to scarce supply or demand of the relevant product, the administration of the quota for the following year(s) would be made on a First-Come-First-Served basis. To demonstrate scarce supply/demand, a Party must clearly demonstrate on a quantifiable basis that either adequate supply to fill the tariff rate quota is not available in the country of export or that the tariff rate quota quantity could not be consumed in the importing market. Were Parties to disagree on the reasons leading to under-fill, the matter shall be subject to binding arbitration at the request of any of the Parties.

(iii) If subsequently there were to be full use of the tariff rate quota, defined as 90% or more utilisation for 2 consecutive years, Parties may consider returning to a licencing system following consultations with the other Party on the necessity and opportunity of such reversion and on the features of such licence system.

21. Review clause

(i) With respect to the tariff rate quotas set out in [paragraphs 13, 14, 16, 17 and 18], both at the mid-term and at the end of the phase-in period of any of these tariff rate quotas , or at any other time upon motivated request of any of the Parties, the Parties will review the operation of the relevant tariff rate quota administration system in light notably of its effectiveness in ensuring quota utilisation, market conditions, and administrative burden associated with the system for the economic operators and for the Parties.

(ii) With respect to the tariff rate quotas included in [paragraphs 17 and 18], this review will also include the allocation method allowing for new entrants.

(iii) With respect to the tariff rate quotas included in [paragraphs 13, 14 and 16], the review referred to above shall include the consequences of any tariff rate quota administration modalities agreed with a third party for the same products in the framework of other trade negotiations involving the Parties and would include the possibility of providing the option to the exporting Party of transitioning to the approach agreed to in another agreement. The conditions of competition in North America will be a necessary part of the review.

22. Conversion Factors

With respect to the tariff rate quotas set out in paragraphs 12, 13, 14 and 16, the following conversion factors shall be utilized to convert Product Weight to Carcass Weight Equivalent:

Tariff Rate Quotas set out in paragraphs 12, 13 and 14:

Tariff Line	Tariff Line Description (for illustrative purposes only)	Conversion Factor
02011000	Carcases or half-carcases of bovine animals, fresh or chilled	100%
02012020	"Compensated" quarters of bovine animals with bone in, fresh or chilled	100%
02012030	Unseparated or separated forequarters of bovine animals, with bone in, fresh or chilled	100%
02012050	Unseparated or separated hindquarters of bovine animals, with bone in, fresh or chilled	100%
02012090	Fresh or chilled bovine cuts, with bone in (excl. carcases and half-carcases, "compensated quarters", forequarters and hindquarters)	100%
02013000	Fresh or chilled bovine meat, boneless	130%
02061095	Fresh or chilled bovine thick and thin skirt (excl. for manufacture of pharmaceutical products)	100%
02021000	Frozen bovine carcases and half-carcases	100%
02022010	Frozen "compensated" bovine quarters, with bone in	100%
02022030	Frozen unseparated or separated bovine forequarters, with bone in	100%
02022050	Frozen unseparated or separated bovine hindquarters, with bone in	100%
02022090	Frozen bovine cuts, with bone in (excl. carcases and half-carcases, "compensated" quarters, forequarters and hindquarters)	100%
02023010	Frozen bovine boneless forequarters, whole or cut in max. 5 pieces, each quarter in 1 block; "compensated" quarters in 2 blocks, one containing the forequarter, whole or cut in max. 5 pieces, and the other the whole hindquarter, excl. the tenderloin, in one piece	130%

02023050	Frozen bovine boneless crop, chuck and blade and brisket cuts	130%
02023090	Frozen bovine boneless meat (excl. forequarters, whole or cut into a maximum of five pieces, each quarter being in a single block "compensated" quarters in two blocks, one of which contains the forequarter, whole or cut into a maximum of five pieces, and the other the whole hindquarter, excl. the tenderloin, in one piece)	130%
02062991	Frozen bovine thick and thin skirt (excl. for manufacture of pharmaceutical products)	100%
02102010	Meat of bovine animals, salted, in brine, dried or smoked, with bone in	100%
02102090	Boneless meat of bovine animals, salted, in brine, dried or smoked	135%
02109951	Edible thick skirt and thin skirt of bovine animals, salted, in brine, dried or smoked	100%
02109959	Edible offal of bovine animals, salted, in brine, dried or smoked (excl. thick skirt and thin skirt)	100%

Tariff Rate Quota set out in paragraph 16:

Tariff Line	Tariff Line Description (for illustrative purposes only)	Conversion Factor
02031211	Fresh or chilled with bone in, domestic swine hams and cuts thereof	100%
02031219	Fresh or chilled with bone in, domestic swine shoulders and cuts thereof	100%
02031911	Fresh or chilled fore-ends and cuts thereof of domestic swine	100%
02031913	Fresh or chilled loins and cuts bone-in thereof of domestic swine	100%

02031915	Fresh or chilled bellies "streaky" and cuts thereof of domestic swine	100%
02031955	Fresh or chilled boneless meat of domestic swine (excl. bellies and cuts thereof)	120%
02031959	Fresh or chilled meat of domestic swine, with bone in (excl. carcases and half-carcases, hams, shoulders and cuts thereof, and fore-ends, loins, bellies and cuts thereof)	100%
02032211	Frozen bone-in hams and cuts thereof of domestic swine	100%
02032219	Frozen bone-in shoulders and cuts thereof of domestic swine	100%
02032911	Frozen fore-ends and cuts thereof of domestic swine	100%
02032913	Frozen loins and cuts thereof of domestic swine, with bone in	100%
02032915	Frozen bellies "streaky" and cuts thereof of domestic swine	100%
02032955	Frozen boneless meat of domestic swine (excl. bellies and cuts thereof)	120%
02032959	Frozen meat of domestic swine, with bone in (excl. carcases and half-carcases, hams, shoulders and cuts thereof, and fore-ends, loins, bellies and cuts thereof)	100%
02101111	Domestic swine hams and cuts thereof, salted or in brine, with bone in	100%
02101119	Domestic swine shoulders and cuts thereof, salted or in brine, with bone in	100%
02101131	Domestic swine hams and cuts thereof, dried or smoked, with bone in	120%
02101139	Domestic swine shoulders and cuts thereof, dried or smoked, with bone in	120%

Final 1 August 2014

NOTE – See Tariff Schedules attached separately.

4. RULES OF ORIGIN and ORIGIN PROCEDURES PROTOCOL

SECTION A
GENERAL PROVISIONS

ARTICLE 1
DEFINITIONS

For the purposes of this Protocol:

aquaculture means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding or protection from predators;

classified means the classification of a product under a particular heading or subheading of the Harmonized System;

customs authority means any governmental authority that is responsible under the law of a Party for the administration and application of customs laws and regulations or for the EU, where provided for, the competent services of the Commission of the European Union;

customs value means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

determination of origin means a determination as to whether a good qualifies as an originating good in accordance with this Protocol;

exporter means an exporter located in the territory of a Party;

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

identical originating products means products that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor

differences in appearance that are not relevant to a determination of origin of those products under this Protocol;

importer means an importer located in the territory of a Party;

material means any ingredient, component, part or product that is used in the production of another product;

net weight of the non-originating material means the weight of the material as it is used in the production of the product, not including the weight of the material's packaging;

net weight of the product means the weight of a product not including the weight of packaging. If the production includes a heating or drying operation, the net weight of the product may be the net weight of all materials used in its production, excluding water of heading 22.01 added during production of the product;

producer means a person who engages in any kind of working or processing including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, manufacturing, assembling or disassembling a product;

product means the result of production, even if it is intended for use as a material in the production of another product;

production means any kind of working or processing, including such operations as growing, mining, raising, harvesting, fishing, trapping, hunting, manufacturing, assembling or disassembling a product;

transaction value or ex-works price of the product means the price paid or payable to the producer of the product at the place where the last production was carried out, and must include the value of all materials. If there is no price paid or payable or if it does not include the value of all materials, the transaction value or ex-works price of the product:

(a) must include the value of all materials and the cost of production employed in producing the product, calculated in accordance with generally accepted accounting principles; and

(b) may include amounts for general expenses and profit to the producer that can be reasonably allocated to the product.

Any internal taxes which are, or may be, repaid when the product obtained is exported are excluded. If the transaction value or ex-works price of the product includes costs incurred subsequent to the product leaving the place of production, such as transportation, loading, unloading, handling or insurance, those costs are to be excluded.

value of non-originating materials means the customs value of the material at the time of its importation into a Party, as determined in accordance with the Customs Valuation Agreement. The value of the non-originating material must include any costs incurred in transporting the material to the place of importation, such as transportation, loading, unloading, handling or insurance. If the customs value is not known or cannot be ascertained, the value of non-originating materials will be the first ascertainable price paid for the materials in the European Union or in Canada.

SECTION B
RULES OF ORIGIN

ARTICLE 2
GENERAL REQUIREMENTS

1. For the purposes of this Agreement, a product is originating in the Party where the last production took place if, in the territory of a Party or in the territory of both of the Parties in accordance with Article 3, it:
   (a) has been wholly obtained within the meaning of Article 4;
   (b) has been produced exclusively from originating materials; or,
   (c) has undergone sufficient production within the meaning of Article 5.
2. Except as provided for in paragraphs 8 and 9 of Article 3 (Cumulation of Origin), the conditions set out in this Protocol relating to the acquisition of originating status must be fulfilled without interruption in the territory of one or both of the Parties.

ARTICLE 3
CUMULATION OF ORIGIN

1. A product that originates in a Party is considered originating in the other Party when used as a material in the production of a product there.
2. An exporter may take into account production carried out on a non-originating material in the other Party for the purposes of determining the originating status of a product.
3. Paragraphs 1 and 2 do not apply if the production carried out on a product does not go beyond the operations referred to in Article 7 (Insufficient Production) and the object

of this production, as demonstrated on the basis of a preponderance of evidence, is to circumvent financial or fiscal legislation of the Parties.

4. Where an exporter has completed an origin declaration for a product referred to in paragraph 2, the exporter must possess a supplier's statement that is completed and signed by the supplier of the non-originating materials used in the production of the product.
5. A supplier's statement may be as specified in Annex 4 (Supplier's Statement for Non-Originating Materials Used in the Production of Non-Originating Products) or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail for them to be identified.
6. Where a supplier's statement referred to in paragraph 4 is in electronic format, it need not be signed, provided that the supplier is identified to the satisfaction of the customs authorities in the Party where the supplier's statement was completed.
7. A supplier's statement applies to a single invoice or multiple invoices for the same material that is supplied within a period not exceeding 12 months from the date set out in the supplier's statement.
8. Subject to paragraph 9, where, as permitted by the WTO Agreement, each Party has a free trade agreement with the same non-Party, a material of that non-Party will be taken into consideration when determining whether a product is originating under this Agreement.
9. A Party shall give effect to paragraph 8 only once provisions with effect equivalent to paragraph 8 are in force between each Party and the non-Party and upon agreement by the Parties on the applicable conditions.
10. Notwithstanding paragraph 9, where each Party has a free trade agreement with the United States, and upon agreement by the Parties on the applicable conditions, a Party shall give effect to paragraph 8 when determining whether a product of Chapters 2, 11, headings 16.01 through 16.03, Chapter 19, heading 20.02 and 20.03 and subheading 3505.10 is originating under this Agreement.

ARTICLE 4

WHOLLY OBTAINED PRODUCTS

1. The following shall be considered as wholly obtained in a Party:
   (a) mineral products and other non-living natural resources extracted or taken from there;
   (b) vegetables, plants and plant products harvested or gathered there;
   (c) live animals born and raised there;
   (d) (i) products obtained from live animals there;
   (ii) products from slaughtered animals born and raised there;

(e) (i) products obtained by hunting, trapping or fishing conducted there, but not beyond the outer limits of the Party's territorial sea;

(ii) products of aquaculture raised there;

(f) fish, shellfish and other marine life taken beyond the outer limits of any territorial sea by a vessel;

(g) products made aboard their factory ships exclusively from products referred to in (f);

(h) mineral products and other non-living natural resources, taken or extracted from the seabed, subsoil or ocean floor of:

i. the exclusive economic zone of Canada or the EU's Member States, as determined by domestic law and consistent with Part V of the United Nations Convention of the Law of the Sea done at Montego Bay on 10 December 1982 (UNCLOS);

ii. the continental shelf of Canada or the EU's Member States, as determined by domestic law and consistent with Part VI of UNCLOS; or

iii. the Area as defined in Article 1(1) of UNCLOS,

by a Party or a person of a Party, provided that Party or person of a Party has rights to exploit such seabed, subsoil or ocean floor;

(i) raw materials recovered from used products collected there, provided that these products are fit only for such recovery;

(j) components recovered from used products collected there, provided that these products are fit only for such recovery, when the component is either;

(i) incorporated in another product; or

(ii) further produced resulting in a product with a performance and life expectancy equivalent or similar to those of a new product of the same type;

(k) products, at any stage of production, produced there exclusively from products specified in (a) to (j);

2. For the purpose of subparagraphs 1(f) and (g), the following conditions shall apply to the vessel or factory ship:

(a) the vessel or factory ship must be:

(i) registered in a Member State of the European Union or in Canada; or

(ii) listed in Canada, if such vessel:

a. immediately prior to its listing in Canada, is entitled to fly the flag of a Member State of the European Union and must sail under that flag; and

b. fulfills the conditions of either 2(c)(i) or 2(c)(ii) below;

(b) the vessel or factory ship must be entitled to fly the flag of a Member State of the European Union or of Canada and must sail under that flag; and,

(c) with respect to the European Union the vessel or factory ship must be:

(i) at least 50% owned by nationals of a Member State of the European Union; or

(ii) owned by companies which have their head office and their main place of business in a Member State of the European Union, and which are at least 50% owned by a Member State of the European Union, public entities or nationals of those States;

(d) with respect to Canada, the vessel or factory ship must take the fish, shellfish or other marine life under the authority of a Canadian fishing licence. Canadian fishing licences comprise Canadian commercial fishing licences and Canadian aboriginal fishing licences issued to aboriginal organizations. The holder of the Canadian fishing licence must be either:

(i) a Canadian national;

(ii) an enterprise that is no more than 49 per cent foreign owned and has a commercial presence in Canada;

(iii) a fishing vessel owned by a person referred to in subparagraph (i) or (ii) that is registered in Canada, entitled to fly the flag of Canada and must sail under that flag; or

(iv) an aboriginal organization located in the territory of Canada. A person fishing under the authority of a Canadian aboriginal fishing licence must be a Canadian national.

ARTICLE 5

SUFFICIENT PRODUCTION

1. For the purposes of Article 2, products which are not wholly obtained are considered to have undergone sufficient production when the conditions set out in Annex 1 (Product-Specific Rules of Origin) are fulfilled.

2. If a non-originating material undergoes sufficient production, the resulting product shall be considered as originating and no account shall be taken of the non-originating material contained therein when that product is used in the subsequent production of another product.

ARTICLE 6

TOLERANCE

1. Notwithstanding Article 5(1), and except as provided in paragraph 3, if the non-originating materials used in the production of the product do not fulfil the

conditions set out in Annex 1 (Product-Specific Rules of Origin), the product may be considered to be an originating product provided that:

(a) the total value of those non-originating materials does not exceed 10 per cent of the transaction value or ex-works price of the product;

(b) any of the percentages given in Annex 1 (Product-Specific Rules of Origin) for the maximum value or weight of non-originating materials are not exceeded through the application of this paragraph; and

(c) the product satisfies all other applicable requirements of this Protocol.

2. Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 4 (Wholly Obtained Products). Where the rule of origin specified in Annex 1 (Product-Specific Rules of Origin) requires that the materials used in the production of a product be wholly obtained, the tolerance provided for in paragraph 1 applies to the sum of these materials.

3. Tolerance for textile and apparel products of Chapters 50 through 63 of the Harmonized System will be determined in accordance with Annex 2(Tolerance for Textile and Apparel Products).

4. Paragraphs 1 through 3 are subject to Article 8(c) (Unit of Classification).

ARTICLE 7

INSUFFICIENT PRODUCTION

1. Without prejudice to paragraph 2, the following operations are insufficient to confer origin on a product, whether or not the requirements of Article 5 (Sufficient Production) or Article 6 (Tolerance) are satisfied:

(a) operations exclusively intended to preserve products in good condition during storage and transport;[1]

(b) breaking-up or assembly of packages;

(c) washing, cleaning or operations to remove dust, oxide, oil, paint or other coverings from a product;

(d) ironing or pressing of textiles or textile articles of Chapter 50 through 63 of the Harmonized System;

(e) simple painting or polishing operations;

(f) husking, partial or total bleaching, polishing or glazing of cereals or rice of Chapter 10 that does not result in a change of chapter;

[1] Preserving operations such as chilling, freezing or ventilating are considered insufficient within the meaning of subparagraph (a), whereas operations such as pickling, drying or smoking that are intended to give a product special or different characteristics, are not considered insufficient.

(g) operations to colour or flavour sugar of heading 17.01 through 17.02; operations to form sugar lumps of heading 17.01; partial or total grinding of crystal sugar of heading 17.01;

(h) peeling, stoning or shelling of vegetables of Chapter 7, fruits of Chapter 8, nuts of heading 08.01 through 08.02 or groundnuts of heading 12.02, if these vegetables, fruits, nuts or groundnuts remain classified within the same chapter;

(i) sharpening, simple grinding or simple cutting;

(j) simple sifting, screening, sorting, classifying, grading or matching;

(k) simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes or fixing on cards or boards;

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

(m) mixing of sugar of heading 17.01 through 17.02 with any material;

(n) simple mixing of materials, whether or not of different kinds, however, simple mixing does not include an operation that causes a chemical reaction as defined in the notes to Chapter 28 through 29 of Annex 1 (Product-Specific Rules of Origin).

(o) simple assembly of parts of articles to constitute a complete article of Chapters 61, 62 and 82 to 97 of the Harmonized System or disassembly of complete articles of Chapters 61, 62 and 82 to 97 into parts;

(p) a combination of two or more operations specified in (a) to (o); and

(q) slaughter of animals.

2. In accordance with Article 3 (Cumulation of Origin), all production carried out in the European Union and in Canada on a product is considered when determining whether the production undertaken on that product is to be regarded as insufficient within the meaning of paragraph 1.

3. For the purposes of paragraph 1, operations shall be considered simple when neither special skills, nor machines, apparatus or tools especially produced or installed for those operations are required for their performance or when those skills, machines, apparatus or tools do not contribute to the product's essential characteristics or properties.

ARTICLE 8

UNIT OF CLASSIFICATION

For the purposes of this Protocol:

(a) the tariff classification of a particular product or material shall be determined according to the Harmonized System;

(b) where a product composed of a group or assembly of articles or components is classified pursuant to the terms of the Harmonized System under a single heading or subheading, the whole shall constitute the particular product; and

(c) where a shipment consists of a number of identical products classified under the same heading or subheading of the Harmonized System, each product shall be considered separately.

ARTICLE 9

PACKAGING AND PACKING MATERIALS AND CONTAINERS

1. Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it is considered in determining whether all the non-originating materials used in the production of the product satisfy the requirements set out in Annex 1 (Product-Specific Rules of Origin).

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

ARTICLE 10

ACCOUNTING SEGREGATION OF FUNGIBLE MATERIALS OR PRODUCTS

1. a) If originating and non-originating fungible materials are used in the production of a product, the determination of the origin of the fungible materials need not be made through physical separation and identification of any specific fungible material, but may be determined on the basis of an inventory management system.

   b) If originating and non-originating fungible products of Chapters 10, 15, 27, 28, 29, headings 32.01 through 32.07 or 39.01 through 39.14 of the Harmonized System are physically combined or mixed in inventory in a Party before exportation to the other Party, the determination of the origin of the fungible products need not be made through physical separation and identification of any specific fungible product, but may be determined on the basis of an inventory management system.

2. The inventory management system must:

   (i) ensure that, at any time, no more products receive originating status than would have been the case if the fungible materials or fungible products had been physically segregated;

   (ii) specify the quantity of originating and non-originating materials or products, including the dates on which those materials or products were placed in inventory and if required by the applicable rule of origin, the value of those materials or products;

   (iii) specify the quantity of products produced using fungible materials, or the quantity of fungible products, that are supplied to customers requiring evidence of

origin in a Party for the purposes of obtaining preferential treatment under this Agreement and to customers not requiring such evidence; and

(iv) indicate whether an inventory of originating products was available in sufficient quantity to support the declaration of originating status.

3. A Party may require that an exporter or producer within its territory that is seeking to use an inventory management system pursuant to this Article obtain prior authorisation from that Party in order to use that system. The authorisation to use an inventory management system may be withdrawn if the exporter or producer makes improper use of it.

4. For the purposes of paragraph 1, fungible materials or fungible products means materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

ARTICLE 11

ACCESSORIES, SPARE PARTS AND TOOLS

Accessories, spare parts and tools delivered with a product that form part of its standard accessories, spare parts or tools, that are not invoiced separately from the product and which quantities and value are customary for the product, shall be:

(a) taken into account in calculating the value of the relevant non-originating materials when the rule of origin of Annex 1 (Product-Specific Rules of Origin) applicable to the product contains a percentage for the maximum value of non-originating materials; and

(b) disregarded in determining whether all the non-originating materials used in the production of the product undergo the applicable change in tariff classification or other requirements set out in Annex 1 (Product-Specific Rules of Origin).

ARTICLE 12

SETS

1. Except as provided in Annex 1 (Product-Specific Rules of Origin), a set, as referred to in General Rule 3 of the Harmonized System, is originating, provided that:

(a) all of the set's component products are originating; or

(b) if the set contains a non-originating component product, at least one of the component products, or all of the packaging material and containers for the set, is originating; and

i. the value of the non-originating component products of Chapters 1 through 24 of the Harmonized System does not exceed 15 per cent of the transaction value or ex-works price of the set;

ii. the value of the non-originating component products of Chapters 25 through 97 of the Harmonized System does not exceed 25 per cent of the transaction value or ex-works price of the set; and

iii. the value of all of the set's non-originating component products does not exceed 25 per cent of the transaction value or ex-works price of the set.

2. The value of non-originating component products is calculated in the same manner as the value of non-originating materials.

3. The transaction value or ex-works price of the set shall be calculated in the same manner as the transaction value or ex-works price of the product.

ARTICLE 13

NEUTRAL ELEMENTS

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

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools;

(d) materials which do not enter and which are not intended to enter into the final composition of the product.

ARTICLE 14

TRANSPORT THROUGH A NON-PARTY

1. A product shall not be considered to be originating by reason of having undergone production that satisfies the requirements of Article 2 if, subsequent to that production, the product:

   (a) undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition, to transport the product to the territory of a Party; or

   (b) does not remain under customs control while outside the territories of the Parties.

2. The storage of products and shipments or the splitting of shipments may take place where carried out under the responsibility of the exporter or of a subsequent holder of the products and the products remain under customs supervision in the country or countries of transit.

ARTICLE 15

RETURNED ORIGINATING GOODS

If originating products exported from a Party to a non-Party return, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that the returning products:

(a) are the same as those exported; and

(b) have not undergone any operation beyond that necessary to preserve them in good condition.

ARTICLE 16

SUGAR

1. Where a rule of origin requires that the net weight of non-originating sugar used in production not exceed a specified threshold, the product will have satisfied this condition if the total net weight of all mono-saccharides and di-saccharides contained in the product, or in the materials used in production, does not exceed this threshold.

2. The product may also satisfy this condition if the threshold is not exceeded by the net weight of non-originating sugar classified in heading 17.01 or subheading 1702.30 through 1702.60 or 1702.90 other than malto-dextrin, chemically pure maltose, or "colouring" caramel as described in the explanatory notes to heading 17.02, when used as such in the production of:

a) the product; and

b) the non-originating sugar-containing materials classified in subheadings 1302.20, 1704.90, 1806.10, 1806.20, 1901.90, 2101.12, 2101.20, 2106.90 and 3302.10 that are used as such in the production of the product. Alternatively, the net weight of all mono-saccharides and di-saccharides contained in any of these sugar-containing materials may also be used. If neither the net weight of the non-originating sugar as referred to above nor the net weight of mono-saccharides and di-saccharides contained in these sugar-containing materials is known, the total net weight of these materials used as such in production will apply.

3. The net weight of any non-originating sugar as referred to in paragraph 2 may be calculated on a dry weight basis.

4. For the purposes of the rules of origin for heading 17.04 and 18.06, the value of non-originating sugar refers to the value of the non-originating material referred to in paragraph 2 that is used in production of the product.

ARTICLE 17

NET COST

1. For the purpose of calculating the net cost of a product under Table D.1 of Appendix 1 (Origin Quotas and Alternatives to the Product-Specific Rules of Origin), the producer of the product may:

    1. calculate the total cost incurred with respect to all products produced by that producer, subtract any sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs, as well as a non-allowable interest cost that is included in the total cost of all those products, and then reasonably allocate the resulting net cost of those products to the product;
    2. calculate the total cost incurred with respect to all products produced by that producer, reasonably allocate the total cost to the product, and then subtract any sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs and non-allowable interest cost that is included in the portion of the total cost allocated to the product; or
    3. reasonably allocate each cost that forms part of the total cost incurred by that producer with respect to the product so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalty, shipping and packing costs, or non-allowable interest cost.

2. For the purpose of calculating the net cost of a product under paragraph 1, the producer may average its calculation over its fiscal year using any one of the following categories, on the basis of either all motor vehicles produced by that producer in the category or only those motor vehicles in the category that are produced by that producer and exported to the territory of the other Party:

    (a) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a Party;

    (b) the same model line of motor vehicles produced in the same plant in the territory of a Party;

    (c) the same model line of motor vehicles produced in the territory of a Party;

    (d) the same class of motor vehicles produced in the same plant in the territory of a Party; or

    (e) any other category as the Parties may agree.

3. For the purpose of this Article, the following definitions apply, in addition to those set out in Article 1:

    (a) motor vehicle means a product of subheading 8703.21 through 8703.90;

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

(c) non-allowable interest cost means interest costs incurred by a producer that exceed 700 basis points above the applicable national government interest rate identified for comparable maturities;

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

i. personnel training, without regard to where performed; and

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

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

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

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

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

iv. recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing and after-sales service of products on the financial statements or cost accounts of the producer;

v. product liability insurance;

vi. office supplies for sales promotion, marketing and after-sales service of products, where such costs are identified separately for sales promotion, marketing and after-sales service of products on the financial statements or cost accounts of the producer;

vii. telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and after-sales service of products on the financial statements or cost accounts of the producer;

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

ix. property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centres, where such costs are identified separately for sales promotion, marketing and after-sales service of products on the financial statements or cost accounts of the producer; and

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

(f) shipping and packing costs means the costs incurred in packing a product for shipment and shipping the product from the point of direct shipment to the buyer, excluding costs of preparing and packaging the product for retail sale.

(g) total cost means all product costs, period costs and other costs incurred in relation to the production of a product in Canada. Product costs means those costs that are associated with the production of a product and include the value of materials, direct labour costs, and direct overhead. Period costs means those costs other than product costs that are expensed in the period in which they are incurred, including selling expenses and general and administrative expenses. Other costs means all costs recorded on the books of the producer that are not product costs or period costs.

SECTION C

ORIGIN PROCEDURES

ARTICLE 18

PROOF OF ORIGIN

1. Products originating in the EU Party shall, on importation into Canada and products originating in Canada shall, on importation into the EU Party benefit from preferential tariff treatment of this Agreement on the basis of a declaration, subsequently referred to as the "origin declaration".

2. The origin declaration is provided on an invoice or any other commercial document that describes the originating product in sufficient detail to enable its identification.

3. The different linguistic versions of the text of the origin declaration appear in Annex 3 (Text of the Origin Declaration).

ARTICLE 19

OBLIGATIONS REGARDING EXPORTATIONS

1. An origin declaration as referred to in Article 18(1) may be completed:

   (a) in the EU, by an exporter in accordance with the relevant EU legislation

   (b) in Canada, by an exporter as per Part V of the *Customs Act*.

2. The exporter completing an origin declaration shall at the request of the customs authority of the Party of export submit a copy of the origin declaration and all appropriate documents proving the originating status of the products concerned, including supporting documents or written statements from the producers or suppliers, as well as the fulfilment of the other requirements of this Protocol.

3. Origin declarations shall be completed and signed by the exporter unless otherwise provided.

4. An origin declaration may be completed by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing Party within a period of two years or for such longer period as specified in the legislation of the importing Party after the importation of the products to which it relates.

5. The customs authority of the Party of import may allow an origin declaration to apply to multiple shipments of identical originating products that take place within a period not exceeding 12 months as specified by the exporter in that declaration.

6. An exporter who has completed an origin declaration that becomes aware or has reason to believe that the origin declaration contains incorrect information, shall immediately notify the importer in writing of any change affecting the originating status of each product to which the origin declaration applies.

7. The Parties may allow the establishment of a system that would permit, an origin declaration to be submitted electronically and directly from the exporter in the territory of one Party to an importer in the territory of another Party, including the replacement of the exporter's signature on the origin declaration with an electronic signature or identification code.

ARTICLE 20

VALIDITY OF THE ORIGIN DECLARATION

1. An origin declaration shall be valid for 12 months from the date when it was completed by the exporter, or for such longer period as determined by the Party of import. The preferential tariff treatment may be claimed within the validity period to the customs authority of the Party of import.

2. Origin declarations which are submitted to the customs authority of the Party of import after the validity period specified in paragraph 1 may be accepted for the purpose of preferential tariff treatment in accordance with the respective laws and regulations of the Party of import.

ARTICLE 21

OBLIGATIONS REGARDING IMPORTATIONS

1. For the purpose of claiming preferential tariff treatment, the importer shall:

submit the origin declaration to the customs authority of the Party of import as required by and in accordance with the procedures applicable in that Party;

(a) if required by the customs authority of the Party of import, submit a translation of the origin declaration; and

(b) if required by the customs authority of the Party of import provide for a statement accompanying or as part of the import declaration to the effect that the products meet the conditions required for the application of this Agreement.

2. An importer that becomes aware or has reason to believe that an origin declaration for a product to which preferential tariff treatment has been granted contains incorrect information shall immediately notify the customs authority of the Party of import in writing of any change affecting the originating status of that product and pay any duties owing.

3. When an importer claims preferential tariff treatment for a good imported into the territory from the territory of the other Party the importing Party may deny preferential tariff treatment to the good if the importer fails to comply with any requirement under this Protocol.

4. A Party shall, in accordance with its domestic legislation, provide that, where a product would have qualified as an originating product when it was imported into the territory of that Party except that the importer did not have an origin declaration at the time of importation, the importer of the product may within a period of no less than three years after the date of importation apply for a refund of duties paid as a result of the product not having been accorded preferential tariff treatment.

ARTICLE 22

PROOF RELATED TO TRANSPORT THROUGH A NON-PARTY

1. Each Party, through its customs authority, may require an importer to demonstrate that a good for which the importer claims preferential tariff treatment was shipped in accordance with Article 14 by providing:

(a) carrier documents, including bills of lading or waybills, indicating the shipping route and all points of shipment and transhipment prior to the importation of the good; and

(b) where the good is shipped through or transhipped outside the territories of the Parties, a copy of the customs control documents indicating to that customs authority that the good remained under customs control while outside the territories of the Parties.

ARTICLE 23

IMPORTATION BY INSTALMENTS

Where, at the request of the importer and on the conditions laid down by the customs authority of the Party of import, dismantled or non-assembled products within the meaning of General Rule 2(a) of the HS falling within Sections XVI and XVII or headings 7308 and 9406 of the HS are imported by instalments, a single origin declaration for such products shall be submitted, as required, to that customs authority upon importation of the first instalment.

ARTICLE 24

EXEMPTIONS FROM ORIGIN DECLARATIONS

1. A Party may, in accordance with its domestic legislation, waive the requirement to present an origin declaration as referred to in Article 21, for low value shipments of originating products from another Party and for originating products forming part of the personal luggage of a traveller coming from another Party.

2. A Party may exclude any importation from the provisions of paragraph 1 when the importation is part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the requirements of this Protocol related to origin declarations.

3. The Parties may set value limits for products referred to in paragraph 1, and will exchange information regarding those limits.

ARTICLE 25

SUPPORTING DOCUMENTS

The documents referred to in Article 19(2), used for the purpose of proving that products covered by origin declarations can be considered as products originating in the EU Party or in Canada and fulfil the other requirements of this Protocol may include documents relating to the following:

(a) the production processes carried out on the originating product or on materials used in the production of that product;

(b) the purchase of, the cost of, the value of and the payment for the product;

(c) the origin of, the purchase of, the cost of, the value of and the payment for all materials, including neutral elements, used in the production of the product; and

(d) the shipment of the product.

ARTICLE 26

PRESERVATION OF RECORDS

1. The exporter that has completed an origin declaration shall keep a copy of the origin declaration, as well as the documents referred to in Article 25 supporting the originating status of the products, for three years after the completion of the origin declaration or for such longer period as a Party may specify.

2. Where an exporter has based an origin declaration on a written statement from the producer, the producer shall be required to maintain records in accordance with paragraph 1.

3. When provided for in domestic legislation of the Party of import, an importer that has been granted preferential tariff treatment shall keep documentation relating to the importation of the good, including a copy of the origin declaration, for three years after the date on which preferential treatment was granted, or for such longer period as that Party may specify.

4. Each Party shall permit, in accordance with that Party's laws and regulations, importers, exporters, and producers in its territory to maintain documentation or records in any medium, provided that the documentation or records can be retrieved and printed.

5. A Party may deny preferential tariff treatment to a good that is the subject of an origin verification where the importer, exporter, or producer of the good that is required to maintain records or documentation under this Article:

   (a) fails to maintain records or documentation relevant to determining the origin of the good in accordance with the requirements of the Protocol; or

   (b) denies access to such records or documentation.

ARTICLE 27

DISCREPANCIES AND FORMAL ERRORS

1. The discovery of slight discrepancies between the statements made in the origin declaration and those made in the documents submitted to the customs authorities for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the origin declaration null and void if it is duly established that such document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on an origin declaration should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

ARTICLE 28

CO-OPERATION

1. The Parties shall co-operate in the uniform administration and interpretation of the provisions of this Protocol and, through their customs authorities, assist each other in verifying the originating status of the products on which an origin declaration is based.

2. In order to facilitate the verifications or assistance referred to in paragraph 1, the customs authorities of the Parties shall provide each other, through the Commission of the European Communities, with addresses of the customs authorities responsible.

3. It is understood that the customs authority of the Party of export will assume all expenses in carrying out paragraph 1.

4. It is further understood that the customs authorities of the Parties will discuss the overall operation and administration of the verification process, including forecasting of workload and discussing priorities. Where there is an unusual increase in the number of requests, the customs authorities of the Parties concerned will consult to establish priorities and consider steps to manage the workload, with consideration of operational requirements.

5. With respect to goods considered originating in accordance with Article 3, the Parties may cooperate with a non-Party to develop customs procedures based on the principles of this Protocol.

ARTICLE 29

ORIGIN VERIFICATION

1. In order to ensure the proper application of this Protocol, the Parties shall assist each other, through the customs authorities, in verifying whether products are originating and ensuring the accuracy of claims for preferential tariff treatment.

2. Requests for origin verifications as to whether the product is originating and all other requirements of this Protocol have been fulfilled, shall be made:

(a) based on risk assessment methods applied by the customs authority of the Party of import, which may include random selection, or
(b) where the Party of import has reasonable doubts.

3. The customs authority of the Party of import may verify whether a product is originating by requesting in writing that the customs authority of the Party of export conduct a verification as to whether a product is originating. When requesting a verification, the customs authority of the Party of import shall provide the customs authority of the Party of export with:

(i) the identity of the customs authority issuing the request;
(ii) the name of the exporter or producer to be verified;
(iii) the subject and scope of the verification;
(iv) a copy of the origin declaration and, where applicable any other relevant documentation.

Where appropriate the customs authority of the Party of import may request the customs authority of the Party of export for specific documentation and information.

4. A request made by the customs authority of the Party of import pursuant to paragraph 3 shall be provided to the customs authority of the Party of export by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority.

5. The origin verification shall be carried out by the customs authority of the Party of export. For this purpose, the customs authority may in accordance with its domestic legislation, request documentation, call for any evidence or visit the premises of an exporter, or a producer, to review the records referred to in Article 25 and observe the facilities used in the production of the good.

6. Where an exporter has based an origin declaration on a written statement from the producer or supplier, the exporter may arrange for the producer or supplier to provide documentation or information directly to the customs authority of the Party of export upon request.

7. As soon as possible and in any event within 12 months after receiving the request referred to in paragraph 3, the customs authority of the Party of export shall complete a verification of whether the product is originating and fulfils the other requirements of this Protocol, and shall:

(a) provide to the customs authority of the Party of import, by certified or registered mail or any other method that produces a confirmation of receipt by that customs authority, a written report in order for it to determine whether the product is originating or not, and that contains:

i) the results of the verification;
ii) the description of the product subject to verification and the tariff classification relevant to the application of the rule of origin;
iii) a description and explanation of the production sufficient to support the rationale with respect to the originating status of the product;
iv) information on the manner in which the verification was conducted; and
v) where appropriate, supporting documentation.

(b) subject to its domestic legislation, notify the exporter of its decision as to whether the product is originating.

8. The period referred to in paragraph 7 may be extended by agreement between the customs authorities concerned.

9. Pending the results of an origin verification under paragraph 7, or consultations under paragraph 12, the customs authority of the Party of import, subject to any precautionary measures deemed necessary, shall offer to release the product to the importer,

10. Where the result of an origin verification has not been provided in accordance with paragraph 7, the customs authority of the importing Party may, in cases of reasonable doubt or when it is unable to determine whether a product is originating, deny preferential tariff treatment to the product.

11. Where differences in relation to the verification procedures of this Article or in the interpretation of the rules of origin in determining whether a product qualifies as originating, cannot be resolved in consultations between the customs authority requesting the verification and the customs authority responsible for performing the verification, and the customs authority of the importing Party intends to make a determination of origin under paragraph 7(a) that is not consistent with the written report provided by the customs authority of the exporting Party, the importing Party shall notify the exporting Party, within 60 days of receiving the written report.

12. At the request of either Party, the Parties shall hold consultations within a period of 90 days from the date of the notification referred to in paragraph 11, with a view to resolving those differences. The period for consultation may be extended on a case by case basis by mutual written agreement between the Parties. After this period the customs authority of the importing Party can make its determination of origin. The Parties may also seek to resolve those differences within the [Customs Committee] established under this Agreement.

13. In all cases the settlement of differences between the importer and the customs authority of the Party of import shall be under the legislation of the said Party.

14. Nothing in this Protocol prevents a customs authority of a Party from issuing a determination of origin or an advance ruling relating to any matter under consideration by the Customs Procedures Sub-Committee or the Committee on Trade in Goods and Rules of Origin or from taking such other action that it considers necessary, pending a resolution of the matter under this Agreement.

ARTICLE 30

REVIEW AND APPEAL

1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings issued by its customs authority as it provides to importers in its territory, to any person who:

(a) has received an origin decision in application of the provisions of this Protocol; or

(b) has received an advance ruling pursuant to Article 33(1).

2. Further to Articles X.03 (Transparency Chapter - Administrative Proceedings) and X.04 (Transparency Chapter - Review and Appeal), each Party shall provide that the rights of review and appeal referred to in paragraph 1 shall include access to at least two levels of appeal or review including at least one judicial or quasi-judicial level.

ARTICLE 31

PENALTIES

Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its laws and regulations relating to this Protocol.

ARTICLE 32

CONFIDENTIALITY

1. Nothing in this Protocol shall be construed to require a Party to furnish or allow access to business information or to information relating to an identified or identifiable individual, the disclosure of which would impede law enforcement or would be contrary to that Party's legislation protecting business information and personal data and privacy.

2. Each Party shall maintain, in accordance with its law, the confidentiality of the information collected pursuant to this Protocol and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information. Where the Party receiving or obtaining information is required by its laws to disclose the information, that Party shall notify the Party or person who provided that information.

3. Each Party shall ensure that the confidential information collected pursuant to this Protocol shall not be used for purposes other than the administration and enforcement of determinations of origin and of customs matters, except with the permission of the person or Party who provided the confidential information.

4. Notwithstanding paragraph 3, a Party may allow information collected pursuant to this Protocol to be used in any administrative, judicial or quasi-judicial proceedings instituted for failure to comply with customs related laws and regulations implementing this Protocol. A Party shall notify the person or Party who provided the information in advance of such use.

5. The Parties shall exchange information on their respective legislation on data protection for the purpose of facilitating the operation and application of paragraph 2.

ARTICLE 33

ADVANCE RULINGS RELATING TO ORIGIN

1. Each Party shall through its customs authority, provide for the expeditious issuance of written advance rulings in accordance with its domestic law, prior to the importation of a good into its territory, concerning whether a good qualifies as an originating good under this Protocol.

2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.

3. Each Party shall provide that its customs authority:

(a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;

(b) shall, after it has obtained all necessary information from the person requesting the advance ruling, issue the ruling within 120 days; and

(c) shall provide to the person requesting the advance ruling a full explanation of the reasons for the ruling.

4. Where application for an advance ruling involves an issue that is the subject of:

(a) a verification of origin;

(b) a review by or appeal to the customs authority; or

(c) judicial or quasi-judicial review in its territory;

the customs authority in accordance with its laws and regulations, may decline or postpone the issuance of the ruling.

5. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or such later date as may be specified in the ruling.

6. Each Party shall provide to any person requesting an advance ruling the same treatment as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.

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

(a) if the ruling is based on an error of fact;

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

(c) to conform with an amendment of Chapter X (National Treatment and Market Access for Goods), or this Protocol; or

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

8. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

9. Notwithstanding paragraph 8, the issuing Party may, in accordance with its domestic legislation, postpone the effective date of such modification or revocation for no more than 6 months.

10. Subject to paragraph 7, each Party shall provide that an advance ruling remains in effect and is honoured.

ARTICLE 34

COMMITTEE

The Joint Customs Cooperation Committee (JCCC), granted authority to act under the auspices of the CETA Joint Committee as a specialised committee pursuant to Article [X.02] 'Specialised Committees' in Chapter [Administrative and Institutional Provisions], may review and propose to the CETA Joint Committee to amend the provisions of this Annex. It shall endeavour to agree upon:

Kommentiert [MT5]: Confirm this reference.

(a) the uniform administration of the rules of origin, including tariff classification and valuation matters relating to this Annex;

(b) technical, interpretative or administrative matters relating to this Annex; or

(c) the priorities in relation to origin verifications and other matters arising from the verifications.

ANNEX 1
PRODUCT-SPECIFIC RULES OF ORIGIN

Note: Please see attached separately.

ANNEX 2

TOLERANCE FOR TEXTILE AND APPAREL PRODUCTS

1. For the purpose of this Annex, the following definitions apply:

Natural fibres means fibres other than artificial or synthetic fibres that have not been spun. Natural fibres include waste, and, unless otherwise specified, include fibres which have been carded, combed or otherwise processed, but not spun. Natural fibres include horsehair of heading 05.11, silk of headings 50.02 through 50.03, wool-fibres and fine or coarse animal hair of heading 51.01 through 51.05, cotton fibres of heading 52.01 through 52.03, and other vegetable fibres of heading 53.01 through 53.05.

Textile pulp, chemical materials and paper-making materials means materials, not classified in Chapter 50 through 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

Man-made staple fibres means synthetic or artificial filament tow, staple fibres or waste, of heading 55.01 through 55.07.

2. For greater certainty, non-originating materials of Chapters 1 through 49 and 64 through 97, including materials that contain textiles, may be disregarded for the purpose of determining whether all the non-originating materials used in the production of a product of Chapter 50 through 63 satisfies the applicable rule of origin set out in Annex 1 (Product-Specific Rules of Origin).

3. Subject to paragraph 7, if the non-originating materials used in the production of a product of Chapter 50 through 63 do not fulfill the conditions set out in Annex 1 (Product-Specific Rules of Origin), the product is nonetheless an originating product provided that:

(a) the product is produced using two or more of the basic textile materials listed in Table 1;

(b) the net weight of non-originating basic textile materials listed in Table 1 does not exceed 10 per cent of the net weight of the product ; and

(c) the product satisfies all other applicable requirements of this Protocol.

4. Subject to paragraph 7, in the case of a product of Chapter 50 through 63 produced using one or more basic textile materials listed in Table 1, and non-originating

yarn made of polyurethane segmented with flexible segments of polyether, the product is nonetheless an originating product provided that

(a) the weight of the non-originating yarn made of polyurethane segmented with flexible segments of polyether does not exceed 20 % of the weight of the product; and

(b) the product satisfies all other applicable requirements of this Protocol.

5. Subject to paragraph 7, in the case of a product of Chapter 50 through 63 produced using one or more basic textile materials listed in Table 1 and non-originating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film, the product is nonetheless an originating product provided that:

(a) the weight of the non-originating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film does not exceed 30 % of the weight of the product; and

(b) the product satisfies all other applicable requirements of thisProtocol.

6. Subject to paragraph 7, if the non-originating materials used in the production of a product of Chapter 61 through 63 do not fulfill the conditions set out in Annex 1 (Product-Specific Rules of Origin), the product is nonetheless an originating product provided that:

(a) the non-originating materials are classified in a heading other than that of the product;

(b) the value of the non-originating materials does not exceed 8% of the transaction value or ex-works price of the product; and

(c) the product satisfies all other applicable requirements of this Protocol.

Paragraph 6 does not apply to non-originating materials used in the production of linings or interlinings of a product of Chapter 61 through 63.

7. The tolerance provided for in paragraphs 2 through 6 does not apply to non-originating materials used in the production of a product if those materials are subject to a rule of origin that includes a percentage for their maximum value or weight.

Table 1 – Basic Textile Materials

- silk,
- wool
- coarse animal hair
- fine animal hair
- horsehair
- cotton
- paper-making materials and paper
- flax
- true hemp
- jute and other textile bast fibres
- sisal and other textile fibres of the genus Agave
- coconut, abaca , ramie and other vegetable textile fibres
- synthetic man-made filaments
- artificial man-made filaments
- current-conducting filaments
- synthetic man-made staple fibres of polypropylene
- synthetic man-made staple fibres of polyester
- synthetic man-made staple fibres of polyamide
- synthetic man-made staple fibres of polyacrylonitrile
- synthetic man-made staple fibres of polyimide
- synthetic man-made staple fibres of polytetrafluoroethylene
- synthetic man-made staple fibres of poly(phenylene sulphide)
- synthetic man-made staple fibres of poly(vinyl chloride)
- other synthetic man-made staple fibres
- artificial man-made staple fibres of viscose
- other artificial man-made staple fibres
- yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped

- yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped
- a material of heading 56.05 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film
- any other material of heading 56.05.

ANNEX 3
TEXT OF THE ORIGIN DECLARATION

The origin declaration, the text of which is given below, must be completed in accordance with the footnotes. However, the footnotes do not have to be reproduced.

(Period: from_____ to _____[1])

The exporter of the products covered by this document (customs authorization No ...[2]) declares that, except where otherwise clearly indicated, these products are of ...[3] preferential origin.

…….....[4]

(Place and date)

...…….....[5]

(Signature and printed name of the exporter)[6]

---

1 When the origin declaration is completed for multiple shipments of identical originating products within the meaning of Article 19, paragraph 5, indicate the period for which the origin declaration will apply. The period shall not exceed 12 months. All importations of the product must occur within the period indicated. Where a period is not applicable, the field can be left blank.

2 For EU exporters: When the origin declaration is completed by an approved or registered exporter the exporter's customs authorization/ registration number shall be included. A customs authorization number is required only where the exporter is an approved exporter. When the origin declaration is not completed by an approved or registered exporter, the words in brackets shall be omitted or the space left blank.

For Canadian exporters: The exporter's Business Number assigned by the Government of Canada shall be included. Where the exporter has not been assigned a business number, the field may be left blank.

3 "Canada/EU" means products qualifying as originating under the rules of origin of the Canada-European Union Comprehensive Economic and Trade Agreement. For the purposes of when the origin declaration relates, in whole or in part, to products originating in Ceuta and Melilla, the exporter must clearly indicate the symbol "CM".

4 These indications may be omitted if the information is contained on the document itself.

5 Article 19 provides an exception to the requirement of the exporter's signature. Where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

Bulgarian version

Износителят на продуктите, обхванати от този документ (митническо разрешение № … (1)) декларира, че освен където е отбелязано друго, тези продукти са с … преференциален произход (2).

Spanish version

El exportador de los productos incluidos en el presente documento (autorización aduanera n° .. …(1).) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial . …(2).

Czech version

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení …(1)) prohlašuje, že kromě zřetelně označených, mají tyto výrobky preferenční původ v …(2).

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ...(1)), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ...(2).

German version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ...(1)) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anderes angegeben, präferenzbegünstigte ...(2) Ursprungswaren sind.

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (tolliameti kinnitus nr. ...(1)) deklareerib, et need tooted on ...(2) sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο (άδεια τελωνείου υπ΄αριθ. ...(1)) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησιακής καταγωγής ...(2).

English version

(Period: from _____to _____(1))

The exporter of the products covered by this document (customs authorization No…(2)) declares that, except where otherwise clearly indicated, these products are of …(3) preferential origin.

Kommentiert [MT6]: This is to highlight the requirement to amend the text in other languages to reflect the agreed outcome.

French version

L'exportateur des produits couverts par le présent document (autorisation douanière n° ...(1)) déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ... (2)).

Croatian version

Izvoznik proizvoda obuhvaćenih ovom ispravom (carinsko ovlaštenje br. ... (1)) izjavljuje da su, osim ako je drukčije izričito navedeno, ovi proizvodi ... (2) preferencijalnog podrijetla.'

Italian version

L'esportatore delle merci contemplate nel presente documento (autorizzazione doganale n. ...(1)) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ...(2).

Latvian version
Eksportētājs produktiem, kuri ietverti šajā dokumentā (muitas pilnvara Nr. …(1)), deklarē, ka, iznemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no …(2).

Lithuanian version
Šiame dokumente išvardintų prekių eksportuotojas (muitinės liudijimo Nr …(1)) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra …(2) preferencinės kilmės prekės.

Hungarian version
A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: …(1)) kijelentem, hogy eltérő jelzés hianyában az áruk kedvezményes …(2) származásúak.

Maltese version
L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. …(1)) jiddikjara li, ħlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali …(2).

Dutch version
De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ...(1)), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn (2).

Polish version
Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr …(1)) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają …(2) preferencyjne pochodzenie.

Portuguese version
O abaixo assinado, exportador dos produtos cobertos pelo presente documento (autorização aduaneira n°. ...(1)), declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ...(2).

Romanian version
Exportatorul produselor ce fac ojiectul acestui document (autorizaţia vamalâ nr. …(1)) declará cá, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferenţială …(2).

Slovenian version
Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov št …(1)) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno …(2) poreklo.

Slovak version
Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia …(1)) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v …(2).

Finnish version
Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ...(1)) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita (2).

RoO

Final 1 August 2014

Swedish version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ...[1]) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung [2]

ANNEX 4

SUPPLIER'S STATEMENT FOR NON-ORIGINATING MATERIALS USED IN THE PRODUCTION OF NON-ORIGINATING PRODUCTS

Statement:
I, the undersigned, supplier of the products covered by the annexed document, declare that:

1. The following materials which do not originate in the European Union/in Canada[1] have been used in the European Union/in Canada to produce the following supplied non-originating products.
2. Any other materials used in the European Union/in Canada to produce these products originate there.

I undertake to make available any further supporting documents required.

1 Description of non-originating product(s) supplied	2 HS tariff classification of non-originating product(s) supplied	3 Value of non-originating product(s) supplied[2]	4 Description of non-originating material(s) used	5 HS tariff classification of non-originating material(s) used	6 Value of non-originating material(s) used[2]
		Total:			Total:

……
(Place and Date)

……
(Name and position, name and address of company)

……
(Signature)

[1] Strikethrough the Party not applicable, as the case may be.

[2] For each non-originating product supplied and non-originating material used, specify the value per unit of the products and materials described in columns 3 and 6, respectively.

ANNEX 5

MATTERS APPLICABLE TO CEUTA AND MELILLA

1. For the purpose of the Rules of Origin and Origin Procedures Protocol, in the case of the EU, the term "Party" does not include Ceuta and Melilla.

2. Products originating in Canada, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs regime, including preferential tariff treatment, as that which is applied to products originating in the customs territory of the EU under *Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities*. Canada shall apply to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime, including preferential tariff treatment, as that which is applied to products imported from and originating in the EU.

3. The rules of origin applicable to Canada under the Rules of Origin and Origin Procedures Protocol shall apply in determining the origin of products exported from Canada to Ceuta and Melilla. The rules of origin applicable to the EU under the Rules of Origin and Origin Procedures Protocol shall apply in determining the origin of products exported from Ceuta and Melilla to Canada.

4. The provisions of the Rules of Origin and Origin Procedures Protocol concerning the issuance, use and subsequent verification of proofs of origin shall apply to products exported from Canada to Ceuta and Melilla and to products exported from Ceuta and Melilla to Canada.

5. The provisions on cumulation of origin of the Rules of Origin and Origin Procedures Protocol shall apply to the import and export of products between the EU, Canada and Ceuta and Melilla.

6. For the purposes mentioned in paragraphs 2, 3, 4 and 5 Ceuta and Melilla shall be regarded as a single territory.

7. The Spanish customs authorities shall be responsible for the application of this Article in Ceuta and Melilla.

5. TRADE REMEDIES

CHAPTER [XX]: TRADE REMEDIES

SECTION X: ANTI-DUMPING AND COUNTERVAILING MEASURES

Article 1: General Provisions

1. Each Party retains its rights and obligations under Article VI of GATT 1994, the WTO Agreement on Implementation of Article VI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.

2. The provisions of this Section shall not be subject to the Dispute Settlement provisions of this Agreement

3. The provisions of this Section shall not be subject to the provisions of Chapter XX: Preferential Rules of Origin.

Article 2: Transparency

1. Each Party shall apply anti-dumping and countervailing measures in accordance with the relevant WTO requirements and pursuant to a fair and transparent process.

2. A Party shall ensure, after any imposition of provisional measures and, in any case, before a final determination is made, full and meaningful disclosure of all 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 WTO Agreement on Implementation of Article VI of GATT 1994 and Article 12.4 of the WTO Agreement on Subsidies and Countervailing Measures.

3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party in an anti-dumping or countervailing investigation[14] shall be granted a full opportunity to defend its interests.

Article 3: Consideration of Public Interest and Lesser Duty

1. The authorities shall consider information provided in accordance with their domestic law as to whether imposing an anti-dumping or countervailing duty would not be in the public interest.

2. After considering this information, the authorities may consider 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, in accordance with the domestic law of the Party.

[14] For the purpose of this article interested parties shall be defined as per Article 6(11) of the WTO Agreement on Implementation of Article VI of GATT 1994 and Article 12.9 of the WTO Agreement on Subsidies and Countervailing Measures.

SECTION XX: GLOBAL SAFEGUARD MEASURES

Article 1: General provisions

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

2. The provisions of this Section shall not be subject to the Dispute Settlement provisions of this Agreement.

3. The provisions of this Section shall not be subject to the provisions of Chapter XX: Preferential Rules of Origin.

Article 2: Transparency

1. At the request of the exporting Party, the Party initiating a safeguard investigation or intending to adopt provisional or definitive safeguard measures shall immediately provide:

   a. the information referred to in Article 12.2 of the WTO Agreement on Safeguards, in the format prescribed by the WTO Committee on Safeguards;

   b. the public version of the complaint filed by the domestic industry, where relevant; and;

   c. a public report setting forth the findings and reasoned conclusions on all pertinent issues of fact and law considered in the safeguard investigation. The public report shall include an analysis that attributes injury to the factors causing it and set out the method used in defining the safeguard measures.

2. When information is provided under this Article, the importing Party shall offer to hold informal consultations with the exporting Party in order to review the information provided.

Article 3: Imposition of definitive measures

1. A Party adopting safeguard measures shall endeavour to impose them in a way that least affects bilateral trade.

2. The importing Party shall offer to hold informal consultations with the exporting Party in order to review the matter referred to in paragraph 1. The importing Party shall not adopt measures until 30 days have elapsed since the date the offer to consult was made.

6. TECHNICAL BARRIERS TO TRADE (TBT)

CHAPTER XX: TECHNICAL BARRIERS TO TRADE (TBT)

Article 1: Scope and Definitions

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

2. This Chapter does not apply to:

(a) purchasing specifications prepared by a governmental body for production or consumption requirements of governmental bodies ; or

(b) sanitary and phytosanitary measures as defined in Annex A of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

3. Except where this Agreement, including the incorporated provisions of the *TBT Agreement* pursuant to Article 2, of this Chapter defines or gives a meaning to terms, general terms for standardization and procedures for assessment of conformity shall normally have the meaning given to them by definitions adopted within the United Nations system and by international standardizing bodies taking into account their context and in the light of the object and purpose of this Chapter.

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

5. The second paragraph of Article X.05 (Extent of Obligations) of Chapter X (Initial Provisions and General Definitions) does not apply to Articles 3, 7, 8 and 9 of the *TBT Agreement*, as incorporated into this Agreement.

Article 2: Incorporation of the WTO Agreement on Technical Barriers to Trade

1. The following provisions of the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the "*TBT Agreement*") are hereby incorporated into and made part of this Agreement:

   (a) Article 2 (*Preparation, Adoption and Application of Technical Regulations by Central Government Bodies*);

   (b) Article 3 (*Preparation, Adoption and Application of Technical Regulations by Local Government Bodies and Non-Governmental Bodies*);

(c) Article 4 (*Preparation, Adoption and Application of Standards*);

(d) Article 5 (*Procedures for Assessment of Conformity by Central Government Bodies*);

(e) Article 6 (*Recognition of Conformity Assessment by Central Government Bodies*), without limiting the rights and obligations set out in the Protocol on the Mutual Acceptance of the Results of Conformity Assessment Procedures;

(f) Article 7 (*Procedures for Assessment of Conformity by Local Government Bodies*);

(g) Article 8 (*Procedures for Assessment of Conformity by Non-Governmental Bodies*);

(h) Article 9 (*International and Regional Systems*);

(i) Annex 1 (Terms and Their Definitions for the Purpose of this Agreement);

(j) Annex 3 (Code of Good Practice for the Preparation, Adoption and Application of Standards).

2. References to "this Agreement" in the incorporated provisions of the *TBT Agreement*, as incorporated into this Agreement, are to be read, as appropriate, as references to this Agreement (the CETA).

3. The term "Members" in the incorporated provisions shall have the same meaning in this Agreement as it has in the *TBT Agreement*.

4. With respect to Articles 3, 4, 7, 8 and 9 of the *TBT Agreement*, the dispute settlement provisions of this Agreement can be invoked in cases where a Party considers that the other Party has not achieved satisfactory results under these Articles and its trade interests are significantly affected. In this respect, such results shall be equivalent to those as if the body in question were a Party.

Article 3: Co-operation

The Parties shall strengthen their co-operation in the areas of technical regulations, standards, metrology, conformity assessment procedures, market surveillance or monitoring and enforcement activities in order to facilitate the conduct of trade between the Parties, as laid down in Chapter XXX (*Regulatory Co-operation*). This may include promoting and encouraging co-operation between their respective public or private organizations responsible for metrology, standardization, testing, certification and accreditation, market surveillance or monitoring and enforcement activities; and in particular, encouraging their accreditation and conformity assessment bodies to participate in co-operation arrangements that promote the acceptance of conformity assessment results.

Article 4: Technical Regulations

1. The Parties undertake to co-operate as far as possible to ensure that their technical regulations are compatible with one another. To this end, if a Party expresses an interest in developing a technical regulation equivalent or similar in scope to one existing in or being prepared by the other Party, that other Party shall, on request, provide to the other Party, to the extent practicable, the relevant information, studies and data upon which it has relied in the preparation of its technical regulations, whether adopted or being developed. The Parties recognize that it may be necessary to clarify and agree on the scope of a specific request, and that confidential information may be withheld.

2. A Party that has prepared a technical regulation that it considers to be equivalent to a technical regulation of the other Party having compatible objective and product scope may request in writing that the other Party recognize it as equivalent. Such a request shall be made in writing and set out the detailed reasons why the technical regulations should be considered to be equivalent, including reasons with respect to product scope. The Party that does not agree that the technical regulations are equivalent shall provide to the other Party, upon request, the reasons for its decision.

Article 5: Conformity Assessment

1. The Parties shall observe the terms of the Protocol [x] to this Agreement on the Mutual Acceptance of the Results of Conformity Assessment, and of the Protocol [y] to this Agreement on the Mutual Recognition of the Compliance and Enforcement Program regarding Good Manufacturing Practices for Pharmaceutical Products.

2. The Agreement on Mutual Recognition between the European Community and Canada, done at London on 14 May 1998, shall be terminated on the date of entry into force of this Agreement.

Article 6: Transparency

1. Each Party shall ensure that transparency procedures regarding the development of technical regulations and conformity assessment procedures allow interested persons to participate at an early appropriate stage when amendments can still be introduced and comments taken into account, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise. Where a consultation process regarding the development of technical regulations and or conformity assessment procedures is open to the public, each Party shall permit persons of the other Party to participate on terms no less favourable than those accorded to its own persons.

2. The Parties shall promote closer cooperation between the standardization bodies located within their respective territories with a view to facilitating, *inter alia*, the exchange of information about their respective activities, as well as the harmonization of standards based on mutual interest and reciprocity, according to modalities to be agreed by the standardization bodies concerned.

3. Each Party shall endeavour to 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 arise, or threaten to arise, regarding safety, health, environmental protection or national security. A Party shall give positive consideration to a reasonable request for extending the comment period.

4. (i) Where a Party has received comments on its proposed technical regulations or conformity assessment procedures from the other Party, it shall reply in writing to such comments before the adoption of the technical regulation or conformity assessment procedure.

(ii) Each Party shall publish or otherwise make publicly available, in print or electronically, its responses or a summary of its responses, to significant comments it receives, no later than the date it publishes the adopted technical regulation or conformity assessment procedure.

5. Each Party shall, upon 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.

6. A Party shall give positive consideration to a reasonable request from the other Party, received prior to the end of the comment period following the transmission of a proposed technical regulation, to establish or extend the period of time between the adoption of the technical regulation and the day upon which it is applicable, except where such delay would be ineffective in fulfilling the legitimate objectives pursued.

7. Each Party shall ensure that its adopted technical regulations and conformity assessment procedures are publicly available on official websites.

8. Where a Party detains at a port of entry a good imported from the territory of the other Party on the grounds that the good has failed to comply with a technical regulation, it shall without undue delay notify the importer of the reasons for the detention of the good.

Article 7: Marking and Labelling

In accordance with Article 2 of the *TBT Agreement*, with respect to technical regulations relating to labelling or marking requirements, the Parties shall ensure they are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, such labelling or marking requirements shall not be more trade-restrictive than necessary to fulfill a legitimate objective, taking account of the risks that non-fulfillment would create.

Article 8: Management of the Technical Barriers to Trade Chapter

1. The Parties agree to co-operate in the matters covered by this Chapter. In particular, they agree that the [xxx – name of Institutional Body] functions include:

The Parties note that the Committee structure is being discussed by Chiefs and Institutional Leads.

(a) to manage the implementation of this Chapter;

(b) promptly to address any issue that a Party raises related to the development, adoption or application of standards, technical regulations or conformity assessment procedures;

(c) on a Party's request, to facilitate discussion of the assessment of risk or hazard conducted by the other Party;

(d) to encourage cooperation between the standardization and conformity assessment bodies of the Parties;

(e) to exchange information on standards, technical regulations, or conformity assessment procedures including those of third parties or international bodies where there is a mutual interest in doing so;

(f) to review this Chapter in the light of any developments in the WTO TBT Committee or under the *TBT Agreement*, and, [if necessary, developing recommendations for amendments to this Chapter] for consideration by the [xxx – name of Institutional Body];

(g) to take any other steps that the Parties consider will assist them in implementing this Chapter and the *TBT Agreement* and in facilitating trade between the Parties.

(h) to report to the [xxx – name of Institutional Body] on the implementation of this Chapter as appropriate;]

2. Where the Parties are unable to resolve a matter covered under this Chapter through the [xxx – name of Institutional Body], the Parties may establish ad hoc technical working groups with a view to identifying solutions that would facilitate trade. Such groups shall be jointly led by the Parties. Where a Party declines a request from the other Party to establish a working group, it shall, on request, explain the reasons for its decision.

3. Any information that is provided at the request of a Party pursuant to the provisions of this Chapter shall be provided in print or electronically within a reasonable period of time. A Party shall endeavour to respond to each such request within 60 days.

4. The Parties shall be represented at the [xxx – name of Institutional Body] by:

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

(b) in the case of Canada, the Department of Foreign Affairs, Trade and Development, or its successor.

5. Each Party is responsible for ensuring communication with the relevant institutions and persons in its territory as necessary for the management of this Chapter.

Final 1 August 2014

Cooperation in the Field of Motor Vehicle Regulations

[Placement to be decided]

Noting the cooperation between Canada and the European Commission in the area of science and technology;

Affirming the joint commitment to improving vehicle safety and environmental performance, and to the harmonization efforts conducted under the framework of the 1998 Global Agreement administered by the World Forum for the Harmonization of Vehicle Regulations (WP.29) of the United Nations' Economic Commission for Europe;

Noting the commitment of the Parties to enhance their efforts in the area of regulatory cooperation, as formulated under the Canada – EU Comprehensive Economic and Trade Agreement's [technical barriers to trade and] regulatory cooperation chapter[s];

Recognizing the right of each Party to determine their desired level of health, safety, environment, and consumer protection;

Desiring to enhance cooperation and increase the efficient use of resources in matters relating to motor vehicle technical regulations, without compromising each Party's ability to carry out its responsibilities;

The Parties agree as follows:

Article I
Purpose

The purpose of this [text] is to strengthen cooperation and communication, including the exchange of information on motor vehicle safety and environmental performance research activities linked to the development of new technical regulations or related standards, to promote the application and recognition of Global Technical Regulations under the framework of the 1998 Global Agreement administered by the WP.29 and possible future harmonization, between the Parties, concerning improvements and other developments in the areas of motor vehicle technical regulations or related standards.

Article II
Areas of Cooperation

The Parties shall endeavour to share information and cooperate on activities that may fall under the following areas:

1. Development and establishment of technical regulations or related standards;

2. Post-implementation reviews of technical regulations or related standards;

3. Development and dissemination of information for consumer use related to motor vehicle regulations or related standards;

4. Exchange of research, information and results linked to the development of new vehicle safety regulations or related standards, and advanced emission reduction and electric vehicle technologies; and

5. Exchange of available information on the identification of safety-related or emission-related defects and non-compliances with technical regulations.

Article III
Forms of Cooperation

The Parties intend to maintain an open and continuing dialogue in the area of motor vehicle technical regulations or related standards. To this end, the Parties shall endeavour to:

1. Meet at least annually (including meetings held on the margins of WP.29 Sessions), by virtue of video-conferences or, if directly, on an alternating basis in Canada and the European Union;

2. Share information regarding domestic and international programs and agendas, including planning of research programs linked to the development of new regulations or related standards;

3. Contribute jointly to encouraging and promoting greater international harmonization of technical requirements through multilateral fora, such as *1998 Agreement Concerning the Establishment of Global Technical Regulations* as administered by WP.29, including through cooperation in the planning of initiatives in support of such activities;

4. Share and discuss research and development plans in the areas of motor vehicle safety and environmental technical regulations or related standards;

5. Conduct joint analyses, develop methodologies and approaches, as mutually beneficial, practical and convenient, to assist and facilitate in the development of motor vehicle technical regulations or related standards;

6. Develop additional provisions for cooperation.

Article IV
Technical Regulations

The Parties note the importance of the Technical Barriers to Trade (TBT) Chapter to facilitating trade in automobiles between the Parties and, in particular, reaffirm their obligations set out in Article X.4 of that Chapter with respect to technical regulations for motor vehicles and their parts.

Article V
Canadian Incorporation of UN Regulations

1. The Parties acknowledge that Canada has incorporated, with the adaptations that it considered necessary, a number of technical regulations contained in UN Regulations into the Canadian Motor Vehicle Safety Regulations, as listed in Table I.

2. Canada maintains its right to modify, at any given time, its law, including by amending or revising which UN Regulations, or the manner in which or the extent to which such Regulations are incorporated into its law. Before introducing such changes, it will inform the European Union and be ready to provide information on the rationale for these changes. It will maintain the recognition of the relevant UN Regulations, unless doing so would provide for a lower level of safety as compared with the amendments introduced or compromise North American integration.

3. The Parties shall engage in technical consultations with a view to determining, no later than 3 years after the entry into force of the Agreement, whether the technical regulations contained in the UN Regulations listed in Table II should also be incorporated into the Canadian *Motor Vehicle Safety Regulations*, with any adaptations Canada considers necessary. These technical regulations should be incorporated, unless doing so would provide for a lower level of safety as compared with the Canadian regulations or compromise North American integration.

The Parties shall also engage in further technical consultations to determine whether any other technical regulations should be considered for inclusion in Table II at a later stage.

4. Canada shall establish and maintain a list of technical regulations contained in UN Regulations that are incorporated into the Canadian *Motor Vehicle Safety Regulations*. Canada shall make that list publicly available.

5. With the objective of promoting regulatory convergence, the Parties shall exchange information, to the extent practicable, on their respective technical regulations related to motor vehicle safety.

Article VI

Positive Consideration of Other Party's Technical Regulations

When developing new technical regulations for motor vehicles and their parts, or when modifying existing ones, a Party shall consider the technical regulations of the other Party, including those established under the framework of UNECE WP.29. A Party shall provide, at the request of the other Party, an explanation on the extent to which it considered the technical regulations of that other Party when it developed its new technical regulations.

Article VII
Revision Clause: Cooperation with the United States of America

The Parties note their mutual interest in cooperation with the United States of America in the field of motor vehicle technical regulations. If the European Union and the United States conclude an agreement or an arrangement dealing with the harmonization of their respective technical regulations related to motor vehicles, the Parties shall cooperate with a view to determining whether the harmonization achieved by that agreement or arrangement should be implemented between the European Union and Canada.

Table I

List referred to in Article V.1 of [text]

UN Regulation	Title of UN Regulation	Canadian Regulation into which the UN Regulation is incorporated, in whole or in part	Title of Canadian Regulation into which the UN Regulation is incorporated, in whole or in part
No. 98	Uniform provisions concerning the approval of motor vehicle headlamps equipped with gas-discharge light sources	CMVSS 108*	Lighting System and Retroreflective Devices
No. 112	Uniform provisions concerning the approval of motor vehicle headlamps emitting an asymmetrical passing-beam or a driving-beam or both and equipped with filament lamps and/or LED modules	CMVSS 108*	Lighting System and Retroreflective Devices
No. 113	Uniform provisions concerning the approval of motor vehicle headlamps emitting a symmetrical passing-beam or a driving-beam or both and equipped with filament, gas-discharge light sources or LED modules	CMVSS 108*	Lighting System and Retroreflective Devices
No. 51	Uniform provisions concerning the approval of motor vehicles having at least four wheels with regard to their noise emissions	CMVSS 1106*	Noise Emissions
No. 41	Uniform provisions concerning the approval of motor cycles with regard to noise	CMVSS 1106*	Noise Emissions
No. 11	Uniform provisions concerning the approval of vehicles with regard to door latches and door retention components	CMVSS 206*	Door Locks and Door Retention Components
No. 116 (immobilizer only)	Uniform technical prescriptions concerning the protection of motor vehicles against unauthorized use (Immobilizer only)	CMVSS 114*	Theft Protection and Rollaway Prevention
No. 42	Uniform provisions concerning the	CMVSS 215*	Bumpers

	approval of vehicles with regard to their front and rear protective devices (bumpers etc)		
No. 78	Uniform provisions concerning the approval of vehicles of categories L1, L2, L3, L4 and L5 with regard to braking	CMVSS 122*	Motorcycle Brake Systems
No. 8	Uniform provisions concerning the approval of motor vehicles headlamps emitting an asymmetrical passing beam or a driving beam or both an equipped with halogen filament lamps (H1, H2, H3, HB3, HB4, H7, H8, H9, HIR1, HIR2 and/or H11)	CMVSS 108*	Lighting System and Retroreflective Devices
No. 20	Uniform provisions concerning the approval of motor vehicles headlamps emitting an asymmetrical passing beam or a driving beam or both and equipped with halogen filament lamps (H4 lamps)	CMVSS 108*	Lighting System and Retroreflective Devices
No. 31	Uniform provisions concerning the approval of power-driven vehicle's halogen sealed-beam headlamps (HSB) emitting an European asymmetrical passing-beam or a driving-beam or both	CMVSS 108*	Lighting System and Retroreflective Devices
No. 57	Uniform provisions concerning the approval of headlamps for motor cycles and vehicles treated as such	CMVSS 108*	Lighting System and Retroreflective Devices
No. 72	Uniform provisions concerning the approval of motor cycle headlamps emitting an asymmetrical passing beam and a driving beam and equipped with halogen lamps (HS1 lamps)	CMVSS 108*	Lighting System and Retroreflective Devices
No. 13H (electronic stability control only)	Uniform provisions concerning the approval of passenger cars with regard to braking (electronic stability control only)	CMVSS 126	Electronic Stability Control Systems
No. 60	Uniform provisions concerning the approval of two-wheeled motor cycles and mopeds with regard to driver-operated controls including	CMVSS 123	Motorcycle Controls and Displays

	the identification of controls, tell-tales and indicators		
No. 81	Uniform provisions concerning the approval of rear-view mirrors of two-wheeled power-driven vehicles with or without side car, with regard to the mounting of rear-view mirrors on handlebars	CMVSS 111	Mirrors

*As the regulation read on February 13, 2013.

Table II

List referred to in Article V.3 of [text]

UN Regulation	Title of UN Regulation
No. 12	Uniform provisions concerning the approval of vehicles with regard to the protection of the driver against the steering mechanism in the event of impact
No. 17	Uniform provisions concerning the approval of vehicles with regard to the seats, their anchorages and any head restraints
No. 43	Uniform provisions concerning the approval of safety glazing materials and their installation on vehicles
No. 48	Uniform provisions concerning the approval of vehicles with regard to the installation of lighting and light-signalling devices
No. 87	Uniform provisions concerning the approval of daytime running lamps for power-driven vehicles
No. 53	Uniform provisions concerning the approval of category L3 vehicles with regard to the installation of lighting and light-signalling devices
No. 116	Uniform technical prescriptions concerning the protection of motor vehicles against unauthorized use
No. 123	Uniform provisions concerning the approval of adaptive front-lighting systems (AFS) for motor vehicles

7. SANITARY AND PHYTOSANITARY MEASURES (SPS)

CHAPTER [XX]

SANITARY AND PHYTOSANITARY MEASURES

Article 1
Recognition and Termination of the Veterinary Agreement

The Parties recognise the achievements that have been accomplished under the Agreement between *the European Community and the Government of Canada on sanitary measures to protect public and animal health in respect of trade in live animals and animal products* and confirm their intention to continue this work under the CETA**.** The Agreement done at Ottawa on 17 December 1998, as amended, is terminated from the date of entry into force of this Agreement.

Article 2
Objectives

The objectives of this Chapter are to:

a) protect human, animal and plant life or health while facilitating trade ;
b) ensure that the Parties' sanitary and phytosanitary (SPS) measures do not create unjustified barriers to trade ;
c) further the implementation of the WTO *Agreement on the Application of Sanitary and Phytosanitary Measure*s (WTO SPS Agreement).

Article 3
Definitions

WTO SPS Agreement means the WTO *Agreement on the Application of Sanitary and Phytosanitary Measures*;

Sanitary or phytosanitary measure means any measure referred to in Annex A, paragraph 1 of the WTO SPS Agreement;

For the purposes of this Chapter, definitions in Annex A of the SPS Agreement apply, as well as those adopted by Codex Alimentarius (Codex), the World Organisation for Animal Health (OIE), and the International Plant Protection Convention (IPPC). In the event of an inconsistency between the definitions adopted by Codex, the OIE, the IPPC and the definitions set out in under the WTO SPS Agreement, the definitions set out in the WTO SPS Agreement shall prevail.

In addition, the following definitions shall apply:

a) "Protected Zone" for a specified regulated harmful organism is an officially defined geographical area in the EU in which that organism is not established in spite of favourable conditions and its presence in other parts of the Union.
b) Competent authorities of the Parties are identified in Annex 1 (Competent Authorities).

Article 4
Scope and Coverage

This Chapter applies to all SPS measures that may, directly or indirectly, affect trade between the Parties.

Article 5
Rights and Obligations

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

Article 6
Adaptation to Regional Conditions

Animals, animal products and animal by-products

1. The Parties recognise the concept of zoning which they agree to apply in respect of the diseases listed in Annex II [Regional Conditions].

2. If the Parties agree on principles and guidelines for the recognition of regional conditions, the Parties shall include them in Annex III. [Process of Recognition of Regional Conditions].

3. For the purpose of paragraph 1, the importing Party shall base its sanitary measures applicable to the exporting Party whose territory is affected by one or more of the diseases listed in Annex II [Regional Conditions] on the zoning decisions made by that Party, provided that the importing Party is satisfied that the exporting Party's zoning decisions are in accordance with Annex III and are based on relevant international standards, guidelines and recommendations. This obligation is without prejudice to the right of the importing Party to apply any additional measure or measures so as to achieve its appropriate level of protection.

4. Where one of the Parties considers that it has a special status with respect to a disease not listed in Annex II, it may request recognition of that status. The importing Party may request

additional guarantees in respect of imports of live animals, animal products and animal by-products appropriate to the status recognized by the importing Party, including the special conditions identified in Annex V.

5. The Parties also recognise the concept of compartmentalisation and agree to cooperate on this matter.

Plants and plant products

1. When establishing or maintaining its phytosanitary measures, the importing Party shall take into account, *inter alia*, the pest status in an area, such as pest free areas, pest free places of production, pest free production sites, areas of low pest prevalence, as well as protected zones established by the exporting Party.

2. If the Parties agree on principles and guidelines for the recognition of regional conditions, the Parties shall include them in Annex III. [Process of Recognition of Regional Conditions].

Article 7
Equivalence

1. The importing Party shall accept the SPS measures of the exporting Party as equivalent to its own if the exporting Party objectively demonstrates to the importing Party that its measure achieves the importing Party's appropriate level of protection.

2. Annex IV sets out principles and guidelines for the determination, recognition and maintenance of equivalence.

3. Annex V sets out:

   a) The areas for which the importing Party recognizes that the measures of the exporting Party are equivalent to its own, and

   b) The areas for which the importing Party recognizes that the fulfilment of the specified special conditions, combined with the exporting Party's measures, achieve the importing Party's appropriate level of protection.

Article 8
Trade Conditions

1. The importing Party shall make available its general sanitary and phytosanitary import requirements for all commodities. For a specific commodity jointly identified as a priority by the Parties, the importing Party shall establish specific import requirements, unless the Parties

jointly decide otherwise. In identifying which commodities are priorities, the Parties shall cooperate to ensure the efficient management of their available resources. The specific import requirements should be applicable to the total territory of the exporting Party.

2. For a commodity identified as a priority pursuant to paragraph 1, the importing Party shall undertake, without undue delay, the necessary process for establishing specific import requirements for that commodity. Once these specific import requirements have been established, the importing Party shall take the necessary steps, without undue delay, to allow trade on the basis of these import requirements.

3. In order to establish the specific import requirements, the exporting Party shall, upon request of the importing Party:

   a) provide all relevant information required by the importing Party; and

   b) give reasonable access to the importing Party for inspection, testing, audit and other relevant procedures.

4. For the import of commodities where establishments or facilities are required to be included on a list by the importing Party, the importing Party shall approve establishments or facilities which are situated on the territory of the exporting Party without prior inspection of individual establishments if:

   a) the exporting Party has requested such an approval for a given establishment or facility, accompanied by the appropriate guarantees, and

   b) the conditions and procedures set out in Annex VI are fulfilled.

   The importing Party shall make its lists publicly available.

5. Consignments of regulated commodities shall be normally accepted without pre-clearance of the commodity on a consignment basis, unless the Parties agree otherwise.

6. The importing Party may require that the relevant competent authority of the exporting Party objectively demonstrate, to the satisfaction of the importing Party, that the import requirements may be fulfilled or are fulfilled.

7. Annex VII sets out procedures that the Parties should follow related to specific import requirements for plant health.

Article 9

Audit and Verification

1. In order to maintain confidence in the effective implementation of the provisions of this Chapter, each Party has the right to carry out an audit or verification, or both, of all or part of the other Party's authorities' control program. Each Party shall bear its own costs associated with the audit or verification.

2. If the Parties agree on principles and guidelines for conducting an audit or verification, the Parties shall include them in Annex VIII [Principles and Guidelines for Conducting an Audit or Verification]. If a Party conducts an audit or verification, it shall do so in accordance with any principles and guidelines in Annex VIII.

Article 10

Export Certification

1. When an official health certificate is required for the importation of a consignment of live animals or animal products and if the importing Party has accepted the measures of the exporting Party as equivalent to its own with respect to such animals or animal products, the Parties shall use the model health attestation prescribed in Annex IX for such certificate, unless the Parties jointly decide otherwise. The Parties may also use a model attestation for other products if they so jointly decide.

2. Annex IX sets out principles and guidelines for export certification, including electronic certification, withdrawal or replacement of certificates, language regimes and model attestations.

Article 11

Import checks and Fees

1. Annex X sets out principles and guidelines for import checks and fees, including the frequency rate for import checks.

2. In the event that import checks reveal non-compliance with the relevant import requirements, the action taken by the importing Party shall be based on an assessment of the risk involved and shall ensure that such measures are not more trade-restrictive than required to achieve the Party’s appropriate level of sanitary or phytosanitary protection

3. Wherever possible, the importer of a non-compliant consignment, or its representative, shall be notified of the reason for non-compliance, and be provided the opportunity to contribute relevant information to assist the importing Party in taking a final decision.

4. A Party may collect fees for the costs incurred in conducting frontier checks which should not exceed the recovery of the costs.

Article 12

Notification and Information Exchange

1. Each Party shall notify the other Party without undue delay of:
   (a) significant changes in pest/disease status, such as the presence and evolution of diseases in Annex II [Process of Recognition of Regional Conditions];
   (b) findings of epidemiological importance with respect to animal diseases, which are not in Annex II; or which are new diseases; and
   (c) significant food safety issues relating to products traded between the Parties.

2. The Parties will endeavour to exchange information on other relevant issues including:

   (a) changes in their respective sanitary or phytosanitary measures;
   (b) any significant changes to the structure, organisation of their competent authorities;
   (c) on request, the results of a Party's official controls and a report concerning the results of the controls carried out;
   (d) the results of import checks provided for in Article 9 (Import Checks) in case of rejected or non-compliant consignments of products; and
   (e) on request, risk analyses and scientific opinions, relevant to this Chapter and produced under the responsibility of a Party.

3. Unless otherwise decided by the Committee, when the information referred to in paragraph 1 or 2 has been made available via notification to the WTO or relevant international standard setting body in accordance with the relevant rules, the requirements in paragraphs 1 and 2 as they apply to that information are fulfilled.

Article 13

Technical Consultations

Where a Party has significant concerns regarding food safety, plant health, or animal health, or regarding a measure proposed or implemented by the other Party, that Party can request technical consultations. The other Party should respond to such a request without undue delay. Each Party shall endeavour to provide all the information necessary to avoid a disruption in trade and/or to reach a mutually acceptable solution.

Article 14

Emergency Measures

1. Emergency measures shall be notified to the other Party within 24 hours of the decision to implement them and, on request, technical consultations regarding the situation shall be held within 10 days of the notification. The Parties shall consider any information provided through such consultations.

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

Article 15

Joint Management Committee for Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Joint Management Committee (JMC) for SPS Measures, hereafter called the Committee, comprising regulatory and trade representatives of each Party who have responsibility for SPS measures.

2. The functions of the Committee include:

   a) To monitor the implementation of this Chapter and to consider any matter relating to this Chapter, and to examine all matters which may arise in relation to its implementation;

   b) To provide direction for the identification, prioritization, management and resolution of issues;

   c) To address any requests by the Parties for the modification of import checks;

   d) At least once a year, to review the Annexes to this Agreement, notably in light of progress made under the consultations provided for under this Agreement. Following its review, the Committee may decide to amend the Annexes to this Chapter. The Parties may approve the decision subject to their respective applicable internal requirements and procedures. The decision shall enter into force on such date as the Parties may agree;

   e) To monitor the implementation of the decisions referred to in paragraph (d), above, as well as the operation of measures referred to under paragraph (d) above*;*

   f) To provide a regular forum for exchanging information relating to each Party's regulatory system, including the scientific and risk assessment basis for SPS measures;

g) To prepare and maintain a document detailing the state of discussions between the Parties on their work on recognition of the equivalence of specific SPS measures;

3. In addition, the Committee may, *inter alia*:

a) identify opportunities for greater bilateral engagement, including enhanced relationships, which may include exchanges of officials;

b) discuss at an early stage, changes to, or proposed changes to, measures being considered;

c) facilitate improved understanding between Parties related to the implementation of the WTO SPS Agreement, promoting cooperation between Parties on SPS issues under discussion in multilateral fora, including the WTO SPS Committee and international standard-setting bodies, as appropriate;

d) identify and discuss, at an early stage, initiatives that have an SPS component and would benefit from cooperation.

4. The Committee may establish working groups consisting of expert-level representatives of the Parties, to address specific SPS issues.

5. A Party may refer any SPS issue to the Committee. The Committee should consider any matter referred to it as expeditiously as possible.

6. [In the event that the Committee is unable to resolve an issue expeditiously, the Committee shall, upon request of a Party, report promptly to the CETA Oversight Body *to be finalized through institutional chapter]*

7. Unless the Parties otherwise agree, the Committee shall meet and establish its work program no later than six months following the entry into force of this Agreement, and its rules of procedure no later than one year after the entry into force of this Agreement.

8. Following its initial meeting, the Committee shall meet as required, normally on an annual basis. If agreed by the Parties, a meeting of the Committee may be held by videoconference or teleconference. The Committee may also address issues out of session by correspondence.

9. [The Committee shall report annually on its activities and work program to the CETA Oversight Body ***to be finalized through institutional chapter***]

10. Upon entry into force of this Agreement, each Party shall designate and inform the other Party of a Contact Point to coordinate the Committee's agenda and to facilitate communications on SPS matters.

Annex I

COMPETENT AUTHORITIES

A. Competent authorities of the EU

Control is shared between the national Services of the Member States and the European Commission. In this respect the following applies:

- As regards exports to Canada, the Member States are responsible for the control of the production circumstances and requirements, including statutory inspections/audits and issuing health certification attesting to the agreed standards and requirements.
- As regards imports from Canada, the Member States are responsible for the control of the compliance of the imports with the EU's import conditions.
- The European Commission is responsible for overall co-ordination, inspection/audits of control systems and the necessary legislative action to ensure uniform application of standards and requirements of the Agreement.

B. Competent authority of Canada

The following are responsible for the application of sanitary and phytosanitary measures in respect of domestically produced, exported and imported animals and animal products, plants and plant products, and for issuing health certificates attesting to agreed standards unless otherwise noted: the Canadian Food Inspection Agency (CFIA), or the Department of Health, as appropriate, or any successor entity notified to the other Party.

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Annex II

REGIONAL CONDITIONS]

A. DISEASES FOR WHICH REGIONALISATION DECISIONS CAN BE TAKEN

Disease
Foot-and-mouth disease
Vesicular stomatitis
Swine vesicular disease
Rinderpest
Peste des petits ruminants
Contagious bovine pleuropneumonia
Lumpy skin disease
Rift Valley fever
Bluetongue
Sheep pox and goat pox
African horse sickness
African swine fever
Classical swine fever
Notifiable avian influenza
Newcastle disease
Venezualan equine encephalomyelitis
Epizootic haemorrhagic disease

Aquatic Diseases
The list of aquatic diseases is to be discussed further by the Parties on the basis of the International Aquatic Animal Health code of the OIE.

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Annex III

PROCESS OF RECOGNITION OF REGIONAL CONDITIONS
A. ANIMAL DISEASES

Annex IV

GUIDELINES FOR THE DETERMINATION, RECOGNITION AND MAINTENANCE OF EQUIVALENCE

Maintenance of Equivalence

1. If a Party intends to adopt, modify, or repeal a measure in an area that had been subject to a recognition of equivalence as set out in paragraph 3(a) of Article 7 or a recognition described in paragraph 3(b) of Article 7, that Party should:

a) evaluate whether the adoption, modification or repeal of the measure may affect the recognition;
b) notify the other Party of the intended adoption, modification or repeal of the measure as well as of the evaluation in paragraph (a). Such notification should take place at an early and appropriate stage, when amendments can still be introduced and comments taken into account.

2. If a Party adopts, modifies, or repeals a measure in an area, the importing Party should continue to accept either the recognition of equivalence as set out in paragraph 3(a) of Article 7 or the recognition described in paragraph 3(b) of Article 7, as the case may be, in that area until it has communicated to the exporting Party whether special conditions must be met, and if so, provided the special conditions to the exporting Party. The importing Party should consult with the exporting Party in developing these special conditions.

Annex V

RECOGNITION OF MEASURES

If Canadian or European Union standards identified in Annex V have been amended, these amended standards apply. For updated standards, please refer to the legislative publications of each Party.

If an importing Party no longer legally requires a measure, and upon mutual agreement between the Parties, special conditions in the Annex relating to that measure will no longer apply.

Standards of the importing Party not otherwise referenced in Annex V will apply as appropriate to products exported to that Party.

A. Sanitary Measures

ACRONYMS

CFIA	Canadian Food Inspection Agency
DC	Disease Control (Manual of Procedures)
EBL	Enzootic bovine leucosis
EU	European Union
IBR	Infectious Bovine Rhinotracheitis
OIE	World Organisation for Animal Health
TSE	Transmissible spongiform encephalopathy

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Semen						
Cattle						
Animal Health	Directive 88/407	Health of Animals Act and Regulations	Semen collection centre clinically free of paratuberculosis	Health of Animals Act and Regulations DC Manual of Procedures, Sec. 15	Directive 88/407	Leucosis - (serum) ELISA In addition, when possible, the uterine dam of the prospective donor bull should be subjected to an ELISA test for EBL, subsequent to the weaning of the prospective donor, with negative results. This test of the uterine dam is required to export semen to the EU Member States when semen is collected from a donor bull before reaching age 24 months, and a negative result to an ELISA test is required after reaching that age. This test is not required when the prospective donor bull originates from a Canada Health Accredited Herd for EBL (CHAH—EBL). IBR - (serum) ELISA The semi-annual testing for IBR of all resident animals must be performed at IBR negative facilities which are approved for export to the European Union. Only IBR negative facilities are allowed to export semen to the European Union.

Embryos
In vivo derived Bovine

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Animal Health	Directive 89/556	Health of Animals Act and Regulations Permit conditions		Health of Animals Act and Regulations CFIA Embryo Export Approval Program	Directive 89/556 Decisions 2006/168 2007/240	The donor females spent the six months immediately prior to the collection within Canada in no more than two herds: - which, according to official findings, were free from tuberculosis, - which, according to official findings, were free from brucellosis, - which were free from enzootic bovine leucosis or in which no animal showed clinical signs of enzootic bovine leucosis during the previous three years, - in which no bovine animal showed clinical signs of infectious bovine rhinotracheitis/infectious pustular vulvovaginitis during the previous 12 months. There was no outbreak of epizootic haemorrhagic disease within 10 km of where the donor female is located during the 30 days prior to collection. The semen is collected/stored in collection/storage centres approved by the competent authority of a third country authorized to import semen to the EU or was exported from EU.

Fresh Meat

Ruminants, equidae, porcine, poultry, farmed game from deer, rabbit and ratite

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Public health	Regulations 852/2004 853/2004 854/2004 2073/2005 2075/2005	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	(i) Compliance with Canadian rules on TSE (ii) Prolonged delayed evisceration not permitted (iii) Compliance with microbiological food safety criteria of the importing Party.	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004 2073/2005 2075/2005	***See Appendix A***
Meat Products						
Ruminants, equidae, pigs, poultry and farmed game						
Public Health	Regulation 852/2004 853/2004 854/2004 2073/2005	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	(i) Fresh meat used to make the products must comply with applicable special conditions. (ii) Compliance with product standards of the importing Party. (iii) Compliance with microbiological food safety criteria of the importing Party.	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004 2073/2005	(i) Fresh meat used to make the products must comply with applicable special conditions. (ii) Compliance with product standards of the importing Party. (iii) Compliance with microbiological food safety criteria of the importing Party.
Minced Meat, Meat Preparations						
Ruminants, equidae, pigs, poultry and farmed game						
Public Health	Regulations 852/2004 853/2004 854/2004 2073/2005	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	(i) Fresh meat used to make the products must comply with applicable special conditions. (ii) Compliance with product standards of the importing Party. (iii) Compliance with microbiological food safety criteria of the importing Party.	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004 2073/2005	(i) Fresh meat used to make the products must comply with applicable special conditions. (ii) Compliance with product standards of the importing Party. (iii) Compliance with microbiological food safety criteria of the importing Party.

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Processed animal proteins for human consumption						
Ruminants, equidae, pigs, poultry and farmed game						
Public health	Regulation 852/2004 853/2004 854/2004	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	(i) Fresh meat used to make the products must comply with applicable special conditions (ii) Compliance with product standards of the importing Party.	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004	(i) Fresh meat used to make the products must comply with applicable special conditions (ii) Compliance with product standards of the importing Party.
Rendered animal fat intended for human consumption						
Ruminants, equidae, pigs, poultry and farmed game						
Public health	Regulation 852/2004 853/2004 854/2004	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	(i) Fresh meat used to make the products must comply with applicable special conditions (ii) Compliance with product standards of the importing Party	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004	(i) Fresh meat used to make the products must comply with applicable special conditions (ii) Compliance with product standards of the importing Party
Animal casings for human consumption						
Cattle, sheep, goats and pigs						

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Public health	Regulations 852/2004 853/2004 854/2004	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Compliance with Canadian rules on TSE	Meat Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004	Compliance with EU rules on TSE
Fishery products and live bivalve molluscs						
Fish and fishery products for human consumption						
Public Health	Regulations 852/2004 853/2004 854/2004 2073/2005 2074/2005	Fish Inspection Act and Regulations Food and Drugs Act and Regulations	Smoked fish packed in hermetically sealed containers that are not frozen, must contain a salt level not less than 9% (water phase method). The Canadian and EU systems are deemed to provide an equivalent level of protection with respect to microbiological requirements. However, the microbiological criteria used by Canada and the EU for end product monitoring differ in some aspects. For exported products it is the responsibility of the exporter to assure their products meet the food safety criteria of the importing country	Fish Inspection Act and Regulations Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004 2073/2005 2074/2005	The Canadian and EU systems are deemed to provide an equivalent level of protection with respect to microbiological requirements. However, the microbiological criteria used by Canada and the EU for end product monitoring differ in some aspects. For exported products it is the responsibility of the exporter to assure their products meet the food safety criteria of the importing country
Deheaded eviscerated fish for human consumption						
Animal Health	Directive 2006/88	Health of Animals Act and Regulations Part XVI Reportable Disease Regulations		Health of Animals Act and Regulations Part XVI	Directive 2006/88 Regulation 1251/2008	

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Live bivalve molluscs for human consumption, including echinoderms, tunicates and marine gastropods						
Public Health	Regulations 852/2004 853/2004 854/2004 2074/2005	Fish Inspection Act and Regulations Food and Drugs Act and Regulations	The Canadian and EU systems are deemed to provide an equivalent level of protection with respect to microbiological requirements. However, the microbiological criteria used by Canada and the EU for end product monitoring differ in some aspects. For exported products it is the responsibility of the exporter to assure their products meet the food safety criteria of the importing country	Fish Inspection Act and Regulations Management of Contaminated Fisheries Regulations under the Fisheries Act Food and Drugs Act and Regulations	Regulations 852/2004 853/2004 854/2004 2074/2005	LBM must be monitored for DSP toxins on a risk based level The Canadian and EU systems are deemed to provide an equivalent level of protection with respect to microbiological requirements. However, the microbiological criteria used by Canada and the EU for end product monitoring differ in some aspects. For exported products it is the responsibility of the exporter to assure their products meet the food safety criteria of the importing country
Fish caught under the authority of a recreational fishing licence from Canada						

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Public Health				Fish Inspection Act and Regulations	Regulations 852/2004 853/2004 854/2004 2073/2005	For fish caught under the authority of a recreational fishing licence from Canada with the name of the importer, the following conditions have to be fulfilled: (i) The fish was caught in Canadian fisheries waters on the dates while the licence is valid, in accordance with Canadian regulations on sport fishing and that possession limits have been respected; (ii) The fish has been eviscerated under appropriate hygiene and preservation measures; (iii) The fish is not a toxic species nor a species that may contain biotoxins; (iv) The fish must be introduced into the Union within one month following the last date of validity of the recreational fishing licence and is not intended to be marketed. A copy of the recreational fishing licence has to be attached to the accompanying document.

Milk and Milk Products for human consumption
Pasteurized or cheeses from not pasteurised (or low heat treated) and raw milk maturated for at least 60 days

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Public Health	Regulation 852/2004 853/2004 854/2004	Health of Animals Act and Regulations Section 34. Food and Drugs Act and Regulations (Section B008) Canada Agricultural Products Act and Dairy Products Regulations	The Canadian and EU systems are deemed to provide an equivalent level of protection with respect to microbiological requirements. However, the microbiological criteria used by Canada and the EU for end product monitoring differ in some aspects. For exported products it is the responsibility of the exporter to assure their products meet the food safety criteria of the importing country	Food and Drugs Act and Regulations (Section B008) Canada Agricultural Products Act and Dairy Products Regulations	Decision 2011/163 Regulation 852/2004 853/2004 854/2004 605/2010	Canada to evaluate HACCP systems of establishments which are not FSEP-HACCP recognized to ensure they are operating under HACCP principles. Two signatures are required on the export certificate: animal health attestations are signed by an official veterinarian; public health related attestations are signed by an official inspector. The Canadian and EU systems are deemed to provide an equivalent level of protection with respect to microbiological requirements. However, the microbiological criteria used by Canada and the EU for end product monitoring differ in some aspects. For exported products it is the responsibility of the exporter to assure their products meet the food safety criteria of the importing country
Animal casings not for human consumption						
Pigs						
Animal Health	Regulation 1069/2009	Health of Animals Act and Regulations Part IV				
Bones, horns and hooves (except meals) and their Products not for human consumption						
Animal health				Health of Animals Act and Regulations	Regulation 1069/2009	Certificate as per Decision 97/534

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Blood and Blood Products not intended for human consumption						
Ruminant						
Animal Health	Regulation 1069/2009	Health of Animals Act and Regulations Part IV and Part XIV Feeds Act and Regulations	Compliance with Canadian rules on TSE			
Apiculture products not for human consumption						
Animal Health	Regulation 1069/2009	Health of Animals Act and Regulations Part VI. Industry consultation.	Must be subjected to treatment, i.e. freeze drying, irradiation, vacuum packaging.	Health of Animals Act and Regulations DC Manual of Procedures, Honeybee prohibition order Directive AH-95-BP/PA-01 Section 57, Health of Animals Act and Regulations	Regulation 1069/2009	Bee products used for animal or human feed or industrial use is not restricted. Bee products used for bee feeding must be treated.
Wool, feathers and hair						
Wool						

SPS Area	European Union Exports to Canada			Canadian Exports to the European Union		
	EU Standards	Canadian Standards	Special Conditions	Canadian Standards	EU Standards	Special Conditions
Animal Health	Regulation 1069/2009	Health of Animals Act and Regulations Part IV	Certificate of origin	Health of Animals Act and Regulations	Regulation 1069/2009	
Pig bristle						
Animal Health	Regulation 1069/2009	Health of Animals Act and Regulations Part IV	Certificate of origin	Health of Animals Act and Regulations	Regulation 1069/2009	
Shell Eggs and Egg Products intended for human consumption						
Animal Health	Directives 90/539 2002/99	Health of Animals Act and Regulations Part III and Part IV (for some products)	Statement of origin Veterinary certification	Directive AH-95-G-01	Directives 90/539 2002/99	
Horizontal Issues						
Water	Directive 98/83	Canada Agricultural Products Act and Dairy Products Regulations Fish Inspection Act and Regulations Food and Drugs Act and Regulations Meat Inspection Act and Regulations		Canada Agricultural Products Act and Dairy Products Regulations Fish Inspection Act and Regulations Food and Drugs Act and Regulations Meat Inspection Act and Regulations	Directive 98/83	

APPENDIX A: SPECIAL CONDITIONS, CANADIAN EXPORTS TO THE EU

(i) Compliance with EU rules on TSE

(ii) Hides must be removed from veal.

(iii) Shrouds not to be used on carcases.

(iv) Compliance with EU rules on decontamination.

(v) Wooden pallets may be used in areas of the establishments where products are fully packaged (e.g., freezers or coolers)
The use of wooden pallets in rooms where exposed meat is present must be phased out.
As an interim measure, when wooden pallets are used in rooms where products is exposed, adequate control must be exercised to maintain the pallets free of contamination and damage. Plant management must ensure that pallets are in good repair and clean before use. Wooden pallets must be kept at least 3 metres away from exposed products and covered with a plastic.

(vi) Product flow to assure all hygiene requirements: Exposed meat must be stored in a separate room from packaged meat, unless stored at different times.

(vii) Packaging operations in the same room are subject to the following conditions: Packaging material must be assembled under hygienic conditions either in a separate room or, if in the cutting room, never within 3 meters of exposed products.

(viii) Compliance with microbiological testing for export to Finland and Sweden as laid down in the Commission Regulation (EC) No 1688/2005**.**

(ix) Pens for sick and suspect animals:
Wood shall not be used for pens for sick and suspect animals.

(x) ante-mortem inspection
- All animals except swine:
Ante-mortem inspection must be conducted by a veterinarian
-Swine
1. Market hogs will be inspected in accordance with CFIA procedures.
2. Swine other than market hogs must be inspected by a veterinarian.
Note: Market hogs mean fattening young pigs, as confirmed by ante-mortem inspection and dressed carcass weight which must not exceed 100 kg.
Meat:
In accordance with the Commission Regulation (EC) No 2075/2005, skeletal muscle is to be tested for *Trichinella* by using a validated digestion method approved by the CFIA in a CFIA laboratory or a laboratory certified by the CFIA for that purpose or to be submitted to cold treatment by using a treatment approved by the CFIA.
2. Bovine
-livers: incision of the gastric surface and at the base of the caudate lobe to examine the bile ducts.
-Head: two incisions must be made in the external masseters parallel to the mandible.
3. Domestic solipeds
In accordance with the Commission Regulation (EC) No 2075/2005, skeletal muscle is to be tested for *Trichinella* by using a validated digestion method approved by the CFIA in a CFIA laboratory or a laboratory certified by the CFIA for that purpose.
4. Farmed game - wild boar
In accordance with the Commission Regulation (EC) No 2075/2005, skeletal muscle is to be tested for *Trichinella* by using a validated digestion method approved by the CFIA in a CFIA laboratory or a laboratory certified by the CFIA for that purpose.

(xi) Regular check on general hygiene: In addition to Canadian operational and preoperational sanitation requirements, the products testing requirements for E. coli and Salmonella in the section on USA this chapter must be implemented.

(xii) Compliance with microbiological food safety criteria of the importing Party.

B. Phytosanitary Measures

To be agreed at a later stage

Annex VI
APPROVAL OF ESTABLISHMENTS OR FACILITIES

The conditions for the purpose of Article 8(4)(b) are as follows:

a. The import of the product has been authorized, if so required, by the Competent Authority of the importing 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; and
d. The exporting Party has provided any relevant information requested by the importing Party.

Annex VII
PROCEDURE RELATED TO SPECIFIC IMPORT REQUIREMENTS FOR PLANT HEALTH

A key objective of this procedure is that the importing Party establishes and updates, to the best of its ability, a list of regulated pests for commodities where a phytosanitary concern exists in the importing Party.

1. For a specific commodity jointly identified as a priority by the Parties, the importing Party should establish a preliminary list of pests within a timeframe jointly determined by the Parties once it has received from the exporting Party:

a) information on the pest status in the exporting Party relating to the pests regulated by at least one of the Parties;

b) information on the pest status of other pests occurring in its territory based on international databases and other available sources.

2. The preliminary list of pests of an importing Party may include pests that are already regulated in its territory. It may also include potential quarantine pests for which the importing Party may require a pest risk analysis should a commodity be confirmed as a priority in accordance with paragraph 3.

3. For a commodity:

a) for which a preliminary list of pests has been established pursuant to paragraph 2;

b) which the Parties confirm is a priority; and

c) for which the exporting Party has provided all relevant information required by the importing Party,

the importing Party should undertake the steps necessary to establish its regulated pest list as well as the specific import requirements for that commodity.

4. In cases where the importing Party provides for more than one phytosanitary measure to meet the specific import requirements for a specific commodity, the competent authority of the exporting Party should communicate to the importing Party which measure or measures it will use as the basis for certification.

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Annex VIII

PRINCIPLES AND GUIDELINES FOR CONDUCTING AN AUDIT OR VERIFICATION

Annex IX

EXPORT CERTIFICATION

Model attestation for health certificates for animals and animal products

Official health certificates will cover consignments of products being traded between the Parties.

Health attestations:

(a) equivalence agreed - Model health attestation to be used (equivalence for measures or certification systems). Refer to Annex V;

"The (insert product) herein described, complies with the relevant (Union/Canada) (*) standards and requirements which have been recognized as equivalent to the (Canada/Union (*)) standards and requirements as prescribed in Annex V of the CETA SPS [Cda: chapter] and the special conditions as laid down in the same annex V(*).

* Delete as appropriate."

(b) Until certificates on the basis of equivalence have been adopted, existing certification shall continue to be used.

Official languages for certification

Import into the Union

The certificate must be drawn up in at least one of the official languages of the Member State of the border inspection post of introduction of the consignment into the Union.

Import into Canada

The certificate must be drawn up in one of the official languages of Canada.

Means of certification

The exchange of original certificate(s) information may occur by paper-based systems and / or secure methods of electronic data transmission offering equivalent certification guarantees. Where the exporting Party elects to provide electronic official certification the importing Party must have determined that equivalent security guarantees are being provided, including the use of digital signature and non-repudiation mechanism. The importing Party's agreement for the exclusive use of electronic certification can either be recorded through correspondence in one of the Annexes to the CETA SPS chapter or by correspondence in accordance with Article 15(8) to the CETA SPS chapter.

The Union may lay down its import certificates for live animals and animal products from Canada with an equivalence status as referred to in Annex V in TRACES.

Annex X

IMPORT CHECKS AND FEES

A Frequencies of checks

Frequencies of frontier checks on consignments of live animals, animal products and animal by-products

The Parties may modify any frequency rate, within their responsibilities, as appropriate, taking into account the nature of any checks applied by the exporting Party prior to export, the importing Party's past experience with products imported from the exporting Party, any progress made toward the recognition of equivalence, or as a result of other actions or consultations provided for in this Agreement.

Type of frontier check	Normal rate as per Article 9 (1) [Import checks and inspection fees]
1. Documentary and identity Both Parties will perform documentary and identity checks on all consignments	
2. Physical Checks	
Live animals	100%
Semen/embryos/ova	10%

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Animal products for human consumption	
Fresh meat including offal, and products of the bovine, ovine, caprine, porcine and equine species defined in Council Directive 92/5/EEC	
Whole eggs	
Lard and rendered fats	
Animal casings	
Gelatin	
Poultry meat and poultry meat products	10%
Rabbit meat, game meat (wild/farmed) and products	
Milk and milk products	
Egg products	
Honey	
Bone and bone products	
Meat preparations and minced meat	
Frogs' legs and snails	

SPS

Final 1 August 2014

Animal products not for human consumption	
Lard and rendered fats	
Animal casings	
Milk and milk products	
Gelatin	
Bone and bone products	
Hides and skins ungulates	
Game trophies	
Processed petfood	
Raw material for the manufacture of petfood	10%
Raw material, blood, blood products, glands and organs for pharmaceutical/technical use	
Processed animal protein (packaged)	
Bristles, wool, hair and feathers	
Horns, horn products, hooves and hoof products	
Apiculture products	
Hatching eggs	
Manure	
Hay and straw	

Processed animal protein not for human consumption (bulked)	100 % for six consecutive consignments (as per Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009), if these consecutive tests prove negative, random sampling shall be reduced to 20 % of subsequent bulk consignments from the same source. If one of these random sampling proves positive, the competent authority must sample each consignment from the same source until six consecutive tests again prove negative.
Live bivalve molluscan shellfish	15%
Fish and fishery products for human consumption	
Fish products in hermetically sealed containers intended to render them stable at ambient temperatures, fresh and frozen sigh and dry and/or salted fisheries products. Other fishery products.	15%
Live crustaceans or fresh headed and degutted fish without other manual processing.	2%

For the purposes of this Annex, "consignment" means a quantity of products of the same type, covered by the same health certificate or document, conveyed by the same means of transport, consigned by a single consignee and originating from the same exporting Party or part of such Party.

8. CUSTOMS AND TRADE FACILITATION

CHAPTER X

CUSTOMS AND TRADE FACILITATION

Article X-1: Objectives and Principles

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

2. The Parties shall to the extent possible cooperate and exchange information, including information on best practices, for the purpose of promoting the application of and compliance with the trade facilitation measures agreed upon under this Agreement.

3. The Parties agree that measures to facilitate trade shall not hinder mechanisms to protect persons through effective enforcement of and compliance with national requirements.

4. The Parties agree that import, export and transit requirements and procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives.

5. The Parties agree that international trade and customs instruments and standards shall be the basis for import, export and transit requirements and procedures, where such instruments and standards exist, except where they would be an inappropriate or ineffective means for the fulfillment of the legitimate objectives pursued.

Article X-2: Transparency

1. Each Party shall publish or otherwise make available, including through electronic means, all their legislation, regulations, judicial decisions and administrative policies relating to its requirements for imported or exported goods.

2. Each Party shall endeavour to make public, including on the internet, any regulations and administrative policies governing customs matters that it proposes to adopt and provide interested persons the opportunity to comment prior to their adoption.

3. Each Party shall designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters and make available on the internet information concerning the procedures for making such inquiries.

Article X-3: Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties and reduce costs for importers and exporters. Such procedures:

   (a) shall allow for the release of goods within a period no greater than that required to ensure compliance with its Canadian domestic law and EU or EU Member States' legislation.

   (b) may require the submission of more extensive information through post-entry accounting and verifications, as appropriate;

   (c) shall allow goods, and to the greatest extent possible controlled or regulated goods, to be released at the first point of arrival ;

   (d) shall endeavour to allow for the expeditious release of goods in need of emergency clearance;

   (e) shall allow an importer or its agent to remove goods from custom's control prior to the final determination and payment of customs duties, taxes, and fees. Before releasing the goods, a Party may require that an importer provide sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument;

   (f) provide for, in accordance with Canadian domestic law and EU or EU Member States legislation simplified documentation requirements for the entry of low-value goods as determined by that Party

2. Each Party shall allow for the expedited release of goods and, to the extent possible or where applicable, shall:

   (a) provide for advance electronic submission and processing of information before physical arrival of goods to enable their release upon arrival, where no risk has been identified or where no random checks are to be performed and
   (b) provide for clearance of certain goods with a minimum of documentation.

3. Each Party shall, to the extent possible, ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate to facilitate trade by, inter alia, converging import and export data and documentation requirements, and establishing a single location for one-time documentary and physical verification of consignments.

4. Each Party shall ensure, to the greatest extent possible, that the requirements of its agencies related to the import and export of goods are coordinated to facilitate trade, regardless of whether these requirements are administered by an agency or on behalf of that agency by the customs administration.

Article X-4: Customs Valuation

1. The Agreement on the Implementation of Article VII of the GATT (1994) shall govern customs valuation applied to reciprocal trade between the parties.

2. The parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

Article X-5: Classification of Goods

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the International Convention on the Harmonized Commodity Description and Coding System.

Article X-6: Fees and Charges

Each Party shall publish or otherwise make available information on fees and charges imposed by a customs administration, including through electronic means. This information shall include the applicable fees and charges, the specific reason for the fee or charge, the responsible authority and when and how payment is to be made. A Party shall not impose new or amended fees and charges until it publishes or otherwise makes available this information.

Article X-7: Risk Management

1. Each Party shall base its examination and release procedures and its post-entry verification procedures on risk assessment principles, rather than examining each shipment offered for entry in a comprehensive manner for compliance with all import requirements.

2. The Parties agree to adopt and apply their import, export and transit requirements and procedures for goods on the basis of risk management principles, to be applied to focus compliance measures on transactions that merit attention.

3. The above shall not preclude a Party from conducting quality control and compliance reviews, which may require more extensive examinations.

Article X-8: Automation

1. Each Party shall use information technologies that expedite domestic procedures for the release of goods in order to facilitate trade including trade between the Parties.

2. Each Party shall:

   (a) endeavour to make available by electronic means customs forms that are required for the import or export of goods;

(b) allow, subject to Canadian domestic law or EU or EU Member States' legislation, those customs forms to be submitted in electronic format; and

(c) where possible, through its customs administration, establish a means of providing for the electronic exchange of information with its trading community.

3. Each Party shall endeavour to:

(a) develop or maintain fully interconnected single window systems to facilitate a single, electronic submission of all information required by customs and non-customs legislation for cross-border movements of goods; and

(b) develop a set of data elements and processes in accordance with the WCO Data Model and related WCO recommendations and guidelines.

4. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, including taking account of the work at the WCO, in order to facilitate trade between the Parties.

Article X-9: Advance Rulings

1. Each Party shall issue upon written request advance rulings on tariff classification in accordance with its legislation.

2. Each party shall publish, (e.g. on the Internet), subject to any confidentiality requirements, information on advance rulings on tariff classification that is relevant for a proper understanding and application of tariff classification rules

3. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective legislation and its implementation on the matters referred to in paragraphs 1 and 2.

Article X-10: Review and Appeal

1. Each Party shall ensure that any administrative action or official decision taken in respect of the import of goods is reviewable promptly by judicial, arbitral or administrative tribunals or through administrative procedures.

2. Such tribunal or official acting pursuant to such administrative procedures shall be independent of the official or office issuing the decision and shall have the competence to maintain, modify or reverse the determination, in accordance with the Party's domestic law.

3. Each Party shall provide for an administrative level of appeal or review, independent of the official or, where applicable, the office responsible for the original action or decision, before requiring a person to seek redress at a more formal or judicial level.

4. Each Party shall grant substantially the same rights of review and appeal of determinations of advance rulings by its customs administration as it provides to importers in its territory to any person who has received an advance ruling pursuant to Article X-9 (Advance Rulings for Tariff Classification).

Article X-11: Penalties

Each Party shall ensure that its respective customs laws and regulations provide that any penalties imposed for breaches of customs regulations or procedural requirements be proportionate and non-discriminatory and, in their application, do not result in unwarranted delays.

Article X-12: Confidentiality

1. Each Party shall, in accordance with the Canadian domestic law and EU and EU Member States' legislation, treat as strictly confidential all information obtained pursuant to this Chapter that is by its nature confidential or that is provided on a confidential basis and shall protect that information from disclosure that could prejudice the competitive position of the person providing the information.

2. Where the Party receiving or obtaining information is required by its laws to disclose the information, that Party shall notify the Party or person who provided the information.

3. Each Party shall ensure that the confidential information collected pursuant to this Chapter shall not be used for purposes other than the administration and enforcement of customs matters, except with the permission of the person or Party who provided the confidential information.

4. A party may allow information collected pursuant to this Chapter to be used in any administrative, judicial or quasi-judicial proceedings instituted for failure to comply with customs-related laws and regulations implementing this Chapter. A Party shall notify the person or Party who provided the information in advance of such use.

Article X-13: Cooperation

1. The Parties shall continue to cooperate in international fora, such as the World Customs Organization (WCO), to achieve mutually-recognized goals, such as those set out in the WCO *Framework of Standards to Secure and Facilitate Global Trade*.

2. The Parties shall regularly review relevant international initiatives on trade facilitation, including the Compendium of Trade Facilitation Recommendations, developed by the United Nations Conference on Trade and Development and the United Nations Economic Commission for Europe, to identify areas where further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

3. The Parties agree to cooperate in accordance with the 1998 Agreement between Canada and the European Community on Customs Cooperation and Mutual Assistance in Customs Matters, including future amendments thereto.

4. The Parties shall provide each other with mutual assistance in customs matters, including a suspected breach of customs legislation relating to the implementation of the provisions of this Agreement, in accordance with the 1998 Agreement between Canada and the European Community on Customs Cooperation and Mutual Assistance in Customs Matters, including future amendments thereto.

ARTICLE X-14: Joint Customs Cooperation Committee

1. The Joint Customs Cooperation Committee (JCCC), granted authority to act under the auspices of the CETA Joint Committee as a specialised committee pursuant to Article [X.02] 'Specialised Committees' in Chapter [Administrative and Institutional Provisions], shall ensure the proper functioning of Chapter [Customs and Trade Facilitation] and the Protocol on Rules of Origin and Origin Procedures, as well as Article [X.24] 'Border Measures' of the Chapter [Intellectual Property] and Article 9 [Temporary Suspension of Preferential Tariff Treatment] of the Chapter [National Treatment and Market Access for Goods]. The JCCC shall examine all issues arising from their application in accordance with the objectives of this Agreement.

2. For matters covered by this Agreement, the JCCC shall consist of representatives of the customs, trade, and/ or* other competent authorities as each Party deems appropriate.

3. The Parties shall ensure that the composition of their representatives in JCCC meetings corresponds to the agenda items. The JCCC may meet in a specific configuration of expertise to deal with rules of origin or origin procedures matters ('JCCC-Rules of Origin' or 'JCCC-Origin Procedures').

4. The JCCC may formulate resolutions, recommendations or opinions and present draft decisions to the CETA Joint Committee which it considers necessary for the attainment of the common objectives and sound functioning of the mechanisms established in Chapter [Customs and Trade Facilitation] and the Protocol on Rules of Origin and Origin Procedures, as well as Article [X.24] 'Border Measures' of the Chapter [Intellectual Property] and Article 9 [Temporary Suspension of Preferential Tariff Treatment] of the Chapter [National treatment and Market Access for Goods].

* [*Note to legal scrub: "and/or" captures the intent of the two sides in agreeing to this provision. It would be replaced by "or", or any other expression which the legal revisers of the two sides agree conveys the same meaning]*.

9. SUBSIDIES

FREE TRADE AGREEMENT WITH CANADA

Chapter on Subsidies

Article x1
Definition of a subsidy

1. For the purposes of this Agreement, a subsidy is a measure related to trade in goods which fulfils the conditions set out in Article 1.1 of the *WTO Agreement on Subsidies and Countervailing Measures* (SCM Agreement).

2. A subsidy shall be subject to this chapter only if it is specific within the meaning of Article 2 of the SCM Agreement.

Article x2
Transparency

1. Every two years, each Party shall notify the other Party of the following with respect to any subsidy granted or maintained within its territory:

   the legal basis of the subsidy;

   the form of the subsidy; and

   the amount of the subsidy or the amount budgeted for the subsidy.

   Notifications provided to the World Trade Organization under Article 25.1 of the SCM Agreement shall be deemed to have met this requirement.

2. At the request of the other Party, a Party shall promptly provide information and respond to questions pertaining to particular instances of government support related to trade in services provided within its territory.

Article x3
Consultations on subsidies and government support in sectors other than agriculture and fisheries

1. If a Party considers that a subsidy, or a particular instance of government support related to trade in services, granted by the other Party is adversely affecting, or may adversely affect its interests, it may express its concern to the other Party and request informal consultations

on the matter. The responding Party shall accord full and sympathetic consideration to that request.

2. During informal consultations, a Party may seek additional information on a subsidy or particular instance of government support related to trade in services provided by the other Party, including its policy objective, its amount, and any measures taken to limit the potential distortive effect on trade.

3. On the basis of the informal consultations, the responding Party shall endeavour to eliminate or minimise any adverse effects of the subsidy, or the particular instance of government support related to trade in services, on the requesting Party's interests.

4. This article shall not apply to subsidies related to agricultural goods and fisheries products, and is without prejudice to Articles x4 and x5.

Article x4
Consultations on subsidies related to agricultural goods and fisheries products

1. The Parties share the objective of working jointly to reach an agreement:
(a) to further enhance multilateral disciplines and rules on agricultural trade in the WTO; and,
(b) to help develop a global, multilateral resolution to fisheries subsidies.

2. If a Party considers that a subsidy, or the provision of government support, granted by the other Party, is adversely affecting, or may adversely affect, its interests with respect to agricultural goods or fisheries products, it may express its concerns to the other Party and request consultations on the matter.

3. The requested Party shall accord full and sympathetic consideration to that request and will use its best endeavours to eliminate or minimize the adverse effects of the subsidy, or the provision of government support, on the requesting Party's interests with regard to agricultural goods and fisheries products.

Article x5
Agriculture Export Subsidies

1. For the purposes of this Article, "export subsidy" means an export subsidy as defined in Article 1(e) of the WTO Agreement on Agriculture,

2. A Party shall not adopt or maintain an export subsidy on an agricultural good that is exported, or incorporated in a product that is exported, to the territory of the other Party after the other Party has fully eliminated the tariff, immediately or after the transitional

period, on that agricultural good in accordance with its [Tariff Elimination Schedule]. "Fully eliminated tariff" means, where tariff quotas exist, the elimination of either the in- or the over-quota tariff.

Article x6
Confidentiality

When providing information under this chapter, a Party is not required to disclose confidential information.

Article x7
Excluded Subsidies and Government Support – Culture

Nothing in this Agreement applies to subsidies or government support with respect to audio-visual services for the EU and to cultural industries for Canada

Article x8
Relationship with the WTO

Each Party retains its rights and obligations under Article VI of GATT 1994, the SCM Agreement and the WTO Agreement on Agriculture.

Article x9
Dispute settlement

Articles x3 and x4 of this chapter shall not be subject to the dispute settlement provisions of this Agreement.

10. INVESTMENT

Section 1: Scope and Definitions

Article X.1: Scope of Application

1. This Chapter shall apply to measures adopted or maintained by a Party in its territory[15] relating to:

(a) investors of the other Party;

(b) covered investments; and

(c) with respect to Articles X.5 (Performance Requirements), all investments in the territory of the Party.

2. The Section on Establishment of Investments, and the Section on Non-Discriminatory Treatment with regard to the establishment or acquisition of a covered investment, do not apply to measures relating to:

(b) air services, related services in support of air services and other services supplied by means of air transport[16], other than:

(i) Aircraft repair and maintenance services;

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

(iii) Computer reservation system (CRS) services;

(iv) Ground handling services;

[15] For greater certainty, the obligations of this chapter apply to the Exclusive Economic Zones and Continental Shelves, as provided in the United Nations Convention on the Law of the Sea of 10 December 1982,:

(a) of Canada as referred to in Article X.02 (Country-specific definitions – Geographical scope of Application (a)); and

(b) in which the Treaty on the European Union and the Treaty on the Functioning of the European Union Treaty are applied as referred to in Article X.02 (Country-specific definitions – Geographical scope of Application (b)).

[16] These services include services where an aircraft is being used to carry out specialised activities in sectors including agriculture, construction, photography, surveying, mapping, forestry, observation and patrol, and advertising, where this specialised activity is provided by the person that is responsible for the operation of the aircraft.

(v) Airport operation services.

(c) Activities carried out in the exercise of governmental authority.

3. For the EU, the Section on Establishment of Investments and Section on Non-Discriminatory Treatment do not apply to measures with respect to Audiovisual services.

For Canada, the Section on Establishment of Investments and Section on Non-Discriminatory Treatment do not apply to measures with respect to cultural industries.

4. Claims may be submitted by an investor under this Chapter only in accordance with Section 6 Article 17 (Scope of a Claim to Arbitration), and in compliance with the procedures otherwise set out in that Section. Claims in respect of Section 2 (Establishment of Investments) are excluded from the scope of Section 6. Claims in respect of the establishment or acquisition of a covered investment under Section 3 (Non-Discriminatory Treatment) are excluded from the scope of Section 6. Section 4 (Investment Protection) applies only to covered investments and to investors in respect of their covered investments.

5. Nothing in this Chapter shall affect the Parties' rights and obligations under the Agreement on Air Transport between Canada and the European Community and its Member States.

Article X.2: Relation to Other Chapters

1. This Chapter does not apply to measures adopted or maintained by a Party to the extent that the measures apply to investors or to their investments covered by Chapter [XY] (Financial Services).

2. A requirement by a Party that a service provider of the other Party post a bond or other form of financial security as a condition of providing a service into its territory does not of itself make this Chapter applicable to measures adopted or maintained by the Party relating to the provision of that cross-border service. This Chapter shall apply to measures adopted or maintained by the Party relating to the posted bond or financial security, to the extent that such bond or financial security is a covered investment.

Article X.3: Definitions

For the purpose of this Chapter:

activities carried out in the exercise of governmental authority means an activity carried out neither on a commercial basis nor in competition with one or more economic operators.

aircraft repair and maintenance service means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance.

airport operation services means the operation and/or management, on a fee or contract basis, of airport infrastructure, including terminals, runways, taxiways and aprons, parking facilities, and intra-airport transportation systems.
For greater certainty, airport operation services do not include the ownership of, or investment in, airports or airport lands, or any of the functions carried out by a board of directors.
Airport operation services do not include air navigation services.

attachment means the seizure of the property of a disputing party to secure or ensure the satisfaction of an award.

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

confidential or protected information means:
(a) confidential business information; or
(b) information which is protected against being made available to the public, in the case of the information of the respondent, under the law of the respondent and in the case of other information, under any law or rules determined to be applicable to the disclosure of such information by the tribunal.

covered investment means, with respect to a Party, an investment:
(a) in its territory;
(b) made in accordance with the applicable law at that time;
(c) directly or indirectly owned or controlled by an investor of the other Party; and
(d) existing on the date of entry into force of this Agreement, as well as investments made or acquired thereafter.

disputing party means either the investor that initiates proceedings pursuant to Section 6 or the respondent. For the purpose of Section 6 and without prejudice to Article x-13 (Subrogation), an investor does not include a Party.

disputing parties means both the investor and the respondent.

enjoin means an order to prohibit or restrain an action.

enterprise means any entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or controlled or governmentally-owned or controlled, including any corporation, trust, partnership, joint venture, sole proprietorship or association and a branch or representative office of any such entity.

ground handling services means the provision, on a fee or contract basis, of the following

services: ground administration and supervision, including load control and communications; passenger handling; baggage handling; cargo and mail handling; ramp handling and aircraft services; fuel and oil handling; aircraft line maintenance, flight operations and crew administration; surface transport; and catering services. Ground handling services do not include security services and the operation or management of centralised airport infrastructures, such as baggage handling systems, de-icing facilities, fuel distribution systems, and intra-airport transport systems.

ICSID means the International Centre for Settlement of Investment Disputes established by the ICSID Convention.

ICSID Additional Facility Rules means the *Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes*.

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

> *[**Note to scrub**: Negotiators understand that this reference captures amendments to the Convention]*
> *[**Note to scrub**: Parties to check consistency to references to other international agreements]*

intellectual property rights means copyright and related rights, trademark rights, rights in geographical indications, rights in industrial designs, patent rights, rights in layout designs of integrated circuits, rights in relation to protection of undisclosed information, and plant breeders' rights; and, where such rights are provided by domestic law, utility model rights. The Joint Committee may, by decision, add other categories of intellectual property to this definition.

'investment' means**:**

Every kind of asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, which includes a certain duration and other characteristics such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stocks and other forms of equity participation in an enterprise;

(c) bonds, debentures and other debt instruments of an enterprise;

(d) a loan to an enterprise;

(e) any other kinds of interest in an enterprise;

(f) an interest arising from:

(i) a concession conferred pursuant to domestic law or under a contract, including to search for, cultivate, extract or exploit natural resources,
(ii) a turnkey, construction, production, or revenue-sharing contract, or
(iii) other similar contracts;

(g) intellectual property rights;

(h) any other moveable property, tangible or intangible, or immovable property and related rights;

(i) claims to money or claims to performance under a contract;

For greater certainty, 'claims to money' does not include claims to money that arise solely from commercial contracts for the sale of goods or services by a natural person or enterprise in the territory of a Party to a natural person or enterprise in the territory of the other Party, domestic financing of such contracts, or any related order, judgment, or arbitral award.

Returns that are invested shall be treated as investments. Any alteration of the form in which assets are invested or reinvested does not affect their qualification as investment.

investor means a Party, a natural person or an enterprise of a Party, other than a branch or a representative office, that seeks to make, is making or has made an investment in the territory of the other Party.

For the purposes of this definition an 'enterprise of a Party' is:

(a) an enterprise that is constituted or organised under the laws of that Party and has substantial business activities in the territory of that Party; or

(b) an enterprise that is constituted or organised under the laws of that Party and is directly or indirectly owned or controlled by a natural person of that Party or by an enterprise mentioned under a).

locally established enterprise means a juridical person which has the nationality of the respondent and which is owned or controlled, directly or indirectly, by an investor of the other Party.
measure includes a law, regulation, rule, procedure, decision, administrative action, requirement, practice or any other form of measure by a Party.

natural person means:

(a) in the case of Canada, a natural person who is a citizen or permanent resident of Canada, and

(b) in the case of the EU, a natural person having the nationality of one of the Member States of the EU according to their respective legislation, and, for Latvia, also a natural person permanently residing in the Republic of Latvia who is not a citizen of the Republic of Latvia or any other state but who is entitled, under laws and regulations of the Republic of Latvia, to receive a non-citizen's passport.

A natural person who is a citizen of Canada and has the nationality of one of the Member States of the EU shall be deemed to be exclusively a natural person of the Party of his or her dominant and effective nationality.

A natural person who has the nationality of one of the Member States of the European Union or is a citizen of Canada, and is also a permanent resident of the other Party, shall be deemed to be exclusively a natural person of the Party of his or her nationality or citizenship, as applicable.

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

*[**Note to scrub**: Negotiators understand that this reference captures amendments to the Convention]*
*[**Note to scrub**: Parties to check consistency to references to other international agreements]*

non-disputing Party means either Canada, where the European Union or a Member State is the respondent, or the European Union, where Canada is the respondent.

respondent means either Canada or, in the case of the European Union, either the Member State or the European Union pursuant to Article x-20 (Determination of the respondent for disputes with the European Union or its Member States).

returns means all amounts yielded by an investment or reinvestment, including profits, royalties and interest or other fees and payments in kind.

selling and marketing of air transport service means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services or the applicable conditions.

Tribunal means an arbitration tribunal established under Article x-22 (Submission of a Claim to Arbitration) or x-41 (Consolidation).

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law.

UNCITRAL Transparency Rules means the *UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration*.

Section 2: Establishment of Investments

Article X.4: Market Access

1. Neither Party shall adopt or maintain with regard to market access through establishment by an investor of a Party, either on the basis of its entire territory or on the basis of the territory of a national, provincial, territorial, regional or local level of government, measures that:

(a) impose limitations on:

(i) the number of enterprises that may carry out a specific economic activity whether in the form of numerical quotas, monopolies, exclusive suppliers or the requirement of an economic needs test;

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

(iii) 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;[17]

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

(v) 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 economic activity in the form of numerical quotas or the requirement of an economic needs test.

(b) restrict or require specific types of legal entity or joint venture through which an enterprise may carry out an economic activity.

2. For greater certainty, the following are consistent with paragraph 1 of this article;

(a) Measures concerning zoning and planning regulations affecting the development or use of land, or other analogous measures.

(b) Measures requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation and telecommunications.

(c) Measures restricting the concentration of ownership to ensure fair competition.

[17] Subparagraphs 1(a) (i), (ii) and (iii) do not cover measures taken in order to limit the production of an agricultural product.

(d) Measures seeking to ensure the conservation and protection of natural resources and the environment, including limitations on the availability, number and scope of concessions granted, and the imposition of moratoria or bans.

(e) Measures limiting the number of authorizations granted because of technical or physical constraints, for example telecommunications spectrum and frequencies.

(f) Measures requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practice a certain profession such as lawyers or accountants.

Article X.5: Performance Requirements

1. Neither Party may impose, or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of all investments in its territory to:

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

(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 investment;

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

(f) transfer technology, a production process or other proprietary knowledge to a natural person or enterprises in its territory; or

(g) supply exclusively from the territory of the Party a good produced or a service provided by the investment to a specific regional or world market.

2. Neither Party may condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct or operation of all investments in its territory, on compliance with any of the following requirements:

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

(b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;

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

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

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

(b) Subparagraph 1(f) does not apply when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy a violation of competition laws.

4. The provisions of:

(a) 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 programs;

(b) this article does not apply to procurement by a Party for goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of goods and services for commercial sale, whether or not that procurement is "covered procurement" within the meaning of Article II of (Chapter XX - Public procurement).

(c) For greater certainty, 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.

5. This article is without prejudice to WTO commitments of a Party.

Section 3: Non-Discriminatory Treatment

Article X.6: National Treatment

1. Each Party shall accord to investors of the other Party and to covered investments, treatment no less favourable than the treatment it accords, in like situations to its own investors and to their investments with respect to the establishment, acquisition, expansion, conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

2. The treatment accorded by a Party under paragraph 1 means, with respect to a government in Canada other than at the federal level, or, with respect to a government of or in a European Member State, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to investors of that Party in its territory and to investments of such investors.

Article X.7: Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of the other Party and to covered investments, treatment no less favourable than the treatment it accords in like situations, to investors and to their investments of any third country with respect to the establishment, acquisition, expansion, conduct, the operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its territory.

2. For greater certainty, the treatment accorded by a Party under paragraph 1 means, with respect to a government in Canada other than at the federal level, or, with respect to a government of or in a European Member State, treatment accorded, in like situations, by that government to investors in its territory, and to investments of such investors, of any third country.

3. Paragraph 1 shall not apply to treatment accorded by a Party providing for recognition, including through arrangements or agreements with third parties recognising accreditation of testing and analysis services and service suppliers or repair and maintenance services and service suppliers, as well as the certification of the qualifications of or the results or work done by such accredited services and service suppliers.

4. For greater certainty, the "treatment" referred to in Paragraph 1 and 2 does not include investor-to-state dispute settlement procedures provided for in other international investment treaties and other trade agreements. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute "treatment", and thus cannot give rise to a breach of this article, absent measures adopted by a Party pursuant to such obligations.

Article X.8: Senior Management and Boards of Directors

Neither Party may require that an enterprise of that Party that is a covered investment appoint to senior management or the board of directors positions natural persons of any particular nationality.

Section 4: Investment Protection

Article X.9: Treatment of Investors and of Covered Investments

1. Each Party shall accord in its territory to covered investments of the other Party and to investors with respect to their covered investments fair and equitable treatment and full protection and security in accordance with paragraphs 2 to 6.

2. A Party breaches the obligation of fair and equitable treatment referenced in paragraph 1 where a measure or series of measures constitutes:
   (a) Denial of justice in criminal, civil or administrative proceedings;
   (b) Fundamental breach of due process, including a fundamental breach of transparency, in judicial and administrative proceedings.
   (c) Manifest arbitrariness;
   (d) Targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief;
   (e) Abusive treatment of investors, such as coercion, duress and harassment; or
   (f) A breach of any further elements of the fair and equitable treatment obligation adopted by the Parties in accordance with paragraph 3 of this Article.
3. The Parties shall regularly, or upon request of a Party, review the content of the obligation to provide fair and equitable treatment. The Committee on Services and Investment may develop recommendations in this regard and submit them to the Trade Committee for decision.
4. When applying the above fair and equitable treatment obligation, a tribunal may take into account whether a Party made a specific representation to an investor to induce a covered investment, that created a legitimate expectation, and upon which the investor relied in deciding to make or maintain the covered investment, but that the Party subsequently frustrated.
5. For greater certainty, 'full protection and security' refers to the Party's obligations relating to physical security of investors and covered investments.
6. For greater certainty, a breach of another provision of this Agreement, or of a separate international Agreement, does not establish that there has been a breach of this Article.

Article X.10: Compensation for Losses

Notwithstanding paragraph 5(b) of Article X.14 (Reservations and Exceptions), each Party shall accord to investors of the other Party, whose covered investments suffer losses owing to armed conflict, civil strife, a state of emergency or natural disaster in its territory, treatment no less favourable than that it accords to its own investors or to the investors of any third country, whichever is more favourable to the investor concerned, as regards restitution, indemnification, compensation or other settlement.

Article X.11: Expropriation

1. Neither Party may nationalize or expropriate a covered investment either directly, or indirectly through measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation"), except:

(a) for a public purpose;

(b) under due process of law;

(c) in a non-discriminatory manner; and

(d) against payment of prompt, adequate and effective compensation.

For greater certainty, this paragraph shall be interpreted in accordance with Annex X.11 on the clarification of expropriation.

2. Such compensation shall amount to the fair market value of the investment at the time immediately before the expropriation or the impending expropriation became known, whichever is earlier. Valuation criteria shall include going concern value, asset value including the declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

3. The compensation shall also include interest at a normal commercial rate from the date of expropriation until the date of payment and shall, in order to be effective for the investor, be paid and made transferable, without delay, to the country designated by the investor and in the currency of the country of which the investor is a national or in any freely convertible currency accepted by the investor.

4. The investor affected shall have a right, under the law of the expropriating Party, to prompt review of its claim and of the valuation of its investment, by a judicial or other independent authority of that Party, in accordance with the principles set out in this Article.

5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, to the extent that such issuance is consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreements ('TRIPS Agreement').

6. For greater certainty, the revocation, limitation or creation of intellectual property rights to the extent that these measures are consistent with TRIPS and Chapter X (Intellectual Property) of this Agreement, do not constitute expropriation. Moreover, a determination that these actions are inconsistent with the TRIPS Agreement or Chapter X (Intellectual Property) of this Agreement does not establish that there has been an expropriation.

Article X.12: Transfers

1. Each Party shall permit all transfers relating to a covered investment to be made without restriction or delay and in a freely convertible currency. Such transfers include:

(a) contributions to capital, such as principal and additional funds to maintain, develop or increase the investment;

(b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, or other forms of returns or amounts derived from the covered investment;

(c) proceeds from the sale or liquidation of the whole or any part of the covered investment;

(d) payments made under a contract entered into by the investor or the covered investment, including payments made pursuant to a loan agreement;

(e) payments made pursuant to Articles X.10 (Compensation for Losses) and X.11 (Expropriation);

(f) earnings and other remuneration of foreign personnel and working in connection with an investment;

(g) payments of damages pursuant to an award issued by a tribunal under Section 6 (Investor to State Dispute Settlement).

2. Transfers shall be made at the market rate of exchange applicable on the date of transfer.

3. Neither Party may require its investors to transfer, or penalize its investors for failing to transfer, the income, earnings, profits or other amounts derived from, or attributable to, investments in the territory of the other Party.

4. Notwithstanding paragraphs 1, 2 or 3, nothing in this article shall be construed to prevent a Party from applying in an equitable and non-discriminatory manner and not in a way that would constitute a disguised restriction on transfers, its laws relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offences;

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

(e) ensuring the satisfaction of judgments in adjudicatory proceedings.

Article X.13: Subrogation

If a Party, or an agency thereof, makes a payment under an indemnity, guarantee or contract of insurance it has entered into in respect of an investment made by one of its investors in the territory of the other Party, the other Party shall recognize that the Party or its agency shall be entitled in all circumstances to the same rights as those of the investor in respect of the investment. Such rights may be exercised by the Party or an agency thereof, or by the investor if the Party or an agency thereof so authorizes.

Section 5: Reservations and Exceptions

Article X.14: Reservations and Exceptions

1. Articles X.4 (Market Access), X.5 (Performance Requirements), X.6 (National Treatment), X.7 (Most-Favoured-Nation Treatment), and X.8 (Senior Management and Boards of Directors) 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 Schedule to Annex I;
(ii) a national government, as set out by that Party in its Schedule to Annex I;
(iii) a provincial, territorial, or regional government, as set out by that Party in its Schedule to Annex I; or
(iv) a local government.

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with X.4 (Market Access), X.5 (Performance Requirements), Articles X.6 (National Treatment), X.7 (Most-Favoured-Nation Treatment), , and X.8 (Senior Management and Boards of Directors) .

2. Articles X.4 (Market Access), X.5 (Performance Requirements), X.6 (National Treatment), X.7 (Most-Favoured-Nation Treatment), and X.8 (Senior Management and Boards of Directors) do not apply to measures that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

3. Without prejudice to Article X.9 (Treatment of Investors and Covered Investments) and Article X.11 (Expropriation), no Party may adopt any measure or series of measures after the date of entry into force of this Agreement and covered by its schedule to Annex II, that require, directly or indirectly, an investor of the other Party, by reason of nationality, to sell or otherwise dispose of an investment existing at the time the measure or series of measures becomes effective.

4. In respect of intellectual property rights, a Party may derogate from Article X.6 (National Treatment), Article X.7 (Most-Favoured-Nation Treatment) and subparagraph 1(f) of Article X.8 (Performance Requirements) where permitted by the TRIPS Agreement, including any amendments to the TRIPS Agreement in force for both Parties, and waivers to the TRIPS Agreement adopted pursuant to Article IX of the WTO Agreement.

5. Article X.4 (Market Access), Articles X.6 (National Treatment), X.7 (Most-Favoured-Nation Treatment) and X.8 (Senior Management and Board of Directors) do not apply to:

(a) procurement by a Party for goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of goods and services for commercial sale, whether or not that procurement is "covered procurement" within the meaning of Article II of (Chapter XX - Public procurement); or

(b) subsidies, or government support relating to trade in services, provided by a Party.

Article X.15: Denial of Benefits

1. 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) investors of a non-Party own or control the enterprise; and

(b) the denying Party adopts or maintains measures with respect to the non-Party that:

(i) are related to maintenance of international peace and security; and

(ii) prohibit transactions with the enterprise or would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.

Article X.16: Formal Requirements

Notwithstanding Articles X.6 (National Treatment) and X.7 (Most-Favoured-Nation Treatment), a Party may require an investor of the other Party, or its covered investment, to provide routine information concerning that investment solely for informational or statistical purposes, provided that such requests are reasonable and not unduly burdensome. The Party shall protect any confidential or protected information from any disclosure that would prejudice the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its laws.

Section 6: Investor-State Dispute Settlement

Article X.17: Scope of a Claim to Arbitration

1. Without prejudice to the rights and obligations of the Parties under Chapter [XY](Dispute Settlement), an investor of a Party may submit to arbitration under this Section a claim that the respondent has breached an obligation under:
   (a) Section 3 (Non-Discriminatory Treatment) of this Chapter, with respect to the expansion, conduct, operation, management, maintenance, use, enjoyment and sale or disposal of its covered investment; or

   (b) Section 4 (Investment Protection) of this Chapter; and

   where the investor claims to have suffered loss or damage as a result of the alleged breach.
2. Claims under subparagraph 1(a) with respect to the expansion of a covered investment may be submitted only to the extent the measure relates to the existing business operations of a covered investment and the investor has, as a result, incurred loss or damage with respect to the covered investment.

3. For greater certainty, an investor may not submit a claim to arbitration under this Section where the investment has been made through fraudulent misrepresentation, concealment, corruption, or conduct amounting to an abuse of process.

4. A tribunal constituted under this Section may not decide claims that fall outside of the scope of this Article.

Article X.18: Consultations

1. Any dispute should as far as possible be settled amicably. Such a settlement may be agreed at any time, including after the arbitration has been commenced. Unless the disputing parties agree to a longer period, consultations shall be held within 60 days of the submission of the request for consultations pursuant to paragraph 3.

2. Unless the disputing parties agree otherwise, the place of consultation shall be:

   (a) Ottawa, where the measures challenged are measures of Canada;

   (b) Brussels, where the measures challenged include a measure of the European Union; or

   (c) the capital of the Member State of the European Union, where the measures challenged are exclusively measures of that Member State.
3. The investor shall submit to the other Party a request for consultations containing:

   (a) the following information:

(i) the name and address of the investor and, where such request is submitted on behalf of a locally established enterprise, the name, address and place of incorporation of the locally established enterprise;

(ii) where there is more than one investor, the name and address of each investor and, where there is more than one locally established enterprise, the name, address and place of incorporation of each locally established enterprise;

(iii) the provisions of this Agreement alleged to have been breached;

(iv) the legal and the factual basis for the claim, including the measures at issue; and

(v) the relief sought and the estimated amount of damages claimed; and

(b) evidence establishing that the investor is an investor of the other Party and that it owns or controls the investment, including the locally established enterprise where applicable, in respect of which it has submitted a request.

4. The requirements of the request for consultations set out in paragraph 3 shall be met in a manner that does not materially affect the ability of the respondent to effectively engage in consultations or to prepare its defence.

5. A request for consultations must be submitted within:

(a) 3 years after the date on which the investor or, as applicable, the locally established enterprise, first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor or, as applicable, the locally established enterprise, has incurred loss or damage thereby; or

(b) two years after the investor or, as applicable, the locally established enterprise, exhausts or ceases to pursue claims or proceedings before a tribunal or court under the law of a Party and, in any event, no later than 10 years after the date on which the investor or, as applicable, the locally established enterprise, first acquired, or should have first acquired knowledge of the alleged breach and knowledge that the investor has incurred loss or damage thereby

6. In the event that the request for consultations concerns an alleged breach by the European Union, or a Member State of the European Union, it shall be sent to the European Union.

7. In the event that the investor has not submitted a claim to arbitration pursuant to Article X.22 (Submission of a claim to arbitration) within 18 months of submitting the request for consultations, the investor shall be deemed to have withdrawn its request for consultations and any notice requesting a determination of the respondent and may not submit a claim under this Section. This period may be extended by agreement between the disputing parties.

Article X.19: Mediation

1. The disputing parties may at any time agree to have recourse to mediation.

2. Recourse to mediation is without prejudice to the legal position or rights of either disputing party under this Chapter and shall be governed by the rules agreed to by the disputing parties including, if available, the rules established by the Services and Investment Committee pursuant to Article X.42(3)(c).

3. The mediator is appointed by agreement of the disputing parties. Such appointment may include appointing a mediator from the roster established pursuant to Article X.25 (Constitution of the Tribunal) or requesting the Secretary-General of ICSID to appoint a mediator from the list of chairpersons established pursuant to Article X.25 (Constitution of the Tribunal).

4. Disputing parties shall endeavour to reach a resolution to the dispute within 60 days from the appointment of the mediator.

5. If the disputing parties agree to have recourse to mediation, Articles X.18(5) and X.18(7) (Consultations) shall not apply from the date on which the disputing parties agreed to have recourse to mediation to the date on which either disputing party decides to terminate the mediation, by way of a letter to the mediator and the other disputing party.

Article X.20: Determination of the respondent for disputes with the European Union or its Member States

1. If the dispute cannot be settled within 90 days of the submission of the request for consultations, the request concerns an alleged breach of the Agreement by the European Union or a Member State of the European Union and the investor intends to initiate arbitration proceedings pursuant to Article X.22 (Submission of a claim to arbitration), the investor shall deliver to the European Union a notice requesting a determination of the respondent.

2. The notice shall identify the measures in respect of which the investor intends to initiate arbitration proceedings.

3. The European Union shall, after having made a determination, inform the investor as to whether the European Union or a Member State of the European Union shall be the respondent.

4. If the investor has not been informed of the determination within 50 days of the notice referred to in paragraph 1:

(a) where the measures identified in the notice are exclusively measures of a Member State of the European Union, the Member State shall be respondent.

(b) where the measures identified in the notice include measures of the European Union, the European Union shall be respondent.

5. The investor may submit a claim to arbitration on the basis of the determination made pursuant to paragraph 3, and, if no such determination has been communicated, on the basis of the application of paragraph 4.

6. Where either the European Union or the Member State is the respondent, pursuant to paragraph 3 or 4, neither the European Union, nor the Member State may assert the inadmissibility of the claim, lack of jurisdiction of the tribunal or otherwise object to the claim or award on the ground that the respondent was not properly determined pursuant to paragraph 3 or identified on the basis of the application of paragraph 4.

7. The tribunal shall be bound by the determination made pursuant to paragraph 3 and, if no such determination has been communicated, the application of paragraph 4.

Article X.21: Procedural and Other Requirements for the Submission of a Claim to Arbitration

1. An investor may submit a claim to arbitration under Article X.22 (Submission of a Claim to Arbitration) only if the investor:
   (a) delivers to the respondent, with the submission of a claim to arbitration, its consent to arbitration in accordance with the procedures set out in this Chapter;

   (b) allows at least 180 days to elapse from the submission of the request for consultations and, where applicable, at least 90 days to elapse from the submission of the notice requesting a determination of the respondent;

   (c) fulfils the requirements of the notice requesting a determination of the respondent;

   (d) fulfils the requirements related to the request for consultations;

   (e) does not identify measures in its claim to arbitration that were not identified in its request for consultations;

   (f) where it has initiated a claim or proceeding seeking compensation or damages before a tribunal or court under domestic or international law with respect to any measure alleged to constitute a breach referred to in its claim to arbitration, provides a declaration that:

      (i) a final award, judgment or decision has been made; or

      (ii) it has withdrawn any such claim or proceeding;

The declaration shall contain, as applicable, proof that a final award, judgment or decision has been made or proof of the withdrawal of any such claim or proceeding; and

(g) waives its right to initiate any claim or proceeding seeking compensation or damages before a tribunal or court under domestic or international law with respect to any measure alleged to constitute a breach referred to in its claim to arbitration.

2. Where the submission of a claim to arbitration is for loss or damage to a locally established enterprise or to an interest in a locally established enterprise that the investor owns or controls directly or indirectly, both the investor and the locally established enterprise shall provide a declaration pursuant to subparagraph 1(f) and a waiver pursuant to subparagraph 1(g).

3. The requirements of subparagraphs 1(f), (g) and paragraph 2 do not apply in respect of a locally established enterprise where the respondent or the investor's host State has deprived an investor of control of the locally established enterprise, or has otherwise prevented the locally established enterprise from fulfilling such requirements.

4. Upon request of the respondent, the Tribunal shall decline jurisdiction where the investor or, as applicable, the locally established enterprise fails to fulfil any of the requirements of paragraphs 1 and 2.

5. The waiver provided pursuant to subparagraph 1(g) or paragraph 2 as applicable shall cease to apply:

   (a) where the Tribunal rejects the claim on the basis of a failure to meet the requirements of paragraphs 1 or 2 or on any other procedural or jurisdictional grounds;

   (b) where the Tribunal dismisses the claim pursuant to Article X.29 (Claim manifestly without legal merit) or Article X.30 (Claims Unfounded as a Matter of Law); or

   (c) where the investor withdraws its claim, in conformity with applicable arbitration rules, within 12 months of the constitution of the tribunal.

Article X.22: Submission of a Claim to Arbitration

1. If a dispute has not been resolved through consultations, a claim may be submitted to arbitration under this Section by:

   (a) an investor of the other Party on its own behalf; or

   (b) an investor of the other Party, on behalf of a locally established enterprise which it owns or controls directly or indirectly.

2. A claim may be submitted under the following arbitration rules:
   (a) the ICSID Convention;

   (b) the ICSID Additional Facility Rules where the conditions for proceedings pursuant to paragraph (a) do not apply;

   (c) the UNCITRAL Arbitration Rules; or

   (d) any other arbitration rules on agreement of the disputing parties.

3. In the event that the investor proposes arbitration rules pursuant to sub-paragraph 2(d), the respondent shall reply to the investor's proposal within 20 days of receipt. If the disputing parties have not agreed on such arbitration rules within 30 days of receipt, the investor may submit a claim under the arbitration rules provided for in subparagraphs 2(a), (b) or (c).

4. For greater certainty, a claim submitted under subparagraph 1(b) shall satisfy the requirements of Article 25(1) of the ICSID Convention.

5. The investor may, when submitting its claim, propose that a sole arbitrator should hear the claim. The respondent shall give sympathetic consideration to such a request, in particular where the investor is a small or medium-sized enterprise or the compensation or damages claimed are relatively low.

6. The arbitration is governed by the arbitration rules applicable under paragraph 2 that are in effect on the date that the claim or claims are submitted to arbitration under this Section, subject to the specific rules set out in this Section and supplemented by rules adopted pursuant to Article X.42(3)(b) (Committee).

7. A claim is submitted to arbitration under this Section when:

   (a) the request for arbitration under Article 36(1) of the ICSID Convention is received by the Secretary-General of ICSID;

   (b) the request for arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretariat of ICSID;

   (c) the notice of arbitration under Article 3 of the UNCITRAL Arbitration Rules is received by the respondent; or

   (d) the request or notice of arbitration pursuant to other arbitration rules is received by the respondent in accordance with subparagraph 2(d).

8. Each Party shall notify the other Party of the place of delivery of notices and other documents by the investors relating to this Section. Each Party shall ensure this information is made publicly available.

*[**Note to Scrub**: please ensure that "relating to this Section" covers also ISDS on Financial Services]*

Article X.23: Proceedings under different international agreements

Where claims related to the same measure are brought both pursuant to this Section and another international agreement and:

(a) there is a potential for overlapping compensation; or

(b) the other international claim could have a significant impact on the resolution of the claim brought pursuant to this Section,

a Tribunal constituted under this Section shall, as soon as possible after hearing the disputing parties, stay its proceedings or otherwise ensure that proceedings pursuant to another international agreement are taken into account in its decision, order or award.

Article X.24: Consent to Arbitration

1. The respondent consents to the submission of a claim to arbitration under this Section in accordance with the procedures set out under this Agreement.

2. The consent under paragraph 1 and the submission of a claim to arbitration under this Chapter shall satisfy the requirements of:

   (a) Article 25 of the ICSID Convention and Chapter II (Institution of Proceedings) of the ICSID Additional Facility Rules for written consent of the disputing parties; and,

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

Article X.25: Constitution of the Tribunal

1. Unless the disputing parties have agreed to appoint a sole arbitrator, the Tribunal shall comprise three arbitrators. One arbitrator shall be appointed by each of the disputing parties and the third, who will be the presiding arbitrator, shall be appointed by agreement of the disputing parties. If the disputing parties agree to appoint a sole arbitrator, the disputing parties shall seek to agree on the sole arbitrator.

2. If a Tribunal has not been constituted within 90 days from the date that a claim is submitted to arbitration, or where the disputing parties have agreed to appoint a sole arbitrator and have failed to do so within 90 days from the date the respondent agreed to submit the dispute to a sole arbitrator, the Secretary-General of ICSID shall appoint the arbitrator or arbitrators not yet appointed in accordance with paragraph 3.

3. The Secretary-General of ICSID shall, upon request of a disputing party, appoint the remaining arbitrators from the list established pursuant to paragraph 4. In the event that such list has not been established on the date a claim is submitted to arbitration, the Secretary-General of ICSID shall make the appointment at his or her discretion taking into

consideration nominations made by either Party and, to the extent practicable, in consultation with the disputing parties. The Secretary-General of ICSID may not appoint as presiding arbitrator a national of either Canada or a Member State of the European Union unless all disputing parties agree otherwise.

4. Pursuant to Article X.42(2)(a), the Committee on Services and Investment shall establish, and thereafter maintain, a list of individuals who are willing and able to serve as arbitrators and who meet the qualifications set out in paragraph 5. It shall ensure that the list includes at least 15 individuals but may agree to increase the number of individuals. The list shall be composed of three sub-lists each comprising at least five individuals: one sub-list for each Party, and one sub-list of individuals who are neither nationals of Canada nor the Member States of the European Union to act as presiding arbitrators.

5. Arbitrators appointed pursuant to this Section shall have expertise or experience in public international law, in particular international investment law. It is desirable that they have expertise or experience in international trade law and the resolution of disputes arising under international investment or international trade agreements.

6. Arbitrators shall be independent of, and not be affiliated with or take instructions from, a disputing party or the government of a Party with regard to trade and investment matters. Arbitrators shall not take instructions from any organisation, government or disputing party with regard to matters related to the dispute. Arbitrators shall comply with the International Bar Association Guidelines on Conflicts of Interest in International Arbitration or any supplemental rules adopted pursuant to Article X.42(2)(b) (Committee on Services and Investment). Arbitrators who serve on the list established pursuant to paragraph 3 shall not, for that reason alone, be deemed to be affiliated with the government of a Party.

7. If a disputing party considers that an arbitrator does not meet the requirements set out in paragraph 6, it shall send a notice of its intent to challenge the arbitrator within 15 days after:

   (a) the appointment of the arbitrator has been notified to the challenging party; or,

   (b) the disputing party became aware of the facts giving rise to the alleged failure to meet such requirements.

8. The notice of an intention to challenge shall be promptly communicated to the other disputing party, to the arbitrator or arbitrators, as applicable, and to the Secretary-General of ICSID. The notice of challenge shall state the reasons for the challenge.

9. When an arbitrator has been challenged by a disputing party, the disputing parties may agree to the challenge, in which case the disputing parties may request the challenged arbitrator to resign. The arbitrator may, after the challenge, elect to resign. A decision to resign does not imply acceptance of the validity of the grounds for the challenge.

10. If, within 15 days from the date of the notice of challenge, the challenged arbitrator has elected not to resign, the Secretary-General of ICSID shall, after hearing the disputing parties

and after providing the arbitrator an opportunity to submit any observations, issue a decision within 45 days of receipt of the notice of challenge and forthwith notify the disputing parties and other arbitrators, as applicable.

11. A vacancy resulting from the disqualification or resignation of an arbitrator shall be filled promptly pursuant to the procedure provided for in this Article.

Article X.26: Agreement to the Appointment of Arbitrators

1. For purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on a ground other than nationality:

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

   (b) an investor may submit a claim to arbitration or continue a claim under the ICSID Convention or, as the case may be, the ICSID Additional Facility Rules only if the investor agrees in writing to the appointment of each member of the Tribunal.

Article X.27: **Applicable Law and Interpretation**

1. A Tribunal established under this Chapter shall render its decision consistent with this Agreement as interpreted in accordance with the Vienna Convention on the Law of Treaties, and other rules and principles of international law applicable between the Parties.

2. Where serious concerns arise as regards matters of interpretation that may affect investment, the Committee on Services and Investment may, pursuant to Article X.42(3)(a), recommend to the Trade Committee the adoption of interpretations of the Agreement. An interpretation adopted by the Trade Committee shall be binding on a Tribunal established under this Chapter. The Trade Committee may decide that an interpretation shall have binding effect from a specific date.

Article X.28: Place of Arbitration

The disputing parties may agree on the place of arbitration under the applicable arbitration rules provided it is in the territory of a party to the New York Convention. If the disputing parties fail to agree on the place of arbitration, the Tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that it shall be in the territory of either Party or of a third state that is a party to the New York Convention.

Article X.29: Claims Manifestly Without Legal Merit

1. The respondent may, no later than 30 days after the constitution of the tribunal, and in any event before the first session of the Tribunal, file an objection that a claim is manifestly without legal merit.

2. An objection may not be submitted under paragraph 1 if the respondent has filed an objection pursuant to Article X.30 (Claims Unfounded as a Matter of Law).

3. The respondent shall specify as precisely as possible the basis for the objection.

4. On receipt of an objection pursuant to this Article, the Tribunal shall suspend the proceedings on the merits and establish a schedule for considering any objections consistent with its schedule for considering any other preliminary question.

5. The Tribunal, after giving the disputing parties an opportunity to present their observations, shall at its first session or promptly thereafter, issue a decision or award, stating the grounds therefor. In doing so, the Tribunal shall assume the alleged facts to be true.

6. This Article shall be without prejudice to the Tribunal's authority to address other objections as a preliminary question or to the right of the respondent to object, in the course of the proceeding, that a claim lacks legal merit.

Article X.30: Claims Unfounded as a Matter of Law

1. Without prejudice to a tribunal's authority to address other objections as a preliminary question or to a respondent's right to raise any such objections at any appropriate time, the Tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim, or any part thereof, submitted pursuant to Article X.22 (Submission of a Claim to Arbitration) is not a claim for which an award in favour of the claimant may be made under this Section, even if the facts alleged were assumed to be true.

2. An objection under paragraph 1 shall be submitted to the Tribunal no later than the date the Tribunal fixes for the respondent to submit its counter-memorial.

3. If an objection has been submitted pursuant to Article X.29 (Claims Manifestly Without Legal Merit), the Tribunal may, taking into account the circumstances of that objection, decline to address, under the procedures set out in this Article, an objection submitted pursuant to paragraph 1.

4. On receipt of an objection under paragraph 1, and, where appropriate, after having taken a decision pursuant to paragraph 3, the Tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or award on the objection, stating the grounds therefor.

Article X.31: Interim Measures of Protection

A Tribunal may order an interim measure of protection to preserve the rights of a disputing party or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction.

A Tribunal may not order attachment nor may it enjoin the application of the measure alleged to constitute a breach referred to in Article X.22 (Submission of a Claim to Arbitration). For the purposes of this Article, an order includes a recommendation.

Article X.32: Discontinuance

If, following the submission of a claim to arbitration under this Section, the investor fails to take any steps in the proceeding during 180 consecutive days or such periods as the disputing parties may agree, the investor shall be deemed to have withdrawn its claim and to have discontinued the proceedings. The Tribunal, or if no tribunal has been established, the Secretary-General of ICSID shall, at the request of the respondent, and after notice to the disputing parties, in an order take note of the discontinuance. After such an order has been rendered the authority of the tribunal shall lapse.

Article X.33: Transparency of Proceedings

1. The UNCITRAL Transparency Rules shall apply to the disclosure of information to the public concerning disputes under this Section as modified by this Chapter.

2. The request for consultations, the notice requesting a determination of the respondent, the notice of determination of the respondent, the agreement to mediate, the notice of intent to challenge, the decision on an arbitrator challenge and the request for consolidation shall be included in the list of documents referred to in Article 3(1) of the UNCITRAL Transparency Rules.

3. Exhibits shall be included in the list of documents mentioned in Article 3(2) of the UNCITRAL Transparency Rules.

4. Notwithstanding Article 2 of the UNCITRAL Transparency Rules, prior to the constitution of the tribunal, Canada or the European Union as the case may be shall make publicly available in a timely manner relevant documents pursuant to paragraph 2, subject to the redaction of confidential or protected information. Such documents may be made publicly available by communication to the repository.

5. Hearings shall be open to the public. The tribunal shall determine, in consultation with the disputing parties, the appropriate logistical arrangements to facilitate public access to such hearings. Where the tribunal determines that there is a need to protect confidential or protected information, it shall make the appropriate arrangements to hold in private that part of the hearing requiring such protection.

6. Nothing in this Chapter requires a respondent to withhold from the public information required to be disclosed by its laws. The respondent should endeavour to apply such laws in a manner sensitive to protecting from disclosure information that has been designated as confidential or protected information.

Article X.34: Sharing of Information

1. A disputing party may disclose to other persons in connection with proceedings, including witnesses and experts, such unredacted documents as it considers necessary in the course of proceedings under this Section. However, the disputing party shall ensure that those persons protect the confidential or protected information contained in those documents.

2. Nothing in this agreement shall be construed to prevent a respondent from disclosing to officials of, as applicable, the European Union, Member States of the European Union and sub-national governments, such unredacted documents as it considers necessary in the course of proceedings under this Section. However, the respondent shall ensure that those officials protect the confidential or protected information contained in those documents.

Article X.35: The non-disputing Party to the Agreement

1. The respondent shall, within 30 days after receipt or promptly after any dispute concerning confidential or protected information has been resolved, deliver to the non-disputing Party:

   (a) a request for consultations, a notice requesting a determination of the respondent, a notice of determination of the respondent, a claim to arbitration, a request for consolidation, and any other documents that are appended to such documents;

   (b) on request:

      (i) pleadings, memorials, briefs, requests and other submissions made to the tribunal by a disputing party;

      (ii) written submissions made to the tribunal pursuant to Article 4 (Submission by a third person) of the UNCITRAL Transparency Rules;

      (iii) minutes or transcripts of hearings of the tribunal, where available; and

      (iv) orders, awards and decisions of the tribunal.

   (c) on request and at the cost of the non-disputing Party, all or part of the evidence that has been tendered to the Tribunal unless publicly available.

2. The Tribunal shall accept or, after consultation with the disputing parties, may invite, oral or written submissions from the non-disputing Party regarding the interpretation of the Agreement. The non-disputing Party may attend a hearing held under this Section.

3. The Tribunal shall not draw any inference from the absence of a submission pursuant to paragraph 2.

4. The Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on a submission by the non-disputing Party to the Agreement.

Article X.36: Final Award

1. Where a Tribunal makes a final award against the respondent the Tribunal may award, separately or in combination, only:

   (a) monetary damages and any applicable interest;

   (b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages representing the fair market value of the property at the time immediately before the expropriation, or impending expropriation became known, whichever is earlier and any applicable interest in lieu of restitution, determined in a manner consistent with Article X.11 (Expropriation).
   *[**Note to scrub**: subject to final check of the expropriation article]*

2. Subject to paragraphs 1 and 5, where a claim is made under paragraph 1(b) of Article X.22 (Submission of a Claim to Arbitration):

   (a) an award of monetary damages and any applicable interest shall provide that the sum be paid to the locally established enterprise;

   (b) an award of restitution of property shall provide that restitution be made to the locally established enterprise;

   (c) an award of costs in favour of the investor shall provide that it is to be made to the investor; and

   (d) the award shall provide that it is made without prejudice to a right that a person, other than a person which has provided a waiver pursuant to Article X.21 (Procedural and Other Requirements for the Submission of a Claim to Arbitration), may have in monetary damages or property awarded under a Party's domestic law.

3. Monetary damages shall not be greater than the loss suffered by the investor or, as applicable, the locally established enterprise, reduced by any prior damages or compensation already provided. For the calculation of monetary damages, the Tribunal shall also reduce the damages to take into account any restitution of property or repeal or modification of the measure.

4. A Tribunal may not award punitive damages.

5. A tribunal shall order that the costs of arbitration be borne by the unsuccessful disputing party. In exceptional circumstances, a tribunal may apportion costs between the disputing parties if it determines that apportionment is appropriate in the circumstances of the claim. Other reasonable costs, including costs of legal representation and assistance, shall be borne by the unsuccessful disputing party, unless the tribunal determines that such apportionment is unreasonable in the circumstances of the claim. Where only parts of the claims have been

successful the costs shall be adjusted, proportionately, to the number or extent of the successful parts of the claims.

Article X.37: Indemnification or Other Compensation

A respondent shall not assert, and a tribunal shall not accept a defence, counterclaim, right of setoff, or similar assertion, that an investor or, as applicable, the locally established enterprise, has received, or will receive, indemnification or other compensation pursuant to an insurance or guarantee contract in respect of all or part of the compensation sought in a dispute initiated pursuant to this Section.

Article X.38: Fees and Expenses of the Arbitrators

The fees and expenses of the arbitrators pursuant to Regulation 14(1) of the Administrative and Financial Regulations of the ICSID Convention in force on the date of initiation of the arbitration shall apply.

Article X.39: Enforcement of Awards

1. An award issued by a Tribunal pursuant to this Section shall be binding between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall recognize and comply with an award without delay.

3. A disputing party may not seek enforcement of a final award until:

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

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

      (ii) enforcement of the award has been stayed and revision or annulment proceedings have been completed; and

   (b) in the case of a final award under the ICSID Additional Facility Rules the UNCITRAL Arbitration Rules, or any other rules applicable pursuant to Article X. 22(2)(d) (Submission of a Claim to Arbitration):

      (i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award, or
      (ii) enforcement of the award has been stayed and a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.

4. Execution of the award shall be governed by the laws concerning the execution of judgments in force where such execution is sought.

5. A claim that is submitted to arbitration under this Chapter shall be deemed to arise out of a commercial relationship or transaction for the purposes of Article I of the New York Convention.

Article X.40: Role of the Parties to the Agreement

1. No Party shall bring an international claim, in respect of a dispute submitted pursuant to Article X.22 (Submission of a Claim to Arbitration), unless the other Party has failed to abide by and comply with the award rendered in such dispute. This shall not exclude the possibility of dispute settlement under the Dispute Settlement Chapter in respect of a measure of general application even if that measure is alleged to have violated the agreement as regards a specific investment in respect of which a dispute has been initiated pursuant to Article X.22 (Submission of a Claim to Arbitration) and is without prejudice to Article X.35 (The non-disputing Party to the Agreement).

2. Paragraph 1 does not preclude informal exchanges for the sole purpose of facilitating a settlement of the dispute.

Article X.41: Consolidation

1. When two or more claims that have been submitted separately to arbitration under Article X.22 (Submission of a Claim to Arbitration) have a question of law or fact in common and arise out of the same events or circumstances, a disputing party or the disputing parties, jointly, may seek the establishment of a separate Tribunal pursuant to this Article and request that such Tribunal issue a consolidation order.

2. The disputing party seeking a consolidation order shall first deliver a notice to the disputing parties it seeks to be covered by this order.

3. Where the disputing parties which have been notified pursuant to paragraph 2 have reached an agreement on the consolidation order to be sought, they may make a joint request for the establishment of a separate Tribunal and a consolidation order pursuant to this Article. Where the disputing parties which have been notified pursuant to paragraph 2 have not reached agreement on the consolidation order to be sought within 30 days of the notice, a disputing party may make a request for the establishment of a separate Tribunal and a consolidation order pursuant to this Article. The request shall be delivered, in writing, to the Secretary-General of ICSID and to all the disputing parties sought to be covered by the order, and shall specify:

   (a) the names and addresses of the disputing parties sought to be covered by the order;

   (b) the claims, or parts thereof, sought to be covered by the order; and

(c) the grounds for the order sought.

A request for consolidation involving more than one respondent shall require the agreement of all such respondents.

4. The arbitration rules applicable to the proceedings under this Article shall be determined as follows:

   (a) when all of the claims for which a consolidation order is sought have been submitted to arbitration under the same arbitration rules pursuant to Article X.22 (Submission of a Claim to Arbitration), these arbitration rules shall apply;

   (b) when the claims for which a consolidation order is sought have not been submitted to arbitration under the same arbitration rules:

      (i) the investors may collectively agree on the arbitration rules pursuant to paragraph 2 of Article X.22 (Submission of a Claim to Arbitration); or

      (ii) if the investors cannot agree on the arbitration rules within 30 days of the Secretary -General of ICSID receiving the request for consolidation, the UNCITRAL Arbitration Rules shall apply.

5. A Tribunal established under this Article shall comprise three arbitrators: one arbitrator appointed by the respondent, one arbitrator appointed by agreement of the investors, and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties. If the respondent or the investors fail to appoint an arbitrator within 45 days after the Secretary-General of ICSID receives a request for consolidation, or if the disputing parties have not agreed to a presiding arbitrator within 60 days after the Secretary-General of ICSID receives a request for consolidation, a disputing party may request the Secretary-General of ICSID to appoint the arbitrator or arbitrators not yet appointed in accordance with paragraph 3 of Article X.25 (Constitution of the Tribunal).

6. If, after hearing the disputing parties, a Tribunal established under this Article is satisfied that claims submitted to arbitration under Article X.22 (Submission of a Claim to Arbitration) have a question of law or fact in common and arise out of the same events or circumstances, and consolidation would best serve the interests of fair and efficient resolution of the claims including the interest of consistency of arbitral awards, the tribunal may, by order, assume jurisdiction over some or all of the claims, in whole or in part.

7. Where a Tribunal has been established under this Article and has assumed jurisdiction pursuant to paragraph 6, an investor that has submitted a claim to arbitration under Article X.22 (Submission of a Claim to Arbitration) and whose claim has not been consolidated may make a written request to the Tribunal that it be included in such order provided that the request complies with the requirements set out in paragraph 3. The Tribunal shall grant such order where it is satisfied that the conditions of paragraph 6 are met and that granting such a request would not unduly burden or unfairly prejudice the disputing parties or unduly disrupt

the proceedings. Before a Tribunal issues such an order, it shall consult with the disputing parties.

8. On application of a disputing party, a Tribunal established under this Article, pending its decision under paragraph 6, may order that the proceedings of a Tribunal established under Article X.22 (Submission of a Claim to Arbitration) be stayed unless the latter Tribunal has already adjourned its proceedings.

9. A Tribunal established under Article X.22 (Submission of a Claim to Arbitration) shall cede jurisdiction in relation to the claims, or parts thereof, over which a tribunal established under this Article has assumed jurisdiction.

10. The award of the Tribunal established under this Article in relation to those claims, or parts thereof, over which it has assumed jurisdiction shall become binding on the tribunals established pursuant to Article X.22 (Submission of a Claim to Arbitration) as regards those claims, or parts thereof, once the conditions of Article 39(3) (Enforcement of Awards) have been fulfilled.

11. An investor may withdraw a claim from arbitration under this Section that is subject to consolidation and such claim may not be resubmitted to arbitration under Article X.22 (Submission of a Claim to Arbitration). If it does so no later than 15 days after receipt of the notice of consolidation, its earlier submission of the claim to arbitration shall not prevent the investor's recourse to dispute settlement other than under this Chapter.

12. At the request of an investor, the Tribunal established under this Article may take such measures as it sees fit in order to preserve the confidential or protected information of that investor vis-à-vis other investors. Such measures may include the submission of redacted versions of documents containing confidential or protected information to the other investors or arrangements to hold parts of the hearing in private.

Article X.42: Committee

1. The Committee on Services and Investment shall provide a forum for the Parties to consult on issues related to this Section, including:

   (a) difficulties which may arise in the implementation of this Chapter;

   (b) possible improvements of this Chapter, in particular in the light of experience and developments in other international fora; and,

   (c) whether, and if so, under what conditions, an appellate mechanism could be created under the Agreement to review, on points of law**,** awards rendered by a tribunal under this Section, or whether awards rendered under this Section could be subject to such an appellate mechanism developed pursuant to other institutional arrangements. Such consultations shall take into account the following issues, among others:

(i) the nature and composition of an appellate mechanism;

(ii) the applicable scope and standard of review;

(iii)transparency of proceedings of an appellate mechanism;

(iv)the effect of decisions by an appellate mechanism;

(v) the relationship of review by an appellate mechanism to the arbitration rules that may be selected under Article X.22 (Submission of a Claim to Arbitration); and

(vi) the relationship of review by an appellate mechanism to domestic laws and international law on the enforcement of arbitral awards.

2. The Committee shall, on agreement of the Parties, and after completion of the respective legal requirements and procedures of the Parties:

   (a) establish and maintain the list of arbitrators pursuant to Article X.25(3)(Constitution of the Tribunal);

   (b) adopt a code of conduct for arbitrators to be applied in disputes arising out of this Chapter, which may replace or supplement the rules in application**,** and that may address topics including:

      (i) disclosure obligations;

      (ii) the independence and impartiality of arbitrators; and

      (iii)confidentiality.

   The Parties shall make best efforts to ensure that the list of arbitrators is established and the code of conduct adopted no later than the entry into force of the Agreement, and in any event no later than two years after the entry into force of the Agreement.

   *[**Note to scrub**: agreed in principle that the time periods run from provisional application, if any. Drafting to be checked in the light of the general and final provisions of CETA]*

3. The Committee may, on agreement of the Parties, and after completion of the respective legal requirements and procedures of the Parties:

   (a) recommend to the Trade Committee the adoption of interpretations of the agreement pursuant to Article X.27(2) (Applicable Law and Interpretation);

(b) adopt and amend rules supplementing the applicable arbitration rules, and amend the applicable rules on transparency. Such rules and amendments are binding on the members of a Tribunal established under this Section;

(c) adopt rules for mediation for use by disputing parties as referred to in Article X.19 (Mediation); and

(d) recommend to the Trade Committee the adoption of any further elements of the fair and equitable treatment obligation pursuant to Section 5, Article X.9(4) (Treatment of Investors and of Covered Investments).

Article X.43: Exclusion

The dispute settlement provisions of this Section and of Chapter x (Dispute Settlement) do not apply to the matters referred to in Annex X. 43.1 (Exclusions from Dispute Settlement).

Annex X.43.1 - Exclusions from Dispute Settlement

A decision by Canada following a review under the *Investment Canada Act*, with respect to whether or not to permit an investment that is subject to review, is not subject to the dispute settlement provisions under Sections 6 (Investor-to-State Dispute Settlement) of this Chapter, or to Chapter X (Dispute Settlement) of this Agreement. For greater certainty, this exclusion is without prejudice to the right of any Party to have recourse to Chapter X (Dispute Settlement) with respect to the consistency of a measure with a Party's reservations.

Annex X.11: Expropriation

The Parties confirm their shared understanding that:

1. Expropriation may be either direct or indirect:

   (a) direct expropriation occurs when an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure; and

   (b) indirect expropriation occurs where a measure or series of measures of a Party has an effect equivalent to direct expropriation, in that it substantially deprives the investor of the fundamental attributes of property in its investment, including the right to use, enjoy and dispose of its investment, without formal transfer of title or outright seizure.

2. The determination of whether a measure or series of measures of a Party, in a specific fact situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

   (a) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

   (b) the duration of the measure or series of measures by a Party;

   (c) the extent to which the measure or series of measures interferes with distinct, reasonable investment-backed expectations; and

   (d) the character of the measure or series of measures, notably their object, context and intent.

3. For greater certainty, except in the rare circumstance where the impact of the measure or series of measures is so severe in light of its purpose that it appears manifestly excessive, non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriations.

Declaration to Investment Chapter Article X.11 Paragraph 6

Mindful that investor state dispute settlement tribunals are meant to enforce the obligations referred to in Article X.17(1): Scope of a Claim to Arbitration of Chapter x (yyy), and are not an appeal mechanism for the decisions of domestic courts, the Parties recall that the domestic courts of each Party are responsible for the determination of the existence and validity of intellectual property rights. The Parties further recognize that each Party shall be free to determine the appropriate method of implementing the provisions of this Agreement regarding intellectual property within their own legal system and practice. The Parties agree to review the relation between intellectual property rights and investment disciplines within 3 years after entry into force of the agreement or at the request of a Party. Further to this review and to the extent required, the Parties may issue binding interpretations to ensure the proper interpretation of the scope of investment protection under this Agreement in accordance with the provisions of Article X.27: Applicable Law and Rules of Interpretation of Chapter x (Investment)."

Investment

Final 1 August 2014

JOINT DECLARATION

With respect to Article X.15 (Denial of Benefits - Investment), Article Y (Denial of Benefits – CBTS) and Article XX (National Security Exception – Exceptions), the Parties confirm their understanding that measures that are 'related to the maintenance of international peace and security' include the protection of human rights.

11. CROSS-BORDER TRADE IN SERVICES

CHAPTER XX
CROSS-BORDER TRADE IN SERVICES

23 July, 2014

Article X-01: Scope

1. This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other Party, including measures affecting:

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

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

(c) the access to and use of, in connection with the supply of a service, services which are required to be offered to the public generally.

2. This Chapter does not apply to measures affecting:

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

(b) for the European Union, audio-visual services;

(c) for Canada, cultural industries;

(d) financial services as defined in Chapter XX (Financial Services);

(e) air services, related services in support of air services and other services supplied by means of air transport[18], other than;

(i) aircraft repair and maintenance services when an aircraft is withdrawn from service;
(ii) the selling and marketing of air transport services;
(iii) computer reservation system services;
(iv) ground handling services
(v) airport operation services

(f) procurement by a Party for goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of goods and services for

[18] These services include services where an aircraft is being used to carry out specialised activities in sectors including agriculture, construction, photography, surveying, mapping, forestry, observation and patrol, and advertising, where this specialised activity is provided by the person that is responsible for the operation of the aircraft.

commercial sale, whether or not that procurement is "covered procurement" within the meaning of Article II of (Chapter XX - Public procurement); or

(g) subsidies, or government support relating to trade in services, provided by a Party.

Nothing in this Chapter shall affect the Parties' rights and obligations under the Agreement on Air Transport between Canada and the European Community and its Member States.

Nothing in this Chapter shall be construed to impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, or to confer any right on that national with respect to that access or employment.

Article X-02: National Treatment

1. Each Party shall accord to service suppliers and services of the other Party treatment no less favourable than that it accords, in like situations, to its own service suppliers and services.

2. The treatment accorded by a Party under paragraph 1 means, with respect to a government in Canada other than at the federal level, or, with respect to a government of or in a European Member State, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to its own service suppliers and services.

Article X-03: Formal Requirements

Nothing in Article X-02 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes formal requirements in connection with the supply of a service, provided that such requirements are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination. Such measures include requirements:

(a) to obtain a licence, registration, certification or authorisation in order to supply a service or as a membership requirement of a particular profession, such as requiring membership in a professional organisation or participation in collective compensation funds for members of professional organisations;

(b) for a service provider to have a local agent for service or maintain a local address;

(c) to speak the national language or hold a driver's licence;

(d) that a service supplier:

(i) post a bond or other form of financial security;
(ii) establish or contribute to a trust account;
(iii) maintain a particular type and amount of insurance;
(iv) provide other similar guarantees; or

(v) provide access to records.

Article X-04: Most-Favoured-Nation Treatment

1. Each Party shall accord to service suppliers and services of the other Party treatment no less favourable than that it accords, in like situations, to service suppliers and services of a non-Party.

2. For greater certainty, the treatment accorded by a Party under paragraph 1 means, with respect to a government in Canada other than at the federal level, or, with respect to a government of or in a European Member State, the treatment accorded, in like situations, by that government in its territory to services or service suppliers of any third country.

3. The obligations set by paragraph 1 of this provision shall not apply to treatment granted under existing or future measures providing for recognition, including through arrangements or agreements with third parties recognising accreditation of testing and analysis, repair and maintenance services and service suppliers, as well as the certification of the qualifications of or the results or work done by such accredited services and service suppliers.

Article X-05: Market Access

Neither Party may adopt or maintain, either on the basis of its entire territory or on the basis of the territory of a national, provincial, territorial, regional or local level of governments, measures that impose 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;

(c) the total number of service operations or the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test.

Article X-06: Reservations

1. Articles X-02 (National Treatment), X-04 (Most-Favoured-Nation Treatment) and X-05 (Market Access) do not apply to:

(a) any existing non-conforming measure that is maintained by a Party at the level of:

(i) the European Union**,** as set out in its Schedule to Annex I;
(ii) a national government, as set out by that Party in its Schedule to Annex I;

(iii) a provincial, territorial, or regional government, as set out by that Party in its Schedule to Annex I; or
(iv) a local government.

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

(c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles X-02 (National Treatment), X-04 (Most-Favoured-Nation Treatment) and X-05 (Market Access).

2. Articles X-02 (National Treatment), X-04 (Most-Favoured-Nation Treatment) and X-05 (Market Access) do not apply to measures that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

Article X.07: 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) services suppliers of a non-Party own or control the enterprise; and

b) the denying Party adopts or maintains measures with respect to the non-Party that:

i. are related to maintenance of international peace and security[19]; and

ii. prohibit transactions with the enterprise or would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

Note: Parties agree that in order to ensure consistency with the Security Exception Article of the Final Provisions of CETA certain adjustments to this article might be needed.

Article X-08: Definitions

For purposes of this Chapter:

cross-border supply of services is defined as the supply of a service:

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

[19] [CAN: For greater certainty, measures that are "related to the maintenance of international peace and security" include the protection of human rights.]

but does not include the supply of a service in the territory of a Party by a person or an enterprise of the other Party.

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

airport operation services means the operation and/or management, on a fee or contract basis, of airport infrastructure, including terminals, runways, taxiways and aprons, parking facilities, and intra-airport transportation systems.
For greater certainty, Airport Operation Services do not include the ownership of, or investment in, airports or airport lands, or any of the functions carried out by a board of directors.

Airport Operation Services do not include Air Navigation Services.

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

ground handling services means the provision, on a fee or contract basis, of the following services: ground administration and supervision, including load control and communications; passenger handling; baggage handling; cargo and mail handling; ramp handling and aircraft services; fuel and oil handling; aircraft line maintenance, flight operations and crew administration; surface transport; and catering services. Ground handling services do not include security services or the operation or management of centralised airport infrastructure, such as baggage handling systems, de-icing facilities, fuel distribution systems, and intra-airport transport systems.
3.

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

services supplied in the exercise of governmental authority means any service that is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

service supplier means a person that supplies or seeks to supply a service.

ANNEX X

UNDERSTANDING ON NATIONAL TREATMENT WITH RESPECT TO THE CROSS-BORDER PROVISION OF SERVICES

1. The European Union and Canada share the following understanding with respect to the application of Article X (CBTS - National Treatment) to treatment accorded by a provincial or territorial government in Canada, or by a government of or in a European Member State with respect to the cross-border supply of services as defined in Chapter X or the supply of a service by a natural person of a Party in the territory of the other Party.

2. Pursuant to Article X (CBTS - National Treatment), treatment *"no less favourable than the most favourable treatment accorded, in like situations, by that government to its own service suppliers and services"* does not extend to a person of the other Party, or to a service provided by such persons where:

a) in the case of Canada, a provincial or territorial government of Canada accords more favourable treatment to a service supplier which is a person of another provincial or territorial government of Canada, or to a service provided by such a supplier; and

b) in the case of the European Union,

(i) a government of a Member State of the European Union accords more favourable treatment to a service supplier which is a person of another Member State or to a service provided by such a supplier;

(ii) a regional government of a Member State of the European Union accords more favourable treatment to a service supplier which is a person of another regional government of that Member State, or to a service provided by such a supplier; and,

c) such more favourable treatment is accorded pursuant to specific mutual rights and obligations applicable between these governments.

3. For the European Union, paragraph 2 includes in particular treatment accorded pursuant to the Treaty on the Functioning of the European Union on the free movement of persons and services, as well as to treatment accorded by any measure adopted pursuant to that Treaty. A government of or in a European Member State may accord more favourable treatment pursuant to the Treaty to those natural persons who are nationals of another Member State of the European Union, or to enterprises formed in accordance with the law of another Member State of the European Union and having their registered office, central administration or principal place of business within the European Union, and to the services of such suppliers.

4. For Canada, paragraph 2 includes in particular treatment accorded pursuant to the Canadian Agreement on Internal Trade (AIT) as well as to treatment accorded by any measure adopted pursuant to the AIT and from regional agreements on the free movement of persons and services. A provincial or territorial government in Canada may accord a more favourable treatment pursuant to these agreements to those persons who are residents in the territory of a party to the AIT or regional agreement or to enterprises formed in accordance with the law of a party to the

AIT or regional agreement that have their registered office, central administration or principal place of business within Canada, and to the services of such suppliers.

Note for Legal Scrub: references to "provincial, territorial, regional" to reflect outcome on final definitions.

ANNEX X

Understanding on New Services Not Classified in the United Nations Provisional Central Product Classification (CPC), 1991

1. The Parties agree that Chapter x (Domestic Regulation), Article X (CBTS-National Treatment), Article X (CBTS – Market Access), and Article X (CBTS – MFN) do not apply in respect to any measure relating to a new service that cannot be classified in the United Nations Provisional Central Product Classification (CPC), 1991.

2. To the extent possible, each Party shall notify the other Party prior to adopting measures inconsistent with Chapter X (Domestic Regulation), Article X (CBTS-National Treatment), Article X (CBTS – Market Access) and Article X (CBTS – MFN) with respect to a new service, as referred to in paragraph 1.

3. At the request of a Party, the Parties shall enter into negotiations to incorporate the new service into the scope of the Agreement.

4. For greater certainty, paragraph 1 does not apply to an existing service that could be classified in the United Nations Provisional Central Product Classification (CPC), 1991 but that could not previously be provided on a cross-border basis due to lack of technical feasibility.

12. TEMPORARY ENTRY

CHAPTER X

TEMPORARY ENTRY AND STAY OF NATURAL PERSONS FOR BUSINESS PURPOSES

Article 1: Scope

1. This Chapter reflects the preferential trading relationship between the Parties as well as the mutual objective to facilitate trade in services and investment by allowing temporary entry and stay to natural persons for business purposes and through ensuring transparency of the process.

2. This Chapter applies to measures of the Parties concerning the temporary entry and stay into their territories of key personnel, contractual services suppliers, independent professionals and short term business visitors. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

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

4. To the extent that commitments are not taken in this Chapter, all other requirements of the Parties' laws and regulations regarding entry and stay shall continue to apply, including regulations concerning period of stay.

5. Notwithstanding the provisions of this Chapter, all requirements of the Parties' laws and regulations regarding work and social security measures shall continue to apply, including regulations concerning minimum wages as well as collective wage agreements.

6. Commitments on temporary entry and stay of natural persons for business purposes do not apply in cases where the intent or effect of such movement is to interfere with or otherwise affect the outcome of any labour/management dispute or negotiation, or the employment of any natural person who is involved in such dispute.

Article 2: General Obligations

1. Each Party shall allow temporary entry to natural persons for business purposes of the other Party in accordance with this Chapter, who comply with its immigration measures applicable to temporary entry.

2. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 1(1), and, in particular, shall apply those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

3. Any fees for processing applications for temporary entry shall be reasonable and commensurate with the costs incurred.

Article 3: Provision of Information

1. Further to Chapter X (Transparency), and recognizing the importance to the Parties of transparency of temporary entry information, each Party shall, no later than six months after the date of entry into force of this Agreement, make available to the other Party explanatory material regarding the requirements for temporary entry under this Chapter that will enable business persons of the other Party to become acquainted with those requirements.

2. Where a Party collects and maintains data relating to temporary entry by category of business persons under this Chapter, the Party shall make available this data to the other Party on request, in accordance with its domestic law related to privacy and data protection.

Article 4: Contact Points

1. The Parties hereby establish Contact Points:

(a) in the case of Canada:
Director
Temporary Resident Policy
Immigration Branch
Citizenship and Immigration Canada

(b) in the case of the European Commission:
Director
Services and Investment
DG Trade
European Commission

(c) in the case of the EU Member States: contact points list in Appendix D.

or their respective successors.

2. The Contact Points for Canada and the European Commission, and as appropriate the Contact Point(s) for EU Member States, shall exchange information as described in Article 3 and shall meet as required to consider matters pertaining to this Chapter, such as:

   (a) the implementation and administration of this Chapter, including the practice of the Parties in allowing temporary entry;
   (b) the development and adoption of common criteria as well as interpretations for the implementation of the Chapter;
   (c) the development of measures to further facilitate temporary entry of business persons; and
   (d) recommendations to the Joint Committee concerning this Chapter.

Article 5: Obligations in Other Chapters

1. This Agreement does not impose an obligation on a Party regarding its immigration measures, except as specifically identified in this Chapter and in Chapter X [Transparency].
2. Without prejudice to any decision to allow temporary entry to a natural person of the other Party within the terms of this Chapter, including the length of stay permissible pursuant to any such allowance:

   (a) the obligations of Article X-02 (Cross-Border Trade in Services – National Treatment) and Article X-05 (Cross-Border Trade in Services – Market Access), subject to Article X-03 (Cross-Border Trade in Services – Formal Requirements) and Article X-01 (Cross-Border Trade in Services – Scope) but not Article X-01.2(d), are hereby incorporated into and made part of this chapter and apply to the treatment of natural persons for business purposes present in the territory of the other Party under the categories of:

      (i) key personnel, as defined in Article 6 of this Chapter; and

      (ii) contractual services suppliers and independent professionals, as defined in Article 6 of this Chapter, for all sectors listed in Annex I (reservations on CSS and IP);

   (b) the obligation of Article X-04 (Cross-Border Trade in Services – Most-Favoured-Nation Treatment), subject to Article X-03 (Cross-Border Trade in Services – Formal Requirements) and Article X-01 (Cross-Border Trade in Services -- Scope) but not Article X-01.2(d), are hereby incorporated into and made part of this Chapter and apply to treatment of natural persons for business purposes present in the territory of the other Party under the categories of key personnel, contractual services suppliers and

independent professionals, as defined in Article 6 of this Agreement, as well as under the category of Short Term Business Visitors, as defined in Article 9 of this Agreement.

For greater certainty, the above-mentioned obligations apply to the treatment of natural persons for business purposes present in the territory of the Other Party and falling within the relevant categories who are supplying Financial Services, as defined in Chapter X (Financial Services). These obligations do not apply to measures relating to the granting of temporary entry to natural persons of a Party or of a non-Party.

3. Where a Party has set out a reservation in the schedule of commitments in Annex I, II or III, the reservation also constitutes a reservation to the obligations contained in paragraph 2, to the extent that the measure set out in or permitted by the reservation affect the treatment of natural persons for business purposes present in the territory of the other Party.

Article 6: Definitions

1. For the purpose of this Chapter:

(a) 'Natural persons for business purposes' means key personnel, contractual services suppliers, independent professionals and short-term business visitors who are a citizen of a Party.

(b) 'Key personnel' means natural persons employed within an enterprise of one Party and investors who are responsible for the setting-up or the proper control, administration and operation of an enterprise.

'Key personnel' comprises 'business visitors for investment purposes', 'investors' and 'intra-corporate transferees'.

4. 'Business visitors for investment purposes' means natural persons working in a managerial or specialist position who are responsible for setting up an enterprise. They do not engage in direct transactions with the general public and do not receive remuneration from a source located within the host Party.

5. 'Investor' means natural person who establishes, develops or administers the operation of an investment in a capacity that is supervisory or executive, and to which that person or the enterprise employing that person has committed, or is in the process of committing, a substantial amount of capital.

(iii) 'Intra-corporate transferees' means natural persons who have been employed by an enterprise of one Party or have been partners in it for at least one year and who are temporarily transferred to an enterprise (that may be a subsidiary, branch or head company of the former) in the territory of the other Party. The natural person concerned must belong to one of the following categories:

1. Senior Personnel means natural persons working in a senior position within an enterprise who:

(a) primarily direct the management of the enterprise, or direct the enterprise, a department or sub-division thereof; and

(b) exercise wide latitude in decision making, which may include having the authority personally to recruit and dismiss or taking other personnel actions (such as promotion or leave authorizations), and

(i) receive only general supervision or direction principally from higher level executives, the board of directors and/or stockholders of the business or their equivalent, or

(ii) supervise and control the work of other supervisory, professional or managerial employees and exercise discretionary authority over day-to-day operations.

2. Specialists means natural persons working within an enterprise who possess:

(h) uncommon knowledge of the enterprise's products or services and its application in international markets; or

(i) an advanced level of expertise or knowledge of the enterprise's processes and procedures such as its production, research equipment, techniques or management.

In assessing such expertise or knowledge, Parties will consider abilities that are unusual and different from those generally found in a particular industry and that cannot be easily transferred to another individual in the short-term. Those abilities would have been obtained through specific academic qualifications or extensive experience with the enterprise.

3. Graduate trainees means natural persons who:

(j) possess a university degree; and
(k) are temporarily transferred to an enterprise in the territory of the other Party for career development purposes, or to obtain training in business techniques or methods.

(c) 'Contractual services suppliers' means natural persons employed by an enterprise of one Party which has no establishment in the territory of the other Party and which has concluded a *bona fide* contract (other than through an agency as defined by CPC 872) to supply services with a consumer in the latter Party requiring the presence on a

temporary basis of its employees in that Party in order to fulfil the contract to provide services.

(c) 'Independent professionals' means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have no establishment in the territory of the other Party and who have concluded a *bona fide* contract (other than through an agency as defined by CPC 872) to supply services with a consumer in the latter Party requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services.

Article 7: Key Personnel

3. Each Party shall allow the temporary entry and stay of key personnel of the other Party subject to the reservations and exceptions listed in Appendix B.

2. A Party may not maintain or adopt limitations on the total number of key personnel of the other Party allowed temporary entry, in the form of a numerical restriction or an economic needs test.

3. Each Party shall allow the temporary entry of business visitors for investment purposes without requiring a work permit or other prior approval procedures of similar intent.

4. Each Party shall allow the employment in its territory of intra-corporate transferees and investors of the other Party.

5. The permissible length of stay of key personnel shall be as follows:

a) Intra-corporate Transferees (specialists and senior personnel) – the lesser of 3 years or the length of the contract, with a possible extension of up to 18 months at the discretion of the Party[20];

b) Intra-corporate Transferees (graduate trainees) – the lesser of 1 year or the length of the contract;

c) Investors – 1 year, with possible extensions at the discretion of the Party;

d) Business Visitors for investment Purposes – 90 days within any six month period[21].

[20] The length of stay permitted under this Chapter may not be taken into consideration in the context of an application for citizenship in a Member State of the European Union.

[21] This is without prejudice to the rights granted to Canada under bilateral visa waivers by EU Member States.

Article 8:
Contractual Services Suppliers and Independent Professionals

1. In accordance with Annex I, each Party shall allow the temporary entry and stay of contractual services suppliers of the other Party, subject to the following conditions:

   (a) The natural persons must be engaged in the supply of a service on a temporary basis as employees of an enterprise, which has obtained a service contract for a period not exceeding twelve months. If the service contract is longer than 12 months, the commitments in this chapter shall only apply for the initial 12 months of the contract.

   (b) The natural persons entering the other Party must be offering such services as an employee of the enterprise supplying the services for at least the year immediately preceding the date of submission of an application for entry into the other Party. In addition, the natural persons must possess, at the date of submission of an application for entry into the other Party, at least three years professional experience[22] in the sector of activity which is the subject of the contract.

   (c) The natural persons entering the other Party must possess (i) a university degree or a qualification demonstrating knowledge of an equivalent level[23] and (ii) professional qualifications where this is required to exercise an activity pursuant to the law, regulations or other requirements of the Party, where the service is supplied.

   (d) The natural person shall not receive remuneration for the provision of services other than the remuneration paid by the enterprise employing the contractual service supplier during their stay in the territory of the other Party.

   (e) Access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract. Entitlement to utilize the professional title of the Party where the service is provided may be granted, as required, by the Relevant Authority (as defined in Chapter […] Mutual Recognition of Professional Qualifications), through a Mutual Recognition Agreement or otherwise.

   (f) The service contract shall comply with the laws, regulations and other legal requirements of the Party where the contract is executed.

2. In accordance with Annex I, each Party shall allow the temporary entry and stay of independent professionals of the other Party, subject to the following conditions:

   (a) The natural persons must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party and must have

[22] Obtained after having reached the age of majority.

[23] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory. For the purposes of assessing such equivalence, the provisions of Appendix C, subject to reservations in Annex I, shall apply.

obtained a service contract for a period not exceeding twelve months. If the service contract is longer than 12 months, the commitments in this chapter shall only apply for the initial 12 months of the contract.

(b) The natural persons entering the other Party must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract.

(c) The natural persons entering the other Party must possess (i) a university degree or a qualification demonstrating knowledge of an equivalent level[24] and ii) professional qualifications where this is required to exercise an activity pursuant to the law, regulations or other requirements of the Party, where the service is supplied.

(d) Access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract. Entitlement to utilize the professional title of the Party where the service is provided may be granted, as required, by the Relevant Authority (as defined in Chapter […] Mutual Recognition of Professional Qualifications), through a Mutual Recognition Agreement or otherwise.

(e) The service contract shall comply with the laws, regulations and other legal requirements of the Party where the contract is executed

3. Unless otherwise specified in Annex I, a Party may not maintain or adopt limitations on the total number of contract service suppliers and independent professionals of the other Party allowed temporary entry, in the form of numerical restrictions or an economic needs test.

4. The length of stay of contractual services suppliers and independent professionals shall be for a cumulative period of not more than twelve months, with extensions possible at the discretion of the Party, in any twenty-four month period or for the duration of the contract, whichever is less.

Article 9: Short-Term Business Visitors

6. In accordance with Appendix B, each Party shall allow the temporary entry and stay of short-term business visitors of the other Party, with a view to carrying out the activities listed in Appendix D, subject to the following conditions:

(a) they are not engaged in selling their goods or services to the general public;

[24] Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory. For the purposes of assessing such equivalence, the provisions of Appendix C, subject to reservations in Annex I, shall apply.

(b) they do not on their own behalf receive remuneration from a source located within the Party where they are staying temporarily; and

(c) they are not engaged in the supply of a service in the framework of a contract concluded between an enterprise who has no commercial presence in the territory of the Party where the short-term visitors for business purposes are staying temporarily, and a consumer there, except as provided in Appendix D.

2. Each Party shall allow temporary entry of short-term business visitors without the requirement of a work permit or other prior approval procedures of similar intent.

3. The maximum length of stay of short term business visitors shall be 90 days in any six-month period[25].

Article 10: Review of commitments

Within five years following the entry into force of this Agreement, the parties will consider updating their respective commitments under articles 7, 8 and 9 of this Chapter.

[25] This is without prejudice to the rights granted under bilateral visa waivers by EU Member States.

Appendix A - EU Member States' List of contact points

AT

For residence and visa issues:

Department III/4 - Residence, Civil Status and Citizenship Matters

Federal Ministry of the Interior

For labour market issues:

EU labour market laws and international affairs of labour market laws

Federal Ministry for Labour, Social Affairs and Consumer Protection

BE

Direction générale Potentiel économique

Politique Commerciale

BG

Director of "International labour migration and mediation"

Employment Agency

CY

Director of Civil Registry and Migration Department

Ministry of Interior

CZ

Ministry of Industry and Trade

Department of Common Trade Policy and International Economic Organisations

DE

CETA Advisor

Canadian German Chamber of Industry and Commerce Inc.

DK

Danish Agency for Labour Market and Recruitment

Ministry of Employment

EE

Head of Migration- and Border Policy Department

Estonian Ministry of the Interior

EL

Directorate for Justice, Home Affairs & Schengen issues

Ministry of Foreign Affairs

ES

Ministry of Employment and Social Security

FI

Immigration Unit, Section for employed persons

Finnish Immigration Service

FR

Direction générale des étrangers en France (DGEF).

Ministère de l'Intérieur

HR

Head of Trade Policy Department

Ministry of Foreign and European Affairs

HU

Department for Trade Policy and Global Economy

Ministry of Foreign Affairs

IE

Immigration and Citizenship Policy Division

Irish Naturalisation & Immigration Service

IT

DG Trade Policy

Ministry for Economic Development

LT

International Economic Organizations Division

External Economic Relations Department

Ministry of Foreign Affairs of the Republic of Lithuania

LU

Bureau des Passeports, Visas et Légalisations

Ministry of Foreign Affairs

LV

Office of Citizenship and Migration Affairs of Latvia

MT

Director Citizenship and Expatriate Affairs

Citizenship and Expatriate Affairs Department

Ministry for Home Affairs & National Security

NL

Directorate General for Foreign Economic Relations

Ministry of Foreign Affairs

PT

Directorate General for Consular Affairs and Portuguese Communities

Ministry of Foreign Affairs

PL

Department of Trade Policy

Ministry of Economy

RO

Unit for Residence/Staying UE, SEE Citizens and Third Country – Migration Directorate

General Inspectorate for Immigration (GII)

SE

National Board of trade

Ministry of Justice, Division for Migration and Asylum Policy

SI

Migration Policy and Legislation Division

Migration Office

Internal Administrative Affairs, Migration and Naturalization Directorate

Ministry of the Interior

SK

Aliens Police Department

Bureau of Border and Aliens Police of Presidium of the Police Force

Trade Policy Department

Ministry of Economy

UK

Head of Migration Policy

Immigration and Border Policy Directorate

Home Office

Appendix B – Member-State Specific Reservations and Exceptions for Key Personnel and Short-Term Business Visitors

Article 7 (Key Personnel) or Article 9 (Short-Term Business Visitors) do not apply to any existing non-conforming measure listed in this Appendix, to the extent of the non-conformity. Listed measures may be maintained, continued, promptly renewed or amended, subject to the requirement that the amendment does not decrease the conformity of the measure with the obligations of Articles 7 or 9, as it existed immediately before the amendment[26].

Business visitors for investment purposes

All sectors	**AT:** Business visitor needs to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound. **CZ**: Business visitor for investment purposes needs to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound. **SK**: Business visitor for investment purposes needs to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound. Work permit required, including economic needs test. **UK:** Permissible length of stay: up to 90 days in any twelve month period. Business visitor needs to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound.

Investors

All sectors	**AT**: Economic needs test. **CZ, SK**: Work permit, including economic needs test, required in case of investors employed by an enterprise. **DK**: Maximum stay of 90 days within any six month period. If investors wish to establish a business in Denmark as self-employed, a work permit is required. **FI**: Investors need to be employed by an enterprise other than a non-profit organisation, in a position of middle/top management. **HU**: Maximum length of stay 90 days in case the investor is not employed by an enterprise in Hungary. Economic Need Test required in case the investor is employed by an enterprise in Hungary. **IT**: Economic needs test required in case the investor is not employed by an enterprise. **LT, NL, PL**: the category of investors is not recognised with regard to natural persons representing the investor.

[26] Paragraph does not apply to UK reservations.

	LV: For pre-investment phase maximum length of stay is limited to 90 days within any six months period. Extension in post-investment phase to 1 year, subject to criteria in national legislation such as field and amount of investment made. **UK**: The category of investors is not recognised: Unbound.

Intra-corporate Transferees (specialists and senior personnel)

All sectors	**BG**: The number of foreign natural persons employed within a Bulgarian enterprise may not exceed 10 percent of the average annual number of citizens of the European Union employed by the respective Bulgarian enterpriseA. Where less than 100 persons are employed, the number may, subject to authorisation, exceed 10 percent. **AT, CZ, SK, UK**: ICT needs to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound. **FI**: Senior personnel needs to be employed by an enterprise other than a non-profit organisation. **HU**: Natural persons who have been a partner in an enterprise do not qualify to be transferred as intra-corporate transferees.

Intra-corporate Transferees (graduate trainees)

All sectors	**AT, CZ, FR, DE, ES, HU, SK**: The training which is to be delivered as a result of the transfer of a graduate trainee to an enterprise must be linked to the university degree which has been obtained by the graduate trainee. **BG, HU**: Economic needs test. **CZ, FI, SK, UK**: Graduate trainee needs to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound.

Short Term Business Visitors

All activities in Appendix D	**DK, HR:** Work permit, including economic needs test, required in case the Short term business visitor provides a service in the territory of Denmark or Croatia, respectively. **LV**: Work permit required for operations/activities to be performed on the basis of a contract. **SK:** In case of providing a service in the territory of Slovakia, a work permit, including economic needs test, is required beyond 7 days in a month or 30 days in calendar year. **UK**: The category of short term business visitors is not recognised: Unbound.

Research and Design	**AT:** Work permit, including economic needs test, required, except for research activities of scientific and statistical researchers. **NL:** Work permit required, including economic needs test.
Marketing research	**AT:** Work permit required, including economic needs test. Economic needs test is waived for research and analysis activities for up to 7 days in a month or 30 days in a calendar year. University degree required. **NL:** Work permit required, including economic needs test.
Trade Fairs and Exhibitions	**AT:** Work permit, including economic needs test, required for activities beyond 7 days in a month or 30 days in a calendar year.
After-Sales or After-Lease Service	**AT:** Work permit required, including economic needs test. Economic needs test is waived for persons training workers to perform services and possessing uncommon knowledge. **CZ**: Work permit is required beyond 7 days in a month or 30 days in calendar year. **FI:** Depending on the activity, a residence permit may be required. **SE:** Work permit required, except for (i) people who participate in training, testing, preparation or completion of deliveries, or similar activities within the framework of a business transaction, or (ii) fitters or technical instructors in connection with urgent installation or repair of machinery for up to two months, in the context of an emergency. No economic needs test performed.
Commercial Transactions	**AT**: Work permit, including economic needs test, required for activities beyond 7 days in a month or 30 days in a calendar year. **FI**: The person needs to be providing services as an employee of an enterprise located in the territory of the other Party. **NL:** Work permit required, including economic needs test.
Tourism personnel	**NL**: Work permit required, including economic needs test. **FI**: The person needs to be providing services as an employee of an enterprise located in the territory of the other Party. **PL:** Unbound. **SE:** Work permit required, except for drivers and staff of tourist buses. No economic needs test performed.
Translation and Interpretation	**AT, NL**: Work permit required, including economic needs test. **PL:** Unbound.

Appendix C - Equivalent Qualifications for Engineering Technologists and Scientific Technologists

For the purpose of this agreement:

For engineering technologists (CPC* 8672, 8673), completion of a 3 year post-secondary degree from an officially recognized institution in engineering technology shall be considered equivalent to a university degree.

For scientific technologists (CPC* 881, 8671, 8674, 8676, 851, 852, 853, 8675, 883), completion of a 3 year post-secondary degree from an officially recognized institution in the disciplines of agriculture, architecture, biology, chemistry, physics, forestry, geology, geophysics, mining and energy shall be considered equivalent to a university degree.

Appendix D - Short-Term Business Visitors' activities

(a) **Meetings and Consultations:** Natural persons attending meetings or conferences, or engaged in consultations with business associates;

(b) **Research and Design**: Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of the other Party;

(c) **Marketing research:** Market researchers and analysts conducting research or analysis for an enterprise located in the territory of the other Party

(d) **Training seminars:** Personnel of an enterprise who enter the territory of the other Party to receive training in techniques and work practices employed by companies or organisations in that Party, provided that the training received is confined to observation, familiarisation and classroom instruction only;

(e) **Trade Fairs and Exhibitions:** Personnel attending a trade fair for the purpose of promoting their company or its products or services;

(f) **Sales:** Representatives of a service or goods supplier taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves. They do not engage in making direct sales to the general public.

(g) **Purchasing:** Buyers purchasing goods or services for an enterprise, or management and supervisory personnel, engaging in a commercial transaction carried out in the territory of the other Party;

(h) **After-Sales or After-Lease Service**

Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

(i) **Commercial Transactions**

Management and supervisory personnel and financial services personnel (insurers, bankers, or investment brokers) engaging in a commercial transaction for an enterprise located in the territory of the other Party.

(j) **Tourism personnel**

Tour and travel agents, tour guides or tour operators attending or participating in conventions or accompanying a tour that has begun in the territory of the other Party.

(k) **Translation and Interpretation**

Translators or interpreters performing services as employees of an enterprise located in the territory of another Party.

Annex I

SECTORAL COMMITMENTS ON CONTRACTUAL SERVICES SUPPLIERS AND INDEPENDENT PROFESSIONALS

1. The Parties shall allow the supply of services into their territories by contractual service suppliers and independent professionals of the other Party through the presence of natural persons, in accordance with Article 8 (Contractual Service Suppliers and Independent Professionals) of Chapter […] (Temporary Entry and Stayof Natural Persons for Business Purposes), for the sectors listed below, and subject to the relevant limitations.

2. The list of reservations is composed of the following elements:

(a) the first column indicating the sector or sub-sector in which reservations apply; and

(b) the second column describing the applicable limitations.

3. In identifying individual sectors and sub-sectors:

(a) **CPC** means the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, Series M, N° 77, *CPC prov*, 1991; and

(b) **CPC ver. 1.0** means the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, Series M, N° 77, *CPC ver 1.0*, 1998.

4. For Canada, sectoral commitments shall apply to occupations listed under level "0" and "A" of Canada's National Occupational Classification (NOC).

5. The list of reservations below does not include measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures, when they do not constitute a limitation within the meaning of Article 8 (Contractual Service Suppliers and Independent Professionals) of Chapter […] (Temporary Entry and Stay of Natural Persons for Business Purposes). Those measures (e.g. need to obtain a licence, need to obtain recognition of qualifications in regulated sectors, and need to pass specific examinations, including language examinations), even if not listed below, apply in any case to contractual service suppliers and independent professionals of the Parties.

6. For the EU, in the sectors where economic needs tests are applied, their main criteria will be the assessment of the relevant market situation in the Member State of the European Union or

the region where the service is to be provided, including with respect to the number of, and the impact on, existing services suppliers.

7. The EU takes commitments with respect to Article 8 differentiated by its Member States, as set out in the list of reservations.

8. The rights and obligations arising from this annex shall have no self-executing effect and thus confer no rights directly on natural or juridical persons.

9. The following abbreviations are used in the list below:

AT	Austria
BE	Belgium
BG	Bulgaria
CY	Cyprus
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
ES	Spain
EU	European Union, including all its Member States
FI	Finland
FR	France
EL	Greece
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LV	Latvia
LT	Lithuania
LU	Luxembourg
MT	Malta
NL	The Netherlands
PL	Poland
PT	Portugal
RO	Romania
SK	Slovak Republic
SI	Slovenia
SE	Sweden
UK	United Kingdom
CAN	Canada

The obligations of Article 8.1 apply to the following sectors or sub-sectors:

1) *Legal advisory services in respect of international public law and foreign law (i.e. non-EU law)*
2) *Accounting and bookkeeping services*
3) *Taxation advisory services*
4) *Architectural services and urban planning and landscape architecture services*
5) *Engineering services and integrated engineering services*
6) *Medical and dental services*
7) *Veterinary services*
8) *Midwives services*
9) *Services provided by nurses, physiotherapists and paramedical personnel*
10) *Computer and related services*
11) *Research and development services*
12) *Advertising services*
13) *Market research and opinion polling*
14) *Management consulting services*
15) *Services related to management consulting*
16) *Technical testing and analysis services*
17) *Related scientific and technical consulting services*
18) *Mining*
19) *Maintenance and repair of vessels*
20) *Maintenance and repair of rail transport equipment*
21) *Maintenance and repair of motor vehicles, motorcycles, snowmobiles and road transport equipment*
22) *Maintenance and repair of aircrafts and parts thereof*
23) *Maintenance and repair of metal products, of (non-office) machinery, of (non-transport and non-office) equipment and of personal and household goods*
24) *Translation and interpretation services*
25) *Telecommunication services*
26) *Postal and courier services*
27) *Construction and related engineering services*
28) *Site investigation work*

29) *Higher education services*
30) *Services Relating to Agriculture, Hunting and Forestry*
31) *Environmental services*
32) *Insurance and insurance related services advisory and consulting services*
33) *Other financial services advisory and consulting services*
34) *Transport advisory and consulting services*
35) *Travel agencies and tour operators' services*
36) *Tourist guides services*
37) *Manufacturing advisory and consulting services*

The obligations of Article 8.2 apply to the following sectors or sub-sectors:

1) *Legal advisory services in respect of international public law and foreign law (i.e. non-EU law)*
2) *Architectural services and urban planning and landscape architecture services*
3) *Engineering services and integrated engineering services*
4) *Computer and related services*
5) *Research and development services*
6) *Market research and opinion polling*
7) *Management consulting services*
8) *Services related to management consulting*
9) *Mining*
10) *Translation and interpretation services*
11) *Telecommunication services*
12) *Postal and courier services*
13) *Higher education services*
14) *Insurance related services advisory and consulting services*
15) *Other financial services advisory and consulting services*
16) *Transport advisory and consulting services*
17) *Manufacturing advisory and consulting services*

List of reservations

Sector or sub-sector	Description of reservations
EU - ALL SECTORS	**Length of stay** In **AT, UK:** Maximum stay for CSS and IP shall be for a cumulative period of not more than 6 months in any 12 month period or for the duration of the contract, whichever is less. In **LT**: Maximum stay for CSS and IP shall be for a period of 6 months renewable once for an additional period of 6 months, or for the duration of the contract, whichever is less. In **BE, CZ, MT, PT**: Maximum stay for CSS and IP shall be for a period of not more than 12 consecutive months or for the duration of the contract, whichever is less. **Technologists** Appendix C applies to the **EU** with the exception of: **AT**, **DE, EL, ES, HU, IT, LT, NL, PT, SK, UK**. In **CY**: Appendix C applies only with regard to technologists active in sub-sectors CPC 8676, 851, 852, 853, 883. In **FI**: Economic needs test. In **FR:** Appendix C applies only with regard to technologists active in sub-sector CPC 86721. In **PL**: Technologist must possess as a minimum a degree equivalent to bachelor's degree.
CAN – ALL SECTORS	**Technologists** **CAN**: Appendix C applies.
Legal advisory services in respect of public international law and foreign law (i.e. non-domestic law) (part of CPC 861)	CSS: In **AT, BE, CY, DE, EE, EL, ES, FR, HR, IE, IT, LU, NL, PL, PT, SE, UK**: None. In **BG, CZ, DK, FI, HU, LT, LV, MT, RO, SI, SK**: Economic needs test. **CAN:** None. IP: In **AT, CY, DE, EE, FR, HR, IE, LU, LV, NL, PL, PT, SE, UK**: None. In **BE, BG, CZ, DK, EL, ES, FI, HU, IT, LT, MT, RO, SI, SK**: Economic needs tests.

Sector or sub-sector	Description of reservations
	CAN: None.
Accounting and bookkeeping services (CPC 86212 other than "auditing services", CPC 86213, CPC 86219 and CPC 86220)	CSS: In **AT, BE, CY, DE, EE, ES, HR, IE, IT, LU, NL, PL, PT, SI, SE, UK**: None. In **BG, CZ, DK, EL, FI, FR, HU, LT, LV, MT, RO, SK**: Economic needs test. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Taxation advisory services (CPC 863) [27]	CSS: In **AT, BE, CY, DE, EE, ES, FR, HR, IE, IT, LU, NL, PL, SI, SE, UK**: None. In **BG, CZ, DK, EL, FI, HU, LT, LV, MT, RO, SK**: Economic needs test. In **PT**: Unbound. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Architectural services and **Urban planning and landscape architectural services** (CPC 8671 and CPC 8674)	CSS: In **BE, CY, EE, ES, EL, FR, HR, IE, IT, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **FI**: None, except: The natural person must demonstrate that (s)he possesses special knowledge relevant to the service being supplied. In **BG, CZ, DE, HU, LT, LV, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. In **AT**: Urban planning services only, where: Economic needs test.

[27] Does not include legal advisory and legal representational services on tax matters, which are to be found under legal advisory services in respect of public international law and foreign law.

Sector or sub-sector	Description of reservations
	CAN: None. IP: In **CY, DE, EE, EL, FR, HR, IE, LU, LV, MT, NL, PL, PT, SI, SE, UK**: None. In **FI**: None, except: The natural person must demonstrate that (s)he possesses special knowledge relevant to the service being supplied. In **BE, BG, CZ, DK, ES, HU, IT, LT, RO, SK**: Economic needs test. In **AT**: Urban planning services only, where: Economic needs test. **CAN**: None.
Engineering services and **Integrated engineering services** (CPC 8672 and CPC 8673)	CSS: In **BE, CY, EE, ES, EL, FR, HR, IE, IT, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **FI**: None, except: The natural person must demonstrate that (s)he possesses special knowledge relevant to the service being supplied. In **BG, CZ, DE, LT, LV, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. In **AT**: Planning services only, where: Economic needs test. In **HU**: Economic needs test. **CAN**: None. IP: In **CY, DE, EE, EL, FR, HR, IE, LU, LV, MT, NL, PL, PT, SI, SE, UK**: None. In **FI**: None, except: The natural person must demonstrate that (s)he possesses special knowledge relevant to the service being supplied. In **BE**, **BG, CZ, DK, ES, IT, LT, RO, SK**: Economic needs test. In **AT**: Planning services only, where: Economic needs test. In **HU**: Economic needs test. **CAN**: None.
Medical (including psychologists) and dental services (CPC 9312 and part of CPC 85201)	CSS: In **SE**: None. In **CY, CZ, DE, DK, EE, ES, IE, IT, LU, MT, NL, PL, PT, RO, SI**: Economic needs test.

Sector or sub-sector	Description of reservations
	In **FR**: Economic needs test except for psychologists, where: unbound. In **AT**: Unbound except for psychologists and dental services, where: Economic needs test. In **BE, BG, EL, FI, HR, HU, LT, LV, SK, UK**: Unbound. **CAN**: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Veterinary services (CPC 932)	CSS: In **SE**: None. In **CY, CZ, DE, DK, EE, EL, ES, FI, FR, IE, IT, LT, LU, MT, NL, PL, PT, RO, SI**: Economic needs test. In **AT, BE, BG, HR, HU, LV, SK, UK**: Unbound. **CAN**: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Midwives services (part of CPC 93191)	CSS: In **SE:** None. In **AT, CY, CZ, DE, DK, EE, EL, ES, FR, IE, IT, LT, LV, LU, MT, NL, PL, PT, RO, SI:** Economic needs test. In **BE, BG, FI, HR, HU, SK, UK**: Unbound. **CAN**: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Services provided by nurses, physiotherapists and paramedical personnel (part of CPC 93191)	CSS:

Sector or sub-sector	Description of reservations
	In **SE**: None. In **AT, CY, CZ, DE, DK, EE, EL, ES, FR, IE, IT, LT, LV, LU, MT, NL, PL, PT, RO, SI**: Economic needs test. In **BE, BG, FI, HR, HU, SK, UK**: Unbound. **CAN**: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Computer and related services (CPC 84)	CSS: In **BE, CY, DE, EE, EL, ES, FR, HR, IE, IT, LU, LV, MT, NL, PL, PT, SI, SE, UK:** None. In **FI**: None, except: The natural person must demonstrate that (s)he possesses special knowledge relevant to the service being supplied. In **AT, BG, CZ, HU, LT, RO, SK:** Economic needs test. In **DK:** Economic needs test except for CSS stays of up to three months. **CAN**: None. IP: In **CY, DE, EE, EL, FR, IE, LU, LV, MT, NL, PL, PT, SI, SE, UK:** None. In **FI**: None, except: The natural person must demonstrate that (s)he possesses special knowledge relevant to the service being supplied. In **AT, BE, BG, CZ, DK, ES, HU, IT, LT, RO, SK:** Economic needs test. In **HR**: Unbound. **CAN**: None.
Research and development Services (CPC 851, 852 excluding psychologists services[28], 853)	CSS: **EU except in SE**: A hosting agreement with an approved research organisation is required[29]. **EU** except in **CZ, DK, SK**: None In **CZ, DK, SK**: Economic needs test.

[28] Part of CPC 85201, which is to be found under medical and dental services.

[29] For all Member States except UK and DK, the approval of the research organisation and the hosting agreement have to meet the conditions set pursuant to EU Directive 2005/71/EC.

Sector or sub-sector	Description of reservations
	CAN: None. IP: **EU except in SE**: A hosting agreement with an approved research organisation is required[30]. **EU** except in **BE, CZ, DK, IT, SK:** None In **BE, CZ, DK, IT, SK:** Economic needs test. **CAN**: None.
Advertising (CPC 871)	CSS: In **BE, CY, DE, EE, ES, FR, HR, IE, IT, LU, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DK, EL, FI, HU, LT, LV, MT, RO, SK**: Economic needs test. **CAN:** None. IP: **EU:** Unbound. **CAN:** Unbound.
Market research and opinion polling (CPC 864)	CSS: In **BE, CY, DE, EE, ES, FR, IE, IT, LU, NL, PL, SE, UK**: None. In **AT, BG, CZ, DK, EL, FI, HR, LV, MT, RO, SI, SK**: Economic needs test. In **PT**: None except for public opinion polling services (CPC 86402), where: Unbound. In **HU, LT**: Economic needs test except for public opinion polling services (CPC 86402), where: Unbound. **CAN**: None. IP: In **CY, DE, EE, FR, IE, LU, NL, PL, SE, UK**: None. In **AT, BE, BG, CZ, DK, EL, ES, FI, HR, IT, LV, MT, RO, SI, SK**: Economic needs test.

[30] For all Member States except UK and DK, the approval of the research organisation and the hosting agreement have to meet the conditions set pursuant to EU Directive 2005/71/EC.

Sector or sub-sector	Description of reservations
	In **PT**: None except for public opinion polling services (CPC 86402), where: Unbound. In **HU, LT**: Economic needs test except for public opinion polling services (CPC 86402), where: Unbound. **CAN**: None.
Management consulting services (CPC 865)	CSS: In **BE, CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, HU, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None. IP: In **CY, DE, EE, EL, FI, FR, IE, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, HR, HU, IT, LT, RO, SK**: Economic needs test. **CAN**: None.
Services related to management consulting (CPC 866)	CSS: In **BE, CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. In **HU**: Economic needs test, except for arbitration and conciliation services (CPC 86602), where: Unbound. **CAN**: None. IP: In **CY, DE, EE, EL, FI, FR, IE, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, HR, IT, LT, RO, SK**: Economic needs test In **HU**: Economic needs test, except for arbitration and conciliation services (CPC 86602), where: Unbound. **CAN**: None.

Sector or sub-sector	Description of reservations
Technical testing and analysis services (CPC 8676)	CSS: In **BE, CY, DE, EE, EL, ES, FR, HR, IE, IT, LU, NL, PL, SI, SE, UK**: None. In **AT, BG, CZ, FI, HU, LT, LV, MT, PT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Related scientific and technical consulting services (CPC 8675)	CSS: In **BE, CY, EE, EL, ES, HR, IE, IT, LU, NL, PL, SI, SE, UK**: None. In **AT, CZ, DE, DK, FI, HU, LT, LV, MT, PT, RO, SK**: Economic needs test. In **DE**: None, except for publicly appointed surveyors, where: Unbound. In **FR**: None, except for "surveying" operations relating to the establishment of property rights and to land law, where: Unbound. In **BG**: Unbound. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Mining (CPC 883, advisory and consulting services only)	CSS: In **BE, CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, HU, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None. IP:

Sector or sub-sector	Description of reservations
	In **CY, DE, EE, EL, FI, FR, HR, IE, LV, LU, MT, NL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, HU, IT, LT, PL, RO, SK**: Economic needs test. **CAN**: None.
Maintenance and repair of vessels (part of CPC 8868)	CSS: In **BE, CY, EE, EL, ES, FR, HR, IT, LV, LU, NL, PL, PT, SI, SE, UK**: None In **AT, BG, CZ, DE, DK, FI, HU, IE, LT, MT, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Maintenance and repair of rail transport equipment (part of CPC 8868)	CSS: In **BE, CY, EE, EL, ES, FR, HR, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DE, DK, FI, HU, IE, LT, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Maintenance and repair of motor vehicles, motorcycles, snowmobiles and road transport equipment (CPC 6112, CPC 6122, part of CPC 8867 and part of CPC 8868)	CSS: In **BE, CY, EE, EL, ES, FR, HR, IT, LV, LU, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DE, DK, FI, HU, IE, LT, MT, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound.

Sector or sub-sector	Description of reservations
	IP: **EU:** Unbound. **CAN:** Unbound.
Maintenance and repair of aircraft and parts thereof (part of CPC 8868)	CSS: In **BE, CY, EE, EL, ES, FR, HR, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DE, DK, FI, HU, IE, LT, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Maintenance and repair of metal products, of (non office) machinery, of (non transport and non office) equipment and of personal and household goods [31] (CPC 633, CPC 7545, CPC 8861, CPC 8862, CPC 8864, CPC 8865 and CPC 8866)	CSS: In **BE, CY, EE, EL, ES, FR, HR, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DE, DK, HU, IE, LT, RO, SK**: Economic needs test. In **FI**: Unbound, except in the context of an after-sales or after-lease contract, where: the length of stay is limited to six months; for maintenance and repair of personal and household goods (CPC 633): Economic needs test. **CAN**: None, except for Managers in Utilities, where: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Translation and interpretation Services (CPC 87905, excluding official or certified activities)	CSS: In **BE, CY, DE, EE, EL, ES, FR, HR, IT, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DK, FI, HU, IE, LT, LV, RO, SK**: Economic needs test.

[31] Maintenance and repair services of office machinery and equipment including computers (CPC 845) are to be found under computer services.

Sector or sub-sector	Description of reservations
	CAN: None. IP: In **CY, DE, EE, FR, LU, LV, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, EL, ES, FI, HU, IE, IT, LT, RO, SK**: Economic needs test. In **HR**: Unbound. **CAN**: None.
Telecommunication services (CPC 7544, advisory and consulting services only)	CSS: In **BE, CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, HU, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None, except for Managers, where: Unbound. IP: In **CY, DE, EE, EL, FI, FR, HR, IE, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, HU, IT, LT, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound.
Postal and courier services (CPC 751, advisory and consulting services only)	CSS: In BE, **CY, DE, EE, EL, ES, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, FI, HU, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None, except for Managers, where: Unbound. IP: In **CY, DE, EE, EL, FR, HR, IE, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, FI, HU, IT, LT, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound.

Sector or sub-sector	Description of reservations
Construction and related engineering services CPC 511, 512, 513, 514, 515, 516, 517, 518. BG: CPC 512, 5131, 5132, 5135, 514, 5161, 5162, 51641, 51643, 51644, 5165, 517.	CSS: **EU:** Unbound except in **BE, CZ, DK, ES, FR, NL** and **SE**. In **BE, DK, ES, NL, SE:** None. In **CZ**: Economic needs test. In **FR**: Unbound except for technicians, where: the work permit is delivered for a period not exceeding six months. Compliance with an economic needs test is required. **CAN**: None, except for Managers, where: Unbound. IP: **EU:** Unbound. **CAN:** Unbound.
Site investigation work (CPC 5111)	CSS: In **BE, CY, DE, EE, EL, ES, FR, HR, IE, IT, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, FI, HU, LT, LV, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Higher education services (CPC 923)	CSS: **EU** except in **LU, SE**: Unbound. In **LU**: Unbound, except for university professors, where: None. In **SE**: None, except for publicly funded and privately funded educational services suppliers with some form of State support, where: Unbound. **CAN**: Unbound. IP: **EU** except in **SE**: Unbound.

Sector or sub-sector	Description of reservations
	In **SE**: None, except for publicly funded and privately funded educational services suppliers with some form of State support, where: Unbound. **CAN**: Unbound.
Agriculture, hunting and forestry (CPC 881, advisory and consulting services only)	CSS: **EU** except in **BE, DE, DK, ES, FI, HR** and **SE** : Unbound In **BE, DE, ES, HR, SE**: None In **DK**: Economic needs test. In **FI:** Unbound except for advisory and consulting services relating to forestry, where: None. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Environmental services (CPC 9401[32], CPC 9402, CPC 9403, CPC 9404[33], part of CPC 94060[34], CPC 9405, part of CPC 9406, CPC 9409)	CSS: In **BE, CY, EE, ES, FI, FR, HR, IE, IT, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, DE, DK, EL, HU, LT, LV, RO, SK**: Economic needs test. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Insurance and insurance related services (advisory and consulting services only)	CSS: In BE, **CY, DE, EE, EL, ES, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, FI, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months.

32 Corresponds to sewage services.
33 Corresponds to cleaning services of exhaust gases.
34 Corresponds to parts of nature and landscape protection services.

Sector or sub-sector	Description of reservations
	In **HU**: Unbound. **CAN**: None. <u>IP:</u> In **CY, DE, EE, EL, FR, HR, IE, LV, LU, MT, NL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, FI, IT, LT, PL, RO, SK**: Economic needs test. In **HU**: Unbound. **CAN**: None.
Other financial services (advisory and consulting services only)	<u>CSS:</u> In BE, **CY, DE, ES, EE, EL, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, FI, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS that stays of up to three months. In **HU**: Unbound. **CAN**: None. <u>IP:</u> In **CY, DE, EE, EL, FR, HR, IE, LV, LU, MT, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, FI, IT, LT, NL, PL, RO, SK**: Economic needs test. In **HU**: Unbound. **CAN**: None.
Transport (CPC 71, 72, 73, 74, advisory and consulting services only)	<u>CSS:</u> In **CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, MT, NL, PL, PT, SI, SE, UK**: None. In **AT, BG, CZ, HU, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. In **BE**: Unbound. **CAN**: None, except for Managers, where: Unbound. <u>IP:</u>

Sector or sub-sector	Description of reservations
	In **CY, DE, EE, EL, FI, FR, HR, IE, LV, LU, MT, NL, PT, SI, SE, UK:** None. In **AT, BG, CZ, DK, ES, HU, IT, LT, RO, SK**: Economic needs test. In **PL:** Economic needs test, except for air transport, where: None. In **BE**: Unbound. **CAN**: None, except for Managers, where: Unbound.
Travel agencies and tour operators services (including tour managers[35]) (CPC 7471)	CSS: In **AT, CY, CZ, DE, EE, ES, FR, HR, IT, LU, NL, PL, SI, SE, UK**: None. In **BG, EL, FI, HU, LT, LV, MT, PT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. In **BE, IE**: Unbound except for tour managers, where: None. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Tourist guides services (CPC 7472)	CSS: In **SE, UK:** None. In **AT, BE, BG, CY, CZ, DE, DK, EE, FI, FR, EL, HU, IE, IT, LV, LU, MT, NL, RO, SK, SI**: Economic needs test. In **ES, HR, LT, PL, PT**: Unbound. **CAN**: None. IP: **EU:** Unbound. **CAN:** Unbound.
Manufacturing (CPC 884, 885, advisory and consulting services only)	CSS: In BE, **CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LV, LU, MT, NL, PL,**

[35] Services suppliers whose function is to accompany a tour group of a minimum of 10 persons, without acting as guides in specific locations.

Sector or sub-sector	Description of reservations
	PT, SI, SE, UK: None. In **AT, BG, CZ, HU, LT, RO, SK**: Economic needs test. In **DK**: Economic needs test except for CSS stays of up to three months. **CAN**: None, except for Managers, where: Unbound. <u>IP:</u> In **CY, DE, EE, EL, FI, FR, HR, IE, LV, LU, MT, NL, PT, SI, SE, UK**: None. In **AT, BE, BG, CZ, DK, ES, HU, IT, LT, PL, RO, SK**: Economic needs test. **CAN**: None, except for Managers, where: Unbound.

ANNEX XXX - Understanding on Spouses

1. For the European Union Member States that are subject to the application of the Directive, the European Union shall extend to spouses of Canadian citizens who are intra-corporate transferees to the European Union, rights of temporary entry and stay equivalent to those granted to spouses of intra-corporate transferees under the ICT Directive; and

2. Canada shall extend to spouses of European Union citizens who are intra-corporate transferees to Canada equivalent treatment to that granted to spouses of Canadian citizens who are intra-corporate transferees in the Member State of origin of the European Union intra-corporate transferee.

13. MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

Chapter xx

MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

31 July, 2014

Article 1: Objectives and Scope

1. This Chapter establishes the framework to facilitate a fair, transparent and consistent regime for the mutual recognition of professional qualifications by the Parties and determines the general conditions for the negotiation of agreements on the mutual recognition of professional qualifications (MRAs).

2. This chapter applies to professions which are regulated in both Parties, including in all or some EU Member States and in all or some Provinces and Territories of Canada.

3. No Party may accord recognition in a manner that would constitute a means of discrimination in the application of its criteria for the authorization, licensing or certification of services suppliers, or a disguised restriction on trade in services.

4. An MRA adopted pursuant to this Chapter shall apply throughout the entire territories of the EU and Canada, as defined in Article X Geographical Scope of Application of Chapter Y.

For greater certainty, the obligations of this chapter apply to the Exclusive Economic Zones and Continental Shelves, as provided in the United Nations Convention on the Law of the Sea of 10 December 1982:

(a) of Canada as referred to in Article X.02 (Country-specific definitions – Geographical scope of Application (a)); and

(b) in which the Treaty on the European Union and the Treaty on the Functioning of the European Union Treaty are applied as referred to in Article X.02 (Country-specific definitions – Geographical scope of Application (b)).

Article 2: Definitions

Jurisdiction means the territory of Canada and of each of the Member States of the European Union, insofar as this Agreement applies in these territories in accordance with Article X Geographical Scope of Application in Chapter Y.

Negotiating Entity means a person or body entitled or empowered to negotiate an MRA.

Professional experience means the effective and lawful practice of a service activity.

Professional qualifications mean the qualifications attested by evidence of formal qualification and/or professional experience.

Relevant Authority means any authority or body, designated pursuant to legislative, regulatory or administrative provisions to recognize qualifications and authorize the practice of a profession in a jurisdiction;

Regulated profession means a service activity, the exercise of which, including the use of a title or designation, is subject to the possession of specific qualifications, by virtue of legislative, regulatory or administrative provisions.

Article 3: Negotiation of an agreement on the mutual recognition of professional qualifications

a) The Parties shall encourage the Relevant Authorities or professional bodies, as appropriate, in their respective jurisdictions to develop and provide to the Joint Committee on Mutual Recognition (the Joint Committee) joint recommendations on proposed MRAs.

b) A recommendation shall:

i) provide an assessment of the potential value of an MRA, on the basis of criteria such as the existing level of market openness, industry needs, and business opportunities (e.g. the number of professionals likely to benefit from the MRA), the existence of other MRAs in the sector, and expected gains in terms of economic and business development.

ii) provide an assessment as to the compatibility of their respective licensing and/or qualification regimes and the intended approach for the negotiation of an MRA.

c) in light of each Party's consultations with its respective Relevant Authorities, the Joint Committee shall, within a reasonable period of time, review the recommendation with a view to ensuring its consistency with the requirements of this Chapter. Where these requirements are satisfied, the Joint Committee shall establish the necessary steps to negotiate and each Party shall inform its respective Relevant Authorities.

d) the Negotiating Entities shall thereafter pursue the negotiation and submit a draft MRA text to the Joint Committee.

e) the Joint Committee will thereafter review the draft MRA to ensure its consistency with the Agreement.

f) If in the view of the Joint Committee the MRA is consistent with the Agreement, the Joint Committee shall adopt the MRA by means of a decision, which shall be conditional upon subsequent notification to the Committee by each Party of the fulfillment of their respective internal requirements. The decision shall become binding on the Parties upon notification to the

Committee by each Party.

Article 4: Recognition

a) The recognition of professional qualifications provided by an MRA shall allow the beneficiary to take up and pursue professional activities in the territory of the host jurisdiction, in accordance with the terms and conditions specified in the MRA.

Where the professional qualifications of a service supplier in a Party are recognised by the other Party pursuant to an MRA, a Relevant Authority of the host jurisdiction shall accord to this service supplier treatment no less favourable than that accorded in like situations to like service suppliers which it has certified or attested in its own jurisdiction.

(b) Recognition under an MRA cannot be conditioned upon:

(i) a service supplier meeting a citizenship or any form of residency requirement, or
(ii) a service supplier's education, experience or training having been acquired in the Party's own jurisdiction.

Article 5: Joint Committee on Cooperation for the Recognition of Qualifications

a) On entry into force of this Agreement, a Joint Committee responsible for the implementation of Article XY of this Chapter will be established.

The Joint Committee shall:

(i) be composed and co-chaired by Canada and the EU;

(ii) comprise representatives of each Party which must be different from the Relevant Authorities or professional bodies mentioned in Article 3a), the list of which will be communicated through an exchange of letters.

(iii) meet within one year after this Agreement enters into force, and thereafter as necessary or as agreed;

(iv) determine its own rules of procedure;

(v) facilitate the exchange of information regarding laws, regulations, policies and practices concerning standards or criteria for the authorization, licensing or certification of regulated professions;

(vi) make publicly available information regarding the negotiation and implementation of MRAs;

(vii) report to the [CETA Commission], on the progress of the negotiation and implementation of MRAs; and

(viii) as appropriate, provide information and complement the guidelines set out in the Annex to this Chapter.

Article 6: Guidelines for the Negotiation and Conclusion of Agreements on the Mutual Recognition of Professional Qualifications

As part of this framework to achieve mutual recognition of qualifications, the Parties set forth in Annex XX non-binding guidelines with respect to the negotiation and conclusion of MRAs.

Article 7: Contact Points

Each Party shall establish one or more contact points for the administration of this Chapter.

ANNEX X Y

Guidelines for Agreements on the Mutual Recognition of Professional Qualifications (MRAs)

Introduction

This Annex contains guidelines to provide practical guidance for and to facilitate the negotiation of MRAs with respect to regulated professions. These guidelines are non-binding and they do not modify or affect the rights and obligations of the Parties under this Agreement.

The examples listed under the various sections of these guidelines are provided by way of illustration.

Form and Content of the Agreement

This section sets out various issues that may be addressed in any negotiations and, if so agreed, included in final MRAs. It outlines some basic ideas on what might be required of foreign professionals seeking to benefit from an MRA.

1. Participants

The parties to the MRA should be clearly stated.

2. Purpose of Agreement

The purpose of the MRA should be clearly stated.

3. Scope of the MRA

The MRA should set out clearly:

i) the scope of the MRA, in terms of the specific professional titles and activities which it covers;
ii) who is entitled to use the professional titles concerned;
iii) whether the recognition mechanism is based on formal qualifications, a licence obtained in the home jurisdiction, or on some other requirement(s); and
iv) whether the MRA covers temporary and/or permanent access to the profession concerned.

4. Mutual Recognition Provisions
The MRA should clearly specify the conditions to be met for the recognition of qualifications in each jurisdiction and the level of equivalence agreed.

The following four-step process should be considered to simplify and facilitate the recognition of the qualifications.

Four-Step Process for the Recognition of Qualifications

Step One: Verification of Equivalency

The Negotiating Entities should verify the overall equivalence of the scopes of practice or qualifications of the regulated profession in their respective jurisdictions.

The examination of qualifications should entail the collection of all relevant information pertaining to the scope of practice rights related to a legal competency to practice or to the qualifications required for a specific regulated profession in the respective jurisdictions.

Consequently, the Negotiating Entities should:

i) identify activities or groups of activities covered by the scope of practice rights of the regulated profession; and

ii) identify the qualifications required in each jurisdiction. These may include but are not limited to the following elements:

a) the minimum level of education required (e.g. entry requirements, length of study, subjects studied);

b) the minimum level of experience required (e.g. location, length and conditions of practical training or supervised professional practice prior to licensing, framework of ethical and disciplinary standards);

c) examinations passed (especially examinations of professional competency);

d) the extent to which qualifications from one jurisdiction are recognised in the other jurisdiction; and,

e) the qualifications which the Relevant Authorities in each jurisdiction are prepared to recognise, for instance, by listing particular diplomas or certificates issued, or by reference to particular minimum requirements to be certified by the Relevant Authorities of the jurisdiction of origin, including whether the possession of a certain level of qualification would allow recognition for some activities of the scope of practice but not others (level and length of education, major educational focuses, overall subjects and areas).

There is an overall equivalence between the scope of practice rights or the qualifications of the regulated profession where there are no substantial differences in this regard between jurisdictions.

Step Two: Evaluation of Substantial Differences

There exists a substantial difference in the scope of qualifications required to exercise a regulated profession, in cases of:

i) important differences in the essential knowledge, and
ii) significant differences in the duration or content of the training between jurisdictions.

There exists a substantial difference in the scope of practice when:

i) one or more professional activities do not form part of the corresponding profession in the home jurisdiction
ii) these activities are subject to specific training in the host jurisdiction and,
iii) the training for these activities in the host jurisdiction covers substantially different matters from those covered by the applicant's qualification.

Step Three: Compensatory Measures

Should the Negotiating Entities determine that there is a substantial difference in the scope of practice rights or of formal qualifications between the jurisdictions, they may determine compensatory measures to bridge the gap.

A compensatory measure may take the form of, *inter alia*, an adaptation period or, if required, an aptitude test.

Compensatory measures should be proportionate to the substantial difference which they seek to address. The Negotiating Entities should also evaluate any practical professional experience obtained in the home jurisdiction to see whether such experience is sufficient to remedy, in whole or in part, the substantial difference in the scope of practice rights or formal qualifications between the jurisdictions, prior to determining a compensatory measure.

Step Four: Identification of the Conditions for Recognition

Once the assessment of the overall equivalency of the scopes of practice rights or qualifications of the regulated profession is completed, the Negotiating Entities should specify in the MRA:

i) the legal competency required to practice the regulated profession;
ii) the qualifications for the regulated profession;
iii) whether compensatory measures are necessary;
iv) the extent to which professional experience may compensate for any substantial differences;
v) a description of any compensatory measure, including the use of any adaptation periods or aptitude tests.

5. Mechanisms for Implementation

The MRA should state:

i) the rules and procedures to be used to monitor and enforce the provisions of the agreement;

ii) the mechanisms for dialogue and administrative co-operation between the parties to the MRA; and
iii) the means for individual applicants to address any matters arising from the interpretation or implementation of the MRA.

As a guide to the treatment of individual applicants, the MRA should include details on:

i) the point of contact for information on all issues relevant to the application (e.g. name and address of Relevant Authorities, licensing formalities, information on additional requirements which need to be met in the host jurisdiction);
ii) the duration of the procedures for the processing of applications by the Relevant Authority of the host jurisdiction;
iii) the documentation required of applicants and the form in which it should be presented ;
iv) acceptance of documents and certificates issued in the host jurisdiction in relation to qualifications and licensing;
v) the procedures of appeal to or review by Relevant Authorities.

The MRA should also include the following commitments by Relevant Authorities:

i) that requests about the measures will be promptly dealt with;
ii) that adequate preparation time will be provided where necessary;
iii) that any exams or tests will be arranged with reasonable frequency;
iv) that fees to applicants seeking to take advantage of the terms of the MRA will be commensurate with the costs incurred by the host jurisdiction; and
v) that they will supply information on any assistance programmes in the host jurisdiction for practical training, and any commitments of the host jurisdiction in that context.

6. Licensing and Other Provisions in the Host Jurisdiction

Where applicable, the MRA should also set out the means by which, and the conditions under which, a licence is actually obtained following the establishment of eligibility, and what this licence entails (e.g., a licence and its contents, membership of a professional body, use of professional and/or academic titles). Any licensing requirements other than qualifications should be explained and should include requirements relating to:

(i) have an office address, maintain an establishment or be a resident;
(ii) language skills;
(iii) proof of good character;
(iv) professional indemnity insurance;
(v) compliance with host jurisdiction's requirements for use of trade/firm names; and
(vi) compliance with host jurisdiction ethics (e.g., independence and good conduct); and

In order to ensure the transparency of the system, the MRA should include the following details for each host jurisdiction:

(i) the relevant laws and regulations to be applied (e.g. disciplinary action, financial responsibility, liability);
(ii) the principles of discipline and enforcement of professional standards, including disciplinary jurisdiction and any consequential effects on practicing professional activities;
(iii) the means for the ongoing verification of competence; and
(iv) the criteria for, and procedures relating to, revocation of the registration.

7. Revision of the Agreement

If the MRA includes terms under which it can be reviewed or revoked, the details should be clearly stated.

8. Transparency

The Parties should:

i) make publicly available the text of MRAs which have been concluded and,
ii) notify the other Party of any modifications to qualifications that may affect the application or implementation of an MRA. Where possible, the other Party should be given an opportunity to comment on such modifications.

Definitions

For purposes of this Annex:

Adaptation period means the pursuit of a regulated profession in the host jurisdiction under the responsibility of a qualified person, such period of supervised practice possibly being accompanied by further training. This period of supervised practice shall be subject to an assessment. The detailed rules governing the adaptation period, its assessment and the professional status of the person under supervision shall be set out, as appropriate, in the host jurisdiction's laws and regulations;

Aptitude test means a test limited to the professional knowledge of applicants, made by the Relevant Authorities of the host jurisdiction with the aim of assessing the ability of applicants to pursue a regulated profession in that jurisdiction;

Scope of practice means an activity or group of activities covered by a regulated profession.

DR

Final 1 August 2014

14. DOMESTIC REGULATION

CHAPTER XX

DOMESTIC REGULATION

17 July, 2014

ARTICLE X.1: SCOPE AND DEFINITIONS

1. This Chapter applies to measures adopted or maintained by a Party relating to licensing requirements and procedures and qualification requirements and procedures that affect:

a) cross-border supply of services as defined in Chapter X; and

b) the supply of a service or pursuit of any other economic activity, through commercial presence in the territory of another Party, including the establishment of such commercial presence; and,

c) the supply of a service through the presence of a natural person in the territory of the other Party, in accordance with Article 5.2 of Chapter X].

2. This Chapter does not apply to licensing requirements and procedures and to qualification requirements and procedures:

(a) pursuant to an existing non-conforming measure that is maintained by a Party as set out in its Schedule to Annex 1; or

b) relating to the sectors/activities set out below:

For Canada: Social Services, Aboriginal Affairs, Minority Affairs, and the collection, purification, and distribution of water, as set out in Canada's schedule to Annex II, and cultural industries.

For the European Union: Health, education, and social services, gambling and betting services[36], the collection, purification, and distribution of water, as set out in the EU's schedule to Annex II, and audio-visual services.

3. For the purposes of this Chapter:

"Authorisation means the granting of permission to a person to supply a service or to pursue any other economic activity.

[36] With the exception of MT.

"Licensing requirements" are substantive requirements, other than qualification requirements, that must be complied with in order to obtain, amend or renew an authorisation;

"Licensing procedures" are administrative or procedural rules, including for the amendment or renewal of a licence, that must be adhered to in order to demonstrate compliance with licensing requirements;

"Qualification requirements" are substantive requirements relating to competency, that must be complied with in order to obtain, amend or renew an authorisation;

"Qualification procedures" are administrative or procedural rules, that must be adhered to in order to demonstrate compliance with qualification requirements;

as they are applied to a person by a Party.

"Competent authority" is any central, regional or local government and authority, or non-governmental body in the exercise of powers delegated by central or regional or local governments or authorities that grants an authorisation.

ARTICLE X.2: LICENSING AND QUALIFICATION REQUIREMENTS AND PROCEDURES

1. Each Party shall ensure that licensing and qualification requirements and procedures shall be based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary manner.

2. The criteria referred to in paragraph 1 shall be:
a) clear and transparent;
b) objective;
c) established in advance and made publicly accessible.

3. The Parties recognise that the exercise of statutory discretion conferred on a minister or ministers with respect to a decision on the granting of an authorisation where there is a public interest involved is not inconsistent with paragraph 2. c), provided that it is exercised consistently with the object of the applicable statute and not in an arbitrary manner, and that its exercise is not otherwise inconsistent with this Agreement, including Article X.2.4 of this Chapter.

4. Paragraph 3 does not apply to licensing and qualification requirements with respect to professional services.

5. Each Party shall ensure that an authorisation shall be granted as soon as the competent authority determines that the conditions have been met, and once granted enters into effect without undue delay, in accordance with the terms and conditions specified therein.

6. Each Party shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected investor or service supplier, for a prompt review of, and where justified, appropriate remedies for, administrative decisions affecting the supply of a service or the pursuit of any other economic activity. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, each Party shall ensure that the procedures as applied in practice provide for an objective and impartial review.

7. Each Party shall ensure that licensing and qualification procedures are as simple as possible and do not unduly complicate or delay the supply of a service or the pursuit of any other economic activity.

8. Any authorisation fees which applicants may incur in relation to their application shall be reasonable and commensurate with the costs incurred and shall not in themselves restrict the supply of a service or the pursuit of any other economic activity.

9. Authorisation fees do not include payments for auction, the use of natural resources, royalties, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

10. Each Party shall ensure that the procedures used by and the decisions of the competent authority in the authorisation process are impartial with respect to all applicants. The competent authority should reach its decision in an independent manner and in particular should not be accountable to any person supplying services or pursuing economic activities for which the authorisation is required.

11. Where specific time periods for applications exist, an applicant shall be allowed a reasonable period for the submission of an application. The competent authority shall initiate the processing of an application without undue delay. Where possible, applications should be accepted in electronic format under similar conditions of authenticity as paper submissions.

12. Authenticated copies should be accepted, where considered appropriate, in place of original documents.

13. Each Party shall ensure that the processing of an application, including reaching a final decision, is completed within a reasonable timeframe from the submission of a complete application. Each Party should establish the normal timeframe for the processing of an application.

14. At the request of an applicant, the competent authority shall provide, without undue delay, information concerning the status of the application.

15. In the case where an application is considered to be incomplete, the competent authority shall, within a reasonable period of time, informs the applicant, identify the additional information required to complete the application, and provide an opportunity to correct deficiencies.

16. If an application is rejected by the competent authority, the applicant shall be informed in writing and without undue delay. Upon request, the applicant shall also be informed of the reasons for rejection of the application and of the timeframe for an appeal or review against the decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

15. FINANCIAL SERVICES

FINANCIAL SERVICES

ARTICLE 1: SCOPE

1. This Chapter applies to measures adopted or maintained by a Party relating to:
   (a) financial institutions of the other Party;
   (b) investors of the other Party, and investments of such investors, in financial institutions in the Party's territory; and
   (c) cross-border supply of financial services.

2. For greater certainty, the provisions of chapter X (Investment) apply to:
   (a) measures relating to investors of the Parties and investments of such investors in financial service suppliers which are not financial institutions; [and
   (b) measures, other than measures relating to the supply of financial services, relating to investors of the Parties or investments of such investors in financial institutions.]

3. Articles X.12 (Investment – Transfers), X.11 (Investment – Expropriation), X.10 (Investment Compensation for Losses), X.9 (Investment – Treatment of Investors and of Covered Investments), X.16 (Investment – Formal Requirements), [X.13 (Investment - Subrogation)], X.15 (Investment – Denial of Benefits), are hereby incorporated into and made a part of this Chapter and apply to the measures to which this Chapter applies.

4. Section [Investor-State Dispute Settlement] of Chapter X (Investment) is hereby incorporated into and made part of this Chapter for claims that a Party has breached Articles 3 (National Treatment) or 4 (Most Favoured Nation Treatment) with respect to the expansion, conduct, operation, management, maintenance, use, enjoyment and sale or disposition of a financial institution or an investment in a financial institution, or Articles X.12 (Investment – Transfers), X.11 (Investment – Expropriation), X.10 (Compensation for Losses), X.9 (Investment – Treatment of Investors and of Covered Investments), or X.15 (Investment – Denial of Benefits).

5. This Chapter does not apply to measures adopted or maintained by a Party relating to

   (a) activities or services forming part of a public retirement plan or statutory system of social security; or

   (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities,

except that this Chapter shall apply to the extent that a Party allows any of the activities or services

referred to in subparagraph (a) or (b) to be conducted by its financial institutions in competition with a
public entity or a financial institution.

6. Chapter X (Domestic Regulation) is hereby incorporated into and made part of this Chapter and applies to the measures to which this Chapter applies. For greater certainty, paragraph X.2 Licensing and Qualification Requirements applies to the exercise of statutory discretion by the financial regulatory authorities of the Parties.

ARTICLE 2: DEFINITIONS

For the purpose of this Chapter

(a) 'financial service' means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

A. Insurance and insurance-related services

6. direct insurance (including co-insurance):
   (a) life;
   (b) non-life;

7. reinsurance and retrocession;

8. insurance intermediation, such as brokerage and agency; and

9. services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

B. Banking and other financial services (excluding insurance):

1. acceptance of deposits and other repayable funds from the public;

2. lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transactions;

3. financial leasing;

4. all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

5. guarantees and commitments;

6. trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(a) money market instruments (including cheques, bills, certificates of deposits);
(b) foreign exchange;
(c) derivative products including futures and options;
(d) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
(e) transferable securities;
(f) other negotiable instruments and financial assets, including bullion;

7. participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

8. money broking;

9. asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

10. settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

11. provision and transfer of financial information, and financial data processing and related software;

12. advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (1) through (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

(b) 'financial service supplier' means any person of a Party that is engaged in the business of supplying a financial service within the territory of that Party. The term 'financial service supplier' does not include a public entity.

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(x) 'cross-border financial service supplier of a Party' means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such service.

(x) cross-border supply of financial services means the supply of a financial service:
(a) from the territory of a Party into the territory of the other Party; or.
(b) in the territory of a Party by a person of that Party to a person of the other Party.

but does not include the supply of a service in the territory of a Party by an investment in that territory.

(c) 'public entity' means:

1. a government, a central bank or a monetary authority of a Party or any entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
2. a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

(d) 'new financial service' means with respect to a Party a financial service that is not supplied in the territory of a Party but which is supplied in the territory of the other Party and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party's territory;

(e) 'self-regulatory organisation' means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organisation or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions.

a) 'financial institution' means any supplier which carries out one or more of the operations defined as being financial services in Article x, where the supplier is regulated and supervised in respect of the supply of those services under the law of the Party in whose territory this supplier is located, including branches of such financial service suppliers located in the Party whose head offices are located in the territory of the other Party.

6. 'financial institution of the other Party' means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party;

(b) 'investment' means 'investment' as defined in Article X (Investment – Definitions), except that for the purposes of this Chapter, with respect to "loans" and "debt instruments" referred to in that Article:

a) A loan to or debt instrument issued by a financial institution is an investment in that financial institution only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and

b) A loan granted by, or debt instrument owned by a financial institution other than a loan to or debt instrument of a financial institution referred to in subparagraph (a), is not an investment.

For greater certainty, the provisions of Chapter X (Investment) apply to a loan or debt instrument to the extent that it is not covered in this Chapter. A loan granted by or debt instrument owned by a cross-border financial service supplier, other

than a loan to or debt instrument issued by a financial institution, is an investment for the purposes of Chapter X (Investment) if such loan or debt instrument meets the criteria for investments set out in Article X (Investment-Definitions).

7. 'investor of a Party' means "investor of a Party" as defined in Article X (Investment – Definitions);

(x) 'person of a Party' means "person of a Party" as defined in Article X (Initial Provisions and General Definitions – Definitions of General Application) and, for greater certainty, does not include a branch of an enterprise of a non-Party.

ARTICLE 3: NATIONAL TREATMENT

1. Article X (Investment - National Treatment) is hereby incorporated into and made part of this Chapter and applies to treatment of financial institutions and investors of the other Party and their investments in financial institutions.
2. The treatment accorded by a Party to its own investors and investments of its own investors under paragraphs 1 and 2 of Article X (Investment - National Treatment) means treatment accorded to its own financial institutions and investments of its own investors in financial institutions.

ARTICLE 4: MOST-FAVOURED-NATION TREATMENT

1. Article X (Investment – Most-Favoured-Nation Treatment) is hereby incorporated into and made part of this Chapter and applies to treatment of financial institutions, investors of the other Party and their investments in financial institutions.

2. The treatment accorded by a Party to investors of a non-Party and investments of investors of a non-Party under paragraphs 1 and 2 of Article X (Investment – Most-Favoured-Nation Treatment) means treatment accorded to financial institutions of a non-Party and investments of investors of a non-Party in financial institutions.

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ARTICLE 5: RECOGNITION OF PRUDENTIAL MEASURES

1. A Party may recognise prudential measures of a non-Party in the application of measures covered by this Chapter. Such recognition may be:
   a. Accorded unilaterally.
   b. Achieved through harmonisation or other means; or
   c. Based upon an agreement or arrangement with the non-Party.

4. A Party according recognition of prudential measures shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or will be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.

5. If a Party accords recognition of prudential measures under subparagraph 1(c) and the circumstances in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement or to negotiate a comparable agreement or arrangement.

ARTICLE 6: MARKET ACCESS

(l) Neither Party shall adopt or maintain, with respect to financial institutions of the other Party or investors of the other Party seeking to establish such institutions, either on the basis of its entire territory or on the basis of the territory of a national, provincial, territorial, regional, or local level of government, measures that:

(a) impose limitations on:

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

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

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

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

(v) the total number of natural persons that may be employed in a particular financial services sector or that a financial institution may employ and who are necessary for, and directly related to, the performance of a specific financial service in the form of numerical quotas or the requirement of an economic needs test.

(b) restrict or require specific types of legal entity or joint venture through which a financial institution may perform an economic activity.

(m) Paragraph 2 of Article X (Investment – Market Access) is hereby incorporated into and made part of this Article and applies to the measures to which this Chapter applies

(n) For greater certainty, a Party may impose terms, conditions and procedures for the authorisation of the establishment and expansion of a commercial presence in so far as

they do not circumvent the Party's obligation under paragraph 1 and they are consistent with the other obligations of the Chapter/Annex/Agreement.

(o) For greater certainty, nothing in this Article shall be construed to prevent a Party from requiring financial institutions to supply certain financial services through separate legal entities where under the laws of the Party the range of financial services supplied by the financial institution may not be supplied through a single entity.

ARTICLE 7: CROSS-BORDER SUPPLY OF FINANCIAL SERVICES

1. Article X (Cross-Border Trade in Services – National Treatment), Article X (Cross-Border Trade in Services -Market Access) and Article X (Cross-Border Trade in Services – Formal Requirements) are hereby incorporated into and made part of this Chapter and apply to treatment of cross-border financial service suppliers supplying the financial services specified in Annex X-7.

Note to draft: The Parties' respective cross-border commitments need to be housed in Annex X-7 to this chapter

2. The treatment accorded by a Party to its own service suppliers and services under paragraph 2 of Article X (Cross-Border Trade in Services – National Treatment) means treatment accorded to its own financial service suppliers and financial services.

3. The measures which shall not be adopted or maintained by a Party with respect to service suppliers and services of the other Party under Article X (Cross-Border Trade in Services – Market Access) means measures relating to cross-border financial service suppliers of the other Party supplying financial services.

4. Article (Cross-Border Trade in Services – Most-Favoured-Nation Treatment) is hereby incorporated into and made part of this Chapter and applies to treatment of cross-border financial service suppliers of the other Party.

5. The treatment accorded by a Party to service suppliers and services of a non-Party under Article X (Cross-Border Trade in Services – Most-Favoured-Nation Treatment) means treatment accorded to financial service suppliers of a non-Party and financial services of a non-Party.

6. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define

"doing business" and "solicitation" for the purposes of this Article, as long as such definitions are not inconsistent with the obligation of paragraph 1.

7. For the financial services specified in Annex X, each Party shall permit a cross-border financial service supplier of the other Party, on request or notification to the relevant regulator, where required, to supply a financial service through any new form of delivery, or to sell a financial product that is not sold in the Party's territory where the first Party would permit its own financial service suppliers to supply such services or products under its domestic law in like situations.

ARTICLE 8: SENIOR MANAGEMENT AND BOARDS OF DIRECTOR

Neither Party may require that a financial institution of the other Party appoint to senior management or board of director positions, natural persons of any particular nationality.

ARTICLE X: PERFORMANCE REQUIREMENTS

1. The Parties shall negotiate disciplines on Performance Requirements such as those contained in Article X (Investment – Performance Requirements) with respect to investments in financial institutions.

2. If, after 3 years of entry into force of this Agreement, the Parties have not agreed to such disciplines, upon request of either Party, Article X (Performance Requirements) of Chapter X (Investment) shall be incorporated into and made part of the Chapter on Financial Services, and shall apply to investments in financial institutions. For this purpose, "investment" in Article X (Performance Requirements) means "investment in a financial institution in its territory".

3. Within 180 days following agreement by the Parties on the performance requirement disciplines pursuant to paragraph 1, or of a Party's request for incorporation of Article X (Performance Requirements) of Chapter X (Investment) into this Chapter pursuant to paragraph 2, as the case may be, the Parties may amend their Schedules as required. Any amendments shall be limited to the listing of reservations for existing measures non-conforming with the Performance Requirements obligation of the Financial Services Chapter, for Canada, in Section A of its Schedule to Annex III (Financial Services Annex) and for the EU in its Schedule to Annex I. Article 9.1 shall apply to such measures with respect to the performance requirement disciplines negotiated pursuant to paragraph 1, or Article X (Investment – Performance Requirements) as incorporated into this Chapter pursuant to paragraph 2, as the case may be.

ARTICLE 9: NON-CONFORMING MEASURES

- Articles X (National Treatment), X (Most-Favoured Nation Treatment), X (Market Access), [X (Senior Management and Boards of Directors), do not apply to:

    - Any existing non-conforming measure that is maintained by a Party at the level of:

        - the European Union, as set out in its Schedule to Annex I;
        - a national government, as set out by Canada in Section A of its Schedule to Annex III (Financial Services Annex) or the EU in its Schedule to Annex I;
        - a provincial, territorial, or regional government, as set out by Canada in Section A of its Schedule to Annex III (Financial Services Annex) or the EU in its Schedule to Annex I; or
        - a local government.

    - The continuation or prompt renewal of any non-conforming measure referred to in sub-paragraph (a); or

    - An amendment to any non-conforming measures 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 X (National Treatment), X (Most-Favoured Nation Treatment), X (Market Access), and X (Senior Management and Boards of Directors).

- Article X (Cross-Border Supply of Financial Services) does not apply to:

    - Any existing non-conforming measure that is maintained by a Party at the level of:

        - the European Union, as set out in its Schedule to Annex 1;
        - a national government, as set out by Canada in Section A of its Schedule to Annex III (Financial Services Annex) or the EU in its Schedule to Annex I;
        - a provincial, territorial, or regional government, as set out by Canada in Section A of its Schedule to Annex III (Financial Services Annex) or the EU in its Schedule to Annex I; or
        - a local government.

    - The continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

    - An amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as

it existed upon the entry into force of this Agreement, with Article X (Cross-Border Trade).]

- Articles X (National Treatment), X (Most-Favoured Nation Treatment), X (Market Access), X (Cross-Border Trade), and X (Senior Management and Boards of Directors) do not apply to measures that Canada adopts or maintains with respect to financial services as set out in Section B of its Schedule to Annex III (Financial Services Annex), or to measures that the EU adopts or maintains with respect to financial services as set out in its Schedule to Annex II.

- Where a Party has set out a reservation to Article X (Investment – National Treatment), X (Investment – Most-Favoured-Nation Treatment), X (Investment – Market Access), X (Investment – Performance Requirements), X (Investment – Senior Management and Boards of Directors), X (Cross-Border Trade in Services – National Treatment), X (Cross-Border Trade in Services – Market Access) or X (Cross-Border Trade in Services – Most-Favoured-Nation Treatment) in its Schedule to Annex I or II, the reservation also constitutes a reservation to Articles X (National Treatment), X (Most-Favoured-Nation Treatment), X (Market Access), , X (Cross-Border Trade in Financial Services), X (Senior Management and Boards of Directors), or any disciplines on performance requirements negotiated pursuant to Article X.1 (Performance Requirements) or incorporated into this Chapter pursuant to Article X.2 (Performance Requirements), as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the reservation is covered by this Chapter.

- Without prejudice to Article X.11 (Investment - Expropriation) and Article X.9 (Investment -Treatment of Investors and Covered Investments), no Party may adopt any measure or series of measures after the date of entry into force of this Agreement and covered by Section B of Canada's Schedule to Annex III (Financial Services Annex), or by the Schedule to Annex II of the EU that require, directly or indirectly, an investor of the other Party, by reason of nationality, to sell or otherwise dispose of an investment existing at the time the measure or series of measures became effective.

- In respect of intellectual property rights, a Party may derogate from Article X.6 (National Treatment), Article X.7 (Most-Favoured-Nation Treatment) and any disciplines on technology transfer in relation to performance requirements negotiated pursuant to Article X.1 (Performance Requirements) or incorporated into this Chapter pursuant to Article X.2 (Performance Requirements) as the case may be, where permitted by the TRIPS Agreement, including any amendments to the TRIPS Agreement in force for both Parties, and waivers to the TRIPS Agreement adopted pursuant to Article IX of the WTO Agreement.

- Articles X (National Treatment), X (Most-Favoured-Nation Treatment), X.(Market Access) and X (Senior Management and Board of Directors) do not apply to:

  (a) procurement by a Party for goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of goods and

services for commercial sale, whether or not that procurement is "covered procurement" with the meaning of Article II of (Chapter XX – Public procurement); or

(b) subsidies, or government support relating to trade in services, provided by a Party. .

ARTICLE 10: EFFECTIVE AND TRANSPARENT REGULATION

1. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

2. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Chapter are promptly published or made available in such a manner as to enable interested persons and the other Party to become acquainted with them. To the extent possible, each Party shall:

   (a) publish in advance any such measure that it proposes to adopt;

   (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures**;** and

   (c) allow reasonable time between their final publication and effective date

and these requirements shall replace those set out in Article X (Transparency – Publication).

3. Each Party shall maintain or establish appropriate mechanisms that will respond within a reasonable timeframe to inquiries from interested persons regarding measures of general application covered by this Chapter.

4. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a cross-border financial service supplier or a financial institution of the other Party relating to the supply of a financial service within a reasonable period which is justified by the complexity of the application and the normal timeframes established for the processing of the application and shall promptly notify the applicant of the decision. For Canada, such reasonable period shall be 120 days. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within a reasonable period, the regulatory authority shall promptly notify the applicant and shall endeavour to make the decision as soon as possible.

ARTICLE 11: SELF-REGULATORY ORGANISATIONS

If a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in or have access to a self-regulatory organization to provide a financial service in or into the territory of that Party, or grants privileges or advantages when providing financial services through such self-regulatory organizations, then the requiring Party shall ensure that the self-regulatory organization observes the obligations of this Chapter.

ARTICLE 12: PAYMENT AND CLEARING SYSTEMS

Under terms and conditions that accord national treatment, each Party shall grant to financial service suppliers of the other Party established in its territory access to payment and clearing systems operated by a Party or by an entity pursuant to governmental authority delegated to it by a Party, as well as to official funding and refinancing facilities available in the normal course of ordinary business. This paragraph is not intended to confer access to a Party's lender of last resort facilities.

ARTICLE 13: NEW FINANCIAL SERVICES

1. Each Party shall permit a financial institution of the other Party, on request or notification to the relevant regulator, where required, to supply any new financial service that the first Party would permit its own financial institutions to supply under its domestic law in like circumstances.

2. A Party may determine the institutional and juridical form through which the service may be supplied and may require authorisation for the provision of the service. Where such authorisation is required, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

3. This Article does not prevent a financial institution of a Party from applying to the other Party to consider authorising the supply of a financial service that is not supplied within either Party's territory. That application is subject to the domestic law of the Party receiving the application and is not subject to the obligations of this Article.

ARTICLE 14: TRANSFERS AND PROCESSING OF INFORMATION

1. Each Party shall permit a financial institution or a cross-border financial service supplier of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing where such processing is required in its ordinary course of business.

2. Each Party shall maintain adequate safeguards to protect privacy, in particular with regard to the transfer of personal information. Where the provision and transfer of financial information and financial data processing involves personal information, the treatment of such personal information shall be subject to the legislation governing the protection of personal information of the territory of the Party where the transfer has originated.

ARTICLE 15: PRUDENTIAL CARVE-OUT

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining reasonable measures for prudential reasons, including:
   (a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a Financial Institution, ~~or~~ cross-border financial service supplier or financial service supplier;
   (b) the maintenance of the safety, soundness, integrity or financial responsibility of a Financial Institution, cross-border financial service supplier or financial service supplier; or
   (c) ensuring the integrity and stability of a Party's financial system.

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2. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.
3. Subject to Article X (National Treatment) and Article Y (Most Favoured Nation Treatment), a Party may, for prudential reasons, prohibit a particular financial service or activity. Such a prohibition may not apply to all financial services or to a complete financial services sub-sector, such as banking.

ARTICLE 16: SPECIFIC EXCEPTIONS

In order to make the Financial Services Chapter subject to GATS exceptions, a reference must be made to Chapter X (Financial Services) in Article X.02.2 (Exceptions – General Exceptions) provision. .

(a) Nothing in this Agreement applies to measures taken by any public entity in pursuit of monetary or exchange rate policies. This paragraph shall not affect a Party's obligations under Article X (Investment – Performance Requirements) with respect to measures covered by Chapter X (Investment) or Article X (Investment – Transfers).
(b) Nothing in this Agreement shall be construed as requiring a Party to furnish or allow access to information relating to the affairs and accounts of individual consumers, cross-border financial services suppliers, financial institutions or any confidential information which, if disclosed, would interfere with specific regulatory, supervisory or law enforcement matters, or otherwise be contrary to public interest or prejudice legitimate commercial interests of particular enterprises.

ARTICLE 17: FINANCIAL SERVICES COMMITTEE

1. The Parties hereby establish a Financial Services Committee (the "Committee").

2. The Committee shall include representatives of authorities in charge of financial services policy with expertise in the field covered by this chapter. For Canada, the Committee representative is an official from Finance Canada.

3. The Committee shall decide by consensus.

4. The Committee shall meet annually, or as it otherwise agrees, and shall:

   a. supervise the implementation of this Chapter,
   b. carry out a dialogue on the regulation of the financial services sector with a view to improving mutual knowledge of the respective regulatory systems and to cooperate in the development of international standards as illustrated by the Understanding contained in Annex X
   c. implement the provisions of Article 20 (Investment Disputes in Financial Services).

ARTICLE 18: CONSULTATIONS

1. A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request.
2. Each Party shall ensure that for consultations under paragraph 1 its delegation includes officials with the relevant expertise in the area covered by this chapter. For Canada this means officials of Finance Canada.

ARTICLE 19: DISPUTE SETTLEMENT

1. Chapter X (Dispute Settlement) applies as modified by this Article to the settlement of disputes arising under this Chapter.

2. In the event that the Parties are unable to agree on the composition of the Panel, Article 14.7 shall apply. However, all references to the list of arbitrators established under Article 14.8 shall be understood to refer to the list of arbitrators established under this Article.

3. The [CETA institutional Body] may establish a list of at least 15 individuals, chosen on the basis of objectivity, reliability and sound judgement, who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party to act as chairpersons. Each sub-list shall include at least five individuals. The [CETA body] may review the list at any time and shall ensure that the list conforms with this Article.

4. The individuals included on the list shall have expertise or experience in financial services law or regulation or the practice thereof, which may include the regulation of financial service suppliers. The individuals acting as chairpersons must also have experience as a counsel, panellist or arbitrator in dispute settlement proceedings. Arbitrators shall be independent, serve in their individual capacities and not take instructions from any organisation or government, and shall comply with the Code of Conduct annexed to the Dispute Settlement chapter.

5. If a panel finds that a measure to be inconsistent with this Agreement and the measure affects:

   (a) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measure in the Party's financial services sector; or
   (b) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

ARTICLE 20: INVESTMENT DISPUTES IN FINANCIAL SERVICES

1. The provisions of [Investor-to-State Dispute Settlement] apply, as modified by this Article and Annex XXX, to:

   a. investment disputes pertaining to measures to which this Chapter applies in which an investor claims that a Party has breached Articles X.12 (Investment – Transfers), X.11 (Investment – Expropriation), X.10 (Investment - Compensation for Losses), X.9 (Investment – Treatment of Investors and of Covered Investments), X.15 (Investment – Denial of Benefits), X.3 (Financial Services - National Treatment) or X.4 (Financial Services - Most-Favoured Nation Treatment); or

   b. investment disputes commenced pursuant to [Investor State Dispute Settlement] in which Article 15.1 has been invoked.

2. Unless the disputing parties agree otherwise, in the case of an investment dispute under sub-paragraph 1(a), or where the respondent invokes Article 15.1 within 60 days of the submission of a claim to arbitration under Article X-8 [Submission of a Claim to Arbitration], the Tribunal shall be constituted from the list established under Article X [Financial Services – Dispute Settlement]. Where the respondent invokes Article 15.1 within 60 days of submission of a claim, with respect to an investment dispute other than under sub-paragraph 1(a), the time period applicable to the constitution of the Tribunal under Article X-10 [Constitution of the Tribunal] shall commence on the date the respondent invokes Article 15.1. In the event that the disputing parties are unable to agree on the composition of the Tribunal within the time frame laid down in Article X-10 (Constitution of the Tribunal) either disputing party may request the Secretary-General of

ICSID to select the arbitrators from the list established under Article X-19 (Financial Services – Dispute Settlement). In the event that disputing parties are unable to constitute the Tribunal from the list, or that the list has not been established under Article X [Financial Services – Dispute Settlement] on the date the claim is submitted to arbitration, the Secretary-General of ICSID shall select the arbitrators from the individuals proposed by one or both of the Parties in accordance with Article X-19 [Financial Services –Dispute Settlement].

3. The respondent may refer the matter in writing to the Financial Services Committee for a decision as to whether and, if so, to what extent the exception under Article 15.1 is a valid defence to the claim. Such a referral cannot be made later than the date the Tribunal fixes for the respondent to submit its counter-memorial. Where the respondent refers the matter to the Financial Services Committee under paragraph 3 the time periods or proceedings specified in [Investor-to-State-Dispute Settlement] shall be suspended.

4. In a referral under paragraph 3, the Financial Services Committee or the CETA Trade Committee as the case may be, may make a joint determination on whether and to what extent Article 15.1 [Prudential Carve-Out/Exceptions] is a valid defence to the claim. The Financial Services Committee or the CETA Trade Committee as the case may be, shall transmit a copy of any joint determination to the investor and the Tribunal, if constituted. If such joint determination concludes that Article 15.1 is a valid defence to all parts of the claim in their entirety, the investor shall be deemed to have withdrawn its claim and proceedings shall be discontinued in accordance with Article X (Discontinuance). If such joint determination concludes that Article 15.1 is a valid defence to only parts of the claim, the joint determination shall be binding on the Tribunal with respect to those parts of the claim, the suspension of the timelines or proceedings in paragraph 4 shall no longer apply, and the investor may proceed with any remaining parts of the claim.

5. If the CETA Trade Committee has not made a joint determination within 3 months of referral of the matter by the Financial Services Committee, the suspension of the time periods or proceedings referenced in paragraph 4 shall no longer apply and the investor may proceed with its claim.

6. At the request of the respondent, the Tribunal shall decide as a preliminary matter whether and to what extent Article 15.1 [Prudential Carve-Out/Exceptions] is a valid defence to the claim. Failure of the respondent to make such a request is without prejudice to the right of the respondent to assert Article 15.1 [Prudential Carve-Out/Exceptions] as a defence in a later phase of the arbitration. The Tribunal shall draw no adverse inference from the fact that the Financial Services Committee or the CETA Trade Committee has not agreed on a joint determination in accordance with Annex XXX.

Annex X: Cross-Border Trade in Financial Services

Schedule of Canada

Insurance and Insurance-Related Services

1. Article 7(1) applies to the cross-border supply of or trade in financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 2, with respect to:

(a) insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit; and

(b) reinsurance and retrocession,

(c) services auxiliary to insurance as described in subparagraph (A4) of the definition of financial service, and

(d) insurance intermediation such as brokerage and agency, as described in subparagraph (A3) of the definition of financial service, of insurance risks related to the services listed in subparagraphs (a) and (b) of this paragraph.

Banking and Other Financial Services (excluding insurance)

2. Article 7(1) applies to the cross-border supply of or trade in financial services, as defined in subparagraphs (a) of the definition of cross-border supply of financial services in Article 2, with respect to:

(a) the provision and transfer of financial information and financial data processing, as described in subparagraph (B11) of the definition of financial service; and

(b) advisory and other auxiliary financial services, and credit reference and analysis, excluding intermediation, relating to banking and other financial services, as described in subparagraph (B12) of the definition of financial service.

Portfolio Management Services

3. The provision of the following services to a collective investment scheme located in its territory:

(i) investment advice; and

(ii) portfolio management services, excluding:

A. custodial services,

B. trustee services,

C. execution services.

4. For the purposes of this commitment, portfolio management means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments.

5 A collective investment scheme means investment funds or fund management companies regulated or registered under relevant securities laws and regulations. Notwithstanding paragraph 2(c), Canada may require a collective investment scheme located in Canada to retain ultimate responsibility for the management of the collective investment scheme or the funds that it manages.

6 Non-conforming measures set out by Canada in Annex XX of its Schedule to Annex III (Financial Services Annex) do not apply to paragraphs 3, 4 and 5 (Portfolio Management) above.

Schedule of the European Union (applicable to all EU Member States unless otherwise indicated)

Insurance and Insurance-Related Services

1. With the exception of **CY, EE**, **LV**, **LT**, **MT** and **PL** Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

(a) direct insurance services (including co-insurance) and direct insurance intermediation for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit.

(b) Reinsurance and retrocession,

(c) Services auxiliary to insurance.

2. For **CY,** Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

(a) direct insurance services (including co-insurance) for the insurance of risks relating to:

(i) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

(ii) goods in international transit.

(b) Insurance intermediation,

(c) Reinsurance and retrocession,

(d) Services auxiliary to insurance.

3. For **EE** Article Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

   (a) Direct insurance (including co-insurance),

   (b) Reinsurance and retrocession,

   (c) Insurance intermediation,

   (d) Services auxiliary to insurance.

4. For **LV, LT** Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

   (a) direct insurance services (including co-insurance) for the insurance of risks relating to:

      (j) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

      (ii) goods in international transit.

   (b) Reinsurance and retrocession,
   (c) Services auxiliary to insurance.

5. For **MT,** Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

   (a) direct insurance services (including co-insurance) for the insurance of risks relating to:

      (j) maritime transport and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving therefrom; and

      (ii) goods in international transit.

   (b) Reinsurance and retrocession,

   (c) Services auxiliary to insurance.

6. For **EE** Article Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

   (a) Direct insurance (including co-insurance),

   (b) Reinsurance and retrocession,

   (c) Insurance intermediation,

   (d) Services auxiliary to insurance.

7.

8. For **PL** Article 7(1) applies to the cross-border supply of Financial Services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

   (a) direct insurance services (including co-insurance) for the insurance of risks relating to goods in international trade.

   (b) Reinsurance and retrocession of risks relating to goods in international trade.,

Banking and Other Financial Services (excluding insurance and insurance-related services)

9. With the exception of **BE, CY, EE**, **LV, LT**, **MT, SI and RO** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

   (a) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

   (b) advisory and other auxiliary financial services on all the activities listed in paragraph (a) [banking and other financial services] of Article [ ] of], including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy, but excluding intermediation.

10. For **BE** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

    (a) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

11. For **CY** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

    (a) the trading for own account or for the account of customers, whether on an exchange or an over the counter market or otherwise of transferrable securities;

    (b) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

    (c) advisory and other auxiliary financial services, excluding intermediation on all the activities listed in paragraph (a) [banking and other financial services] of Article [ ] of], including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

12. For **EE, LT** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

    (a) acceptance of deposits;

    (b) lending of all types;

    (c) financial leasing;

    (d) all payment and money transmission services;

    (e) guarantees and commitments;

    (f) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market;

    (g) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

    (f) money broking;

    (g) asset management, such as cash or portfolio management, all forms of collective investment management, , custodial, depository and trust services;

    (h) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(i) provision and transfer of financial information, and financial data processing and related software;

(j) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (1) through (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

13. For **LV** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

(a) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(b) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

(c) advisory and other auxiliary financial services on all the activities listed in paragraph (a) [banking and other financial services] of Article [ ] of], including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

14. For **MT** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

(a) the acceptance of deposits;

(b) lending of all types;

(c) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

(d) advisory and other auxiliary financial services on all the activities listed in paragraph (a) [banking and other financial services] of Article [ ] of], including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

15. For **RO** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

(a) acceptance of deposits;

(b) lending of all types;

(c) guarantees and commitments;

(f) money broking;

(d) provision and transfer of financial information, and financial data processing and related software;

(e) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (1) through (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

16. For **SI** Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

(a) lending of all types;

(b) the acceptance of guarantees and commitments from foreign credit institutions by domestic legal entities and sole proprietors;

(c) the provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

(d) advisory and other auxiliary financial services on all the activities listed in paragraph (a) [banking and other financial services] of Article [ ] of], including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

17. Article 7(1) applies to the cross-border supply of financial services, as defined in Article 2(x) of Chapter X Financial Services, with respect to:

a) Portfolio management services to an EU professional client located in the EU, by a Canadian financial institution organized in Canada following a transitional period of 4 years from the entry into force of this Agreement. For greater certainty, this commitment is however subject to the EU prudential regulatory regime including equivalence assessment.[37]

[37] This means that once the European Commission has adopted the equivalence decision related to portfolio management and a Canadian financial institution has satisfied other EU prudential requirements, this financial institution may provide discretionary portfolio management services to an European professional client without being established in the European Union. Furthermore, measures of EU's member states restricting or prohibiting cross-border portfolio management including reservations in Annex X shall no longer apply to this commitment.

b) For the purposes of this commitment, portfolio management means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments.

Furthermore, portfolio management services shall not include:

- custodial services,
- trustee services,
- execution services.

c) For the purposes of this commitment, in the EU professional clients are those defined under letter e) of Section I of Annex II of Directive 2004/39/EC of 21 April 2004 on markets in financial instruments

ANNEX XX OF THE FINANCIAL SERVICES CHAPTER
Understanding between Canada and the EU
Guidance on the application of Article 15.1 (Prudential Carve-out) and Article 20 (Investment Disputes in Financial Services)

The Parties recognize that prudential measures strengthen domestic financial systems, encourage sound efficient and robust institutions, markets, and infrastructure; and promote international financial stability by facilitating better-informed lending and investment decisions, improving market integrity, and reducing the risks of financial distress and contagion.

As a result, the Parties have agreed to a prudential carve-out in Article 15.1 allowing the Parties to take measures for prudential reasons, and to establish Financial Services Committee (Article 17) to act as a filter in investment disputes in financial services under Article 20.

Process:

1. The Financial Services Committee, in its role as a filter in investment disputes under Article 20, shall decide whether and, if so, to what extent the prudential carve-out is a valid defence to the claim.

2. The Parties undertake to act in good faith. Each Party shall present its position to the Financial Services Committee within 60 days of the referral to the Financial Services Committee.

3. Where the non-disputing Party notifies the Financial Services Committee within the 60 day period in paragraph (2) that it has launched its internal determination process on this matter, the timeframe in paragraph (2) is suspended until that Party notifies the Financial Services Committee of its position. A suspension beyond 6 months will be considered as a breach of the good faith undertaking.

4. Where the Respondent does not provide its position to the Financial Services Committee within the time period referred to in paragraph (2), the suspension of the time periods or proceedings referred to in paragraph 4 of Article 20 shall no longer apply and the investor may proceed with its claim.

5. Where the Financial Services Committee is unable to agree on a joint determination within 60 days in relation to a specific investor-to-state dispute concerning a prudential measure, the Financial Services Committee shall refer the matter to the CETA Trade Committee[38]. This period of 60 days shall commence from the moment the Financial Services Committee receives the positions of the Parties pursuant to paragraph (2).

6. The joint determination of the Financial Services Committee or the CETA Trade Committee shall be binding on the Tribunal only in the case in question. The joint determination shall

[38] Each Party shall ensure that its representation in the CETA Trade Commission for this purpose includes financial services authorities

not constitute a binding precedent for the Parties with respect to definition and application of the prudential carve-out or other terms of this Agreement.

7. Unless the CETA Trade Committee otherwise decides, should the CETA Trade Committee not reach an agreement within 3 months of a referral of the matter by the Financial Services Committee pursuant to paragraph (5), each Party shall make its position available to the Tribunal arbitrating that particular dispute. The Tribunal shall take account of this record in reaching a decision. [39]

High level principles:

The Parties agree that the application of Article 15.1 by the Parties and by tribunals should be guided by the following principles, which are not exhaustive:

1. Each Party may determine its own appropriate level of prudential regulation. Specifically a Party may establish and enforce measures that provide a higher level of prudential protection than those set out in common international prudential commitments.

2. Relevant considerations in determining whether a measure meets the requirements of Article 15.1 include the extent to which a measure may be required by the urgency of the situation and the information available to the Party at the time when the measure was adopted.

3. Given the highly specialized nature of prudential regulation, those applying these principles shall defer to the highest degree possible to regulations and practices in the Parties' respective jurisdictions and to the decisions and factual determinations, including risk assessments, made by financial regulatory authorities.

4. (a) Except as provided in paragraph (b), a measure is deemed to meet the requirements of Article 15.1 where it:
   (i) has a prudential objective; and

   (ii) is not so severe in light of its purpose that it is manifestly disproportionate to the attainment of its objective.

   (b) A measure that otherwise meets the requirements of paragraph (a) does not meet the requirements of Article 15.1 where it is a disguised restriction on foreign investment or an arbitrary or unjustifiable discrimination between investors in like situations.

5. Provided that a measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between investors in like situations, or a disguised restriction on foreign investment, that measure is deemed to meet the requirements of Article 15.1 where that measure is:
   - In line with our common international prudential commitments; or

- In pursuance of the resolution of a financial institution that is no longer viable or likely to be no longer viable;
- In pursuance of the recovery of a financial institution or the management of a financial institution under stress; or
- In pursuance of the preservation or the restoration of financial stability, in response to a system-wide financial crisis.

Periodic Review

The Financial Services Committee may, by agreement of both Parties, amend this Understanding at any time. The Financial Services Committee should review this Understanding at least every two years.

In this context, the Financial Services Committee may develop a common understanding on the application of Article 15.1 (Prudential Carve-out), on the basis of the dialogue and discussions held in the Committee in relation to specific disputes and mindful of common international prudential commitments.

Final 1 August 2014

Understanding on the dialogue on the regulation of the financial services sector

The Parties reaffirm their commitment to strengthening financial stability. The dialogue on the regulation of the financial services sector within the Financial Services Committee [established by Article X…] shall be based on the principles and prudential standards agreed at multilateral level. The Parties undertake to focus the discussion on issues with cross-border impact, such as cross-border trade in securities (including the possibility of taking further commitments on portfolio management), the respective frameworks for covered bonds and for collateral requirements in reinsurance, and discuss issues related to the operation of branches.

16. INTERNATIONAL MARITIME TRANSPORT SERVICES

EU Canada working text on International Maritime Transport Services

[ANNEX] [CHAPTER] XY

INTERNATIONAL MARITIME TRANSPORT SERVICES

Article 1: Scope

1. This [Annex] [Chapter] applies to measures adopted or maintained by a Party relating to the supply of international maritime transport services.[40]

2. For greater certainty, measures adopted or maintained by a Party [relating to] [affecting] the supply of international maritime transport services are also subject to the provisions of the Chapters on Cross-Border Trade in Services (CBTS) and on Investment. Chapter X (CBTS) Article X-02 (National Treatment), Article X-04 (Most-Favoured Nation) and Chapter Y (Investment) Article X-# (National Treatment), and Article X-# (Most-Favoured Nation) include the obligation not to adopt or maintain measures that deny vessels engaged in international maritime transport and flying the flag of the other Party[41], or international maritime transport service suppliers of the other Party, the treatment accorded by that Party in like situations to its own vessels or service suppliers or those of any third country, whichever is more favourable, with regard to access to ports, the use of infrastructure and services of ports such as towage and pilotage, the use of maritime auxiliary services as well as the imposition of related fees and charges, access to customs facilities, and the assignment of berths and facilities for loading and unloading[42].

Article 2: Obligations

1. Each Party shall permit international maritime transport service suppliers of the other Party to re-position owned/leased empty containers, not being carried as cargo against payment, between ports of that Party.

2. Each Party shall permit international maritime transport service suppliers of the other Party to provide feeder services between ports of that Party.

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[40] Nothing in this Annex shall be interpreted to apply to fishing vessels as defined under a Party's domestic law.

[41] For the purposes of this [Annex] [Chapter], for the European Union, flying the flag of a Party means flying the flag of a Member State of the European Union.

[42] Paragraph 2 does not oblige a Party to require private sector terminal operators and providers of maritime auxiliary services to accord access to and use of their services on non-discriminatory terms and conditions. Paragraph 2 does not apply to vessels or international maritime transport services suppliers that are subject to the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*.

3. Either Party may adopt or maintain cargo-sharing arrangements with third countries concerning international maritime transport services, including dry and liquid bulk and liner trades.

4. Neither Party may adopt or maintain measures requiring that all or part of any international cargo be transported exclusively by vessels registered in that Party or owned or controlled by nationals of that Party.

5. Neither Party may adopt or maintain measures that prevent international maritime transport service suppliers of the other Party from directly contracting with providers of other transport services for the provision of door-to-door or multimodal transport operations.

Article 3: Non-Conforming Measures

1. Article 2 (Obligations) does not apply to:

   a. an existing non-conforming measure that is maintained by:

      i. The European Union, as set out by the EU in its Schedule to Annex I,

      ii. The national government of a Party, as set out in its Schedule to Annex I,

      iii. A provincial, territorial or regional government of a Party, as set out in its Schedule to Annex I, or

      iv. A local government of a Party.

   b. The continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

   c. An amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 2 (Obligations).

2. Article 2 (Obligations) does not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Annex II.

Article 5: Definitions

For purposes of this [Annex] [Chapter]:

international maritime transport services means the transport of passengers and/or cargo by sea-going vessels between a port of one Party and a port of another Party or of a non-Party, or between a port of one European Union Member State and a port of another European Union Member State, as well as direct contracting with suppliers of other transport services to ensure door-to-door or multimodal transport operations, but not the supply of such other transport services.

door-to-door or multimodal transport operations means the transport of cargo using more than one mode of transport, involving an international sea-leg, under a single transport document.

international cargo means cargo transported by sea-going vessels between a port of one Party and a port of another Party or of a non-Party, or between a port of one European Union Member State and a port of another European Union Member State.

international maritime transport service supplier means

(i) any enterprise of a Party, as defined in Article (X.01) (Initial Provisions and General Definitions - Definitions of General Application), and a branch of any such entity; or

(ii) any enterprise of a non-Party owned or controlled by nationals of a Party, if their vessels are registered in accordance with the legislation of that Party and flying the flag of that Party; or

(iii) with the exclusion of Chapter Y (investment), a branch of an enterprise of a non-Party with substantive business operations in the territory of a Party, that is engaged in the supply of international maritime transport services.

maritime auxiliary services means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services, maritime freight forwarding services, and storage and warehousing services.

maritime cargo handling services means the performance, organization and supervision of:

(i) the loading/discharging of cargo to/from a vessel;
(ii) the lashing/unlashing of cargo; and
(iii) the reception/delivery and safekeeping of cargo before shipment or after discharge,

by stevedoring or terminal operator companies, but does not include work performed by dock labour, when this workforce is organized independently of stevedoring or terminal operator companies.

customs clearance services or **customs house brokers' services** means carrying out, on a fee or contract basis, customs formalities concerning import, export or through transport

of cargo, irrespective of whether this service is the main or secondary activity of the service provider;

container station and depot services means storing containers, whether in port areas or inland, stuffing/stripping/repairing containers and making them available for shipment;

maritime agency services means representing, as an agent, within a given geographic area, the business interests of one or more shipping lines or shipping companies, for the following purposes:

(i) marketing and sales of maritime transport and related services, from quotation to invoicing, issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and

(ii) acting on behalf of the companies in organizing the call of the vessel or taking control of cargo when required.

maritime freight forwarding services means organizing and monitoring shipments on behalf of shippers, through providing such services as the arrangement of transport and related services, consolidation and packing of cargo, preparation of documentation and provision of business information.

feeder services means the pre- and onward transportation of international cargo by sea, including containerized, break bulk and dry/liquid bulk cargo, between ports located in a Party. For greater certainty, in respect of Canada, feeder services may include transportation between sea and inland waters, where inland waters means those defined in the Customs Act.

storage and warehousing services means storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and other storage or warehousing services.

17. TELECOMMUNICATIONS

Telecommunications

Article X.1: Scope of Application

1. This Chapter applies to measures adopted or maintained by a Party relating to telecommunications networks or services, subject to a Party's right to restrict the supply of a service in accordance with its Reservations in Annexes I and II.

2. This Chapter does not apply to any measure of a Party affecting the transmission by any means of telecommunications, including broadcast and cable distribution, of radio or television programming intended for reception by the public, but for greater certainty it would apply to a contribution link.

3. Nothing in this Chapter shall be construed to:

   (a) require a Party to authorize a service supplier of the other Party to establish, construct, acquire, lease, operate or supply telecommunications networks or services, other than as specifically provided in this Agreement; or

   (b) require a Party (or require a Party to compel any service supplier) to establish, construct, acquire, lease, operate or supply telecommunications networks or services not offered to the public generally.

Article X.2: Access to and Use of Public Telecommunications Transport Networks or Services

1. A Party shall ensure that enterprises of the other Party are accorded access to and use of public telecommunications transport networks or services on reasonable and non-discriminatory terms and conditions (including technical standards and specifications) and of a quality no less favourable than that accorded to any other enterprise.[43] This obligation shall be applied, *inter alia*, through paragraphs 2 through 6.

2. Each Party shall ensure that enterprises of the other Party have access to and use of any public telecommunications transport network or service offered within or across its borders, including private leased circuits, and to this end shall ensure, subject to paragraphs 5 and 6, that such enterprises are permitted to:

[43] **non-discriminatory** means treatment no less favourable than that accorded to any other enterprise when using like public telecommunications transport networks or services in like situations.

(a) purchase or lease and attach terminal or other equipment which interfaces with the public telecommunications transport network;

(b) connect private leased or owned circuits with public telecommunications transport networks and services of that Party or with circuits leased or owned by another enterprise;

(c) use operating protocols of their choice; and

(d) perform switching, signaling, and processing functions.

3. Each Party shall ensure that enterprises of the other Party may use public telecommunications transport networks and services for the movement of information in its territory or across its borders, including for intra-corporate communications of such enterprises, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

4. Further to Article X (Exceptions - General Exceptions), and notwithstanding the paragraph 3, a Party shall take appropriate measures to protect:

(a) the security and confidentiality of telecommunications services, or

(b) the privacy of users of public telecommunications transport services,

subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications transport networks or services other than as necessary to:

(a) safeguard the public service responsibilities of suppliers of public telecommunications transport networks or services, in particular their ability to make their networks or services available to the public generally;

(b) protect the technical integrity of public telecommunications transport networks or services; or

(c) ensure that enterprises of another Party do not supply services limited by the Party's Reservations in Annexes I and II.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications transport networks or services may include:

(a) restrictions on resale or shared use of such services;

(b) a requirement to use specified technical interfaces, including interface protocols, for connection with such networks or services;

(c) requirements, where necessary, for the inter-operability of such services;

(d) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks;

(e) restrictions on connection of private leased or owned circuits with such networks or services or with circuits leased or owned by another enterprise; and

(f) notification, registration and licensing.

Article X.3: Authorisation to Provide Telecommunications Services

Each Party should ensure that the authorisation of the provision of telecommunications services, wherever possible, is based upon a simple notification procedure.

Article X.4: Competitive Safeguards on Major Suppliers

1. Each Party shall maintain appropriate measures for the purpose of preventing suppliers that, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 shall include:

(a) engaging in anti-competitive cross-subsidization;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other service suppliers, on a timely basis, technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

Article X.5: Access to Essential Facilities

1. Each Party shall ensure that a major supplier in its territory makes available its essential facilities, which may include, inter alia, network elements, operational support systems or support structures, to suppliers of telecommunications services of the other Party on reasonable and non-discriminatory terms and conditions and cost-oriented rates.

2. Each Party may determine, in accordance with its laws and regulations, those essential facilities required to be made available in its territory.

Article X.6: Interconnection

1. Each Party shall ensure that any major supplier in its territory provides interconnection:

   (a) at any technically feasible point in the network;

   (b) under non-discriminatory terms, conditions (including technical standards and specifications) and rates;

   (c) of a quality no less favourable than that provided for the own like services of such major supplier or for like services of non-affiliated service suppliers or of its subsidiaries or other affiliates;

   (d) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that a supplier need not pay for network components or facilities that it does not require for the services to be supplied; and

   (e) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2. Any supplier authorised to provide telecommunications services shall have the right to negotiate a new interconnection agreement with other suppliers of public telecommunications transport networks and services. Each Party shall ensure that major suppliers are required to establish a reference interconnection offer or negotiate interconnection agreements with other suppliers of telecommunications networks and services.

3. Each Party shall ensure that suppliers of public telecommunications transport services that acquire information from another such supplier during the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

4. Each Party shall ensure that the procedures applicable for interconnection to a major supplier shall be made publicly available.

5. Each Party shall ensure that major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers where it is appropriate.

Article X.7: Universal Service

1. Each Party has the right to define the kind of universal service obligations it wishes to maintain.
2. Each Party shall ensure that any measure on universal service that it adopts or maintains is administered in a transparent, objective, non-discriminatory and competitively neutral manner. Each Party shall also ensure that any universal service obligation imposed by it is not more burdensome than necessary for the kind of universal service that the Party has defined.
3. All suppliers should be eligible to ensure universal service. When a supplier is to be designated as the supplier of a universal service, the selection shall be made through an efficient, transparent and non-discriminatory mechanism.

Article X.8: Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, in an objective, timely, transparent and non-discriminatory manner.

2. A Party's measures allocating and assigning spectrum and managing frequencies shall not be considered inconsistent with [Article X (Cross-Border Trade in Services – Market Access), as it applies to either Chapter X (Investment) or Chapter X (Cross-Border Trade in Services)].[44] Accordingly, each Party retains the right to establish and apply its spectrum and frequency management policies that may limit the number of suppliers of public telecommunications transport services. Each Party also retains the right to allocate frequency bands taking into account present and future needs.

3. The current state of allocated frequency bands shall be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

Article X.9: Regulatory Authority

1. Each Party shall ensure that its regulatory authority is legally distinct and functionally independent from any supplier of telecommunications networks, services or equipment, including where a Party retains ownership or control of a supplier of telecommunications network or service.

2. Each Party shall ensure that its regulatory authorities' decisions and procedures are impartial with respect to all market participants and are administered in a transparent and timely manner.

[44] To be later specified, pending discussion on architecture of the agreement.

3. Each Party shall ensure that its regulatory authorities are sufficiently empowered to regulate the sector, including having the power to:

   (a) require suppliers of telecommunications networks or services submit any information the regulator considers necessary for the administration of its responsibilities; and

   (b) enforce their decisions relating to the obligations set out in articles X.2 and X.4 through appropriate sanctions. Such sanctions may include financial penalties, corrective orders or the suspension or revocation of licences.

Article X.10: Resolution of Telecommunication Disputes

Recourse to Regulatory Authorities

1. Further to Article X (Transparency - Administrative Proceedings) and Article X (Transparency – Review and Appeal), each Party shall ensure the following:

(a) enterprises have timely recourse to its regulatory authority to resolve disputes with suppliers of public telecommunications transport networks or services regarding the matters covered in Articles [X.2, X.4, X.5 and X. 6 – access to and use, competitive safeguards, access to essential facilities, and interconnection] and that, under the domestic law of the Party, are within the regulatory authority's jurisdiction. This shall include, as appropriate, the issuance of a binding decision by the regulatory authority to resolve the dispute within a reasonable period of time.

(b) suppliers of telecommunications networks or services requesting access to essential facilities or interconnection with a major supplier in the Party's territory, have recourse to a regulatory authority to resolve disputes regarding the appropriate terms, conditions and rates for interconnection or access with such a major supplier within a reasonable and publicly specified period of time.

Appeal and Review

2. Each Party shall ensure that an enterprise whose interests are adversely affected by a determination or decision of a regulatory authority may obtain review of the determination or decision by an impartial and independent judicial, quasi-judicial or administrative authority, as provided in the domestic law of the Party. Written reasons for the determination or decision of the judicial, quasi-judicial or administrative authority shall be given. Each Party shall ensure that such determinations or decisions, subject to appeal or further review, are implemented by the regulatory authority.

3. An application for judicial review shall not constitute grounds for non-compliance with the determination or decision of the regulatory authority unless the relevant judicial authority stays such determination or decision.

Article X.11: Transparency

1. Further to Articles X (Transparency - Publication) and X (Transparency - Notification and Provision of Information), and in addition to the other provisions in this Chapter relating to the publication of information, each Party shall make publicly available:

   (i) the responsibilities of a regulatory authority in an easily accessible and clear form, in particular where those responsibilities are given to more than one body;

   (ii) its measures relating to public telecommunications transport network or services, including:

   (A) regulations of its regulatory authority, together with the basis for such regulations;

   (B) measures relating to tariffs and other terms and conditions of service;

   (C) measures relating to specifications of technical interfaces;

   (D) measures relating to conditions for attaching terminal or other equipment to the public telecommunications transport network;

   (E) measures relating to notification, permit, registration, or licensing requirements, if any; and

   (ii) information on bodies responsible for preparing, amending and adopting standards-related measures.

Article X.12: Forbearance

The Parties recognize the importance of a competitive market to achieve legitimate public policy objectives for telecommunications services. To this end, and to the extent provided in its domestic law, each Party may refrain from applying a regulation to a telecommunications service when, following analysis of the market, it is determined that effective competition is achieved.

[Article X.13: Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter in this Agreement, this Chapter shall prevail to the extent of the inconsistency.]CAN

ARTICLE X.14: Number Portability

Each Party shall ensure that suppliers of public telecommunications transport services in its territory provide number portability on reasonable terms and conditions.

Article X.15: Definitions

For the purpose of this Chapter:

contribution link means a link for the transmission of sound or television broadcasting signals to a programme production centre.

cost-oriented means based on cost and may involve different cost methodologies for different facilities or services;

enterprise means an "enterprise" as defined in Article 3 (Investment– Definitions);

essential facilities means facilities of a public telecommunications transport network or service that:

(a) are exclusively or predominantly provided by a single or a limited number of suppliers; and

(b) cannot feasibly be economically or technically substituted in order to provide a service;

interconnection means linking suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

intra-corporate communications means telecommunications through which a company communicates within the company or with or among its subsidiaries, branches and, subject to a Party's domestic laws and regulations, affiliates. For these purposes, "subsidiaries", "branches" and, where applicable, "affiliates" are as defined by each Party. "Intra-corporate communications" excludes commercial or non-commercial services that are supplied to companies that are not related subsidiaries, branches or affiliates or that are offered to customers or potential customers;

leased circuits means telecommunications facilities between two or more designated points that are set aside for the dedicated use of or availability to a particular customer or other users of the customer's choosing;

major supplier means a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications transport networks or services as a result of :

(a) control over essential facilities; or

(b) use of its position in the market;

network termination point means the physical point at which a user is provided with access to a public communications network.

public telecommunications transport network means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points;

public telecommunications transport service means any telecommunications transport service required, explicitly or in effect, by a Party to be offered to the public generally involving the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information. Such services may include, *inter alia*, voice telephone services, packet-switched data transmission services, circuit-switched data transmission services, telex services, telegraph services, facsimile services, private leased circuit services and mobile and personal communications services and systems.

regulatory authority means the body responsible for the regulation of telecommunications;

service supplier means a person of a Party that seeks to supply or supplies a service, including a supplier of telecommunications networks or services;

telecommunications services means all services consisting of the transmission and reception of signals by any electro-magnetic means and do not cover the economic activity consisting of the provision of content by means of telecommunications;

user is an enterprise or natural person using or requesting a publicly available telecommunications service.

number portability means the ability of end-users of public telecommunications transport services to retain, at the same location, the same telephone numbers without impairment of quality, reliability or convenience when switching between suppliers of like public telecommunications transport services.

18. ELECTRONIC COMMERCE

CHAPTER X

ELECTRONIC COMMERCE

Article X-01: Objective, Scope and Coverage

1. The Parties recognise that electronic commerce increases economic growth and trade opportunities in many sectors and confirm the applicability of WTO rules to electronic commerce. They agree to promote the development of electronic commerce between them, in particular by co-operating on the issues raised by electronic commerce under the provisions of this [*Chapter/Sub-section*].

2. The Parties confirm that this Agreement applies to electronic commerce. In the event of an inconsistency between this [*Chapter/Sub-section*] and another [*Chapter/Sub-section*] of this Agreement, the other [*Chapter/Sub-section*] shall prevail to the extent of the inconsistency.

3. Nothing in this [*Chapter/Sub-section*] imposes obligations on a Party to allow a delivery transmitted by electronic means except in accordance with the obligations of that Party under the other [*Chapter/Sub-section*] of this Agreement.

4. The General Exceptions set out in Art.X.02 in Chapter X (Exceptions) shall apply to this Chapter.

Article X-02: Customs Duties on Electronic Deliveries

1. The Parties agree that a delivery transmitted by electronic means shall not be subject to customs duties, fees or charges.

2. For greater clarity, paragraph 1 does not prevent a Party from imposing internal taxes or other internal charges on a delivery transmitted by electronic means, provided that such taxes or charges are imposed in a manner consistent with the other [*Chapter/Sub-section*] of this Agreement.

Article X-03: Trust and Confidence in Electronic Commerce

Each Party should adopt or maintain laws, regulations or administrative measures for the protection of personal information of users engaged in electronic commerce and, when doing so, shall take into due consideration international standards for data protection of relevant international organisations of which both Parties are a member.

Article X-04: General Provisions

Considering the potential of electronic commerce as a social and economic development tool, the Parties recognize the importance of:

(a) clarity, transparency and predictability in their domestic regulatory frameworks in facilitating, to the maximum extent possible, the development of electronic commerce;

(b) interoperability, innovation and competition in facilitating electronic commerce;

(c) facilitating the use of electronic commerce by small and medium sized enterprises.

Article X-05: Dialogue on E-Commerce

1. Recognising the global nature of electronic commerce, the Parties agree to maintain a dialogue on issues raised by electronic commerce, which will *inter alia* address:

(a) the recognition of certificates of electronic signatures issued to the public and the facilitation of cross-border certification services,

(b) the liability of intermediary service providers with respect to the transmission, or storage of information,

(c) the treatment of unsolicited electronic commercial communications,

(d) the protection of personal information and the protection of consumers and businesses from fraudulent and deceptive commercial practices in the sphere of electronic commerce.

2. The dialogue in Paragraph 1 may take the form of exchange of information on the Parties' respective laws, regulations, and other measures on these issues, as well as sharing experiences on the implementation of such laws, regulations, and other measures.

3. Recognizing the global nature of electronic commerce, the Parties affirm the importance of actively participating in multilateral fora to promote the development of electronic commerce.

Article X-06: Definitions

For purposes of this Chapter:

delivery means a computer program, text, video, image, sound recording or other delivery that is digitally encoded; and

electronic commerce means commerce conducted through telecommunications, alone or in conjunction with other information and communication technologies.

19. COMPETITION POLICY

COMPETITION POLICY

Article X-01: Competition Policy

1. The Parties recognize the importance of free and undistorted competition in their trade relations. The Parties acknowledge that anti-competitive business conduct has the potential to distort the proper functioning of markets and undermine the benefits of trade liberalization.
2. Each Party shall take appropriate measures to proscribe anti-competitive business conduct, recognizing that such measures will enhance the fulfilment of the objectives of this Agreement.
3. The Parties shall cooperate on matters relating to proscribing anti-competitive business conduct in the free trade area in accordance with the *Agreement between the European Communities and the Government of Canada Regarding the Application of their Competition Laws*, entered into force on 17 June 1999, or any successor Agreement.
4. The measures referred to in paragraph 2 shall be consistent with the principles of transparency, non-discrimination and procedural fairness. Exclusions from the application of competition law shall be transparent. Each Party shall make available to the other Party public information concerning such exclusions provided under its competition laws.
5. In this Article, "anti-competitive business conduct" means anti-competitive agreements, concerted practices or arrangements by competitors; anti-competitive practices by an enterprise that is dominant in a market; and mergers with substantial anti-competitive effects.

Article X-02: Application of Competition Policy to Enterprises

1. Each Party shall ensure that the measures referred to in Article X-01.2 apply to the Parties to the extent required by their respective laws.
2. For greater certainty

   (a) in Canada, the Competition Act is binding on and applies to an agent of Her Majesty in right of Canada or a province that is a corporation, in respect of commercial activities engaged in by the corporation in competition, whether actual or potential, with other persons to the extent that it would apply if the agent were not an agent of Her Majesty. Such an agent may include State enterprises, monopolies and enterprises granted special or exclusive rights or privileges; and

   (b) in the European Union, State enterprises, monopolies and enterprises granted special rights or privileges are subject to the European Union's rules on competition. However,

enterprises entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly are subject to these rules, in so far as the application of these rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

Article X-03: Dispute Settlement

1. Nothing in this Chapter shall be subject to any form of dispute settlement under the Agreement.

Article X-04: Definition

For purposes of this Chapter:

Service of general economic interest means for the European Union:

a service that cannot be provided satisfactorily and under conditions, such as price, objective quality characteristics, continuity and access to the service, consistent with the public interest, by an undertaking operating under normal market conditions. The operation of an SGEI must be entrusted to one or more undertakings by the State by way of a public service assignment that defines the obligations of the undertakings in question and of the State.

20. STATE ENTERPRISES, MONOPOLIES AND ENTERPRISES GRANTED SPECIAL RIGHTS (MSE)

Chapter on State Enterprises, Monopolies and Enterprises granted Special Rights or Privileges

Article 1

1. For the purposes of this Chapter, the following definitions shall apply:

(a) "State Enterprise" means an enterprise owned or controlled by a Party

(b) "Monopoly" means an entity of a commercial character, including a consortium or government agency, that in a relevant market in the territory of a Party is designated as the sole supplier or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant.

(c) "Covered entity" means:

i) a monopoly; or

ii) a supplier of a good or service if it is one of a small number of services or goods suppliers authorised or established, formally or in effect, by a Party and the Party substantially prevents competition among those suppliers in its territory; or

iii) any entity that has been formally or in effect granted by a Party any special rights or privileges, substantially affecting the ability of any other enterprise to provide the same good or service in the same geographical area under substantially equivalent conditions, and allowing it to escape, in whole or in part, competitive pressures or market constraints;[45] or

iv) a state enterprise.

(d) "Designate" means to establish or authorize a monopoly, or to expand the scope of a monopoly to cover an additional good or service.

(e) "Non-discriminatory treatment" means the better of national treatment and most-favoured-nation treatment as set out in this Agreement.

(f) "In accordance with commercial considerations" means consistent with customary business practices of a privately held enterprise in the relevant business or industry.

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45 For greater certainty, the granting of a license to a limited number of enterprises in allocating a scarce resource through objective, proportional and non-discriminatory criteria is not in and of itself a special right.

Article 2

1. The Parties confirm their rights and obligations under Article XVII, paragraphs 1 through 3, of GATT 1994, the Understanding on the Interpretation of Article XVII of GATT 1994, as well as under Article VIII of GATS, paragraphs 1 and 2, which are hereby incorporated into and made part of this Agreement and shall apply.

2. This Chapter does not apply to procurement by a Party for goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of goods and services for commercial sale, whether or not that procurement is "covered procurement" within the meaning of Article II of (Chapter XX - Government Procurement).

3. Articles 4 and 5 of this Chapter do not apply to sectors set out in Article XX of CBTS and Article YY of the Investment chapter

4. Articles 4 and 5 of this Chapter do not apply to measures of a covered entity where a National Treatment or MFN reservation of a Party, as set out in that Party's schedule in Annex X, would be applicable if the same measures had been adopted or maintained by that Party.

Kommentiert [MK7]: Canada and EU agree this is closed, pending satisfactory result of final reservation exchange.

Article 3

1. Without prejudice to the Parties' rights and obligations under this Agreement, nothing in this Chapter prevents Parties from designating or maintaining state enterprises or monopolies or from granting enterprises special rights or privileges.

2. A Party shall not require or encourage covered entities to act in a manner inconsistent with this Agreement.

Article 4

Each Party shall ensure in its territory that a covered entity accords non-discriminatory treatment to a covered investment, to a good of the other Party *and* or to a service supplier of the other Party in its purchase or sale of a good or a service.

Kommentiert [MK8]: Note for legal scrub: “and or” or just “or”?

Article 5

1. Except to fulfill the purpose[46] for which a monopoly has been created or for which special rights or privileges have been granted, or in the case of a state enterprise to fulfill its public mandate, and provided that the entity's conduct is consistent with the provisions in Article 4 of this Chapter and the (Chapter XX – Competition), each Party shall ensure that a covered entity acts in accordance with commercial considerations in the relevant territory in its purchases and sales of goods, including with regard to price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, as well as in its purchases or supply of

[46] Such as public service obligations or regional development

services, including when these goods or services are supplied to or by an investment of an investor of the other Party.

2. A covered entity set out in Article 1(c)(ii) through (iv) acting in accordance with Article 5.1 shall be deemed to be in compliance with the obligations set out in Article 4.

21. GOVERNMENT PROCUREMENT

Chapter X
Government Procurement

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Article I Definitions

For purposes of this Chapter:

(a) **commercial goods or services** means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

(b) **Committee** means the Committee on Government Procurement established by Article XIX:1;

(c) **construction service** means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC);

(d) **days** means calendar days;

(e) **electronic auction** means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders;

(f) **in writing** or **written** means any worded or numbered expression that can be read, reproduced and later communicated. It may include electronically transmitted and stored information;

(g) **limited tendering** means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

(h) **measure** means any law, regulation, procedure, administrative guidance or practice, or any action of a procuring entity relating to a covered procurement;

(i) **multi-use list** means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

(j) **notice of intended procurement** means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

(k) **offset** means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade and similar action or requirement;

(l) **open tendering** means a procurement method whereby all interested suppliers may submit a tender;

(m) **person** means a natural person or a juridical person;

(n) **procuring entity** means an entity covered under Annex X-01, X-02 or X-03;

(o) **qualified supplier** means a supplier that a procuring entity recognizes as having satisfied the conditions for participation;

(p) **selective tendering** means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender;

(q) **services** includes construction services, unless otherwise specified;

(r) **standard** means a document approved by a recognized body that provides for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, service, process or production method;

(s) **supplier** means a person or group of persons that provides or could provide goods or services; and

(t) **technical specification** means a tendering requirement that:

(i) lays down the characteristics of goods or services to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or

(ii) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service.

Article II Scope and Coverage

[Note: This article may require adjustment based on a final structure and naming convention for market access annexes/appendices.]

Application of Chapter

1. This Chapter applies to any measure regarding covered procurement, whether or not it is conducted exclusively or partially by electronic means.

2. For the purposes of this Chapter, covered procurement means procurement for governmental purposes:

(a) of goods, services, or any combination thereof:

(i) as specified in each Party's annexes to this Chapter; and

(ii) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;

(b) by any contractual means, including: purchase; lease; and rental or hire purchase, with or without an option to buy;

(c) for which the value, as estimated in accordance with paragraphs 6 through 8, equals or exceeds the relevant threshold specified in a Party's annexes to this Chapter, at the time of publication of a notice in accordance with Article VI;

(d) by a procuring entity; and

(e) that is not otherwise excluded from coverage in paragraph 3 or a Party's annexes to this Chapter.

3. Except where provided otherwise in a Party's annexes to this Chapter, this Chapter does not apply to:

(a) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;

(b) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees and fiscal incentives;

(c) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities;

(d) public employment contracts;

(e) procurement conducted:

(i) for the specific purpose of providing international assistance, including development aid;

(ii) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or

(iii) under the particular procedure or condition of an international organization, or funded by international grants, loans or other assistance

where the applicable procedure or condition would be inconsistent with this Chapter.

4. The procurement subject to the rules of this chapter shall be all procurement covered by Appendices X and Y, in which each Party's commitments shall be set out as follows:

(a) in Annex X-01, the central government entities whose procurement is covered by this Chapter;

(b) in Annex X-02, the sub-central government entities whose procurement is covered by this Chapter;

(c) in Annex X-03, all other entities whose procurement is covered by this Chapter;

(d) in Annex X-04, the goods covered by this Chapter;

(e) in Annex X-05, the services, other than construction services, covered by this Chapter;

(f) in Annex X-06, the construction services covered by this Chapter;

(g) in Annex X-07, any General Notes; and

(h) in Annex X-08, the means of publication used for this Chapter.

5. Where a procuring entity, in the context of covered procurement, requires persons not covered under a Party's annexes to this Chapter to procure in accordance with particular requirements, Article IV shall apply *mutatis mutandis* to such requirements.

Valuation

6. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:

(a) neither divide a procurement into separate procurements nor select or use a particular valuation method for estimating the value of a procurement with the intention of totally or partially excluding it from the application of this Chapter; and

(b) include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:

(i) premiums, fees, commissions and interest; and

(ii) where the procurement provides for the possibility of options, the total value of such options.

7. Where an individual requirement for a procurement results in the award of more than one contract, or in the award of contracts in separate parts (hereinafter referred to as "recurring contracts" the calculation of the estimated maximum total value shall be based on:

(a) the value of recurring contracts of the same type of good or service awarded during the preceding 12 months or the procuring entity's preceding fiscal year, adjusted, where possible, to take into account anticipated changes in the quantity or value of the good or service being procured over the following 12 months; or

(b) the estimated value of recurring contracts of the same type of good or service to be awarded during the 12 months following the initial contract award or the procuring entity's fiscal year.

8. In the case of procurement by lease, rental or hire purchase of goods or services, or procurement for which a total price is not specified, the basis for valuation shall be:

(a) in the case of a fixed-term contract:

(i) where the term of the contract is 12 months or less, the total estimated maximum value for its duration; or

(ii) where the term of the contract exceeds 12 months, the total estimated maximum value, including any estimated residual value;

(b) where the contract is for an indefinite period, the estimated monthly instalment multiplied by 48; and

(c) where it is not certain whether the contract is to be a fixed-term contract, subparagraph (b) shall be used.

Article III Security and General Exceptions

1. Nothing in this Chapter shall be construed to prevent a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition[47] or war material, or to procurement indispensable for national security or for national defence purposes.

2. Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures:

[47] The expression "ammunition" in this Article is considered equivalent to the expression "munitions".

(a) necessary to protect public morals, order or safety;

(b) necessary to protect human, animal or plant life or health;

(c) necessary to protect intellectual property; or

(d) relating to goods or services of persons with disabilities, philanthropic institutions or prison labour.

Article IV General Principles

Non-Discrimination

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party and to the suppliers of the other Party offering such goods or services, treatment no less favourable than the treatment the Party, including its procuring entities, accords to goods, services and suppliers. For greater certainty, such treatment includes:

(a) within Canada, treatment no less favourable than that accorded by a province or territory, including its procuring entities, to goods and services of, and to suppliers located in, that province or territory; and

(b) within the European Union, treatment no less favourable than that accorded by a Member State or a sub-central region of a Member State, including its procuring entities, to goods and services of, and suppliers located in, that Member State or sub-central region, as the case may be.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

(a) treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation or ownership; or

(b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

Use of Electronic Means

3. When conducting covered procurement by electronic means, a procuring entity shall:

(a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of

information, that are generally available and interoperable with other generally available information technology systems and software; and

(b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

Conduct of Procurement

4. A procuring entity shall conduct covered procurement in a transparent and impartial manner that:

(a) is consistent with this Chapter, using methods such as open tendering, selective tendering and limited tendering;

(b) avoids conflicts of interest; and

(c) prevents corrupt practices.

Rules of Origin

5. For purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the other Party that are different from the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

Offsets

6. With regard to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose or enforce any offset.

Measures Not Specific to Procurement

7. Paragraphs 1 and 2 shall not apply to: customs duties and charges of any kind imposed on, or in connection with, importation; the method of levying such duties and charges; other import regulations or formalities and measures affecting trade in services other than measures governing covered procurement.

Article V Information on the Procurement System

1. Each Party shall:

(a) promptly publish any law, regulation, judicial decision, administrative ruling of general application, standard contract clause mandated by law or regulation and incorporated by reference in notices or tender documentation and procedure regarding covered procurement, and any modifications thereof, in an officially

designated electronic or paper medium that is widely disseminated and remains readily accessible to the public; and

(b) provide an explanation thereof to the other Party, on request.

2. Each Party shall list, in Annex X-08:

[[Note: This article may require adjustment based on a final structure and naming convention for market access annexes/appendices.]

(a) the electronic or paper media in which the Party publishes the information described in paragraph 1;

(b) the electronic or paper media in which the Party publishes the notices required by Articles VI, VIII:7 and XV:2; and

(c) the website address or addresses where the Party publishes:

(i) its procurement statistics pursuant to Article XV:5; or

(ii) its notices concerning awarded contracts pursuant to Article XV:6.

3. Each Party shall promptly notify the Committee of any modification to the Party's information listed in Annex X-08.

Article VI Notices

Notice of Intended Procurement

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement, except in the circumstances described in Article XII.

All the notices of intended procurement shall be directly accessible [by electronic means free of charge through a single point of access subject to paragraph 2.] In addition, the notices may also be published in an appropriate paper medium. Such medium shall be widely disseminated and such notices shall remain readily accessible to the public, at least until expiration of the time-period indicated in the notice.

The appropriate paper and electronic medium shall be listed by each Party in Annex X-08.

2. A Party may apply a transitional period of up to 5 years from the date of entry into force of this Agreement to entities covered by Annex 2 and Annex 3 that are not ready to participate in a single point of access referred to in paragraph 1. Those entities shall, during such transitional period, provide their notices of intended procurement, [if accessible by electronic means,]

through links in a gateway electronic site that is accessible free of charge and listed in Annex X-08.

3. Except as otherwise provided in this Chapter, each notice of intended procurement shall include:

(a) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any;

(b) a description of the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity;

(c) for recurring contracts, an estimate, if possible, of the timing of subsequent notices of intended procurement;

(d) a description of any options;

(e) the time-frame for delivery of goods or services or the duration of the contract;

(f) the procurement method that will be used and whether it will involve negotiation or electronic auction;

(g) where applicable, the address and any final date for the submission of requests for participation in the procurement;

(h) the address and the final date for the submission of tenders;

(i) the language or languages in which tenders or requests for participation may be submitted, if they may be submitted in a language other than an official language of the Party of the procuring entity;

(j) a list and brief description of any conditions for participation of suppliers, including any requirements for specific documents or certifications to be provided by suppliers in connection therewith, unless such requirements are included in tender documentation that is made available to all interested suppliers at the same time as the notice of intended procurement;

(k) where, pursuant to Article VIII, a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, where applicable, any limitation on the number of suppliers that will be permitted to tender; and

(l) an indication that the procurement is covered by this Chapter.

Summary Notice

4. For each case of intended procurement, a procuring entity shall publish a summary notice that is readily accessible, at the same time as the publication of the notice of intended procurement, in English or French. The summary notice shall contain at least the following information:

(a) the subject-matter of the procurement;

(b) the final date for the submission of tenders or, where applicable, any final date for the submission of requests for participation in the procurement or for inclusion on a multi-use list; and

(c) the address from which documents relating to the procurement may be requested.

Notice of Planned Procurement

5. Procuring entities are encouraged to publish in the appropriate [electronic, and, where available, paper] medium listed in Annex X-08 as early as possible in each fiscal year a notice regarding their future procurement plans (hereinafter referred to as "notice of planned procurement"). [The notice of planned procurement shall also be published in the single point of access site listed in Annex X-08, subject to paragraph 2.] The notice of planned procurement should include the subject-matter of the procurement and the planned date of the publication of the notice of intended procurement.

6. A procuring entity covered under Annex X-02 or 3 may use a notice of planned procurement as a notice of intended procurement provided that the notice of planned procurement includes as much of the information referred to in paragraph 3 as is available to the entity and a statement that interested suppliers should express their interest in the procurement to the procuring entity.

Article VII Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In establishing the conditions for participation, a procuring entity:

(a) shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a Party;

(b) may require relevant prior experience where essential to meet the requirements of the procurement; and

(c) shall not require prior experience in the territory of the Party to be a condition of the procurement.

3. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:

(a) shall evaluate the financial capacity and the commercial and technical abilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity; and

(b) shall base its evaluation on the conditions that the procuring entity has specified in advance in notices or tender documentation.

4. Where there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:

(a) bankruptcy;

(b) false declarations;

(c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;

(d) final judgments in respect of serious crimes or other serious offences;

(e) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or

(f) failure to pay taxes.

Article VIII Qualification of Suppliers

Registration Systems and Qualification Procedures

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information.

2. Each Party shall ensure that:

(a) its procuring entities make efforts to minimize differences in their qualification procedures; and

(b) where its procuring entities maintain registration systems, the entities make efforts to minimize differences in their registration systems.

3. A Party, including its procuring entities, shall not adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.

Selective Tendering

4. Where a procuring entity intends to use selective tendering, the entity shall:

(a) include in the notice of intended procurement at least the information specified in Article VI:2(a), (b), (f), (g), (j), (k) and (l) and invite suppliers to submit a request for participation; and

(b) provide, by the commencement of the time-period for tendering, at least the information in Article VI:2 (c), (d), (e), (h) and (i) to the qualified suppliers that it notifies as specified in Article X:3(b).

5. A procuring entity shall allow all qualified suppliers to participate in a particular procurement, unless the procuring entity states in the notice of intended procurement any limitation on the number of suppliers that will be permitted to tender and the criteria for selecting the limited number of suppliers.

6. Where the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 4, a procuring entity shall ensure that those documents are made available at the same time to all the qualified suppliers selected in accordance with paragraph 5.

Multi-Use Lists

7. A procuring entity may maintain a multi-use list of suppliers, provided that a notice inviting interested suppliers to apply for inclusion on the list is:

(a) published annually; and

(b) where published by electronic means, made available continuously,

in the appropriate medium listed in Annex X-08.

8. The notice provided for in paragraph 7 shall include:

(a) a description of the goods or services, or categories thereof, for which the list may be used;

(b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;

(c) the name and address of the procuring entity and other information necessary to contact the entity and obtain all relevant documents relating to the list;

(d) the period of validity of the list and the means for its renewal or termination, or where the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list; and

(e) an indication that the list may be used for procurement covered by this Chapter.

9. Notwithstanding paragraph 7, where a multi-use list will be valid for three years or less, a procuring entity may publish the notice referred to in paragraph 7 only once, at the beginning of the period of validity of the list, provided that the notice:

(a) states the period of validity and that further notices will not be published; and

(b) is published by electronic means and is made available continuously during the period of its validity.

10. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.

11. Where a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all required documents, within the time-period provided for in Article X:2, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, in exceptional cases, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time-period allowed for the submission of tenders.

Annex X-02 and Annex X-03 Entities

12. A procuring entity covered under Annex X-02 or X-03may use a notice inviting suppliers to apply for inclusion on a multi-use list as a notice of intended procurement, provided that:

(a) the notice is published in accordance with paragraph 7 and includes the information required under paragraph 8, as much of the information required under Article VI:2 as is available and a statement that it constitutes a notice of intended procurement or that only the suppliers on the multi-use list will receive further notices of procurement covered by the multi-use list; and

(b) the entity promptly provides to suppliers that have expressed an interest in a given procurement to the entity, sufficient information to permit them to assess their interest in the procurement, including all remaining information required in Article VI:2, to the extent such information is available.

13. A procuring entity covered under Annex X-02 or X-03may allow a supplier that has applied for inclusion on a multi-use list in accordance with paragraph 10 to tender in a given procurement, where there is sufficient time for the procuring entity to examine whether the supplier satisfies the conditions for participation.

Information on Procuring Entity Decisions

14. A procuring entity shall promptly inform any supplier that submits a request for participation in a procurement or application for inclusion on a multi-use list of the procuring entity's decision with respect to the request or application.

15. Where a procuring entity rejects a supplier's request for participation in a procurement or application for inclusion on a multi-use list, ceases to recognize a supplier as qualified, or removes a supplier from a multi-use list, the entity shall promptly inform the supplier and, on request of the supplier, promptly provide the supplier with a written explanation of the reasons for its decision.

Article IX Technical Specifications and Tender Documentation

Technical Specifications

1. A procuring entity shall not prepare, adopt or apply any technical specification or prescribe any conformity assessment procedure with the purpose or the effect of creating unnecessary obstacles to international trade.

2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, where appropriate:

(a) set out the technical specification in terms of performance and functional requirements, rather than design or descriptive characteristics; and

(b) base the technical specification on international standards, where such exist; otherwise, on national technical regulations, recognized national standards or building codes.

3. Where design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, where appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as "or equivalent" in the tender documentation.

4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, the entity includes words such as "or equivalent" in the tender documentation.

5. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

6. For greater certainty, a Party, including its procuring entities, may, in accordance with this Article, prepare, adopt or apply technical specifications to promote the conservation of natural resources or protect the environment.

Tender Documentation

7. A procuring entity shall make available to suppliers tender documentation that includes all information necessary to permit suppliers to prepare and submit responsive tenders. Unless already provided in the notice of intended procurement, such documentation shall include a complete description of:

(a) the procurement, including the nature and the quantity of the goods or services to be procured or, where the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings or instructional materials;

(b) any conditions for participation of suppliers, including a list of information and documents that suppliers are required to submit in connection with the conditions for participation;

(c) all evaluation criteria the entity will apply in the awarding of the contract, and, except where price is the sole criterion, the relative importance of such criteria;

(d) where the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;

(e) where the procuring entity will hold an electronic auction, the rules, including identification of the elements of the tender related to the evaluation criteria, on which the auction will be conducted;

(f) where there will be a public opening of tenders, the date, time and place for the opening and, where appropriate, the persons authorized to be present;

(g) any other terms or conditions, including terms of payment and any limitation on the means by which tenders may be submitted, such as whether on paper or by electronic means; and

(h) any dates for the delivery of goods or the supply of services.

8. In establishing any date for the delivery of goods or the supply of services being

procured, a procuring entity shall take into account such factors as the complexity of the procurement, the extent of subcontracting anticipated and the realistic time required for production, de-stocking and transport of goods from the point of supply or for supply of services.

9. The evaluation criteria set out in the notice of intended procurement or tender documentation may include, among others, price and other cost factors, quality, technical merit, environmental characteristics and terms of delivery.

10. A procuring entity shall promptly:

(a) make available tender documentation to ensure that interested suppliers have sufficient time to submit responsive tenders;

(b) provide, on request, the tender documentation to any interested supplier; and

(c) reply to any reasonable request for relevant information by any interested or participating supplier, provided that such information does not give that supplier an advantage over other suppliers.

Modifications

11. Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of intended procurement or tender documentation provided to participating suppliers, or amends or reissues a notice or tender documentation, it shall transmit in writing all such modifications or amended or re-issued notice or tender documentation:

(a) to all suppliers that are participating at the time of the modification, amendment or re-issuance, where such suppliers are known to the entity, and in all other cases, in the same manner as the original information was made available; and

(b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

Article X Time-Periods

General

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as:

(a) the nature and complexity of the procurement;

(b) the extent of subcontracting anticipated; and

(c) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points where electronic means are not used.

Such time-periods, including any extension of the time-periods, shall be the same for all interested or participating suppliers.

Deadlines

2. A procuring entity that uses selective tendering shall establish that the final date for the submission of requests for participation shall not, in principle, be less than 25 days from the date of publication of the notice of intended procurement. Where a state of urgency duly substantiated by the procuring entity renders this time-period impracticable, the time-period may be reduced to not less than 10 days.

3. Except as provided for in paragraphs 4, 5, 7 and 8 a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:

(a) in the case of open tendering, the notice of intended procurement is published; or

(b) in the case of selective tendering, the entity notifies suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

4. A procuring entity may reduce the time-period for tendering established in accordance with paragraph 3 to not less than 10 days where:

(a) the procuring entity has published a notice of planned procurement as described in Article VI:4 at least 40 days and not more than 12 months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:

(i) a description of the procurement;

(ii) the approximate final dates for the submission of tenders or requests for participation;

(iii) a statement that interested suppliers should express their interest in the procurement to the procuring entity;

(iv) the address from which documents relating to the procurement may be obtained; and

(v) as much of the information that is required for the notice of intended procurement under Article VI:2, as is available;

(b) the procuring entity, for contracts of a recurring nature, indicates in an initial notice of intended procurement that subsequent notices will provide time-periods for tendering based on this paragraph; or

(c) a state of urgency duly substantiated by the procuring entity renders the time-period for tendering established in accordance with paragraph 3 impracticable.

5. A procuring entity may reduce the time-period for tendering established in accordance with paragraph 3 by five days for each one of the following circumstances:

(a) the notice of intended procurement is published by electronic means;

(b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and

(c) the entity accepts tenders by electronic means.

6. The use of paragraph 5, in conjunction with paragraph 4, shall in no case result in the reduction of the time-period for tendering established in accordance with paragraph 3 to less than 10 days from the date on which the notice of intended procurement is published.

7. Notwithstanding any other provision in this Article, where a procuring entity purchases commercial goods or services, or any combination thereof, it may reduce the time-period for tendering established in accordance with paragraph 3 to not less than 13 days, provided that it publishes by electronic means, at the same time, both the notice of intended procurement and the tender documentation. In addition, where the entity accepts tenders for commercial goods or services by electronic means, it may reduce the time-period established in accordance with paragraph 3 to not less than 10 days.

8. Where a procuring entity covered under Annex X-02 or X-03 has selected all or a limited number of qualified suppliers, the time-period for tendering may be fixed by mutual agreement between the procuring entity and the selected suppliers. In the absence of agreement, the period shall not be less than 10 days.

Article XI Negotiation

1. A Party may provide for its procuring entities to conduct negotiations:

(a) where the entity has indicated its intent to conduct negotiations in the notice of intended procurement required under Article VI:2; or

(b) where it appears from the evaluation that no tender is obviously the most advantageous in terms of the specific evaluation criteria set out in the notice of intended procurement or tender documentation.

2. A procuring entity shall:

(a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or tender documentation; and

(b) where negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

Article XII Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of the other Party or protects domestic suppliers, a procuring entity may use limited tendering and may choose not to apply Articles VI through VIII, IX (paragraphs 7 through 11), X, XI, XIII and XIV only under any of the following circumstances:

(a) where:

(i) no tenders were submitted or no suppliers requested participation;

(ii) no tenders that conform to the essential requirements of the tender documentation were submitted;

(iii) no suppliers satisfied the conditions for participation; or

(iv) the tenders submitted have been collusive,

provided that the requirements of the tender documentation are not substantially modified;

(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:

(i) the requirement is for a work of art;

(ii) the protection of patents, copyrights or other exclusive rights; or

(iii) due to an absence of competition for technical reasons;

(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:

(i) cannot be made for economic or technical reasons such as requirements of

interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

(d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;

(e) for goods purchased on a commodity market;

(f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers; or

(h) where a contract is awarded to a winner of a design contest provided that:

(i) the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a notice of intended procurement; and

(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.

2. A procuring entity shall prepare a report in writing on each contract awarded under paragraph 1. The report shall include the name of the procuring entity, the value and kind of goods or services procured and a statement indicating the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

Article XIII Electronic Auctions

Where a procuring entity intends to conduct a covered procurement using an electronic auction, the entity shall provide each participant, before commencing the electronic auction, with:

(a) the automatic evaluation method, including the mathematical formula, that is based on the evaluation criteria set out in the tender documentation and that will be used in the automatic ranking or re-ranking during the auction;

(b) the results of any initial evaluation of the elements of its tender where the contract is to be awarded on the basis of the most advantageous tender; and

(c) any other relevant information relating to the conduct of the auction.

Article XIV Treatment of Tenders and Awarding of Contracts

Treatment of Tenders

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process, and the confidentiality of tenders.

2. A procuring entity shall not penalize any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.

3. Where a procuring entity provides a supplier with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

Awarding of Contracts

4. To be considered for an award, a tender shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notices and tender documentation and be from a supplier that satisfies the conditions for participation.

5. Unless a procuring entity determines that it is not in the public interest to award a contract, the entity shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted:

(a) the most advantageous tender; or

(b) where price is the sole criterion, the lowest price.

6. Where a procuring entity receives a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

7. A procuring entity shall not use options, cancel a procurement or modify awarded contracts in a manner that circumvents the obligations under this Chapter.

Article XV Transparency of Procurement Information

Information Provided to Suppliers

1. A procuring entity shall promptly inform participating suppliers of the entity's contract award decisions and, on the request of a supplier, shall do so in writing. Subject to paragraphs 2 and 3 of Article XVI, a procuring entity shall, on request, provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.

Publication of Award Information

2. Not later than 72 days after the award of each contract covered by this Chapter, a procuring entity shall publish a notice in the appropriate paper or electronic medium listed in Annex X-08. Where the entity publishes the notice only in an electronic medium, the information shall remain readily accessible for a reasonable period of time. The notice shall include at least the following information:

(a) a description of the goods or services procured;

(b) the name and address of the procuring entity;

(c) the name and address of the successful supplier;

(d) the value of the successful tender or the highest and lowest offers taken into account in the award of the contract;

(e) the date of award; and

(f) the type of procurement method used, and in cases where limited tendering was used in accordance with Article XII, a description of the circumstances justifying the use of limited tendering.

Maintenance of Documentation, Reports and Electronic Traceability

3. Each procuring entity shall, for a period of at least three years from the date it awards a contract, maintain:

(a) the documentation and reports of tendering procedures and contract awards relating to covered procurement, including the reports required under Article XII; and

(b) data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.

Collection and Reporting of Statistics

4. Each Party shall collect and report to the Committee statistics on its contracts covered by this Chapter. Each report shall cover one year and be submitted within two years of the end of the reporting period, and shall contain:

(a) for Annex X-01 procuring entities:

(i) the number and total value, for all such entities, of all contracts covered by this Chapter;

(ii) the number and total value of all contracts covered by this Chapter awarded by each such entity, broken down by categories of goods and services according to an internationally recognized uniform classification system; and

(iii) the number and total value of all contracts covered by this Chapter awarded by each such entity under limited tendering;

(b) for Annex X-02 and X-03 procuring entities, the number and total value of contracts covered by this Chapter awarded by all such entities, broken down by Annex; and

(c) estimates for the data required under subparagraphs (a) and (b), with an explanation of the methodology used to develop the estimates, where it is not feasible to provide the data.

5. Where a Party publishes its statistics on an official website, in a manner that is consistent with the requirements of paragraph 4, the Party may, instead of reporting to the Committee, provide a link to the website, together with any instructions necessary to access and use such statistics.

6. Where a Party requires notices concerning awarded contracts, pursuant to paragraph 2, to be published electronically and where such notices are accessible to the public through a single database in a form permitting analysis of the covered contracts, the Party may, instead of reporting to the Committee, provide a link to the website, together with any instructions necessary to access and use such data.

Article XVI Disclosure of Information

Provision of Information to Parties

1. On request of the other Party, a Party shall provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially and in accordance with this Chapter, including information on the characteristics and relative advantages of the successful tender. In cases where release of the information would prejudice competition in future tenders, the Party that receives the information shall not disclose it to any supplier, except after consulting with, and obtaining the agreement of, the Party that provided the information.

Non-Disclosure of Information

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities and review bodies, to disclose confidential information where disclosure:

(a) would impede law enforcement;

(b) might prejudice fair competition between suppliers;

(c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or

(d) would otherwise be contrary to the public interest.

Article XVII Domestic Review Procedures

1. Each Party shall provide a timely, effective, transparent and non-discriminatory administrative or judicial review procedure through which a supplier may challenge:

(a) a breach of the Chapter; or

(b) where the supplier does not have a right to challenge directly a breach of the Chapter under the domestic law of a Party, a failure to comply with a Party's measures implementing this Chapter,

arising in the context of a covered procurement, in which the supplier has, or has had, an interest. The procedural rules for all challenges shall be in writing and made generally available.

2. In the event of a complaint by a supplier, arising in the context of covered procurement in which the supplier has, or has had, an interest, that there has been a breach or a failure as referred to in paragraph 1, the Party of the procuring entity conducting the procurement shall encourage

the entity and the supplier to seek resolution of the complaint through consultations. The entity shall accord impartial and timely consideration to any such complaint in a manner that is not prejudicial to the supplier's participation in ongoing or future procurement or its right to seek corrective measures under the administrative or judicial review procedure.

3. Each supplier shall be allowed a sufficient period of time to prepare and submit a challenge, which in no case shall be less than 10 days from the time when the basis of the challenge became known or reasonably should have become known to the supplier.

4. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review a challenge by a supplier arising in the context of a covered procurement.

5. Where a body other than an authority referred to in paragraph 4 initially reviews a challenge, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the procuring entity whose procurement is the subject of the challenge.

6. Each Party shall ensure that a review body that is not a court shall have its decision subject to judicial review or have procedures that provide that:

(a) the procuring entity shall respond in writing to the challenge and disclose all relevant documents to the review body;

(b) the participants to the proceedings (hereinafter referred to as "participants") shall have the right to be heard prior to a decision of the review body being made on the challenge;

(c) the participants shall have the right to be represented and accompanied;

(d) the participants shall have access to all proceedings;

(e) the participants shall have the right to request that the proceedings take place in public and that witnesses may be presented; and

(f) the review body shall make its decisions or recommendations in a timely fashion, in writing, and shall include an explanation of the basis for each decision or recommendation.

7. Each Party shall adopt or maintain procedures that provide for:

(a) rapid interim measures to preserve the supplier's opportunity to participate in the procurement. Such interim measures may result in suspension of the procurement process. The procedures may provide that overriding adverse consequences for the interests concerned, including the public interest, may be taken into account when deciding whether such measures should be applied. Just cause for not acting shall be provided in writing; and

(b) where a review body has determined that there has been a breach or a failure as referred to in paragraph 1, corrective action or compensation for the loss or damages suffered, which may be limited to either the costs for the preparation of the tender or the costs relating to the challenge, or both.

8. Not later than ten years after the entry into force of this agreement the parties will take up negotiations to further develop the quality of remedies, including a possible commitment to introduce or maintain pre-contractual remedies.

Article XVIII Modifications and Rectifications to Coverage

1. A Party may modify or rectify its Annexes to this Chapter.

Modifications

2. When a Party modifies an Annex to this Chapter, the Party shall:

(a) notify the other Party in writing; and

(b) include in the notification a proposal of appropriate compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification.

3. Notwithstanding subparagraph 2(b), a Party need not provide compensatory adjustments if:

(a) the modification in question is negligible in its effect; or

(b) the modification covers an entity over which the Party has effectively eliminated its control or influence.

4. If the other Party disputes that:

(a) an adjustment proposed under subparagraph 2(b) is adequate to maintain a comparable level of mutually agreed coverage;

(b) the modification is negligible in its effect; or

(c) the modification covers an entity over which the Party has effectively eliminated its control or influence under subparagraph 3(b),

it must object in writing within 45 days of receipt of the notification referred to in subparagraph 2(a) or be deemed to have accepted the adjustment or modification, including for the purposes of Chapter X (Dispute Settlement).

Rectifications

5. The following changes to a Party's Annexes shall be considered a rectification, provided that they do not affect the mutually agreed coverage provided for in the Agreement:

(a) a change in the name of an entity;

(b) a merger of two or more entities listed within an Annex; and

(c) the separation of an entity listed in an Annex into two or more entities that are all added to the entities listed in the same Annex.

6. In the case of proposed rectifications to a Party's Annexes, the Party shall notify the other Party every two years, in line with the cycle of notifications provided for under the GPA, following the entry into force of the Agreement.

7. A Party may notify the other Party of an objection to a proposed rectification within 45 days from having received the notification. Where a Party submits an objection, it shall set out the reasons why it believes the proposed rectification is not a change provided for in paragraph 5 of this Article, and describe the effect of the proposed rectification on the mutually agreed coverage provided for in the Agreement. If no such objection is submitted in writing within 45 days after having received the notification, the Party shall be deemed to have agreed to the proposed rectification.

Article XIX Institutions

[Note: Article subject to Institutional Chapter discussions.]

Committee on Government Procurement

1. There shall be a Committee on Government Procurement composed of representatives from each Party. The Committee shall meet as necessary for the purpose of affording Parties the opportunity to consult on any matters relating to the operation of this Chapter or the furtherance of its objectives, and to carry out such other responsibilities as may be assigned to it by the Parties.

2. The Committee shall meet, upon request of a Party, to:

(a) consider issues regarding public procurement that are referred to it by a Party;

(b) exchange information relating to the public procurement opportunities in each Party;

(c) discuss any other matters related to the operation of this Chapter; and

(d) consider the promotion of coordinated activities to facilitate access for suppliers to procurement opportunities in the territory of each Party. Such activities may include information sessions in particular with a view to improving electronic access to publicly-available information on each Party's procurement regime, and initiatives to facilitate access for small and medium-sized enterprises.

3. Each Party shall submit statistics relevant to the procurement covered by this Chapter, as established in Article XV, annually to the Committee.

GP

Final 1 August 2014

Note: See Government Procurement Market Access Offers attached separately.

22. INTELLECTUAL PROPERTY

Intellectual Property Rights

CETA – IPR CHAPTER

Article 1.1 **Objectives**
The objectives of this chapter are to: (a) facilitate the production and commercialization of innovative and creative products, and the provision of services, between the Parties; and (b) achieve an adequate and effective level of protection and enforcement of intellectual property rights.
Article 1.2 **Definitions**
For the purposes of this Chapter, "pharmaceutical product" means a product including a chemical drug, biologic drug, vaccine or radiopharmaceutical, which is manufactured, sold or represented for use in: (a) making a medical diagnosis, treating, mitigating or preventing disease, disorder, or abnormal physical state, or its symptoms, or (b) restoring, correcting or modifying physiological functions.
Section 1 **Principles**
Article 2 **Nature and Scope of Obligations**
The provisions of this chapter complement the rights and obligations between the Parties under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter called TRIPS Agreement). Each Party shall be free to determine the appropriate method of implementing the provisions of this Agreement within its own legal system and practice. Nothing in this Agreement creates any obligation with respect to the distribution of resources as between enforcement of intellectual property rights and enforcement of law in general.
Article 3

Public Health Concerns

1. The Parties recognise the importance of the Doha Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001 by the Ministerial Conference of the World Trade Organisation. In interpreting and implementing the rights and obligations under this Chapter, the Parties shall ensure consistency with this Declaration.

2. The Parties shall contribute to the implementation and respect the Decision of the WTO General Council of 30 August 2003 on Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, as well as the Protocol amending the TRIPS Agreement, done at Geneva on 6 December 2005.

Article 4
Exhaustion

Nothing in this Chapter shall affect the freedom of the Parties to determine whether and under what conditions the exhaustion of intellectual property rights applies.

Article 4A
Disclosure of Information

Nothing in this Chapter shall require a Party to disclose information that would otherwise be contrary to its law or exempt from disclosure under its law, including its laws and regulations concerning access to information and privacy.

Section 2
Standards Concerning Intellectual Property Rights

Article 5
Copyright and Related Rights

Article 5.1 – Protection Granted

1. The Parties shall comply with the Berne Convention for the Protection of Literary and Artistic Works (1886, last amended in 1979), the WIPO Copyright Treaty – WCT (Geneva, 1996), and the WIPO Performances and Phonograms Treaty – WPPT (Geneva, 1996). The Parties shall comply with Articles 1 through 22 of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961).

Kommentiert [FD-9]: Legal scrub to ensure appropriate multilateral treaty reference nomenclature across the chapter.

2. The moral rights of the authors and performers shall be protected in accordance with Article 6*bis* of the Berne Convention for the Protection of Literary and Artistic Works and Article 5 of the WIPO Performances and Phonograms Treaty (WPPT).

3. To the extent permitted by the treaties referred to in paragraph 1, nothing in this Chapter shall be construed as restricting each Party's ability to limit intellectual property protection to performances that

are fixed in phonograms.

Article 5.2 – Broadcasting and Communication to the Public

1. The Parties shall provide performers the exclusive right to authorize or prohibit the broadcasting by wireless means and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation.

2. The Parties shall ensure that a single equitable remuneration is paid by the user if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting by wireless means or for any communication to the public, and to ensure that this remuneration is shared between the relevant performers and phonogram producers. The Parties may, in the absence of agreement between the performers and phonogram producers, lay down the conditions as to the sharing of this remuneration between them.

Article 5.3 - Protection of Technological Measures

5.3(1) Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures[48] that are used by authors, performers or producers of phonograms in connection with the exercise of their rights in, and that restrict acts in respect of, their works, performances, and phonograms, which are not authorized by the authors, the performers or the producers of phonograms concerned or permitted by law.

5.3(2) In order to provide the adequate legal protection and effective legal remedies referred to in paragraph 5.3(1), each Party shall provide protection at least against:

(a) to the extent provided by its law:

(i) the unauthorized circumvention of an effective technological measure carried out knowingly or with reasonable grounds to know; and

(ii) the offering to the public by marketing of a device or product, including computer programs, or a service, as a means of circumventing an effective technological measure; and

(b) the manufacture, importation, or distribution of a device or product, including computer programs, or provision of a service that:

(i) is primarily designed or produced for the purpose of circumventing an effective

[48] For the purposes of this Article, **technological measures** means any technology, device, or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, performances, or phonograms, which are not authorized by authors, performers or producers of phonograms, as provided for by a Party's law. Without prejudice to the scope of copyright or related rights contained in a Party's law, technological measures shall be deemed effective where the use of protected works, performances, or phonograms is controlled by authors, performers or producers of phonograms through the application of a relevant access control or protection process, such as encryption or scrambling, or a copy control mechanism, which achieves the objective of protection.

technological measure; or

(ii) has only a limited commercially significant purpose other than circumventing an effective technological measure.

5.3(2.1) Under paragraph 5.3(2) "to the extent provided by its law" means that Parties have flexibility in implementing paragraphs 5.3(2)(a)(i) and (ii).

5.3(3) In implementing paragraphs 5.3(1) and (2), no Party shall be obligated to require that the design of, or the design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure, so long as the product does not otherwise contravene its measures implementing these paragraphs. The intention of this provision is that this Agreement does not require a Party to mandate interoperability in its law, i.e., there is no obligation for the ICT (Information Communication Technology) industry to design devices, products, components, or services to correspond to certain technological protection measures.

5.3(4) In providing adequate legal protection and effective legal remedies pursuant to the provisions of paragraph 5.3(1), a Party may adopt or maintain appropriate limitations or exceptions to measures implementing the provisions of paragraphs 5.3(1) and (2). The obligations set forth in paragraphs 5.3(1) and (2) are without prejudice to the rights, limitations, exceptions, or defences to copyright or related rights infringement under a Party's law.

Article 5.4 - Protection of Rights Management Information

5.4(1) To protect electronic rights management information,[49] each Party shall provide adequate legal protection and effective legal remedies against any person knowingly performing without authority any of the following acts knowing, or having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any copyright or related rights:

(a) to remove or alter any electronic rights management information;

(b) to distribute, import for distribution, broadcast, communicate, or make available to the public copies of works, performances, or phonograms, knowing that electronic rights management information has been removed or altered without authority.

5.4(2) In providing adequate legal protection and effective legal remedies pursuant to the provisions of paragraph 5.4(1), a Party may adopt or maintain appropriate limitations or exceptions to measures implementing the provisions of paragraph 5.4(1). The obligations set forth in paragraph 5.4(1) are without prejudice to the rights, limitations, exceptions, or defences to copyright or related rights infringement under a Party's law.

[49] For the purposes of this Article, **rights management information** means:
(a) information that identifies the work, the performance, or the phonogram; the author of the work, the performer of the performance, or the producer of the phonogram; or the owner of any right in the work, performance, or phonogram;
(b) information about the terms and conditions of use of the work, performance, or phonogram; or
(c) any numbers or codes that represent the information described in (a) and (b) above;
when any of these items of information is attached to a copy of a work, performance, or phonogram, or appears in connection with the communication or making available of a work, performance, or phonogram to the public.

Article 5.5 - Liability of Intermediary Service Providers

1. Subject to the other paragraphs of this Article, each Party shall provide limitations or exceptions in its domestic legislation regarding the liability of service providers, when acting as intermediaries, for infringements of copyright or related rights that take place on or through communication networks, in relation to the provision or use of their services.
2. The limitations or exceptions referred to in the previous paragraph:
   a) shall cover at least the following functions:
      i. hosting of the information at the request of a user of the hosting services;
      ii. caching carried out through an automated process, when the service provider:
         a. does not modify the information other than for technical reasons;
         b. ensures that any directions related to the caching of the information that are specified in a manner widely recognized and used by industry are complied with; and
         c. does not interfere with the use of technology that is lawful and widely recognized and used by the industry in order to obtain data on the use of the information;
      iii. mere conduit, which consists of the provision of the means to transmit information provided by a user, or the means of access to a communication network;
   b) may also cover other functions including:
      providing an information location tool, by making reproductions of copyright material in an automated manner, and communicating the reproductions.
3. Eligibility for the limitations or exceptions in this Article may not be conditioned on the service provider monitoring its service, or affirmatively seeking facts indicating infringing activity.
4. Each Party may prescribe in its domestic law, conditions for service providers to qualify for the limitations or exceptions in this Article. Without prejudice to the above each Party may establish appropriate procedures for effective notifications of claimed infringement, and effective counter-notifications by those whose material is removed or disabled through mistake or misidentification.
5. This Article is without prejudice to the availability in a Party' law of other defences, limitations and exceptions to the infringement of copyright or related rights. This Article shall not affect the possibility of a court or administrative authority, in accordance with Parties' legal systems, of requiring the service provider to terminate or prevent an infringement.

Article 5.6 – Camcording

Each Party may provide for criminal procedures and penalties to be applied in accordance with its laws and regulations against any person who, without authorisation of the theatre manager or the holder of copyright in a cinematographic work, makes a copy of that work or any part thereof, from a performance of the work in a motion picture exhibition facility open to the public.

Article 6
Trademarks

Article 6.1 – International Agreements

The Parties shall make all reasonable efforts to comply with the Singapore Treaty on the Law of Trademarks (2006) and to accede to *the Protocol related to the Madrid Agreement concerning the International Registration of Marks*.

Article 6.2 – Registration Procedure

The Parties shall provide for a system for the registration of trademarks in which reasons for the refusal to register a trademark shall be communicated in writing to the applicant who will have the opportunity to contest such refusal and to appeal a final refusal to a judicial authority. The Parties shall provide for the possibility to file oppositions either against trademark applications or against trademark registrations. The Parties shall provide a publicly available electronic database of trademark applications and trademark registrations.

Article 6.3 – Exceptions to the Rights Conferred by a Trademark

The Parties shall provide for the fair use of descriptive terms, including terms descriptive of geographical origin, as a limited exception to the rights conferred by a trademark. In determining what is fair use, account shall be taken of the legitimate interests of the owner of the trademark and of third parties. The Parties may provide other limited exceptions, provided such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

Article 7

Geographical Indications

Article 7.1 – Definitions

For the purposes of this Article 7

(a) "geographical indication" means an indication which identifies an agricultural product or foodstuff as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin;

(b) "product class" means a product class listed in Annex III;

(c) "Harmonized System" means the International Convention on the harmonized commodity, description and coding system done at Brussels on June 14, 1983;

Article 7.2 – Scope

This Article 7 applies to geographical indications identifying products falling within one of the product classes listed in Annex III.

Article 7.3 – Listed geographical indications

For the purposes of this Article 7,

(a) the indications listed in Part A of Annex I are geographical indications which identify a product as originating in the territory of the European Union or a region or locality in that territory; and

(b) the indications listed in Part B of Annex I are geographical indications which identify a product as originating in the territory of Canada or a region or locality in that territory.

Article 7.4 – Protection for geographical indications listed in Annex I

1. Having examined the geographical indications of the other Party, each Party undertakes to protect them according to the level of protection laid down in this article 7.

2. Each Party shall provide the legal means for interested parties to prevent:

(a) the use of a geographical indication of the other Party listed in Annex I for any product that falls within the product class specified in Annex I for that geographical indication and that either:

i. does not originate in the place of origin specified in Annex I for that geographical indication; or

ii. does originate in the place of origin specified in Annex I for that geographical indication but was not produced or manufactured in accordance with the laws and regulations of the other Party that would apply if the product was for consumption in the other Party.

(b) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and,

(c) any other use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention (1967).

3. The protection referred to in paragraph 2.a shall be provided even where the true origin of the product is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.

4. Each Party shall provide for enforcement by administrative action, to the extent provided for by its domestic law, to prohibit a person from manufacturing, preparing, packaging, labelling, selling or importing or advertising a food commodity in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its origin.

5. Consistent with paragraph 4, each Party will provide for administrative action in respect of complaints related to the labelling of products, including their presentation, in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding their origin.

6. The registration of a trademark which contains or consists of a geographical indication of the other Party listed in Annex I shall be refused or invalidated, ex officio if a Party's legislation so permits or at the request of an interested party, with respect to a product that falls within the product class specified in Annex I for that geographical indication and that does not originate in the place of origin specified in Annex I for that geographical indication.

7. There shall be no obligation under this Article 7 to protect geographical indications which are not or cease to be protected in their place of origin, or which have fallen into disuse in that place. If a geographical indication of a Party listed in Annex I ceases to be protected in its place of origin or falls into disuse in that place, that Party shall notify the other Party and request cancellation.

Article 7.5 – Homonymous Geographical Indications

1. In the case of homonymous geographical indications of the Parties for products falling within the same product class, each Party shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

2. Where a Party, in the context of negotiations with a third country, proposes to protect a geographical indication identifying a product originating in the third country, where that indication is homonymous with a geographical indication of the other Party listed in Annex I and where that product falls within the product class specified in Annex I for the homonymous geographical indication of the other Party, the other Party shall be informed and be given the opportunity to comment before the geographical indication becomes protected.

Article 7.6 – Exceptions

1. Notwithstanding paragraphs 2 and 3 of Article 7.4, Canada shall not be required to provide the legal means for interested parties to prevent the use of the terms listed in Part A of Annex I and

identified by one asterisk {note: “Asiago”, “Feta”, “Fontina”, “Gorgonzola” and “Munster”} when the use of such terms is accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like and is in combination with a legible and visible indication of the geographical origin of the product concerned.

2. Notwithstanding paragraphs 2 and 3 of Article 7.4, the protection of the geographical indications listed in Part A of Annex I and identified by one asterisk {note: “Asiago”, “Feta”, “Fontina”, “Gorgonzola” and “Munster”} shall not prevent the use in the territory of Canada of any of these indications by any persons, including their successors and assignees[50], who made commercial use of those indications with regard to products in the class of “cheeses” preceding the date of 18 October 2013.

3. Notwithstanding paragraphs 2 and 3 of Article 7.4, the protection of the geographical indication listed in Part A of Annex I and identified by two asterisks {note: Nürnberger Bratwürste} shall not prevent the use of this indication by any persons, including their successors and assignees, who made commercial use of this indication with regard to products in the class of “fresh, frozen and processed meats” for at least 5 years preceding the date of 18 October 2013. A transitional period of 5 years from the entry into force of this Article where the use of the indication above shall not be prevented shall apply to any other persons, including their successors and assignees, who made commercial use of those indications with regard to products in the class of “fresh, frozen and processed meats”, for less than 5 years preceding the date of 18 October 2013.

Kommentiert [A10]: The addition of “where the use of the indication above shall not be prevented” simply describes what a transitional period is, but it may be introducing some confusion on why it needs to be included. This could be considered during a legal review of the text.

Kommentiert [LQL11]: EU: the current sentence helps to clarify the situation and does not seem to lead to confusion. Agree this could be considered during a legal review of the text.

4. Notwithstanding paragraphs 2 and 3 of Article 7.4, the protection of the geographical indications listed in Part A of Annex I and identified by three asterisks {note: "Jambon de Bayonne" and "Beaufort"} shall not prevent the use of those indications by any persons, including their successors and assignees, who made commercial use of those indications with regard to products in the classes of “Dry-cured meats” and “Cheeses“, respectively, for at least 10 years preceding the date of 18 October 2013. A transitional period of 5 years from the entry into force of this Article where the use of the indications above shall not be prevented shall apply to any other persons, including their successors and assignees, who made commercial use of those indications with regard to products in the class of “Dry-cured meats” and “Cheeses”, respectively, for less than 10 years preceding the date of 18 October 2013.

Kommentiert [A12]: Same as comment above. This could be considered during a legal review of the text.

Kommentiert [LQL13]: Same as below under LQL2. Agree this could be considered during a legal review of the text.

5. Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith, in a Party before the applicable date set out in paragraph6, measures adopted to implement this Article 7 in that Party shall not prejudice eligibility for or the validity of the registration of the trademark, or the right to use the trademark, on the basis that the trademark is identical with, or similar to, a geographical indication.

6. For the purposes of paragraph 5 the applicable date is

[50] The notion of "assignment" under Article X.6 excludes any transfer of the right to use a geographical indication on its own.

(a) in respect of a geographical indication listed in Annex I on the date of signing of this Agreement, the date of coming into force of this Article 7; or

(b) in respect of a geographical indication added to Annex I after the date of signing of this Agreement under Article 7.7, the date on which the geographical indication is added.

7. Where a translation of a geographical indication is identical with or contains within it a term customary in common language as the common name for a product in the territory of a Party, or where a geographical indication is not identical with but contains within it such a term, the provisions of this Article 7 shall in no way prejudice the right of any person to use that term in association with that product in the territory of that Party.

8. Nothing shall prevent the use in the territory of a Party, with respect to any product, of a customary name of a plant variety or an animal breed, existing in the territory of that Party as of the date of entry into force of this Article 7.

9. A Party may provide that any request made under this Article 7 in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Party or after the date of registration of the trademark in that Party provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Party, provided that the geographical indication is not used or registered in bad faith.

10. The provisions of this Article 7 shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

11. (a) The provisions of this Article 7 shall in no way prejudice the right of any person to use, or to register in Canada a trademark containing or consisting of, any of the terms listed in Annex II (a).

(b) Paragraph (a) does not apply to the terms listed in Annex II (a) in respect of any use that would mislead the public as to the geographical origin of the goods.

12. The use in Canada of the terms listed in Annex II (b) shall not be subject to this Article 7 .

Article 7.7 - Amendments to Annex I

1. The Joint Committee, established by Article **[...]** , acting by consensus and on a recommendation by

the CETA Committee on Geographical Indications, may decide to amend Annex I by adding geographical indications or by removing geographical indications which have ceased to be protected or have fallen into disuse in their place of origin.

2. A geographical indication shall not in principle be added to Part A of Annex I, if it is a name that on the date of signing of this Agreement is listed in the relevant Register of the European Union with a status of "Registered", in respect of a Member State of the European Union.

3. A geographical indication identifying a product originating in a particular Party shall not be added to Annex I
   (a) if it is identical to a trademark that has been registered in the other Party in respect of the same or similar products, or to a trademark in respect of which in the other Party rights have been acquired through use in good faith and an application has been filed in respect of the same or similar products;
   (b) if it is identical to the customary name of a plant variety or an animal breed existing in the other Party; or
   (c) if it is identical with the term customary in common language as the common name for such product in the other Party.

Article 7.8 – Other protection

The provisions of this Article 7 are without prejudice to the right to seek recognition and protection of a geographical indication under the relevant legislation of the European Union or Canada.

Article 8
Designs

Article 8.1 - International Agreements

The Parties shall make all reasonable efforts to accede to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (1999).

Article 8.2 - Relationship to Copyright

The subject matter of a design right may be protected under copyright law if the conditions for such protection are met. The extent to which, and the conditions under which, such a protection is conferred, including the level of originality required, shall be determined by each Party.

Article 9

Patents
Article 9.1 - International Agreements The Parties shall make all reasonable efforts to comply with the Patent Law Treaty (Geneva, 2000).
***Article 9.2 –Sui Generis* protection for Pharmaceuticals** 1. Definitions for the purposes of Article 9.2: (a) 'Product' means the active ingredient or combination of active ingredients of a pharmaceutical product; (b) 'Basic patent' means a patent which protects a product as such, a process to obtain a product or an application of a product. 2. Each Party shall provide a period of *sui generis* protection in respect of a product that is protected by a basic patent in force at the request of the holder of the patent or his successor in title, provided the following conditions have been met: a) an authorization has been granted to place the product on the market of that Party as a pharmaceutical product; b) the product has not already been the subject of a period of *sui generis* protection; c) the authorisation referred to in paragraph (a) is the first authorisation to place the product on the market of that Party as a pharmaceutical product. 3. Each Party may: a) provide a period of *sui generis* protection only if the first application for authorisation to place the product on their market as a pharmaceutical product is submitted within a reasonable time limit prescribed by that Party; and b) prescribe a time limit of no less than 60 days from the date on which the first marketing authorisation was granted for the submission of the request for the period of *sui generis* protection. However, where the first marketing authorisation is granted before the patent is granted, the Parties will provide at least 60 days from the grant during which the application for a further period of protection under this Article may be submitted. 4. In the case where a product is protected by one patent, the period of *sui generis* protection shall take effect at the end of the lawful term of the patent. In the case where a product is protected by more than one patent, a Party may provide for only a single period of sui generis protection that takes effect at the end of the lawful term of a single patent a) in the case where all the patents are owned by the same person, selected by the person requesting

the period of *sui generis* protection;

b) in the case where the patents are not owned by the same person and this gives rise to conflicting requests for the *sui generis* protection, selected by agreement between the patent holders.

Each Party shall provide that the period of *sui generis* protection shall be for a period equal to the period which elapsed between the date on which the application for a patent was filed and the date of the first authorisation to place the product on the market of that Party as a pharmaceutical product reduced by a period of five years.

Notwithstanding the previous paragraph, the duration of the *sui generis* protection may not exceed a period of two to five years, to be established by each Party. [51]

Each Party may provide that the period of *sui generis* protection shall lapse:

a) if the sui generis protection is surrendered by the beneficiary;

b) if prescribed administrative fees are not paid.

Each Party may reduce the period of protection commensurate with any unjustified delays resulting from the inactions of the applicant after applying for the market authorisation, when the holder of the patent is the applicant for market authorisation or an entity related to it.

5. Within the limits of the protection conferred by the patent, the *sui generis* protection shall extend only to the pharmaceutical product covered by the authorisation to place that product on the market and for any use of that product as a pharmaceutical product that has been authorized before the expiry of the *sui generis* protection. Subject to the preceding sentence, the *sui generis* protection shall confer the same rights as conferred by the patent and shall be subject to the same limitations and obligations.

Notwithstanding paragraphs 1 through 4 of this Article, each Party may also limit the scope of the protection by providing exceptions for making, using, offering for sale, selling or importing of products for the purpose of export during the period of protection.

6. Each Party may revoke the protection on grounds relating to invalidity of the applicable patent, including if the basic applicable patent has lapsed before its lawful term expires or is revoked or limited to the extent that the product for which the protection was granted would no longer be protected by the claims of the basic patent, or on grounds relating to withdrawal of the appropriate authorisation or authorisations to place the product on their respective market, or if the protection was granted contrary to the provisions of paragraph 2.

Article 9 bis

Patent Linkage Mechanisms Relating to Pharmaceutical Products

[51] This is without prejudice to a possible extension to incentivise or reward research in certain target populations, such as children, if provided for by either Party.

If a Party relies on "patent linkage" mechanisms whereby the granting of marketing authorisations (or notices of compliance or similar concepts) for generic pharmaceutical products is linked to the existence of patent protection, it shall ensure that all litigants are afforded equivalent and effective rights of appeal.

Article 10

Protection of undisclosed data relation to pharmaceutical products

1. If a Party requires, as a condition for approving the marketing of pharmaceutical products that utilize new chemical entities[52], the submission of undisclosed test or other data necessary to determine whether the use of such products is safe and effective, the Party shall protect [EU: such data] against disclosure [CA: of the data of persons making such submissions – *comment: legal scrub*], where the origination of such data involves considerable effort, except where the disclosure is necessary to protect the public or unless steps are taken to ensure that the data is protected against unfair commercial use.

2. Each Party shall provide that for data subject to paragraph 1 that are submitted to the Party after the date of entry into force of this Agreement:

a) no person other than the person that submitted them may, without the latter's permission, rely on such data in support of an application for [CA: product approval] [EU: marketing authorisation - *comment: legal scrub*] during a period of not less than six years from the date on which the Party granted approval to the person that produced the data for approval to market its product, and

b) no Party shall grant [CA: product approval] EU: marketing authorisation - *comment: legal scrub*] to any person who relies on such data during a period of not less than eight years from the date on which the Party granted [EU: authorisation] [CA: approval - *comment: legal scrub*] to the person that produced the data for [EU: authorisation] [CA: approval - *comment: legal scrub*] to market its product, unless the person or entity who produced this data provides its permission.

Subject to this provision, there shall be no limitation on any Party to implement abbreviated [EU: authorisation] [CA: approval] procedures for such products on the basis of bioequivalence and bioavailability studies.

Article 11

Data Protection on Plant Protection Products

1. The Parties shall determine safety and efficacy requirements before authorising the placing on the market of plant protection products.

52 For greater certainty, with respect to data protection a chemical entity in Canada includes a biologic or radiopharmaceutical which is regulated as a new drug under the Food and Drug Regulations.

2. The Parties shall recognise a temporary right to the owner of a test or study report submitted for the first time to achieve a marketing authorisation for a plant protection product.

During such period, the test or study report will not be used for the benefit of any other person aiming to achieve a marketing authorisation for plant protection product, except when the explicit consent of the first owner is proved. This right will be hereinafter referred as data protection.

3. The test or study report should be necessary for the authorisation or for an amendment of an authorisation in order to allow the use on other crops.

4. The period of data protection shall be at least ten years starting at the date of the first authorisation in that Party with respect to data supporting the authorisation of a new active ingredient and data supporting the concurrent registration of the end-use product containing the active ingredient. The duration of protection may be extended in order to encourage the authorisation of low-risk plant protection products and minor uses.

5. The Parties may also establish data protection requirements or financial compensation requirements for data supporting the amendment or renewal of an authorisation.

6. Each of the Parties shall establish rules to avoid duplicative testing on vertebrate animals. Any applicant intending to perform tests and studies involving vertebrate animals should be encouraged to take the necessary measures to verify that those tests and studies have not already been performed or initiated.

7. The new applicant and the holder or holders of the relevant authorisations should be encouraged to make every effort to ensure that they share tests and studies involving vertebrate animals. The costs of sharing the test and study reports shall be determined in a fair, transparent and non-discriminatory way. The prospective applicant is only required to share in the costs of information he is required to submit to meet the authorisation requirements.

8. The holder or holders of the relevant authorisation shall have a claim on the prospective applicant for a fair share of the costs incurred by him. The Party may direct the parties involved to resolve the matter by formal and binding arbitration administered under national law.

Article 12
Plant Varieties

The Parties shall co-operate to promote and reinforce the protection of plant varieties based on the International Convention for the Protection of New Varieties of Plants (UPOV).

Section 3

Enforcement of Intellectual Property Rights

Article 13

General Obligations

1. The Parties shall ensure that any procedures for the enforcement of intellectual property rights are fair and equitable, and are not unnecessarily complicated or costly, nor entail unreasonable time-limits or unwarranted delays. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

2. In implementing the provisions of this Sub-Section, each Party shall take into account the need for proportionality between the seriousness of the infringement, the interests of third parties, and the applicable measures, remedies and penalties.

3. Articles 14 to 23 relate to civil enforcement.

4. For the purposes of Articles 14 to 23, unless otherwise mentioned, ”intellectual property rights” means all categories of intellectual property that are the subject of Sections 1 through 7 of Part II of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

Article 14

Entitled Applicants

The Parties shall recognise as persons entitled to seek application of the procedures and remedies referred to in Articles 15 to 23:

(a) the holders of intellectual property rights in accordance with the provisions of the applicable domestic law,

(b) all other persons authorised to use those rights, if such persons are entitled to seek relief in accordance with the provisions of the applicable domestic law,

(c) intellectual property collective rights management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, if such bodies are entitled to seek relief in accordance with the provisions of the applicable domestic law,

(d) professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights, if such bodies are entitled to seek relief in accordance with the provisions of the applicable domestic law.

Article 15 **Evidence**
Each Party shall ensure that, in the case of an alleged infringement of an intellectual property right committed on a commercial scale, the judicial authorities shall have the authority to order, where appropriate and following an application, the production of relevant information, as provided for in the Party's domestic law, including banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.
Article 16 **Measures for Preserving Evidence**
1. The Parties shall ensure that, even before the commencement of proceedings on the merits of the case, the judicial authorities may, on application by an entity who has presented reasonably available evidence to support its claims that its intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information. 2. Each Party may provide that such measures include the detailed description, with or without the taking of samples, or the physical seizure of the alleged infringing goods, and, in appropriate cases, the materials and implements used in the production and/or distribution of these goods and the documents relating thereto. The judicial authorities shall have the authority to take those measures, if necessary without the other party being heard, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed.
Article 17 **Right of Information**
Without prejudice to its law governing privilege, the protection of confidentiality of information sources or the processing of personal data, each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities shall have the authority, upon a justified request of the right holder, to order the infringer or the alleged infringer, to provide to the right holder or to the judicial authorities, at least for the purpose of collecting evidence, relevant information as provided for in its applicable laws and regulations that the infringer or alleged infringer possesses or controls. Such information may include information regarding any person involved in any aspect of the infringement or alleged infringement and regarding the means of production or the channels of distribution of the infringing or allegedly infringing goods or services, including the identification of third persons alleged to be involved in the production and distribution of such goods or services and of their channels of distribution.
Article 18 **Provisional and Precautionary Measures**

1. Each Party shall provide that its judicial authorities shall have the authority to order prompt and effective provisional and precautionary measures, including an interlocutory injunction, against a party, or where appropriate, against a third party over whom the relevant judicial authority exercises jurisdiction, to prevent an infringement of an intellectual property right from occurring, and in particular, to prevent infringing goods from entering the channels of commerce.

2. Each Party shall provide that its judicial authorities have the authority to order the seizure or other taking into custody of the goods suspected of infringing an intellectual property right so as to prevent their entry into or movement within the channels of commerce.

3. Each Party shall provide that, in the case of an alleged infringement of an intellectual property right committed on a commercial scale, the judicial authorities may order, in accordance with domestic law, the precautionary seizure of property of the alleged infringer, including the blocking of its bank accounts and other assets. To that end, the judicial authorities may order the communication of relevant bank, financial or commercial documents, or access to other relevant information, as appropriate.

Article 19
Other remedies

1. The Parties shall ensure that the judicial authorities may order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the definitive removal from the channels of commerce, or the destruction, of goods that they have found to be infringing an intellectual property right. The Parties shall ensure that the judicial authorities may order, if appropriate, destruction of materials and implements predominantly used in the creation or manufacture of those goods. In considering a request for such remedies, the need for proportionality between the seriousness of the infringement and the remedies ordered, as well as the interests of third parties, shall be taken into account.

2. The Parties shall ensure that the judicial authorities have the authority to order that those remedies shall be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

Article 20
Injunctions

1. Each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities shall have the authority to issue an order against a party to desist from an infringement, and *inter alia,* an order to that party, or, where appropriate, to a third party over whom the relevant judicial authority exercises jurisdiction, to prevent infringing goods from entering into the channels of commerce.

2. Notwithstanding the other provisions of this Section, a Party may limit the remedies available against use by government, or by third parties authorized by government, without the use of authorization of the right holders to the payment of remuneration provided that the Party complies with the provisions of Part II of the TRIPS Agreement specifically addressing such use. In other cases, the remedies under this Section shall apply or, where these remedies are inconsistent with a Party's law, declaratory judgments and adequate compensation shall be available.

Article 21
Damages

1. Each Party shall provide that:

(a) in civil judicial proceedings, its judicial authorities shall have the authority to order the infringer who knowingly or with reasonable grounds to know, engaged in infringing activity of intellectual property rights to pay the right holder:

(i) damages adequate to compensate for the injury the right holder has suffered as a result of the infringement; or

(ii) the profits of the infringer that are attributable to the infringement, which may be presumed to be the amount of damages referred to in paragraph (i);

(b) in determining the amount of damages for infringements of intellectual property rights, its judicial authorities may consider, *inter alia*, any legitimate measure of value that may be submitted by the right holder, including lost profits.

2. As an alternative to the previous paragraph, a Party's law may provide for payment of remuneration, such as a royalty or fee, to compensate a right holder for the unauthorized use of its intellectual property.

Article 22
Legal Costs

Each Party shall provide that its judicial authorities, where appropriate, shall have the authority to order, at the conclusion of civil judicial proceedings concerning the enforcement of intellectual property rights, that the prevailing party be awarded payment by the losing party of legal costs and other expenses, as provided for under that Party's law.

Article 23
Presumption of Authorship or Ownership

For the purposes of civil proceedings involving copyright or related rights,

(a) for the author of a literary or artistic work, in the absence of proof to the contrary, to be regarded as such, and consequently to be entitled to institute infringement proceedings, it shall be sufficient for

his/her name to appear on the work in the usual manner. Proof to the contrary may include registration;

(b) the provisions under (a) shall apply mutatis mutandis to the holders of rights related to copyright with regard to their protected subject matter.

Section 4

Border Measures

Article 24

Border Measures [53]

Article 24.1 – Scope of Border Measures

1. The references to the infringement of intellectual property rights in this Article shall be interpreted as referring to instances of counterfeit trademark goods, pirated copyright goods or counterfeit geographical indication goods. For the purposes of this paragraph, the following definitions shall apply:

"pirated copyright goods" means any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the Party in which the border measure procedures are applied;

"counterfeit trademark goods" means any goods, including packaging, bearing, without authorization, a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which infringes the rights of the owner of the trademark in question under the law of the Party in which the border measures procedures are applied.

"counterfeit geographical indication goods" means any goods under Article 7.2 falling within one of the product classes listed in Annex III, including packaging, bearing without authorization, a geographical indication which is identical to the geographical indication validly registered or otherwise protected in respect of such goods and which infringes the rights of the owner or right holder of the geographical indication in question under the law of the Party in which the border measures procedures are applied;

2. Each Party shall adopt or maintain procedures with respect to import and export shipments under which a right holder may request its competent authorities to suspend the release of, or detain goods suspected of infringing an intellectual property right.

3. Each Party shall adopt or maintain procedures with respect to import and export shipments under which its competent authorities may act on their own initiative to temporarily suspend the release of, or detain goods suspected of infringing an intellectual property right to provide a right holder an

Kommentiert [MS14]: Legal review should clean up use of the word "Article" as it is used to describe both the entire section on border measures as well as the 7 specific sub-sections. For example, it should be clear that the scope of border measures set out in 24.1 applies to the entire set of border measures provisions.

Kommentiert [AG15]: Legal teams to revisit during legal scrub the need for a comma here between "of" and "or" as well as whether it might be sensible to add the words "in order" between "right" and "to provide".

[53] It is understood that there shall be no obligation to apply the procedures set forth in this Section to goods put on the market in another country by or with the consent of the right holder.

opportunity to formally request assistance under paragraph 2.

4. Either Party may enter into an arrangement with one or more third parties to establish common security customs clearance procedures. Goods cleared pursuant to the terms of the common customs procedures of such an arrangement shall be deemed to be in compliance with paragraphs 2 and 3, provided the Party concerned retains the legal authority to comply with these paragraphs.

5. Each Party may adopt or maintain the procedures referred to in paragraphs 2 and 3 with respect to transhipments and shipments in customs transit.

6. Each Party may exclude from the application of the above provisions small quantities of goods of a non-commercial nature contained in travellers' personal luggage or small quantities of goods of a non-commercial nature sent in small consignments.

7. For the purposes of this Article:

(a) "Import shipments" means shipments of goods brought into the territory of a Party from a place outside that territory, while those goods remain under customs control. This definition includes goods brought into the territory to a free zone or customs warehouse, but excludes shipments in customs transit and transhipments.

(b) "Shipments in customs transit" means shipments of goods that enter the territory of a Party from a place outside that territory and are authorized by customs authorities for transport under continuous customs control from an office of entry to an office of exit, for the purpose of exiting the territory. Shipments in customs transit that are subsequently approved for removal from customs control without exiting the territory are considered to be import shipments.

(c) "Transhipments" means shipments of goods that are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation.

(d) "Export shipments" means shipments of goods which are to be taken from the territory of a Party to a place outside that territory, excluding shipments in customs transit and transhipments.

Article 24.2 – Application by the Right Holder

1. Each Party shall provide that its competent authorities require a right holder that requests the procedures described in Article 24.1 to provide adequate evidence to satisfy the competent authorities that, under the law of the Party providing the procedures, there is prima facie an infringement of the right holder's intellectual property right, and to supply sufficient information that may reasonably be expected to be within the right holder's knowledge to make the suspect goods reasonably recognisable by the competent authorities. The requirement to provide sufficient information shall not unreasonably deter recourse to the procedures described in Article 24.1.

2. Each Party shall provide for applications to suspend the release of, or to detain goods[54] suspected of infringing an IPR listed Article 24.1, under customs control in its territory. The competent authorities may provide for such applications to apply to multiple shipments. Each Party may provide that, at the request of the right holder, the application to suspend the release of, or to detain suspect goods may apply to selected points of entry and exit under customs control.

3. Each Party shall ensure that its competent authorities inform the applicant within a reasonable period whether they have accepted the application. Where its competent authorities have accepted the application, they shall also inform the applicant of the period of validity of the application.

4. A Party may provide that, where the applicant has abused the procedures described in Article 24.1, or where there is due cause, its competent authorities have the authority to deny, suspend, or void an application.

Article 24.3 – Provision of Information from the Right Holder

Each Party shall permit its competent authorities to request a right holder to supply relevant information that may reasonably be expected to be within the right holder's knowledge to assist the competent authorities in taking the border measures referred to in this Article. Each Party may also allow a right holder to supply such information to its competent authorities.

Article 24.4 – Security or Equivalent Assurance

Each Party shall provide that its competent authorities have the authority to require a right holder that requests the procedures described in Article 24.1 to provide a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Each Party shall provide that such security or equivalent assurance shall not unreasonably deter recourse to these procedures.

A Party may provide that such security may be in the form of a bond conditioned to hold the defendant harmless from any loss or damage resulting from any suspension of the release of, or detention of, the goods in the event the competent authorities determine that the goods are not infringing. A Party may, only in exceptional circumstances or pursuant to a judicial order, permit the defendant to obtain possession of suspect goods by posting a bond or other security.

Article 24.5 – Determination as to Infringement

Each Party shall adopt or maintain procedures by which its competent authorities may determine, within

[54] The requirement to provide for such applications is subject to the obligations to provide procedures referred to in subparagraphs 24.1(2) and 24.1(3).

a reasonable period after the initiation of the procedures described in Article 24.1, whether the suspect goods infringe an intellectual property right.

Article 24.6 – Remedies

1. Each Party shall provide that its competent authorities have the authority to order the destruction of goods following a determination referred to in Article 24.5 that the goods are infringing. In cases where such goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the channels of commerce in such a manner as to avoid any harm to the right holder.

2. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.

3. Each Party may provide that its competent authorities have the authority to impose administrative penalties following a determination referred to in Article 24.5 that the goods are infringing.

Article 24.7 – Specific cooperation in the area of border measures

1. The Parties agree to cooperate with each other with a view to eliminating international trade in goods infringing intellectual property rights. For this purpose, they shall establish contact points in their administrations and be ready to exchange information on trade in infringing goods. They shall, in particular, promote the exchange of information and cooperation between customs authorities with regard to trade in goods infringing intellectual property rights.

2. Such cooperation may include exchanges of information regarding mechanisms for receiving information from rights holders, best practices, and experiences with risk management strategies, as well as information to aid in the identification of shipments suspected of containing infringing goods.

3. Cooperation under this Article 24 shall be conducted consistent with relevant international agreements. The Committee referred to in Article [X] 'The Joint Customs Cooperation Committee' in Chapter [X] 'Customs and Trade Facilitation' will set the priorities and provide for the adequate procedures for cooperation under this Article 24 between the competent authorities.

Section 5

Co-operation

Article 25

Co-operation

1. The Parties agree to co-operate with a view to supporting implementation of the commitments and obligations undertaken under this chapter. Areas of co-operation include exchanges of information or experience on the following:

(a) protection and enforcement of intellectual property rights, including geographical indications;

(b) establishment of arrangements between their respective collecting societies.

2. Without prejudice and as a complement to paragraph 1, the European Union and Canada agree to establish and maintain an effective dialogue on intellectual property issues to address topics relevant to the protection and enforcement of intellectual property rights covered by this Chapter, and any other relevant issue.

ANNEX I -- Part A

Geographical Indications Identifying a Product Originating in the European Union

Indication	**Transliteration (For information purposes only)**	**Product Class**	**Place of Origin** **(Territory, Region or Locality)**
České pivo		Beer	Czech Republic
Žatecký Chmel		Hops	Czech Republic
Bayerisches Bier		Beer	Germany
Münchener Bier		Beer	Germany
Hopfen aus der Hallertau		Hops	Germany
Nürnberger Bratwürste**		Fresh, Frozen and Processed meats	Germany
Nürnberger Rostbratwürste		Fresh, Frozen and Processed meats	Germany
Schwarzwälder Schinken		Fresh, Frozen and Processed meats	Germany
Aachener Printen		Confectionery and Baked Products	Germany
Nürnberger Lebkuchen		Confectionery and Baked Products	Germany
Lübecker Marzipan		Confectionery and Baked Products	Germany
Bremer Klaben		Confectionery and Baked Products	Germany
Hessicher Handkäse		Cheese	Germany
Hessicher Handkäs		Cheese	Germany
Terttnanger Hopfen		Hops	Germany
Spreewälder Gurken		Fresh and processed vegetable products	Germany
Danablu		Cheese	Denmark

Ελιά Καλαμάτας	Elia Kalamatas	Table and processed olives	Greece
Μαστίχα Χίου	Masticha Chiou	Confectionery and Baked Products	Greece
Φέτα*	Feta	Cheese	Greece
Ελαιόλαδο Καλαμάτας	Kalamata olive oil	Oils and animal fats	Greece
Ελαιόλαδο Κολυμβάρι Χανίων Κρήτης	Kolymvari Chanion Kritis Olive Oil	Oils and animal fats	Greece
Ελαιόλαδο Σητείας Λασιθίου Κρήτης	Sitia Lasithiou Kritis Olive oil	Oils and animal fats	Greece
Ελαιόλαδο Λακωνία	Olive Oil Lakonia	Oils and animal fats	Greece
Κρόκος Κοζάνης	Krokos Kozanis	Spices	Greece
Κεφαλογραβιέρα	Kefalograviera	Cheeses	Greece
Γραβιέρα Κρήτης	Graviera Kritis	Cheeses	Greece
Γραβιέρα Νάξου	Graviera Naxou	Cheeses	Greece
Μανούρι	Manouri	Cheeses	Greece
Κασέρι	Kasseri	Cheeses	Greece
Φασόλια Γίγαντες Ελέφαντες Καστοριάς	Fassolia Gigantes Elefantes Kastorias	Fresh and processed vegetable products	Greece
Φασόλια Γίγαντες Ελέφαντες Πρεσπών	Fassolia Gigantes Elefantes Prespon Florinas	Fresh and processed vegetable products	Greece
Κονσερβολιά Αμφίσσης	Konservolia Amfissis	Table and Processed olives	Greece
Λουκούμι Γεροσκήπου	Loukoumi Geroskipou	Confectionery and baked products	Cyprus
Baena		Oils and animal fats	Spain
Sierra Mágina		Oils and animal fats	Spain

Aceite del Baix Ebre-Montsía		Oils and animal fats	Spain
Oli del Baix Ebre-Montsía		Oils and animal fats	Spain
Aceite del Bajo Aragón		Oils and animal fats	Spain
Antequera		Oils and animal fats	Spain
Priego de Córdoba		Oils and animal fats	Spain
Sierra de Cádiz		Oils and animal fats	Spain
Sierra de Segura		Oils and animal fats	Spain
Sierra de Cazorla		Oils and animal fats	Spain
Siurana		Oils and animal fats	Spain
Aceite de Terra Alta		Oils and animal fats	Spain
Oli de Terra Alta		Oils and animal fats	Spain
Les Garrigues		Oils and animal fats	Spain
Estepa		Oils and animal fats	Spain
Guijuelo		Fresh, Frozen and Processed meats	Spain
Jamón de Huelva		Fresh, Frozen and Processed meats	Spain
Jamón de Teruel		Fresh, Frozen and Processed meats	Spain
Salchichón de Vic		Fresh, Frozen and Processed meats	Spain
Llonganissa de Vic		Fresh, Frozen and Processed meats	Spain
Mahón-Menorca		Cheeses	Spain
Queso Manchego		Cheeses	Spain
Cítricos Valencianos		Fresh and processed fruits and nuts	Spain
Cîtrics Valancians		Fresh and processed fruits and nuts	Spain
Jijona		Confectionery and	Spain

		Baked Products	
Turrón de Alicante		Confectionery and Baked Products	Spain
Azafrán de la Mancha		Spices	Spain
Comté		Cheeses	France
Reblochon		Cheeses	France
Reblochon de Savoie		Cheeses	France
Roquefort		Cheeses	France
Camembert de Normandie		Cheeses	France
Brie de Meaux		Cheeses	France
Emmental de Savoie		Cheeses	France
Pruneaux d'Agen		Fresh and processed fruits and nuts	France
Pruneaux d'Agen mi-cuits		Fresh and processed fruits and nuts	France
Huîtres de Marennes-Oléron		Fresh, Frozen and processed fish products	France
Canards à foie gras du Sud-Ouest : Chalosse		Fresh, Frozen and Processed meats	France
Canards à foie gras du Sud-Ouest: Gascogne		Fresh, Frozen and Processed meats	France
Canards à foie gras du Sud-Ouest : Gers		Fresh, Frozen and Processed meats	France
Canards à foie gras du Sud-Ouest : Landes		Fresh, Frozen and Processed meats	France
Canards à foie gras du Sud-Ouest : Périgord		Fresh, Frozen and Processed meats	France
Canards à foie gras du Sud-Ouest : Quercy		Fresh, Frozen and Processed meats	France
Jambon de Bayonne***		Dry-cured meats	France
Huile d'olive de Haute-Provence		Oils and animal fats	France

Huile essentielle de lavande de Haute-Provence		Essential oils	France
Morbier		Cheeses	France
Epoisses		Cheeses	France
Beaufort***		Cheeses	France
Maroilles		Cheeses	France
Marolles		Cheeses	France
Munster *		Cheeses	France
Munster Géromé		Cheeses	France
Fourme d'Ambert		Cheeses	France
Abondance		Cheeses	France
Bleu d'Auvergne		Cheeses	France
Livarot		Cheeses	France
Cantal		Cheeses	France
Fourme de Cantal		Cheeses	France
Cantalet		Cheeses	France
Petit Cantal		Cheeses	France
Tomme de Savoie		Cheeses	France
Pont - L'Evêque		Cheeses	France
Neufchâtel		Cheeses	France
Chabichou du Poitou		Cheeses	France
Crottin de Chavignol		Cheeses	France
Saint-Nectaire		Cheeses	France
Piment d'Espelette		Spices	France
Lentille verte du Puy		Fresh and processed vegetable products	France
Aceto balsamico Tradizionale di Modena		Vinegar	Italy

Aceto balsamico di Modena		Vinegar	Italy
Cotechino Modena		Fresh, Frozen and Processed meats	Italy
Zampone Modena		Fresh, Frozen and Processed meats	Italy
Bresaola della Valtellina		Fresh, Frozen and Processed meats	Italy
Mortadella Bologna		Fresh, Frozen and Processed meats	Italy
Prosciutto di Parma		Dry-cured meats	Italy
Prosciutto di S. Daniele		Dry-cured meats	Italy
Prosciutto Toscano		Dry-cured meats	Italy
Prosciutto di Modena		Dry-cured meats	Italy
Provolone Valpadana		Cheeses	Italy
Taleggio		Cheeses	Italy
Asiago*		Cheeses	Italy
Fontina*		Cheeses	Italy
Gorgonzola*		Cheeses	Italy
Grana Padano		Cheeses	Italy
Mozzarella di Bufala Campana		Cheeses	Italy
Parmigiano Reggiano		Cheeses	Italy
Pecorino Romano		Cheeses	Italy
Pecorino Sardo		Cheeses	Italy
Pecorino Toscano		Cheeses	Italy
Arancia Rossa di Sicilia		Fresh and processed fruits and nuts	Italy
Cappero di Pantelleria		Fresh and processed fruits and nuts	Italy
Kiwi Latina		Fresh and processed	Italy

		fruits and nuts	
Lenticchia di Castelluccio di Norcia		Fresh and processed vegetable products	Italy
Mela Alto Adige		Fresh and processed fruits and nuts	Italy
Südtiroler apfel		Fresh and processed fruits and nuts	Italy
Pesca e nettarina di Romagna		Fresh and processed fruits and nuts	Italy
Pomodoro di Pachino		Fresh and processed vegetable products	Italy
Radicchio Rosso di Treviso		Fresh and processed vegetable products	Italy
Ricciarelli di Siena		Confectionery and Baked Products	Italy
Riso Nano Vialone Veronese		Cereals	Italy
Speck Alto Adige		Fresh, Frozen and Processed meats	Italy
Südtiroler Markenspeck		Fresh, Frozen and Processed meats	Italy
Südtiroler Speck		Fresh, Frozen and Processed meats	Italy
Veneto Valpolicella		Oils and animal fats	Italy
Veneto Euganei e Berici		Oils and animal fats	Italy
Veneto del Grappa		Oils and animal fats	Italy
Culatello di Zibello		Fresh, Frozen and Processed meats	Italy
Garda		Fresh, Frozen and Processed meats	Italy
Lardo di Colonnata		Fresh, Frozen and Processed meats	Italy
Szegedi téliszalámi		Fresh, Frozen and Processed meats	Hungary

Szegedi szalámi		Fresh, Frozen and Processed meats	Hungary
Tiroler Speck		Fresh, Frozen and Processed meats	Austria
Steirischer Kren		Fresh and processed vegetable products	Austria
Steirisches Kürbiskernöl		Oilseeds	Austria
Queijo S. Jorge		Cheeses	Portugal
Azeite de Moura		Oils and animal fats	Portugal
Azeites de Trás-os-Montes		Oils and animal fats	Portugal
Azeite do Alentejo Interior		Oils and animal fats	Portugal
Azeites da Beira Interior		Oils and animal fats	Portugal
Azeites do Norte Alentejano		Oils and animal fats	Portugal
Azeites do Ribatejo		Oils and animal fats	Portugal
Pêra Rocha do Oeste		Fresh and processed fruits and nuts	Portugal
Ameixa d'Elvas		Fresh and processed fruits and nuts	Portugal
Ananás dos Açores / S. Miguel		Fresh and processed fruits and nuts	Portugal
Chouriça de carne de Vinhais		Fresh, Frozen and Processed meats	Portugal
Linguiça de Vinhais		Fresh, Frozen and Processed meats	Portugal
Chouriço de Portalegre		Fresh, Frozen and Processed meats	
Presunto de Barrancos		Fresh, Frozen and Processed meats	Portugal
Queijo Serra da Estrela		Oils and animal fats	Portugal
Queijos da Beira Baixa		Oils and animal fats	Portugal

Queijo de Castelo Branco		Oils and animal fats	Portugal
Queijo Amarelo da Beira Baixa		Cheeses	Portugal
Queijo Picante da Beira Baixa		Cheeses	Portugal
Salpicão de Vinhais		Fresh, Frozen and Processed meats	Portugal
Gouda Holland		Cheeses	Netherlands
Edam Holland		Cheeses	Netherlands
Kalix Löjrom		Fresh, frozen and processed fish products	Sweden
Magiun de prune Topoloveni		Fresh and processed fruits and nuts	Romania

Part B

Geographical Indications Identifying a Product Originating in Canada

Indication	**Transliteration (For information purposes only)**	**Product Class**	**Place of Origin** **(Territory, Region or Locality)**

Annex II (a)

Valencia Orange

Orange Valencia

Valencia

Black Forest Ham

Jambon Forêt Noire

Tiroler Bacon[55]

Bacon Tiroler[1]

Parmesan

Bavarian Beer

Bière Bavaroise

Munich Beer

Bière Munich

St. George Cheese

Fromage St-George[s]

[55] Use of spelling variations in English or French to be permitted, including Tyrol, Tiroler, Tyroler, Tirolien

Annex II(b)

The term "comté" in association with food products when used to refer to a county (for example "Comté du Prince-Edouard"; "Prince Edward County"; "Comté de Prescott-Russell"; "Prescott-Russell County").

The term "Beaufort" in association with cheese products, produced in the proximity of the geographical place called "Beaufort range", Vancouver Island, British Columbia.

ANNEX III

Product classes

1. "fresh, frozen and processed meats" means products falling under Chapter 2 and heading 16.01 or 16.02 of the Harmonized System.
2. "dry-cured meats" means dry cured meat products falling under Chapter 2 and heading 16.01 or 16.02 of the Harmonized System.
3. "hops" means products falling under heading 12.10 of the Harmonized System;
4. "fresh, frozen and processed fish products" means products falling under Chapter 3 and heading 16.03, 16.04 or 16.05 of the Harmonized System;
5. "butter" means products falling under heading 04.05 of the Harmonized System;
6. "cheeses" means products falling under heading 04.06 of the Harmonized System;
7. "fresh and processed vegetable products" means products containing vegetables falling under Chapter 7 and Chapter 20 of the Harmonized System;
8. "fresh and processed fruits and nuts" means products containing fruits falling under Chapter 8 and 20 of the Harmonized System;
9. "spices" means products falling under Chapter 9 of the Harmonized System;
10. "cereals" means products falling under Chapter 10 of the Harmonized System;
11. "products of the milling industry" means products falling under Chapter 11 of the Harmonized System;
12. "oilseeds" means products falling under Chapter 12 of the Harmonized System;
13. "beverages from plant extracts" means products falling under heading 13.02 of the Harmonized System;
14. "oils and animal fats" means products falling under Chapter 15 of the Harmonized System;
15. "confectionery and baked products" means products falling under heading 17.04, 18.06, 19.04, or 19.05 of the Harmonized System;
16. "pasta" means products falling under heading 19.02 of the Harmonized System;
17. "table and processed olives" means products falling under heading 20.01 or 20.05 of the Harmonized System;
18. "mustard paste" means products falling under sub-heading 2103.30 of the Harmonized System;
19. "beer" means products falling under heading 22.03 of the Harmonized System;
20. "vinegar" means products falling under heading 22.09 of the Harmonized System;
21. "essential oils" means products falling under heading 33.01 of the Harmonized System.

23. SUSTAINABLE DEVELOPMENT

CHAPTER XX: TRADE AND SUSTAINABLE DEVELOPMENT

Article XX.1: Context and objectives

1. Recalling the Rio Declaration on Environment and Development of 1992, the Agenda 21 on Environment and Development, the Johannesburg Declaration and Plan of Implementation of 2002 on Sustainable Development, the 2006 Ministerial declaration of the UN Economic and Social Council on Full Employment and Decent Work, and the 2008 ILO Declaration on Social Justice for a Fair Globalisation, the Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, and they reaffirm their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations.

2. The Parties underline the benefit of considering trade related labour and environmental issues as part of a global approach to trade and sustainable development. Accordingly, the Parties agree that the rights and obligations under Chapters X+1 and X+2[56] are to be considered in the context of this Agreement.

3. In this regard, through the implementation of Chapters X+1 and X+2[57], the Parties aim to:

    a. promote sustainable development through the enhanced coordination and integration of their respective labour, environmental and trade policies and measures;
    b. promote dialogue and cooperation between the Parties with a view to developing their trade and economic relations in a manner supportive of their respective labour and environmental protection measures and standards, and to upholding their environmental and labour protection objectives in a context of freer, open and transparent trade relations;
    c. enhance enforcement of domestic labour and environmental laws and respect for labour and environmental international agreements;
    d. promote the full use of instruments, such as impact assessment and stakeholder consultations, in the regulation of trade, labour and environmental issues and encourage businesses, civil society organisations and citizens to develop and implement practices that contribute to the achievement of sustainable development goals;

[56] Refer to chapters on Environment and Labour

[57] Refer to chapters on Environment and Labour

e. promote public consultation and participation in the discussion of sustainable development issues arising under this Agreement and in the development of relevant domestic laws and policies.

Article 2: Transparency

The Parties stress the importance of ensuring transparency as a necessary element to promote public participation and information within the context of this Chapter, in accordance with its provisions, with Chapter [Transparency] and with the relevant provisions in Chapters [labour] and [environment].

Article 3: Co-operation and promotion of trade supporting sustainable development

1. The Parties recognise the value of international cooperation to achieve the goal of sustainable development and the integration at the international level of economic, social and environmental development and protection initiatives, actions and measures. Therefore, in the context of this Agreement, they agree to dialogue and consult with each other with regard to trade-related sustainable development issues of common interest.

2. The Parties affirm that trade should promote sustainable development. Accordingly, in the context of their respective policy or legislative frameworks and in a manner consistent with their international obligations, each Party shall strive to promote trade and economic flows and practices that contribute to enhancing decent work and environmental protection, including by:

a. Encouraging the development and use of voluntary schemes relating to the sustainable production of goods and services, such as eco-labelling and fair trade schemes;

b. Encouraging voluntary best practices of corporate social responsibility by enterprises, such as those embodied in the OECD Guidelines for Multilateral Enterprises, to strengthen coherence between economic, social and environmental objectives.

c. Encouraging the integration of sustainability considerations in private and public consumption decisions; and

d. Promoting the development, establishment, maintenance or improvement of environmental performance goals and standards.

3. The Parties recognise the importance of addressing specific sustainable development issues by assessing the potential economic, social and environmental impacts of possible actions, taking account of the views of stakeholders. Therefore, to identify any need for action that may arise in connection with this Agreement, each Party commits to review, monitor and assess the impact of the implementation of this Agreement on sustainable development in its territory. The Parties may agree to carry out joint assessments. These

assessments will be conducted in a manner that is adapted to the practices and conditions of each Party, through the respective participative processes of the Parties, as well as those set up under this Agreement.

Article 4: Institutional Arrangements

1. The Parties establish a [NAME] on Trade and Sustainable Development, comprised of high level representatives of the Parties responsible for matters covered by this Chapter, Chapter X [Labour], and Chapter Y [Environment]. The [NAME] on Trade and Sustainable Development shall oversee the implementation of these Chapters, including cooperative activities and review of impacts of the Agreement on sustainable development, address in an integrated manner any matters of common interest in relation to the interface between economic development, social development and environmental protection, and carry out the duties set out under Chapter X [Labour] and Chapter Y [Environment]. With regard to the latter, the [NAME] on Trade and Sustainable Development can also carry out these duties through dedicated sessions comprising participants responsible for matters covered, respectively, under Chapter X [Labour] or Chapter Y [Environment].

2. The [NAME] on Trade and Sustainable Development shall meet within the first year of the entry into force of this Agreement, and thereafter as often as the Parties consider necessary. The Contact Points referred to in [relevant articles of the labour and environment chapters] shall be responsible for communications between the Parties regarding the scheduling and organisation of such meetings or dedicated sessions.

3. Unless the Parties otherwise jointly decide, each regular or dedicated meeting of the [NAME] on Trade and Sustainable Development shall include a session with the public to discuss matters relating to the implementation of the relevant Chapter(s).

4. The NAME on Trade and Sustainable Development shall promote transparency and public participation. To this end:

    a. all decisions and reports that the NAME on Trade and Sustainable Development may adopt shall be made public, unless the NAME on Trade and Sustainable Development decides otherwise;

    b. the NAME on Trade and Sustainable Development shall present updates on matters related to this Chapter, including its implementation, to the Civil Society Forum referred to in [Article]. Any views or opinions of the Civil Society Forum may be submitted to the Parties directly, or through the consultative mechanisms referred to in Article 8.3 of Chapter … (Trade and Labour) and in Article X.13 of Chapter X (Trade and Environment). The NAME on Trade and Sustainable Development shall report annually on the follow-up given to such communications;

c. the NAME on Trade and Sustainable Development shall report annually on matters it may address pursuant to Article X.7(3) of Chapter X (Trade and Environment) or Article 8.4 of Chapter … (Trade and Labour).

Article 5: Civil society forum

1. The Parties shall facilitate a joint Civil Society Forum comprising representatives of civil society organisations established in their territories, including participants in the domestic consultative mechanisms referred to in Article 8.3 of Chapter … (Trade and Labour) and in Article X.13 of Chapter … (Trade and Environment), in order to conduct a dialogue encompassing sustainable development aspects of this Agreement.

2. The Civil Society Forum shall be convened once a year unless otherwise agreed by the Parties. The Parties shall promote a balanced representation of relevant interests, including independent representative employers, unions, labour and business organisations, environmental groups, as well as other relevant civil society organisations as appropriate. The Parties may also facilitate participation by virtual means.

24. TRADE AND LABOUR

CHAPTER X+1: TRADE AND LABOUR

Article 1: Context and objectives

1. The Parties recognise the value of international co-operation and agreements on employment and labour affairs as a response of the international community to economic, employment and social challenges and opportunities resulting from globalisation. They recognize the contribution that international trade could make to full and productive employment and decent work for all and commit to consulting and co-operating as appropriate on trade-related labour and employment issues of mutual interest.

2. The Parties recognise the beneficial role that decent work, encompassing core labour standards, and high levels of labour protection, coupled with effective enforcement, can have on economic efficiency, innovation and productivity, including export performance, and they highlight the value of greater policy coherence in those areas. In this context, the Parties recognize the importance of social dialogue on labour matters among workers and employers, and their respective organizations, and governments, and commit to promotion of such dialogue in their territories.

Article 2: Right to regulate and levels of protection

Recognising the right of each Party to set its labour priorities, to establish its levels of labour protection and to adopt or modify its relevant laws and policies accordingly in a manner compatible with its international labour commitments, including those in this Chapter, each Party shall strive to continue to improve those laws and policies with the goal of providing high levels of labour protection.

Article 3: Multilateral labour standards and agreements

1. Each Party shall ensure that its labour law and practices embody and provide protection for the fundamental principles and rights at work, and reaffirm its commitment to respecting, promoting and realising such principles and rights in accordance with its obligations as member of the ILO and its commitments under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998.

   (a) freedom of association and the effective recognition of the right to collective bargaining;

   (b) the elimination of all forms of forced or compulsory labour;

   (c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

2. Each Party shall ensure that its labour law and practices promote the following objectives included in the Decent Work Agenda, and in accordance with the 2008 ILO Declaration on Social Justice for a Fair Globalisation, and other international commitments:

(a) health and safety at work, including the prevention of occupational injuries and illnesses and compensation in cases of such injuries or illnesses;

(b) establishment of acceptable minimum employment standards for wage earners, including those not covered by collective agreements; and,

(c) non-discrimination in respect of working conditions, including for migrant workers.

3. In connection with paragraph 2(a) of this article, each Party shall ensure that its labour law and practices embody and provide protection for working conditions that respect the health and safety of workers, including by formulating policies which promote basic principles aimed at preventing accidents and injuries arising out of or in the course of work, and aimed at developing a domestic preventative safety and health culture where the principle of prevention is accorded the highest priority. When preparing and implementing measures aimed at health protection and safety at work, each Party shall take account of relevant scientific and technical information and related international standards, guidelines or recommendations if they exist, particularly if such measures may affect trade or investment between the Parties. The Parties acknowledge that where there are existing or potential hazards or conditions that could reasonably be expected to cause injury or illness to a person, the lack of full scientific certainty shall not be used as a reason for postponing cost-effective protective measures.

4. Each Party reaffirms its commitment to effectively implement in its laws and practices, in its whole territory, the fundamental ILO Conventions that Canada and the Member States of the European Union have ratified respectively. The Parties will make continued and sustained efforts towards ratifying the fundamental ILO Conventions to the extent that they have not yet done so. The Parties will exchange information on their respective situation and advancements as regards to the ratification of the fundamental as well as priority and other ILO Conventions that are classified as up to date by the ILO.

Article 4: Upholding levels of protection

1. The Parties recognise that it is inappropriate to encourage trade or investment by lowering the levels of protection embodied in domestic labour law and standards.

2. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour law, as an encouragement for trade or the establishment, acquisition, expansion or retention of an investment or an investor in its territory.

3. A Party shall not fail to effectively enforce its labour law, through a sustained or recurring course of action or inaction, as an encouragement for trade or investment.

Article 5: Enforcement procedures, Administrative proceedings and review of administrative action

1. In connection with the obligations in Article 4, each Party shall promote compliance with and shall effectively enforce its labour law, including by:
    a. in accordance with its international commitments, maintaining a system of labour inspection aimed at securing the enforcement of those legal provisions relating to working conditions and the protection of workers which are enforceable by labour inspectors;
    b. ensuring that administrative and judicial proceedings are available to persons with a legally recognized interest in a particular matter under its domestic law, in order to permit effective action against infringements of its labour laws, including appropriate remedies for violations of such laws.

2. Each Party shall, within the framework of its legal system, ensure that the proceedings referred to in subparagraph 1 (b) are not unnecessarily complicated or prohibitively costly, do not entail unreasonable time limits or unwarranted delays, provide injunctive relief, where appropriate, and are fair and equitable, including by:
    a. providing defendants with reasonable notice when a procedure is initiated, including a description of the nature of the proceeding and the basis of the claims;
    b. affording the parties to the procedures a reasonable opportunity to support or defend their respective positions, including by presenting information or evidence, prior to any final decision;
    c. providing that final decisions are made in writing and give reasons as appropriate to the case; and
    d. allowing the parties to an administrative proceeding an opportunity for review of final administrative decisions within a reasonable time by a tribunal established by law, with appropriate guarantees of independence and impartiality of decision-makers.

Article 6: Public Information and Awareness

1. Each Party, as well as complying with Art X.01 of Transparency Chapter, shall encourage public debate with and among non-State actors as regards the development and definition of policies that may lead to the adoption by public authorities of labour law and standards.

2. Each Party shall promote public awareness of its labour law and standards, as well as enforcement and compliance procedures, including by ensuring the availability of information and by taking steps to further the knowledge and understanding of workers, employers and their representatives.

Article 7: Cooperative activities

1. The Parties commit to cooperate for the promotion of the objectives of this Chapter through actions such as:

- exchange of information on best practices on issues of common interest and on relevant events, activities, and initiatives organized in their respective territories;

- cooperation in international fora dealing with issues relevant for trade and labour and employment, including in particular the WTO and the ILO;

- the international promotion of Fundamental Principles and Rights at Work and their effective application, and the ILO Decent Work Agenda;

- dialogue and information sharing on the labour provisions in the context of their respective trade agreements, and their implementation;

- exploring collaboration in initiatives vis-a-vis third countries;

- other forms of cooperation as the Parties may deem appropriate.

2. In identifying areas for cooperation, and in carrying out cooperative activities, the Parties will consider any views provided by representatives of workers, employers, and civil society.

3. The Parties may establish cooperative arrangements with the International Labour Organization and other competent international and regional organisations to draw on their expertise and resources to achieve the objectives of this Chapter.

Article 8: Institutional mechanisms

1. Each Party shall designate one office which shall serve as a Point of Contact with the other Party for the purposes of implementing this Chapter, including with regard to:

(a) cooperative programs and activities in accordance with Article 7;

(b) the receipt of submissions and communications under Article 9; and

(c) information to be provided to the other Party, the panels of experts and the public.

2. The **[NAME TO BE DETERMINED]** on Trade and Sustainable Development established under Chapter X [Trade and Sustainable Development] shall, through its regular meetings or dedicated sessions comprising participants responsible for matters covered under this Chapter discuss matters of common interest, oversee the implementation of this Chapter and review progress under it, including its operation and effectiveness, or address any other matter within the scope of this Chapter as they jointly decide.

3. Each Party shall consult a domestic labour or sustainable development advisory group(s), or establish new ones when they do not exist, to provide views and advice on issues relating to this Chapter. Such groups may submit opinions and make recommendations on any matter related to this Chapter on their own initiative. The domestic advisory group(s) comprise(s) independent representative organisations of civil society in a balanced representation of employers, unions, labour and business organisations, as well as other relevant stakeholders as appropriate.

4. Each Party shall be open to receive and shall give due consideration to submissions from the public on matters related to this Chapter, including communications on implementation concerns; each Party shall inform its domestic advisory group(s) of such communications.

5. The Parties shall take into account the activities of the International Labour Organisation so as to promote greater cooperation and coherence between the work of the Parties and that Organisation.

ARTICLE 9: Government Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the contact point of the other Party. The request shall present the matter clearly, identifying the questions at issue and providing a brief summary of any claims under this Chapter. Consultations shall commence promptly after a Party delivers a request for consultations.

2. During consultations, each Party shall provide the other with sufficient information in its possession to allow a full examination of the matters raised, subject to any domestic legislation regarding confidential personal and commercial information.

3. Where relevant, subject to the agreement of both consulting Parties, they shall seek the information or views of any person, organisation or body that may contribute to the examination of the matter at issue, including the International Labour Organisation.

4. If a Party considers that the matter needs further discussion, that Party may request that [NAME] be convened to consider the matter by delivering a written request to the contact point of the other Party. The [NAME] shall convene promptly and endeavour to agree on a resolution of the matter. Where appropriate, it shall seek the advice of the Parties' domestic advisory group(s).

5. Any solutions or decisions on matters discussed under this Article shall be made publicly available.

Article 10: Panel of Experts

1. For any matter that has not been satisfactorily addressed through government consultations, a Party may, 90 days after the delivery of a request for consultations under Article 9.1, request that a Panel of Experts be convened to examine that matter, by delivering a written request to the contact point of the other Party.

2. Subject to the provisions of this Chapter, the Parties shall apply the Rules of Procedure and Code of Conduct set out in Annex I and II of the Chapter on Dispute Settlement, unless the Parties agree otherwise.

3. The Panel of Experts shall be composed of three panellists.

4. The [NAME] shall, at its first meeting after the entry into force of this Agreement, establish a list of at least 9 individuals chosen on the basis of objectivity, reliability and sound judgment who are willing and able to serve as experts in Panel procedures. Each Party shall propose three individuals to serve as experts. The Parties shall also select three individuals who are not nationals of either Party and who shall act as chairperson to the Panel of experts. The [NAME] will ensure that the list is always maintained at this level.

5. The experts proposed as panellists shall comprise individuals with specialised knowledge or expertise in labour law, other issues addressed in this Chapter, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the matter at stake, or be affiliated with the government of any Party, and shall comply with [the Code of Conduct].

6. The Parties shall consult with a view to reaching an agreement on the composition of the Panel of Experts within 10 working days of the date of the receipt by the responding Party of the request for the establishment of a Panel of Experts. Due attention shall be paid to ensuring that proposed Panellists meet the requirements set out in paragraph (5) of this article and have the expertise appropriate to the particular matter.

7. In the event that the Parties are unable to agree on the composition of the Panel of Experts within the time frame laid down in paragraph 4, the selection procedure set forth in Article 14.7(3), (4),(5), (6) and (7) of Chapter 14 (Dispute Settlement) shall be applicable in respect of the list established in paragraph (7).

8. Unless the Parties agree otherwise, within five working days of the date of the selection of the panellists, the terms of reference of the Panel of Experts shall be:

"to examine, in the light of the relevant provisions of the Trade and Labour chapter, the matter referred to in the request for the establishment of the Panel of Experts, and to issue a report, in accordance with Article 12 (Panel of Experts) of Chapter … (Trade and Labour), making recommendations for the resolution of the matter"

9. In matters related to the respect of multilateral agreements as set out in Article 3, the Panel should seek information from the International Labour Organisation, such as pertinent available interpretative guidance, findings or decisions adopted by this body.[58]

10. The Panel may request and receive written submissions or any other information from organisations, institutions, and persons with relevant information or specialised knowledge.

11. The Panel of Experts shall issue to the Parties an interim and a final report setting out the findings of facts, its determinations as to whether the responding Party has conformed with its obligations under this chapter and the rationale behind any findings, determinations and recommendations that it makes. The Panel of Experts shall submit to the Parties the interim report within 120 days after the last panellist is selected, or as otherwise decided by the Parties. The Parties may provide comments to the Panel on the interim report within 45 days of its presentation. After considering any such comments, the Panel of Experts may reconsider its report or make any further examination it considers appropriate. The Panel of Experts shall submit the final report to the Parties within 60 days of the submission of the interim report. Each Party shall make the final report publicly available within 30 days of its issuance.

12. If in the final report the Panel determines that there has been non-conformity, the Parties shall engage in discussions and shall endeavour, within three months from the submission of the final report and taking into account that report, to identify appropriate measures or, where appropriate, to decide upon a mutually satisfactory action plan. The Party concerned shall inform in a timely manner its advisory groups and the other Party of its decisions on any actions or measures to be implemented**.** Furthermore, the requesting Party shall inform in a timely manner its advisory groups and the other Party of any other action or measure it may decide to take, as a follow-up to the report, to encourage the resolution of the matter in a manner consistent with this Agreement. The follow-up to the report and the recommendations of the Panel of Experts shall be monitored by the NAME. The advisory bodies and the Civil Society Forum may submit observations to the NAME in this regard.

13. If the Parties reach a mutually agreed solution to a matter during the time that a Panel of Experts has been established, they shall notify the [NAME] and the Panel of Experts of any such solution. Upon notification, the panel procedure shall be terminated.

[58] This provision shall be applied in accordance with rule 43 of the Rules of Procedure set out in Annex I of Chapter XX (Dispute Settlement)

ARTICLE 11: Dispute Resolution

1. For any matter arising under this Chapter where there is disagreement between the Parties, the Parties shall only have recourse to the rules and procedures provided for in this chapter.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. At any time, the Parties may have recourse to good offices, conciliation, or mediation to resolve that matter.

3. It is understood that the obligations included under this chapter are binding, and enforceable through the procedures for the resolution of disputes provided for in Art. 10 [Panel of experts] of this chapter. Within this context, the Parties will discuss, through the meetings of the [NAME] on Trade and Sustainable Development, the effectiveness of the implementation of the chapter, domestic policy developments in both Parties, developments in international agreements, and views presented by stakeholders, as well as possible reviews of the procedures for the resolution of disputes provided for in Art. 10 [Panel of experts] of this chapter.

4. In case of disagreement, a Party may request consultations according to the procedures established in Art. 9 [Government consultations] in order to review the provisions for the resolution of disputes provided for in Art. 10 [Panel of experts] of this chapter, with a view to reach a mutually agreed position on the matter.

5. The [NAME] may decide to modify the relevant provisions of this chapter, in accordance with the amendment procedures established in Chapter …, Article … [CETA amendment procedure].]

25. TRADE AND ENVIRONMENT

Chapter XX: Trade and Environment

Article X.1: Context and Objectives

The Parties recognize that the environment is a fundamental pillar of sustainable development and the contribution that trade could make to sustainable development. They stress that enhanced cooperation between the Parties to protect and conserve the environment brings benefits which will promote sustainable development, strengthen the environmental governance of the Parties, build on international environmental agreements to which they are party and complement the objectives of the CETA.

Article X.2: Definition

For the purposes of this Chapter:

"environmental law" means laws or statutory or regulatory provisions, or other legally binding measures, the purpose of which is the protection of the environment, including the prevention of a danger to human life or health from environmental impacts, such as those that aim at:

(a) the prevention, abatement or control of the release, discharge, or emission of pollutants or environmental contaminants,

(b) the management of chemicals and waste and the dissemination of information related thereto, and

(c) the conservation and protection of wild flora or fauna, including endangered species and their habitats, as well as protected areas;

but does not include any measures solely related to worker health and safety, which fall under Chapter X - Labour, nor any measures by a Party for which the purpose is managing subsistence or aboriginal harvesting of natural resources.

Article X.3: Multilateral Environmental Agreements

1. The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and stress the need to enhance the mutual supportiveness between trade and environment policies, rules and measures.

2. Each Party reaffirms its commitment to effectively implement in its laws and practices, in its whole territory, the Multilateral Environmental Agreements to which it is a party.

3. The Parties commit to consulting and cooperating as appropriate with respect to environmental matters of mutual interest related to Multilateral Environmental Agreements, in particular trade-related issues. This includes, inter alia, exchanging information on the implementation of Multilateral Environmental Agreements that a Party is bound by, on ongoing negotiations of new Multilateral Environmental Agreements, as well as on each Party's respective views as regards to becoming a party to additional Multilateral Environmental Agreements.

4. The Parties acknowledge their right to make full use of the General Exceptions in Chapter X (Exceptions) in relation to environmental measures, including those taken pursuant to Multilateral Environmental Agreements to which they are party.

Article X.4: Right to regulate and levels of protection

Recognizing the right of each Party to set its own environmental priorities, to establish its own domestic levels of environmental protection, and to adopt or modify its relevant laws and policies accordingly in a manner consistent with the multilateral environmental agreements to which they are a party and with this Agreement, each Party shall seek to ensure that those laws and policies provide for and encourage high levels of environmental protection and shall strive to continue to improve those laws and policies and their underlying levels of protection.

Article X.5: Upholding levels of protection

1. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the levels of protection afforded in domestic environmental laws.

2. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental laws as an encouragement for trade or investment.

3. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws, as an encouragement for trade or the establishment, acquisition, expansion or retention of an investment of an investor in its territory.

Article X.6: Access to Remedies and Procedural Guarantees

1. In connection with the obligations in Article X.5:

    a. Each Party shall, in accordance with its laws, ensure that its authorities competent to enforce environmental laws give due consideration to alleged violations of those laws brought to its attention by interested persons residing or established in

its territory.

b. Each Party shall ensure that administrative or judicial proceedings are available to persons[59] with a legally recognized interest in a particular matter or maintaining impairment of a right, subject to the conditions specified under its domestic law, in order to permit effective action against infringements of its environmental laws, including appropriate remedies for violations of such laws.

2. Each Party shall, within the framework of its legal system and in accordance with its domestic laws, ensure that the proceedings referred to in paragraph 1(b) are not unnecessarily complicated or prohibitively costly, do not entail unreasonable time limits or unwarranted delays, provide injunctive relief where appropriate, and are fair, equitable and transparent, including by:

a. providing defendants with reasonable notice when a proceeding is initiated, including a description of the nature of the proceeding and the basis of the claims;
b. affording the parties to the proceedings a reasonable opportunity to support or defend their respective positions, including by presenting information or evidence, prior to any final decision;
c. providing that final decisions are made in writing and give reasons as appropriate to the case and based on information or evidence in respect of which the parties were offered the opportunity to be heard; and
d. allowing the parties to an administrative proceeding an opportunity for review and, where warranted, correction of final administrative decisions within a reasonable time by a tribunal established by law, with appropriate guarantees of independence and impartiality of decision-makers.

Article X.7: Public Information

1. Each Party, as well as complying with Art. X.01 of Transparency Chapter, shall encourage public debate with and among non-State actors as regards the development and definition of policies that may lead to the adoption by public authorities of environmental laws and regulations.

2. Each Party shall promote public awareness of its environmental laws and regulations, as well as enforcement and compliance procedures, by ensuring the availability of information to stakeholders.

[59] Including non-governmental organisations promoting environmental protection and meeting any requirements under domestic law.

3. Each Party shall be open to receive and shall give due consideration to submissions from the public on matters related to this Chapter, including communications on implementation concerns; each Party shall inform its civil society of such communications through the consultative mechanisms referred to in Article X.13(4).

Article X.8: Scientific and technical information

1. Each Party shall, when preparing and implementing measures aimed at environmental protection which may affect trade or investment between the Parties, take account of relevant scientific and technical information and related international standards, guidelines or recommendations if they exist.

2. The Parties acknowledge that where there are threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Article X.9: Trade favouring environment protection

1. The Parties are resolved to make efforts to facilitate and promote trade and investment in environmental goods and services, including through addressing the reduction of non-tariff barriers related to these goods and services.

2. The Parties shall, consistent with their international obligations, pay special attention to facilitating the removal of obstacles to trade or investment concerning goods and services of particular relevance for climate change mitigation in particular renewable energy goods and related services.

Article X.10: Trade in forest products

1. The Parties recognize the importance of the conservation and sustainable management of forests for providing environmental functions and economic and social opportunities for present and future generations, and of market access for legally-harvested forest products from sustainably managed forests.

2. To this end, the Parties undertake to, in a manner consistent with their international obligations:

(a) Encourage trade in forest products from sustainably managed forests, harvested in accordance with the domestic legislation of the country of harvest;

(b) Exchange information, and where appropriate, cooperate on initiatives to promote sustainable forest management, including initiatives designed to combat illegal logging and related trade;

(c) Promote the effective use of CITES with regard to timber species considered at risk; and

(d) Cooperate, where appropriate, in international fora dealing with the conservation and sustainable management of forests.

3. The Parties agree to discuss issues identified in paragraph (2) in the [NAME[60]] or in the Bilateral Dialogue on Forest Products referenced in [Chapter X: Dialogues and Sector Specific Cooperation[61]] in accordance with their respective scopes.

Article X.11: Trade in Fisheries and Aquaculture Products

The Parties recognise the importance of the conservation and the sustainable and responsible management of fisheries and aquaculture and their contribution to providing environmental, economic and social opportunities for present and future generations. To this end, the Parties undertake to, in a manner consistent with their international obligations:

(a) Adopt effective monitoring, control and surveillance–measures, such as observer schemes, vessel monitoring schemes, transhipment control, inspections at sea and port state control and associated sanctions, aimed at the conservation of fish stocks and the prevention of overfishing;

(b) Maintain or adopt actions and cooperate to combat illegal, unreported and unregulated (IUU) fishing, including, where appropriate, the exchange of information on IUU activities in their waters and the implementation of policies and measures to exclude IUU products from trade flows and fish farming operations;

(c) Cooperate with, and where appropriate in, Regional Fisheries Management Organisations in which both Parties are either members, observers, or cooperating non-contracting parties, with the aim of achieving good governance, including by advocating for science based decisions and compliance with such decisions in these organizations; and

(d) Promote the development of an environmentally responsible and economically competitive aquaculture industry.

Article X.12: Cooperation on environment issues

1. The parties recognise that enhanced cooperation is an important element to advance the objectives of this Chapter, and they commit to cooperate, through actions and instruments that may include technical exchanges, exchanges of information and best practices, research

[60] Institutional body established under the Trade and Sustainable Development Chapter.
[61] Will need to be updated

projects, studies, reports, conferences and workshops, on trade-related environmental issues of common interest, in areas such as:

(a) the potential impacts of this Agreement on the environment and ways to enhance, prevent or mitigate them, taking into account impact assessments carried out by the Parties;

(b) activities in international *fora* dealing with issues relevant for both trade and environmental policies, including in particular the WTO, the OECD, the United Nations Environment Programme and multilateral environmental agreements;

(c) the environmental dimension of corporate social responsibility and accountability, including on the implementation and follow-up of internationally agreed guidelines;

(d) the trade impact of environmental regulations and standards as well as the environmental impacts of trade and investment rules including on the development of environmental regulations and policy;

(e) trade-related aspects of the current and future international climate change regime, as well as domestic climate policies and programs relating to mitigation and adaptation, including issues relating to carbon markets, ways to address adverse effects of trade on climate, as well as means to promote energy efficiency and the development and deployment of low-carbon and other climate-friendly technologies.

(f) trade and investment in environmental goods and services, including environmental and green technologies and practices, renewable energy, energy efficiency and water use, conservation and treatment;

(g) cooperation on trade-related aspects of the conservation and sustainable use of biological diversity;

(h) the promotion of life-cycle management of goods, including carbon accounting and end of life management – extended producer responsibility, recycling and reduction of waste, and other best practices;

(i) improved understanding of the effects of economic activities and market forces on the environment; or

(j) exchange of views on the relationship between multilateral environmental agreements and international trade rules.

2. The parties will consider views or input from the public and interested stakeholders for the definition and implementation of their cooperation activities, and they may involve them further in such activities, as appropriate.

Article X.13: Institutional mechanisms

1. Each Party shall designate one office which shall serve as a Point of Contact with the other Party for the purposes of implementing this Chapter, including with regard to:
   a) cooperative programs and activities in accordance with Article X.12;
   b) the receipt of submissions and communications under Article X.7(3); and
   c) information to be provided to the other Party, the Panels of Experts and the public.

2. The [NAME] on Trade and Sustainable Development established under Chapter X [Trade and Sustainable Development] shall, through its regular meetings or dedicated sessions comprising participants responsible for matters covered under this Chapter:
   a) Oversee the implementation of this Chapter and review progress under it;
   b) Discuss matters of common interest; and
   c) Address any other matter within the scope of this Chapter as the Parties jointly decide.

3. The Parties shall take into account the activities of relevant multilateral environmental organisations or bodies so as to promote greater cooperation and coherence between the work of the Parties and these organisations.

4. Each Party shall make use of existing, or establish new, consultative mechanisms, such as domestic advisory groups, to seek views and advice on issues relating to this Chapter. Such mechanisms shall involve independent representative organisations of civil society in a balanced representation of environmental groups, business organisations, as well as other relevant stakeholders as appropriate. Through such mechanisms, stakeholders may submit views and make recommendations on any matter related to this Chapter on their own initiative.

Article X.14: Government consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the contact point of the other Party. The request shall present the matter clearly, identifying the questions at issue and providing a brief summary of any claims under this Chapter. Consultations shall commence promptly after a Party delivers a request for consultations.

2. During consultations, each Party shall provide the other with sufficient information in its possession to allow a full examination of the matters raised, subject to any domestic legislation regarding confidential personal and commercial information.

3. Where relevant and agreed to by both Parties, the Parties shall seek the information or views of any person, organisation or body that may contribute to the examination of the matter at issue, including the relevant international organisations or bodies.

4. If a Party considers that the matter needs further discussion, that Party may request that [NAME] be convened to consider the matter by delivering a written request to the contact

point of the other Party. The [NAME] shall convene promptly and endeavour to agree on a resolution of the matter. Where appropriate, it shall seek the advice of the Parties' civil society through the consultative mechanisms referred to in Art. X.13(4).

5. Any solutions or decisions on matters discussed under this Article shall be made publicly available.

ARTICLE X.15: Panel of Experts

1. For any matter that has not been satisfactorily addressed through government consultations, a Party may, 90 days after the delivery of a request for consultations under Article X.14(1), request that a Panel of Experts be convened to examine that matter, by delivering a written request to the contact point of the other Party.

2. Subject to the provisions of this Chapter, the Parties shall apply the Rules of Procedure and Code of Conduct set out in Annex I and II of the Chapter on Dispute Settlement, unless the Parties agree otherwise.

3. The Panel of Experts shall be composed of three panellists.

4. The Parties shall consult with a view to reaching an agreement on the composition of the Panel of Experts within 10 working days of the date of the receipt by the responding Party of the request for the establishment of a Panel of Experts. Due attention shall be paid to ensuring that proposed Panellists meet the requirements set out in paragraph (7) of this article and have the expertise appropriate to the particular matter.

5. In the event that the Parties are unable to agree on the composition of the Panel of Experts within the time frame laid down in paragraph 4, the selection procedure set forth in Article 14.7(3), (4),(5), (6) and (7) of Chapter 14 (Dispute Settlement) shall be applicable in respect of the list established in paragraph (7).

6. The NAME shall, at its first meeting after the entry into force of this Agreement, establish a list of at least 9 individuals chosen on the basis of objectivity, reliability and sound judgment who are willing and able to serve as experts in Panel procedures. Each Party shall propose at least three individuals to serve as experts. The Parties shall also select at least three individuals who are not nationals of either Party and who shall act as chairperson to the Panel of Experts. The NAME will ensure that the list is always maintained at this level.

7. The experts proposed as panellists shall comprise individuals with specialized knowledge or expertise in environmental law, issues addressed in this Chapter or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the matter at stake, or be affiliated with the government of any Party, and shall comply with the Code of Conduct.

8. Unless the Parties agree otherwise, within five working days of the date of the selection of the panellists, the terms of reference of the Panel of Experts shall be:

"to examine, in the light of the relevant provisions of the Trade and Environment chapter, the matter referred to in the request for the establishment of the Panel of Experts, and to issue a report, in accordance with Article X (Panel of Experts) of Chapter … (Trade and Environment), making recommendations for the resolution of the matter"

9. In matters related to the respect of multilateral agreements as set out in Article X.3, the Panel should seek views and information from relevant MEA bodies, including any pertinent available interpretative guidance, findings or decisions adopted by those bodies.[62]

10. The Panel of Experts shall issue to the Parties an interim and a final report setting out the findings of facts, its determinations as to whether the responding Party has conformed with its obligations under this Chapter and the rationale behind any findings, determinations and recommendations that it makes. The Panel of Experts shall submit to the Parties the interim report within 120 days after the last panellist is selected, or as otherwise decided by the Parties. The Parties may provide comments to the Panel on the interim report within 45 days of its presentation. After considering any such comments, the Panel of Experts may reconsider its report or make any further examination it considers appropriate. The Panel of Experts shall submit the final report to the Parties within 60 days of the submission of the interim report. Each Party shall make the final report publicly available within 30 days of its issuance.

11. If in the final report the Panel determines that there has been non-conformity, the Parties shall engage in discussions and shall endeavour, within three months from the submission of the final report and taking into account that report, to identify appropriate measures or, where appropriate, to decide upon a mutually satisfactory action plan. The Party concerned shall keep informed in a timely manner its civil society organisations through the consultative mechanisms referred to in Art.X.13(4) and the other Party of its decisions on any actions or measures to be implemented. The follow-up to the report and the recommendations of the Panel of Experts shall be monitored by the NAME. The civil society organisations through the consultative mechanisms referred to in Art. X.13(4) and the Civil Society Forum may submit observations to the NAME in this regard.

12. If the Parties reach a mutually agreed solution to a matter during the time that a Panel of Experts has been established, they shall notify the [NAME] and the Panel of Experts of any such solution. Upon notification, the panel procedure shall be terminated.

[62] This provision shall be applied in accordance with rule 43 of the Rules of Procedure set out in Annex I of Chapter XX (Dispute Settlement)

ARTICLE X.16: Dispute Resolution

1. For any matter arising under this Chapter where there is disagreement between the Parties, the Parties shall only have recourse to the rules and procedures provided for in Articles X.14 and X.15.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. At any time, the Parties may have recourse to good offices, conciliation, or mediation to resolve that matter.

26. REGULATORY COOPERATION

REGULATORY COOPERATION

Article X.1: Scope

This Chapter applies to the development, review and methodological aspects of regulatory measures of the Parties' regulatory authorities that are covered by, *inter alia*, the *TBT Agreement,* the *SPS Agreement*, the *GATT 1994,* the *GATS*, and Chapters X (TBT); X (SPS); X (CBTS); X (Environment); X (SD) and X (Labour); of this Agreement.

Article X.2: Principles

1. The Parties affirm their rights and obligations relating to regulatory measures under the *TBT Agreement*, *SPS Agreement, GATT 1994* and *GATS*.

2. The Parties commit themselves to ensuring high levels of protection for human, animal and plant life or health, and the environment in accordance with the *TBT Agreement*, *SPS Agreement*, *GATT 1994* and *GATS*.

3. The Parties recognise the value of regulatory cooperation with their relevant trading partners both bilaterally and multilaterally. The Parties will, whenever practicable and mutually beneficial, approach regulatory cooperation in a way that is open to participation by other international trading partners.

4. Without limiting the ability of each Party to carry out its regulatory, legislative and policy activities, the Parties commit themselves to further developing their regulatory cooperation in light of their mutual interest in order to: (a) prevent and eliminate unnecessary barriers to trade and investment; (b) enhance the climate for competitiveness and innovation, including through pursuing regulatory compatibility, recognition of equivalence, and convergence; and (c) promote transparent, efficient and effective regulatory processes that better support public policy objectives and fulfil the mandates of regulatory bodies, including through the promotion of information exchange and enhanced use of best practices.

5. The provisions of this Chapter replace the Government of Canada – European Commission Framework on Regulatory Cooperation and Transparency and shall govern the activities previously undertaken in the context of that Framework.

6. The Parties may undertake regulatory cooperation activities, on a voluntary basis. For greater certainty, neither Party is obliged to enter into particular regulatory cooperation activities, and either Party may refuse to cooperate or may withdraw from cooperation. However, if a Party refuses to initiate regulatory cooperation or withdraws from such cooperation, it should be prepared to explain the reasons for its decision to the other Party.

Article X.3 Objectives of Regulatory Cooperation

The objectives of regulatory co-operation include:

(a) Contributing to the protection of human life, health or safety, animal or plant life or health and the environment by:

(i) leveraging international resources in areas such as research, pre-market reviews and risk analysis to address important regulatory issues of local, national and international concern; and

(ii) contributing to the base of information used by regulatory departments for identifying, assessing and managing risks.

(b) Building trust, deepening mutual understanding of regulatory governance and obtaining from each other the benefit of expertise and perspective to:

(i) improve the planning and development of regulatory proposals;

(ii) promote transparency and predictability in the development and establishment of regulations;

(iii) enhance the efficacy of regulations;

(iv) identify alternative instruments;

(v) recognize the associated impacts of regulations;

(vi) avoid unnecessary regulatory differences; and

(vii) improve regulatory implementation and compliance.

(c) Facilitating bilateral trade and investment by:

(i) building on previously existing co-operative arrangements;

(ii) reducing unnecessary differences in regulation; and
(iii) identifying new ways of working for co-operation in specific sectors.

(d) Contributing to the improvement of competitiveness and efficiency of industry by:
(i) minimizing administrative costs wherever possible;

(ii) reducing duplicative regulatory requirements and consequential compliance costs wherever possible; and

(iii) pursuing compatible regulatory approaches including, if possible and appropriate, through:

a). the application of regulatory approaches which are technology-neutral, and
b). the recognition of equivalence or the promotion of convergence.

Article X.4 Regulatory Cooperation Activities

The Parties endeavour to fulfill the objectives set out in Article X.3 by undertaking regulatory co-operation activities. These activities may include:

1. Engaging in ongoing bilateral discussions on regulatory governance, including to:

(a) discuss regulatory reform and its effects on the Canada-EU relationship;

(b) identify lessons learned;

(c) explore, if appropriate, alternative approaches to regulation; and

(d) exchange experiences with regulatory tools and instruments, including regulatory impact assessments, risk assessment and compliance and enforcement strategies.

2. Consulting with each other as appropriate and exchanging information during the regulatory development process. This consultation and exchange may occur throughout the regulatory development process, and should begin as early as possible in that process.

3. Sharing non-public information to the extent that such information may be made available to foreign governments in accordance with the applicable rules of the Party.

4. Sharing proposed technical or sanitary and phytosanitary regulations that may have an impact on trade with the other Party at as early a stage as possible so that comments and proposals for amendments may be taken into account,

5. Providing, upon request by the other Party, copies of the proposed regulation, subject to applicable privacy laws, and allowing sufficient time for interested parties to provide comments in writing.

6. Exchanging information about contemplated regulatory actions, measures or amendments under consideration, at the earliest stage possible, in order to:

(a) better understand the rationale behind regulatory choices, including instrument choice, and examine the possibilities for greater convergence on how to state the objectives of regulations and how to define their scope. The interface between regulations, standards and conformity assessment should also be addressed in this context;

(b) compare methods and assumptions used in analyzing regulatory proposals, including, when appropriate, analysis of technical or economic practicability and benefits in relation to the objective pursued of any major alternative regulatory requirements and approaches considered. This information exchange may also include compliance strategies and impact assessments, including a comparison of the potential cost-effectiveness of the regulatory proposal to that of major alternative regulatory requirements and approaches considered;

7. Examining opportunities to minimize unnecessary divergences in regulations through means such as:

(a) Conducting concurrent or joint risk assessments and regulatory impact assessments if practicable and mutually beneficial,

(b) achieving harmonized, equivalent or compatible solutions, or

(c) considering the use of mutual recognition in specific cases.

8. Cooperating on issues regarding the development, adoption, implementation and maintenance of international standards, guides and recommendations.

9. Examining the appropriateness and possibility of collecting the same or similar data about the nature, extent and frequency of problems potentially warranting regulatory action when it would expedite making statistically significant judgments about those problems.

10. Periodically conducting comparisons of data collection practices.

11. Examining the appropriateness and the possibility of using the same or similar assumptions and methodologies as those used by the other Party when analyzing data and assessing underlying issues to be addressed through regulation in order to:

(a) reduce differences in identifying issues; and

(b) promote similarity of results.

12. Periodically comparing analytical assumptions and methodologies.

13. Exchanging information on the administration, implementation and enforcement of regulations, as well as on the means to obtain and measure compliance.

14. Conducting co-operative research agendas in order to:

(a) reduce duplicative research;

(b) generate more information at less cost;

(c) gather the best data;

(d) establish, when appropriate, a common scientific basis;

(e) address the most pressing regulatory problems in a more consistent and performance-oriented manner; and

(f) minimize unnecessary differences in new regulatory proposals while more effectively improving health, safety and environmental protection.

15. Conducting post-implementation reviews of regulations or policies.

16. Comparing methods and assumptions used in those post-implementation reviews.

17. When applicable, making summaries of the results of those post-implementation reviews available to each other.

18. Identifying the appropriate approaches to reducing any adverse effects of existing regulatory differences on bilateral trade and investment in sectors identified by a Party, including, when appropriate, through greater convergence, mutual recognition, minimising the use of trade distorting regulatory instruments, and use of international standards including standards and guides for conformity assessment.

19. Exchanging information, expertise and experiences in the field of animal welfare in order to promote collaboration on animal welfare between the Parties.

Article X.5: Compatibility of Regulations

With a view to enhancing convergence and compatibility between regulatory measures of the Parties, each Party shall, when appropriate, consider the regulatory measures or initiatives of the other Party on the same or related topics. This consideration does not prevent either Party from adopting differing measures or pursuing differing approaches for reasons including different institutional and legislative approaches, or circumstances, values or priorities particular to that Party.

Article X.6: Role and Composition of the Regulatory Cooperation Forum

1. A Regulatory Cooperation Forum ("the RCF") shall be established to facilitate and promote regulatory cooperation between the Parties in accordance with the provisions of this Chapter.

2. The RCF shall perform the following functions:

   (a) Provide a setting for discussion of regulatory policy issues of mutual interest identified by the Parties through, *inter alia*, any consultations conducted in accordance with Article X.8;

(b) Assist individual regulators in identifying potential partners for cooperation activities and provide appropriate tools, such as model confidentiality agreements;

(c) Review regulatory initiatives, whether in progress or anticipated, that either Party considers provide potential for cooperation; these reviews, which will be carried out in consultation with regulatory departments and agencies, should support the implementation of this Chapter;

(d) Encourage the development of bilateral cooperation activities in accordance with Article X.4 and, on the basis of information obtained from regulatory departments and agencies, review the progress, achievements and best practices of regulatory cooperation initiatives in specific sectors.

3. The RCF shall be co-chaired by a senior representative of the Government of Canada at the level of a Deputy Minister, equivalent or designate and a senior representative of the European Commission at the level of a Director General, equivalent or designate and shall comprise relevant officials of each Party. The Parties may together invite other interested parties to participate in the meetings of the RCF.

4. The RCF shall:

(a) adopt its own terms of reference, procedures and work-plan at its first meeting after the entry into force of this Agreement;

(b) meet within one year from the date of entry into force of this Agreement and at least annually thereafter, unless the Parties decide otherwise;

(c) report to the [CETA's Trade Council] on the implementation of this Chapter as appropriate.

Article X.7: Further Cooperation of the Parties

1. Pursuant to Article X.6.2(c) and to enable monitoring of forthcoming regulatory projects and to identify opportunities for regulatory cooperation, the Parties shall periodically exchange information of ongoing or planned regulatory projects in their areas of responsibility. This information should include, where appropriate, new technical regulations, and the amendments to existing technical regulations that are likely to be proposed or adopted.

2. The Parties may facilitate regulatory cooperation through the exchange of officials pursuant to a specified arrangement.

3. The Parties endeavour to cooperate and share information on a voluntary basis in the area of non-food product safety. Such cooperation or exchange of information may in particular relate to:

- scientific, technical, and regulatory matters, to help improve non-food product safety;
- emerging issues of significant health and safety relevance falling within the scope of their respective authority;
- standardisation related activities;
- market surveillance and enforcement activities;
- risk assessment methods and product testing;
- coordinated product recalls or other similar actions.

4. The Parties may establish reciprocal information exchange on the safety of consumer products and on preventive, restrictive and corrective measures taken in this regard. In particular, Canada may receive access to selected information from the EU RAPEX alert system, or, if applicable, its successor, with respect to consumer products as referred to in Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety; the EU may receive early warning information on restrictive measures and product recalls from Canada's consumer product incident reporting system, known as RADAR, or, if applicable, its successor, with respect to consumer products as defined in the *Canada Consumer Product Safety Act* and cosmetics as defined in the *Food and Drugs Act*. This reciprocal exchange of information shall be possible on the basis of a separate arrangement laying down the details referred to under paragraph 6.

5. Before the first information exchange provided for under paragraph 5, the Parties shall ensure that the detailed measures to implement such exchanges are endorsed by *<a CETA Committee to be determined>*. These detailed measures shall include specification on the type of information to be exchanged, the modalities for the exchange, the application of confidentiality rules and rules on personal data protection.

6. The *<CETA committee to be determined>* shall endorse the detailed measures under paragraph 6 within 1 year from the date of entry into force of the Agreement unless extended by the Parties.

7. The Parties may make modifications or corrections to the detailed measures referred to in paragraph 6. Any modification or correction to the detailed measures shall be endorsed by the *<relevant CETA Committee>*.

8. References in this Article to specific laws, regulations or other legal instruments of a Party include, if applicable, any subsequent amendments or successors to them.

Article X.8: Consultations with Private Entities

In order to gain non-governmental perspectives, the Parties may jointly or separately consult, as appropriate, with stakeholders and interested parties, including representatives from academia, think-tanks, non-governmental organizations, business, consumer and other organizations by any means they deem appropriate on matters relating to the implementation of this Chapter.

Article X.9: Contact Points

1. The Contact Points responsible for communications related to matters arising under this Chapter are:

    a. in the case of Canada: the Technical Barriers and Regulations Division of the Department of Foreign Affairs, Trade and Development or its successor;

    b. in the case of the European Union: the International Affairs Unit of the Directorate-General for Enterprise and Industry, European Commission, or its successor.

2. Each Contact Point is responsible for consulting and coordinating with its respective regulatory departments and agencies, as appropriate, in matters arising under this Chapter.

27. PROTOCOL ON THE MUTUAL ACCEPTANCE OF THE RESULTS OF CONFORMITY ASSESSMENT

Protocol to the Comprehensive Economic and Trade Agreement between the European Union and Canada on the Mutual Acceptance of the Results of Conformity Assessment

Article 1
Scope and exceptions

1. This Protocol applies to those categories of goods listed in Annex 1 for which a Party recognizes non-governmental bodies for the purpose of assessing conformity of goods with that Party's technical regulations.

2. The Parties shall consult within three years of the entry into force of this Agreement with a view to broadening the scope of application of this Protocol, set out in Annex 1, to include additional categories of goods for which a Party has recognised non-governmental bodies for the purpose of assessing conformity of those goods with that Party's technical regulations on or before the entry into force of this Agreement. Priority categories of goods for consideration are set out in Annex 2.

3. The Parties shall give positive consideration to making this Protocol applicable to additional categories of goods which may become subject to third-party conformity assessment by recognized non-governmental bodies pursuant to technical regulations adopted by either Party after the date of entry into force of this Agreement. To that end, the Party having adopted such a technical regulation shall promptly notify the other Party in writing. If the other Party has expressed an interest in including a new category of goods in Annex 1 but the notifying Party does not agree to it, the notifying Party shall provide to the other Party, upon request, the reasons that justify its refusal to expand the scope of the Protocol.

4. Where the Parties decide in accordance with paragraphs 2 or 3 to include additional categories of goods in Annex 1, they shall request the Committee on Trade in Goods, pursuant to Article 18(c), to make recommendations to the Trade Committee to amend Annex 1.

5. This Protocol does not apply to:

(a) sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement;

(b) purchasing specifications prepared by a governmental body for production or consumption requirements of that body;

(c) activities performed by non-governmental bodies on behalf of market surveillance or enforcement authorities for post-market surveillance and

enforcement, except as provided for in Article 11 (Market Surveillance, Enforcement, and Safeguards);

(d) where a Party has delegated exclusive authority to a single non-governmental body to assess conformity of goods with that Party's technical regulations;

(e) agricultural [products][goods];

(f) the assessment of aviation safety, whether or not it is covered under the Bilateral Aviation Safety Agreement (BASA); and

(g) the statutory inspection and certification of vessels other than recreational craft.

6. Nothing in this Protocol shall be interpreted as requiring the recognition or acceptance by a Party that the other Party's technical regulations are equivalent to its own.

7. Nothing in this Protocol shall be interpreted as limiting the ability of a Party to prepare, adopt, apply, or amend conformity assessment procedures in accordance with Article 5 of the WTO Agreement on Technical Barriers to Trade.

8. Nothing in this Protocol shall be interpreted as affecting or modifying the laws or obligations in the territory of a Party applicable to civil liability.

Article 2
Definitions

For the purpose of this Protocol, except as otherwise provided herein, the definitions contained in Annex 1 of the WTO Agreement on Technical Barriers to Trade apply. However, the definitions contained in the sixth edition of the ISO/IEC Guide 2: 1991 General Terms and Their Definitions Concerning Standardization and Related Activities do not apply. The following additional definitions also apply:

Accreditation: Third-party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks;

Accreditation body: Authoritative body that performs accreditation[63];

Agricultural [product][good]: A [product] [good] listed in Annex 1 of the WTO Agreement on Agriculture with any subsequent changes agreed in the WTO to be automatically effective for this Agreement;

Attestation: The issuing of a statement based on a decision following review, that fulfilment of specified technical requirements has been demonstrated;

[63] The authority of an accreditation body is generally derived from government.

Canadian technical regulation: A technical regulation of Canada's central government or of one or more of its provinces and territories;

Conformity assessment: A process to determine whether relevant requirements in technical regulations have been fulfilled. For the purpose of this Protocol, conformity assessment does not include accreditation;

Conformity assessment body: A body that performs conformity assessment activities including calibration, testing, certification and inspection;

Decision 768/2008/EC: Decision 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC;

European Union technical regulation: A technical regulation of the European Union and any measure adopted by a Member State implementing a Directive of the European Union;

In-house body: conformity assessment body that performs conformity assessment activities for the entity of which it forms a part, including, in the case of the European Union and its Member States, an accredited in-house body as provided by Article R21 of Annex I of *Decision 768/2008/EC*, or the corresponding requirements in a successor instrument;

Legitimate objective has the same meaning as under Article 2.2 of the TBT Agreement;

Mutual Recognition Agreement: The *Agreement on Mutual Recognition between the European Community and Canada*, done at London on 14 May 1998;

Third-party conformity assessment: Conformity assessment that is performed by a person or body that is independent of the person or organization that provides the product, and of user interests in that product;

Third-party conformity assessment body: A conformity assessment body that performs third-party conformity assessment.

Article 3
Recognition of Conformity Assessment Bodies

1. Canada shall recognize a conformity assessment body established in the European Union as competent to assess conformity with specific Canadian technical regulations, under conditions no less favourable than those applied for the recognition of conformity assessment bodies established in Canada, provided that either of the following conditions are met:

(a) the conformity assessment body is accredited, by an accreditation body recognized by Canada, as competent to assess conformity with those requirements;

Or,

(b) (i) the conformity assessment body is accredited, by an accreditation body that is recognised pursuant to Article 12 (Recognition of Accreditation Bodies) or Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility), as competent to assess conformity with those requirements;

And,

(ii) the conformity assessment body has been designated by a Member State of the European Union in accordance with the procedures set out in Article 5 (Designation of Conformity Assessment Bodies);

And,

(iii) there are no objections pursuant to Article 6 (Objections to the Designation of Conformity Assessment Bodies) that have not been resolved;

And,

(iv) the designation made in accordance with the procedures set out in Article 5 (Designation of Conformity Assessment Bodies) has not been withdrawn by a Member State of the European Union;

And,

(v) After the expiry of the period in Article 6 (Objections to the Designation of Conformity Assessment Bodies), the conformity assessment body continues to meet all the conditions in paragraph 5 of Article 5 (Designation of Conformity Assessment Bodies).

2. The European Union shall recognize a third-party conformity assessment body established in Canada as competent to assess conformity with specific European Union technical regulations, under conditions no less favourable than those applied for the recognition of third-party conformity assessment bodies established in the European Union, provided that either of the following conditions are met:

(a) (i) the conformity assessment body is accredited, by an accreditation body appointed by one of the Member States of the European Union, as competent to assess conformity with those requirements;

And,

(ii) the conformity assessment body has been designated by Canada in accordance with the procedures set out in Article 5 (Designation of Conformity Assessment Bodies);

And,

(iii) there are no objections pursuant to Article 6 (Objections to the Designation of Conformity Assessment Bodies) that have not been resolved;

And,

(iv) the designation made in accordance with the procedures set out Article 5 (Designation of Conformity Assessment Bodies) has not been withdrawn by Canada;

And,

(v) After the expiry of the period in Article 6 (Objections to the Designation of Conformity Assessment Bodies), the conformity assessment body continues to meet all the conditions in paragraph 2 of Article 5 (Designation of Conformity Assessment Bodies).

Or,

(b) (i) the conformity assessment body is accredited, by an accreditation body that is recognised pursuant to Article 12 (Recognition of Accreditation Bodies) or Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility), as competent to assess conformity with those requirements;

And,

(ii) the conformity assessment body has been designated by Canada in accordance with the procedures set out in Article 5 (Designation of Conformity Assessment Bodies);

And,

(iii) there are no objections pursuant to Article 6 (Objections to the Designation of Conformity Assessment Bodies) that have not been resolved;

And,

(iv) the designation made in accordance with the procedures set out Article 5 (Designation of Conformity Assessment Bodies) has not been withdrawn by Canada;

And,

(v) After the expiry of the period in Article 6 (Objections to the Designation of Conformity Assessment Bodies), the conformity assessment body continues to meet all the conditions in paragraph 2 of Article 5 (Designation of Conformity Assessment Bodies).

3. Each Party shall maintain and publish a list of recognized conformity assessment bodies which includes the scope for which each body has been recognized. The European Union shall assign an identification number to conformity assessment bodies established in Canada that are recognised under this Protocol, and shall list such conformity assessment bodies in the European Union's NANDO (New Approach Notified and Designated Organisations) information system, or a successor system.

Article 4
Accreditation of Conformity Assessment Bodies

The Parties recognize that a conformity assessment body should seek accreditation from an accreditation body that is in the territory in which the conformity assessment body is established, provided that that accreditation body has been recognized pursuant either to Article 12 (Recognition of Accreditation Bodies) or to Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility) as able to grant the specific accreditation sought by the conformity assessment body. If there are no accreditation bodies in the territory of a Party that are recognized pursuant either to Article 12 (Recognition of Accreditation Bodies) or to Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility) as able to grant a specific accreditation sought by a conformity assessment body established in the territory of that Party, then:

(a) Each Party shall take such reasonable measures as may be available to it to ensure that accreditation bodies in its territory accredit conformity assessment bodies established in the territory of the other Party under conditions no less favourable than those applied to conformity assessment bodies established in its territory;

(b) A Party may not take measures which limit the ability of accreditation bodies in its territory to accredit, or discourage such accreditation bodies from accrediting, conformity assessment bodies established in the territory of the other Party, on conditions no less favourable than those applied for the accreditation of conformity assessment bodies established in the recognizing Party's territory;

(c) A Party shall not take measures requiring or encouraging accreditation bodies in its territory to apply less favourable conditions for the accreditation of conformity assessment bodies in the territory of the other Party, than those applied for the accreditation of conformity assessment bodies in its territory.

Article 5

Designation of Conformity Assessment Bodies

1. A Party shall designate a conformity assessment body by notifying the contact point of the other Party that it is designating that conformity assessment body, and by sending to the contact point the information described in Annex 3 to this Protocol. The European Union shall allow Canada to use the European Union's electronic notification tool for those purposes.

2. Canada shall only designate a conformity assessment body that meets the following conditions and shall take reasonable measures to ensure that the conditions continue to be met:

(a) it meets the requirements set out in Article R17 of Annex I of *Decision 768/2008/EC*, or the corresponding requirements in successor instruments except that establishment under national law shall be interpreted as meaning Canadian law for the purposes of this Protocol;

And,

(b) Either:

(i) it is accredited, by an accreditation body appointed by a Member State of the European Union, as competent to assess conformity with the European Union technical regulations for which it is being designated;

Or,

(ii) it is accredited, by an accreditation body established in Canada that has been recognised pursuant either to Article 12 (Recognition of Accreditation Bodies of the Other Party) or to Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility), as competent to assess conformity with the European Union technical regulations for which it is being designated.

3. The Parties shall deem the applicable requirements of Article R17 of Annex I of *Decision 768/2008/EC* to have been met where the conformity assessment body has been accredited pursuant to either procedure described in subparagraph 2(b) and the accreditation body requires as a condition for granting the accreditation that the conformity assessment body meets requirements equivalent to the applicable requirements of Article R17 of Annex I of *Decision 768/2008/EC* or the corresponding requirements in successor instruments.

4. Should the European Union consider revising the requirements set out in Article R17 of Annex I of *Decision 768/2008/EC*, it shall duly consult Canada at the earliest stage of and throughout the review process with a view to ensuring that conformity assessment bodies in the territory of Canada could continue to meet any revised requirements on no less favourable terms than conformity assessment bodies in the territory of the European Union.

5. A Member State of the European Union shall only designate a conformity assessment body that meets the following conditions and shall take reasonable measures to ensure that the conditions continue to be met:

(a) it is established in the territory of the Member State;

And,

(b) Either:

(i) it is accredited, by an accreditation body recognized by Canada, as competent to assess conformity with the Canadian technical regulations for which it is being designated;

Or,

(ii) it is accredited, by an accreditation body established in the European Union that has been recognised pursuant either to Article 12 (Recognition of Accreditation Bodies) or to Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility), as competent to assess conformity with the Canadian technical regulations for which it is being designated.

6. A Party may refuse to recognize a conformity assessment body that does not meet the conditions in paragraphs 2 or 5, as the case may be.

Article 6
Objections to the Designation of Conformity Assessment Bodies

1. A Party may object to the designation of a conformity assessment body, within 30 days of the notification by the other Party, if either:

(a) the Party which designated the conformity assessment body failed to provide the information described in Annex 3 to this protocol;

Or,

(b) it has reasons to believe that the conditions described in paragraphs 2 or paragraph 5 of Article 5 (Designation of Conformity Assessment Bodies) have not been met by the conformity assessment body being designated.

2. Following any subsequent transmission of information, a Party may object within 30 days of the receipt of that information, if the information remains insufficient to demonstrate that the designated conformity assessment body meets the conditions described in paragraph 2 or paragraph 5 of Article 5 (Designation of Conformity Assessment Bodies).

Article 7
Challenges to Designations of Conformity Assessment Bodies

1. A Party which has recognized a conformity assessment body under this Protocol may challenge the competence of that conformity assessment body if:

(a) the Party which designated the conformity assessment body failed, following a notification by the other Party of the non-conformity with applicable technical regulations of a product that had been assessed as being in conformity with such technical regulations by that conformity assessment body, to take the actions required by paragraph 3 of Article 11 (Market Surveillance, Enforcement and Safeguards);

Or,

(b) the Party has reasons to believe that the results of conformity assessment activities performed by that conformity assessment body do not provide sufficient assurances that the products assessed by it as being in conformity with applicable technical regulations are in fact in conformity with these technical regulations.

2. A Party which challenges the competence of a recognized conformity assessment body under this Protocol shall immediately notify the Party which designated the conformity assessment body of the challenge, and of the reasons for the challenge.

3. A Party which:

(a) has challenged the competence of a recognized conformity assessment body under this Protocol;

And,

(b) has well-founded reasons to believe that the products assessed as in conformity with applicable technical regulations by that conformity assessment body may fail to conform to its technical regulations;

may refuse to accept the results of that conformity assessment body's conformity assessment activities until the challenge is resolved or the recognizing Party has ceased to recognize the conformity assessment body in accordance with paragraph 5.

4. The Parties shall cooperate and make reasonable efforts to resolve the challenge promptly.

5. Without prejudice to paragraph 3, the recognizing Party may cease to recognize the conformity assessment body whose competence has been challenged if:

(a) the Parties resolve the challenge by concluding that the recognizing Party has raised valid concerns as to the competence of the conformity assessment body;

Or,

(b) the Party which designated the conformity assessment body failed to complete the actions required by paragraph 3 of Article 11 (Market Surveillance, Enforcement and Safeguards) within 60 days after being notified pursuant to paragraph 1(a);

Or both,

(c) the recognizing Party objectively demonstrates to the other Party that the results of conformity assessment activities performed by that conformity assessment body do not provide sufficient assurance that the products assessed by it as being in conformity with the applicable technical regulations are in fact in conformity with these technical regulations;

And,

(d) the challenge has not been resolved within 120 days after the Party that had designated the conformity assessment body has been notified of the challenge.

Article 8
Withdrawals of Conformity Assessment Bodies

1. A Party shall withdraw the designation, or modify the scope of the designation, as appropriate, of a conformity assessment body it has designated if it becomes aware that:

(a) the conformity assessment body's scope of accreditation has been reduced;

Or,

(b) the conformity assessment body's accreditation lapses;

Or,

(c) the conformity assessment body no longer meets the other conditions in paragraphs 2 or 5 of Article 5 (Designation of Conformity Assessment Bodies);

Or,

(d) the conformity assessment body no longer wishes, or is otherwise no longer competent or able, to assess conformity with the scope for which it was designated.

The Party shall notify the other Party in writing.

2. When a Party withdraws the designation or modifies the scope of the designation of a conformity assessment body owing to concerns about the competence or the continued fulfillment by that conformity assessment body of the requirements and responsibilities to which it is subject under Article 5 (Designation of Conformity Assessment Bodies), it shall communicate the reasons for its decision in writing to the other Party.

3. When communicating with the other Party, a Party shall indicate the date as of which it considers that any of the concerns enumerated under paragraphs 1 or 2, as applicable, may have applied to the conformity assessment body.

4. Without prejudice to paragraph 5 of Article 7 (Challenges to Designations of Conformity Assessment Bodies), the recognizing Party may immediately cease to recognize a conformity assessment body as competent if:

(a) The conformity assessment body's accreditation lapses;

Or,

(b) the conformity assessment body voluntarily withdraws its recognition;

Or,

(c) the designation of the conformity assessment body is withdrawn pursuant to this Article;

Or,

(d) the conformity assessment body ceases to be established on the territory of one of the Parties;

Or,

(e) the recognizing Party ceases to recognize the accreditation body which accredits the conformity assessment body pursuant to Article 13 (Cessation of the Recognition of Accreditation Bodies) or Article 14 (Challenges to the Recognition of Accreditation Bodies).

Article 9

Acceptance of the Results of Conformity Assessment by Recognized Conformity Assessment Bodies

1. A Party shall accept the results of conformity assessment activities performed by conformity assessment bodies established in the other Party's territory which it recognizes in accordance with Article 3 (Recognition of Conformity Assessment Bodies) under conditions no less favourable than those applied to the results of conformity assessment activities performed by

recognized conformity assessment bodies in its territory. Results shall be accepted regardless of the nationality and location of the supplier or manufacturer, or of the country of origin of the product for which the conformity assessment activities were performed.

2. Where a Party has ceased to recognize a conformity assessment body established on the territory of the other Party, it may cease to accept the results of conformity assessment activities performed by such a conformity assessment body from the date when it ceased to recognize that conformity assessment body. Unless the Party has reasons to believe that the conformity assessment body established on the territory of the other Party was not competent to assess conformity of products with the technical regulations of the Party prior to the date when the Party ceased to recognize that conformity assessment body, the Party shall continue to accept the results of conformity assessment activities performed by such a conformity assessment body prior to the date when the Party ceased to recognize the conformity assessment body, even though the products may have been placed on the market of the Party after that date.

Article 10

Acceptance of Results of Conformity Assessment by Canadian In-house Bodies

1. The European Union shall accept the results of conformity assessment activities performed by accredited in-house bodies established in Canada under conditions no less favourable than those applied to the results of conformity assessment activities performed by accredited in-house bodies established in the territory of one of the Member States of the European Union, provided that either of the following conditions are met:

   (a) the in-house body is accredited, by an accreditation body that has been appointed by one of the Member States of the European Union, as competent to assess conformity with those requirements;

   Or,

   (b) the in-house body is accredited, by an accreditation body that has been recognised pursuant to Article 12 (Recognition of Accreditation Bodies) or Article 15 (Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility), as competent to assess conformity with those requirements.

2. Results shall be accepted regardless of the country of origin of the product for which the conformity assessment activities were performed.

Article 11

Market Surveillance, Enforcement, and Safeguards

1. Except for customs procedures, a Party shall ensure that activities performed by market surveillance or enforcement authorities for the inspection or verification of conformity with applicable technical regulations for products assessed by a recognized conformity assessment

body established in the territory of the other Party or an in-house body which meets the conditions of Article 10 (Acceptance of Results of Conformity Assessment by Canadian In-house Bodies), are conducted under conditions no less favourable than those conducted with respect to products assessed by conformity assessment bodies in the territory of the recognizing Party. The Parties shall co-operate as necessary in the conduct of such activities.

2. A Party may take measures with respect to a product the placing or use of which on the market may compromise the fulfillment of a legitimate objective, provided that those measures are consistent with the provisions of this Agreement. These measures could include withdrawing such a product from the market, prohibiting its placement on the market or restricting its movement. A Party that takes such a measure shall promptly inform the other Party and provide, upon request of that other Party, its reasons for taking the measure.

3. A Party shall, upon receipt of a written complaint by the other Party, supported by evidence, that products assessed by a conformity assessment body it designated do not comply with applicable technical regulations, promptly seek additional information from the designated conformity assessment body, its accreditation body and relevant operators where necessary, investigate the complaint and provide a written reply to the complaint. A Party may take these actions through an accreditation body.

Article 12
Recognition of Accreditation Bodies

1. A Party ("the recognizing Party") may, in accordance with the procedure described under paragraphs 2 and 3, recognise an accreditation body established in the territory of the other Party ("the nominating Party") as competent to accredit conformity assessment bodies as, themselves, competent to assess conformity with the relevant technical regulations of the recognizing Party.

2. The nominating Party may request that the other Party recognize an accreditation body established on its territory as competent by providing a notification to the recognizing Party with the following information regarding the nominated accreditation body:

(a) its name, address and contact details;

(b) evidence that its authority is derived from the government;

(c) whether it acts on a non-commercial and non-competitive basis;

(d) evidence of its independence of the conformity assessment bodies it assesses and of commercial pressures, so as to ensure that no conflicts of interest with conformity assessment bodies occur;

(e) evidence that it is organised and operated so as to safeguard the objectivity and impartiality of its activities and the confidentiality of the information obtained;

(f) evidence that each decision relating to the attestation of competence of conformity assessment bodies is taken by competent persons different from those who carried out the assessment;

(g) the scope for which its recognition is sought;

(h) evidence of its competence to accredit for such scope, referring to applicable international standards, guides and recommendations, and applicable European or Canadian standards, technical regulations and conformity assessment procedures;

(i) evidence of the internal procedures it has set up to ensure efficient management and appropriate internal controls, including the procedures in place for documenting the duties, responsibilities and authorities of personnel who could affect the quality of the assessment and of the attestation of competence;

(j) evidence of the number of competent personnel at its disposal, which should be sufficient for the proper performance of its tasks, and of the procedures in place for monitoring the performance and competence of the personnel involved;

(k) whether or not it is appointed for such scope in the territory of the nominating Party;

(l) evidence of its status as a signatory to the International Laboratory Accreditation Cooperation (ILAC) or International Accreditation Forum (IAF) multilateral recognition arrangements and to any related regional recognition arrangements;

And,

(m) any other information as may be agreed as necessary by the Parties.

3. Differences may exist between the Parties' standards, technical regulations and conformity assessment procedures. Where such differences exist, the recognizing Party may seek to assure itself that a nominated accreditation body is competent to accredit conformity assessment bodies as competent to assess conformity with relevant technical regulations of the recognizing Party. The recognizing Party may assure itself based on:

(a) a cooperation arrangement between the European and Canadian accreditation systems;

Or, in the absence of such an arrangement;

(b) a cooperation arrangement between the nominated accreditation body and an accreditation body recognised as competent by the recognizing Party.

4. Pursuant to a request made under paragraph 2, and subject to paragraph 3, a Party shall recognize a competent accreditation body established in the territory of the other Party under

conditions no less favourable than those applied for the recognition of accreditation bodies established in its territory.

5. The recognizing Party shall respond within 60 days to a request made under the terms of paragraph 2, stating either,

(a) that it recognises the nominating Party's accreditation body as competent to accredit conformity assessment bodies for the scope proposed;

Or,

(b) that it will recognize the nominating Party's accreditation body as competent to accredit conformity assessment bodies for the scope proposed following necessary legislative or regulatory amendments. Such a response shall include an explanation of the amendments required and an estimate of the timeframe required for the amendments to come into force;

Or,

(c) that the nominating Party failed to provide the information described in paragraph 2. Such a response shall include a statement of what information is missing;

Or,

(d) that it does not recognize the nominated accreditation body as competent to accredit conformity assessment bodies for the scope proposed. Such a statement shall be justified in an objective and reasoned manner, and shall state explicitly the conditions under which recognition would be granted.

6. Each Party shall publish the names of the accreditation bodies of the other Party that it recognizes, and, for each such accreditation body that it recognizes, the scope of the technical regulations for which it recognizes that accreditation body.

Article 13
Cessation of the Recognition of Accreditation Bodies

If a recognized accreditation body ceases to be a signatory of a multilateral or regional arrangement identified in subparagraph 2(l) of Article 12 (Recognition of Accreditation Bodies), or of a cooperation arrangement of the type described in paragraph 3 of Article 12 (Recognition of Accreditation Bodies), the Party may cease to recognize that accreditation body as competent, and any conformity assessment bodies recognized on the basis that they were accredited solely by that accreditation body.

Article 14
Challenges to the Recognition of Accreditation Bodies

1. Without prejudice to Article 13 (Cessation of the Recognition of Accreditation Bodies), the recognizing Party may challenge the competence of an accreditation body that it has recognized under paragraph 5(a) or (b) of Article 12 (Recognition of Accreditation Bodies) on the grounds that the accreditation body is no longer competent to accredit conformity assessment bodies as, themselves, competent to assess conformity with the relevant technical regulations of the recognizing Party. The recognizing Party shall immediately notify the nominating Party of the challenge and shall justify its reasons in an objective and reasoned manner.

2. The Parties shall cooperate and make reasonable efforts to resolve the challenge promptly. If a cooperation arrangement between the European and Canadian accreditation systems or bodies has been concluded pursuant to paragraph 3 of Article 12 (Recognition of Accreditation Bodies), then the Parties shall ensure that the European and Canadian accreditation systems or bodies seek to resolve the challenge on behalf of the Parties.

3. The recognizing Party may cease to recognize the nominated accreditation body whose competence has been challenged and any conformity assessment bodies recognized on the basis that they were accredited solely by that accreditation body if:

(a) the Parties, including through the efforts of the European and Canadian accreditation systems, resolve the challenge by concluding that the recognizing Party has raised valid concerns as to the competence of the nominated accreditation body;

Or both,

(b) the recognizing Party objectively demonstrates to the other Party that the accreditation body is no longer competent to accredit conformity assessment bodies as, themselves, competent to assess conformity with the relevant technical regulations of the recognizing Party;

And,

(c) the challenge has not been resolved within 120 days after the nominated Party has been notified of the challenge.

Article 15
Recognition of Accreditation Bodies in the Areas of Telecommunications and Electromagnetic Compatibility

1. For technical regulations related to telecommunications terminal equipment, information technology equipment, apparatus used for radio communication, and electromagnetic compatibility, the accreditation bodies recognized by Canada shall include, from the date of entry into force of this Protocol:

(a) for test laboratories, any national accreditation body of a Member State of the European Union that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

And,

(b) for certification bodies, any national accreditation body of a Member State of the European Union that is a signatory to the International Accreditation forum (IAF) Multilateral Recognition Arrangement.

2. For the technical regulations described in paragraph 1, the accreditation bodies recognized by the European Union shall include, from the date of entry into force of this Protocol, the Standards Council of Canada, or its successor.

Article 16
Transition from the Mutual Recognition Agreement

The Parties agree that a conformity assessment body which had been designated under the Mutual Recognition Agreement will automatically become a recognized conformity assessment body under this Protocol, on the date of entry into force of this Protocol.

Article 17
Communication

1. Each Party shall identify contact points responsible for communications with the other Party related to any matter arising under this Protocol.

2. The contact points may communicate by electronic mail, video-conferencing or other means on which they decide.

Article 18
Management of the Protocol

The [Committee's] functions include:

(a) managing the implementation of this Protocol;

(b) addressing any matter that a Party may raise related to this Protocol;

(c) developing recommendations for amendments to this Protocol for consideration by the [CETA Trade Council];

(d) taking any other step that the Parties consider will assist them in implementing this Protocol;

And,

(e) reporting to the [CETA Trade Council] on the implementation of this Protocol, as appropriate.

Article 19
Other Provisions

The procedures of the Dispute Settlement Chapter of the CETA apply to this Protocol.

Article 20
Entry into Force

This Protocol shall enter into force on the date of entry into force of the CETA.

ANNEX 1

Product Coverage

- Electrical and electronic equipment, including electrical installations and appliances, and related components
- Radio and telecommunications terminal equipment;
- Electromagnetic compatibility (EMC)
- Toys;
- [Construction products [for review by EU]];
- Machinery, including parts, components, including safety components, interchangeable equipment, and assemblies of machines;
- Measuring instruments;
- Hot-water boilers, including related appliances;
- [Equipment, machines, apparatus, devices, control components, protection systems, safety devices, controlling devices and regulating devices, and related instrumentation and prevention and detection systems for use in potentially explosive atmospheres (ATEX equipment) [for review by EU]];
- [Equipment for use outdoors as it relates to noise emission in the environment[for review by EU]];
- Recreational craft, including their components.

ANNEX 2

Priority categories of goods for consideration for inclusion in Annex 1 pursuant to Article 1(2)

a) Medical devices including accessories
b) Pressure equipment, including vessels, piping, accessories and assemblies
c) Appliances burning gaseous fuels, including related fittings
d) Personal protective equipment
e) Rail systems, subsystems and interoperability constituents
f) Equipment placed on board of a ship

ANNEX 3

Information to be Included as part of a Designation

[To be reviewed by technical experts ahead of legal scrub]

The information that a Party must provide when designating a conformity assessment body is as follows:

(a) In all cases:

(i) the scope of designation (not to exceed that body's scope of accreditation);

(ii) the accreditation certificate and the related scope of accreditation;

And,

(iii) the body's address and contact information;

And,

(b) when a Member State of the European Union designates a certification body, except for in regards to the technical regulations described in Article 15 (Telecommunications and Electromagnetic Compatibility):

(i) the certification body's registered certification mark, including the qualifying statement[64];

And,

(c) when a Member State of the European Union designates a conformity assessment body in regards to technical regulations described in Article 15 (Telecommunications and Electromagnetic Compatibility):

(i) in the case of a certification body:

(A) its unique identifier[65];

(B) an application for recognition signed by the body in accordance with CB-01 (Requirements for Certification Bodies), or its successor;

And,

[64] The qualifying statement normally takes the form of a small "c" placed beside the certification body's registered certification mark to indicate that a product conforms with applicable Canadian technical regulations.

[65] A unique six-character identifier comprised of two letters (usually the ISO 3166 country code) followed by four numbers.

(C) a cross reference checklist completed by the body with evidence that it meets the applicable recognition criteria in accordance with CB-02 (Recognition Criteria, and Administrative and Operational Requirements Applicable to Certification Bodies (CB) for the Certification of Radio Apparatus to Industry Canada's Standards and Specifications), or its successor;

And,

(ii) in the case of a testing laboratory:

(A) its unique identifier;

And,

(B) an application for recognition signed by the body in accordance with REC-LAB (Procedure for the Recognition of Designated Foreign Testing Laboratories by Industry Canada), or its successor;

And,

(d) any other information as may be jointly decided upon by the Parties.

28. PROTOCOL ON THE GOOD MANUFACTURING PRACTICES FOR PHARMACEUTICAL PRODUCTS

Protocol to the Comprehensive Economic and Trade Agreement between the European Union and Canada on the Mutual Recognition of the Compliance and Enforcement Programme regarding Good Manufacturing Practices for Pharmaceutical Products

Article 1
Definitions

1. For purposes of this Protocol:

certificate of GMP compliance means a certificate issued by a regulatory authority attesting to the GMP compliance of a manufacturing facility;

equivalent authority means a regulatory authority of a Party that is recognized as an equivalent authority by the other Party;

manufacturing includes fabrication, packaging, re-packaging, labelling, testing and storage;

medicinal product or drug means any product qualifying as a "drug" under the *Food and Drugs Act*, or qualifying as a pharmaceutical product, being it finished, intermediate, investigational product or active substance under the applicable EU legislation;

on-site evaluations (OSE) means a product-specific evaluation conducted in the context of a marketing application for a medicinal product or drug at the site(s) of manufacture to assess conformity of the premises in which the medicinal product or drug is manufactured, the process, conditions and control of manufacture with the information submitted, and to address any outstanding issues from the evaluation;

regulatory authority means an entity in a State having the legal right, under the law of the relevant Party, to supervise and control medicinal products or drugs within that State.

2. Where this Protocol refers to legal instruments in whole or in part, such references include amendments to those instruments or parts of instruments, and successor instruments or parts of instruments.

3. Unless specified otherwise, where this Protocol refers to inspections, these references do not include on-site-evaluations.

Article 1*bis*
Objective

The objective of this Protocol is to strengthen the cooperation between the Parties' authorities in ensuring that medicinal products and drugs meet appropriate quality standards through the mutual recognition of certificates of GMP compliance.

Article 2
Product Scope

This Protocol applies to all medicinal products or drugs to which GMP requirements apply in both Parties, as set out in Annex II (Medicinal Products or Drugs).

[Negotiators note: The Parties share understanding that Canadian legislation providing for exemption from the manufacturing authorisation of the sites producing for export only shall be amended]

Article 3
Recognition of Regulatory Authorities

1. The procedure for evaluating a new regulatory authority listed in Annex III (Regulatory Authorities), as equivalent must be conducted in accordance with Article 11 (Equivalence of New Regulatory Authorities).

3. Each Party shall ensure that a list of regulatory authorities that it recognizes as equivalent, including any modifications, is publicly available.

Article 4
Mutual Recognition of Certification of GMP Compliance

1. A Party shall accept a certificate of GMP compliance issued by an equivalent authority of the other Party, in accordance with paragraph 3, as demonstrating that the manufacturing facility, located in the territory of either Party, covered by the certificate complies with the good manufacturing practices identified in the certificate.

2. A Party may accept a certificate of GMP compliance issued by an equivalent authority with respect to a manufacturing facility outside the territory of either Party, in accordance with paragraph 3. That Party may determine the terms and conditions upon which it chooses to accept the certificate.

3. A certificate of GMP compliance must identify:

(a) the name and address of the manufacturing facility;

(b) the date that the equivalent authority that issued the certificate last inspected the manufacturing facility;

(c) the manufacturing processes and where relevant, medicinal products or drugs and dosage forms for which the facility is in compliance with good manufacturing practices; and

(d) the validity period of the certificate of GMP compliance.

4. If an importer, an exporter or a regulatory authority of a Party, requests a certificate of GMP compliance for a manufacturing facility that is certified by an equivalent authority of the other Party, then that other Party shall ensure that that equivalent authority issues a certificate of GMP compliance:

(a) within 30 calendar days of the date that the certifying authority receives the request for the certificate, if a new inspection is not required, and

(b) within 90 calendar days of the date that the certifying authority receives the request for the certificate, if a new inspection is required, and the manufacturing facility passes the inspection.

Article 5
Other Recognition of Certificates of GMP Compliance

1. A Party may accept certificates of GMP compliance with respect to medicinal products or drugs that are not included under Annex II.2 (Medicinal Products or Drugs).

2. A Party intending to accept certificates under paragraph 1 may determine the terms and conditions under which it will accept such certificates.

Article 6
Acceptance of Batch Certificates

1. A Party shall accept a batch certificate issued by a manufacturer without re-control of that batch at import provided that:

(a) the products in the batch were manufactured in a manufacturing facility that has been certified as compliant by an equivalent authority;

(b) the batch certificate is consistent with the Content of the Batch Certificate for Medicinal Products of the *Internationally Harmonized Requirements for Batch Certification*.

(c) the batch certificate is signed by the person responsible for releasing the batch for sale or supply; and

2. Notwithstanding paragraph 1, nothing shall affect a Party's right to conduct official batch release.

3. The person responsible for releasing the batch:

(a) of the finished medicinal product for sale or supply for manufacturing facilities in the European Union, must be a "qualified person" as defined in article 48 of Directive 2001/83/EC and article 52 of Directive 2001/82/EC.

(b) for sale or supply of a drug for manufacturing facilities in Canada, the person in charge of the quality control department, as provided for by the Food and Drugs Regulations, Part C, Division 2, section C.02.014.

Article 7
On-Site Evaluation

1. A Party has the right to conduct its own on-site evaluation of a manufacturing facility that has been certified as compliant by an equivalent authority of the other Party.

2. A Party wishing to exercise the right described in paragraph 1 shall notify the other Party in writing prior to conducting its own on-site evaluation, and inform that other Party of the scope of the on-site evaluation. The Party shall endeavour to notify the other Party in writing at least 30 days before a proposed on-site evaluation, but may provide less notice in urgent situations. That other Party has the right to join the on-site evaluation of the Party.

Article 8
Inspections and On-Site Evaluations at the Request of a Party

1. At the request of a Party, the other Party shall inspect a facility involved in the manufacturing process of a medicinal product or drug that is being imported into the territory of the requesting Party in order to verify that the facility is in compliance with good manufacturing practices.

2. At the request of a Party, the other Party may conduct on-site evaluations based on the assessment of data contained in a product submission dossier. The Parties may exchange relevant product information with respect to a request to conduct an on-site evaluation in accordance with Article 13 (Confidentiality).

Article 9
Safeguards

1. A Party has the right to conduct its own inspection of a manufacturing facility that has been certified as compliant by an equivalent authority of the other Party. Recourse to this right should be an exception from the normal practice of the Party.

2. A Party wishing to exercise the right described in paragraph 1 shall notify the other Party in writing prior to conducting its own inspection, and inform that other Party of its reasons for conducting its own inspection. The Party shall endeavour to notify the other Party in writing at least 30 days before a proposed inspection, but may provide less notice in urgent situations. That other Party has the right to join the inspection of the Party.

Article 10
Two-way Alert Programme and Information Sharing

1. A Party shall, as provided in the Two Way Alert Programme under the GMP Administrative Arrangement referred to in Article 14.3 (Management of the Protocol):

(a) ensure that any restriction, suspension or withdrawal of a manufacturing authorization that could affect the protection of public health is communicated from the relevant regulatory authority in its territory to the relevant regulatory authority in the territory of the other Party; and

(b) when relevant, proactively notify the other Party in writing of any confirmed reports of serious problems relating to a manufacturing facility in its territory, or as identified through an on-site evaluation or inspection in the territory of the other Party, including problems related to quality defects, batch recalls, counterfeited or falsified medicinal products or drugs, or potential serious shortages.

2. A Party shall, as provided in the Components of the Information Sharing Process under the GMP Administrative Arrangement referred to in Article 14.3 (Management of the Protocol):

(a) respond to special requests for information, including reasonable requests for inspection reports and on-site evaluation reports.

(b) ensure that, at the request of the other Party or of an equivalent authority of the other Party, equivalent authorities within its territory provide relevant information.

3. A Party shall provide the other Party, through written notification, contact points for each equivalent authority in its territory.

Article 11

Equivalence of New Regulatory Authorities

1. A Party (the "requesting Party") may request that a regulatory authority in its territory that is not recognized as equivalent to regulatory authorities in the other Party (the "evaluating Party"), be evaluated to determine whether it should be recognized as equivalent. Upon receiving the request, the evaluating Party shall conduct an evaluation pursuant to the Procedure for Evaluating New Regulatory Authorities under the GMP Administrative Arrangement referred to in Article 14.3 (Management of the Protocol).

2. The evaluating Party shall evaluate the new regulatory authority by applying the Components of a GMP Compliance Programme under the Administrative Arrangement referred to in Article 14.3 (Management of the Protocol). The Components of a GMP Compliance Programme must include such elements as legislative and regulatory requirements, inspections standards, surveillance systems and a quality management system.

3. If, upon completion of its evaluation, the evaluating Party determines that the new regulatory authority is equivalent, then it shall notify the requesting Party in writing that it recognizes the new regulatory authority as equivalent.

4. If, upon completion of its evaluation, the evaluating Party does not determine that the new regulatory authority is equivalent, then the evaluating Party shall provide to the requesting Party a written justification demonstrating that it has well-founded reasons for not recognizing that the new regulatory authority is equivalent. At the request of the requesting Party, the Joint Sectoral Group must consider the evaluating Party's refusal to recognize the new regulatory authority as equivalent, and may provide recommendations to assist both Parties to resolve the matter.

5. If, upon completion of its evaluation, the evaluating Party determines that the new regulatory authority is only equivalent for a more limited scope than that proposed by the requesting Party, then, the evaluating Party shall provide to the requesting Party a written justification demonstrating that it has well-founded reasons for determining that the new regulatory authority is only equivalent for the more limited scope. At the request of the requesting Party, the Joint Sectoral Group must consider the evaluating Party's refusal to recognize the new regulatory authority as equivalent, and may provide recommendations to assist both Parties to resolve the matter.

[COM: *Negotiators' Note: The Parties agreed that all the authorities already recognised as equivalent at the time of entry into force of this Agreement on the basis of the current MRA are recognised under CETA]

Article 12

Equivalence Maintenance Programme

1. The Parties shall, through the Joint Sectoral Group, develop an equivalence maintenance programme under the GMP Administrative Arrangement referred to in Article 14.3 (Management of the Protocol) to maintain the equivalence of the regulatory authorities. Each Party shall act in accordance with this programme when deciding whether to change the equivalency status of a regulatory authority.

2. If the equivalence status of a regulatory authority changes, a Party may re-evaluate that regulatory authority. Any re-evaluation must be undertaken pursuant to the procedure set out in Article 11 (Equivalence of New Regulatory Authorities). The scope of re-evaluation shall be limited to the elements having caused the change of the equivalence status.

3. The Parties shall exchange all the information that is necessary to ensure that both Parties remain confident that equivalent authorities are in fact equivalent.

4. A Party shall inform the other Party before adopting changes to its technical guidance or regulations relating to good manufacturing practices.

5. A Party shall inform the other Party of any new technical guidance, inspection procedures, or regulations relating to good manufacturing practices.

Article 13
Confidentiality

1. A Party shall not publicly disclose non-public and confidential technical, commercial, or scientific information, including trade secrets and proprietary information that it has received from the other Party.

2. A Party may disclose the information referred to in paragraph 1 if it deems such disclosure necessary to protect public health and safety. The other Party shall be consulted prior to disclosure.

Article 14
Management of the Protocol

1. The Parties establish a Joint Sectoral Group on Pharmaceuticals ("Joint Sectoral Group"), composed of representatives from both Parties.

2. The Joint Sectoral Group shall establish its composition and determine its rules and procedures.

[5. The following Annexes are integral part of this Protocol:
- Annex I (Applicable Legislation);
- Annex II (Medicinal Products or Drugs);
- Annex III (Regulatory Authorities)]

Kommentiert [MM-16]: This paragraph is subject to legal scrub.

3. The Parties shall, through the Joint Sectoral Group, conclude a GMP Administrative Arrangement to facilitate the effective implementation of this Protocol. The GMP Administrative Arrangement shall include:

(a) the Joint Sectoral Group Terms of Reference;

(b) the Two Way Alert Programme;

(c) the list of contact points responsible for matters arising under this Protocol;

(d) the Components of the Information Sharing Process ;

(e) the Components of a GMP Compliance Programme;

(f) the Procedure for Evaluating New Regulatory Authorities; and

(g) the Equivalence Maintenance Programme.

4. The Joint Sectoral Group may modify the GMP Administrative Arrangement if it considers it necessary.

5. At the request of the Parties, the Joint Sectoral Group shall review the Annexes to this Protocol, and shall develop recommendations for amendments to these annexes for consideration by the Trade Committee.

6. Pursuant to paragraph 5, the Joint Sectoral Group shall review the Operational Scope of Medicinal Products or Drugs under Annex II.2 with a view to including those medicinal products or drugs listed in Annex II.1.

[CAN: *Negotiators' Note: the Parties agree to establish the Administrative Arrangement prior to the Agreement's entry into force.]

Article 15
Fees

1. For the purposes of this article, "fees" includes cost-recovery measures such as user fees, regulatory charges and amounts set under a contract.

2. A Party shall have the right to determine any fees applicable to manufacturing facilities in its territory, including fees related to issuing Certificates of GMP Compliance and fees related to inspections or on-site evaluations.

3. In case of an inspection or on-site evaluation conducted by one Party at the request of the other Party, the fees charged to a manufacturing facility must be consistent with paragraphs 1 and 2.

Article 16
Relationship to the CETA

This Protocol constitutes an integral part of the [CETA]. [COMMENT: this may be covered by provisions in the CETA]

Kommentiert [MM-17]: HCLS/JLI/JLT: this provision to be discussed during the legal scrub.

Annex I
Applicable Legislation

For the European Union:

Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (as amended);

Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products (as amended);

Directive 2001/20/EC of European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use;

Regulation (EU) 536/2014 of 16 April 2014 on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC

Commission Directive 2003/94/EC of 8 October 2003 laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use;

Commission Directive 91/412/EEC of 23 July 1991 laying down the principles and guidelines of good manufacturing practice for veterinary medicinal products;

Current version of the Guide to good manufacturing practices contained in volume IV of Rules governing medicinal products in the European Union and compilation of the community procedures on inspections and exchange of information;

For Canada:

Food and Drugs Act, R.S.C. 1985, c. F-27.

Annex II
Medicinal Products or Drugs

1. Scope of Medicinal Products or Drugs

This Protocol applies to the following medicinal products or drugs as defined in the legislation of the Parties referred to in Annex I, provided that the GMP requirements and compliance programmes of both Parties, with respect to these medicinal products or drugs, are equivalent:

(a) human pharmaceuticals including prescription and non-prescription drugs and medicinal gases;
(b) human biologicals including immunologicals, stable medicinal products derived from human blood or human plasma, and biotherapeutics;
(c) human radiopharmaceuticals;
(d) veterinary pharmaceuticals, including prescription and non-prescription drugs, and pre-mixes for the preparation of veterinary medicated feeds;
(e) veterinary biologicals;
(f) where appropriate, vitamins, minerals, herbal remedies and homeopathic medicinal products;
(g) active pharmaceutical ingredients;
(h) intermediate products and bulk pharmaceuticals (e.g. bulk tablets);
(i) products intended for use in clinical trials or investigational medicinal products; and
(j) advanced therapy medicinal products.

2. Operational Scope of Medicinal Products or Drugs

Further to paragraph 1, the GMP requirements and compliance programmes of both Parties are equivalent for the following medicinal products or drugs:

(a) human pharmaceuticals including prescription and non-prescription drugs and medicinal gases;
(b) human biologicals including immunologicals and biotherapeutics;
(c) human radiopharmaceuticals;
(d) veterinary pharmaceuticals, including prescription and non-prescription drugs, and pre-mixes for the preparation of veterinary medicated feeds;
(e) intermediate products and bulk pharmaceuticals;
(f) products intended for use in clinical trials or investigational medicinal products; manufactured by the manufacturers holding a manufacturing authorisation or establishment licence; and
(g) vitamins, minerals and herbal remedies, homeopathic medicinal products (known in Canada as Natural Health Products (NHP)) manufactured by manufacturers holding a manufacturing authorisation or establishment licence, in the case of Canada.

Annex III

Regulatory Authorities

Kommentiert [MM-18]: Names of organizations to be confirmed during legal scrub.

The Parties recognize the following entities, or their successors notified by a Party through the Joint Sectoral Group, as their respective regulatory authorities:

For the European Union:

Country	For medicinal products for human use	For medicinal products for veterinary use
Belgium	Federal agency for medicines and health products / Federaal Agentschap voor geneesmiddelen en gezondheidsproducten	See responsible authority for human medicinal products
Czech Republic	State Institute for Drug Control/ Státní Ústav pro Kontrolu Léciv (SÚKL)	Institute for State Control of Veterinary Biologicals and Medicaments/ Ústav pro Státní Kontrolu Veterinárních Biopreparátù a Léciv (ÚSKVBL)
Republic of Croatia	Agency for Medicinal Products and Medical Devices (HALMED)/ Agencija za Lijekove i Medicinske Proizvode	Ministry of Agriculture, Veterinary Department/ Ministarstvo Poljoprivrede Uprava veterinarstva
Denmark	The Danish Medicines Agency/ Laegemiddelstyrelsen	See responsible authority for human medicinal products
Germany	Federal Institute for Drugs and Medical Devices/ Bundesinstitut für Arzneimittel und Medizinprodukte (BfArM)	Federal Ministry of Health/ Bundesministerium für Gesundheit (BMG)
Estonia	State Agency of Medicines/ Ravimiamet	See responsible authority for human medicinal products
Greece	National Organisation for Medicines/ Ethnikos Organismos Farmakon (EOF) - (ΕΘΝΙΚΟΣ ΟΡΓΑΝΙΣΜΟΣ	See responsible authority for human medicinal products

	ΦΑΡΜΑΚΩΝ))	
Spain	*Spanish Agency of Medicines and Health Products* / Agencia Española de Medicamentos y Productos Sanitários	See responsible authority for human medicinal products
France	National Agency for the Safety of Medicine and Health Products/ Agence nationale de sécurité du médicament et des produits de santé (ANSM)	*National Agency for Veterinary Medicinal Products*/ Agence Nationale du Médicament Vétérinaire
Ireland	Irish Medicines Board	See responsible authority for human medicinal products
Italy	*Italian Medicines Agency*/ Agenzia Italiana del Farmaco/	*Ministry of Health, Direction General of Animal Health and Veterinary Drug*/ Ministero della Salute, Direzione Generale della Sanità Animale e del Farmaco Veterinario/
Cyprus	Ministry of Health - Pharmaceutical Services/ Φαρμακευτικές Υπηρεσίες, Υπουργείο Υγείας	Ministry of Agriculture, Veterinary Services/ Κτηνιατρικές Υπηρεσίες, Υπουργείο Γεωργίας
Latvia	State Agency of Medicines/ Zāļu valsts aģentūra	Food and Veterinary Service, Division of the Marketing Authorisation for Veterinary Medicinal Products/ Pārtikas un veterinārā dienesta
Lithuania	State Medicines Control Agency/ Valstybinė vaistų kontrolės tarnyba	State Food and Veterinary Service/ Valstybinės maisto ir veterinarijo tarnyba
Luxembourg	Minìstere de la Santé, Division de la Pharmacie et des Médicaments	See responsible authority for human medicinal products
Hungary	National Institute of Pharmacy/	Directorate of Veterinary Medicinal Products/

	Országos Gyógyszerészeti Intézet (OGYI)	Állatgyógyászati Termékek Igazgatósága (ÁTI)
Malta	Medicines Regulatory Authority	Medicines Regulatory Unit - Veterinary Medicines and Animal Nutrition Section, Agriculture and Fisheries Regulation Department,
Netherlands	Healthcare Inspectorate/ Inspectie voor de Gezondheidszorg (IGZ)	Medicines Evaluation Board/ Bureau Diergeneesmiddelen, College ter Beoordeling van Geneesmiddelen (CBG)/
Austria	Austrian Agency for Health and Food Safety/ Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH	See responsible authority for human medicinal products
Poland	The Main Pharmaceutical Inspectorate/ Główny Inspektorat Farmaceutyczny (GIF)/	See responsible authority for human medicinal products
Portugal	*National Authority of Medicines and Health Products* / INFARMED Instituto Nacional da Farmácia e do Medicamento	*General Directorate of Food and Veterinary* / GDAV Direcção Geral de Alimentação e Veterinária (PT)
Slovenia	Agency for Medicinal Products and Medical Devices of the Republic of Slovenia/ Javna agencija Republike Slovenije za zdravila in medicinske pripomočke (JAZMP)	See responsible authority for human medicinal products
Slovak Republic (Slovakia)	State Institute for Drug Control/ Štátny ústav pre kontrolu liečiv (SUKL)	Institute for State Control of Veterinary Biologicals and Medicaments/ Ústav štátnej kontroly veterinárnych biopreparátov a liečiv (USKVBL)

Finland	Finnish Medicines Agency/ Lääkealan turvallisuus- ja kehittämiskeskus	See responsible authority for human medicinal products
Sweden	Medical Products Agency/ Läkemedelsverket	See responsible authority for human medicinal products
United Kingdom	Medicines and Healthcare products Regulatory Agency	Veterinary Medicines Directorate
Bulgaria	Bulgarian Drug Agency/ ИЗПЪЛНИТЕЛНА АГЕНЦИЯ ПО ЛЕКАРСТВАТА	Bulgarian Drug Agency
Romania	National Medicines Agency/ Agentia Nationala a Medicamentului	Institute for Control of Biological Products and Veterinary Medicines/ Institutul Pentru Controlul Produselor Biologice şi Medicamentelor de Uz Veterinar

For Canada:

	Health Canada	Health Canada

29. DIALOGUES AND BILATERAL COOPERATION

Chapter X – Dialogues and Bilateral Cooperation

Article X.01: Basis of Cooperation

1. Building on their well-established partnership and shared values, the Parties agree to develop their cooperation on issues of common interest. Their efforts will in particular be aimed at:

(a) Strengthening bilateral cooperation on biotechnology through the bilateral Dialogue on Biotech Market Access Issues;
(b) Fostering and facilitating dialogue and exchange of information on issues related to trade in forest products;
(c) Establishing a forum for an ad hoc dialogue and cooperation on matters related to raw materials;
(d) Encouraging enhanced cooperation on science, technology, research and innovation issues.

2. Unless otherwise provided for in this Agreement, dialogues shall take place, at an appropriate level, at the request of either Party or of the CETA Joint Committee and without undue delay. They shall be co-chaired by representatives of Canada and the European Union. The Parties shall agree on the meeting schedules and set agendas for the dialogues.

3. The Parties shall inform the CETA Joint Committee of the schedules and agendas of the dialogues sufficiently in advance of meetings. The Parties shall report to the CETA Joint Committee on the results and conclusions of the dialogues as appropriate or on request. The creation or existence of a dialogue shall not prevent either Party from bringing any matter directly to the CETA Joint Committee.

4. The CETA Joint Committee may decide to change or undertake the task assigned to a dialogue or dissolve any dialogue.

Article X.02: Future Areas for Bilateral Cooperation

1. Further to the areas of bilateral cooperation identified in Article X.01 the Parties, by consent of the Trade Council, may agree to other areas for bilateral cooperation under this Agreement.

Article X.03: Bilateral Cooperation on Biotechnology

1. The Parties agree that cooperation and information exchange on issues related to biotechnology products are of mutual interest. Such cooperation and exchange of information will take place in the bilateral Dialogue on Biotech Market Access Issues which was established as part of the Mutually Agreed Solution reached on 15 July, 2009 between Canada and the European Union following the WTO dispute *European Communities – Measures Affecting the Approval and Marketing of Biotech Products* (WT/DS292). The dialogue covers any relevant issues of mutual interest to Canada and the EU, including, among others:

(a) Biotechnology product approvals in the territory of Canada or the EU as well as, where appropriate, forthcoming applications of commercial interest to either side;
(b) the commercial and economic outlook for future approvals of biotechnology products;
(c) any trade impact related to asynchronous approvals of biotechnology products or the accidental release of unauthorised products, and any appropriate measures in this respect;

(d) any biotech-related measures that may affect trade between Canada and the EU, including measures of EU Member States;
(e) any new legislation in the field of biotechnology; and
(f) best practices in the implementation of legislation on biotechnology.

2. The Parties also note the importance of the following shared objectives with respect to cooperation in the field of biotechnology:

(a) exchanging information on policy, regulatory and technical issues of common interest related to a product of biotechnology; and in particular information on their respective systems and processes for risk assessment for taking a decision on the use of a genetically modified organism;
(b) promoting efficient science-based approval processes for products of biotechnology;
(c) cooperating internationally on issues related to biotechnology such as low level presence of genetically modified organisms;
(d) engaging in regulatory cooperation to minimize adverse trade impacts of regulatory practices related to biotechnology products.

Article X.04: Bilateral Dialogue on Forest Products

1. The Parties agree that dialogue, cooperation and exchange of information and views on relevant laws, regulations, policies and sector issues of importance to the production, trade, and consumption of forest products are of mutual interest. The Parties agree to carry out such dialogue, cooperation and exchange in the Bilateral Dialogue on Forest Products including on:

(a) the development, adoption and implementation of relevant laws, regulations, policies and standards, and testing, certification and accreditation requirements and their potential impact on trade in forest products between the Parties;

(b) initiatives of the Parties related to sustainable management of forests and forest governance;

(c) mechanisms to assure the legal and/or sustainable origin of forest products;

(d) access for forest products to the EU, Canada, or third-country markets;

(e) perspectives on multilateral and plurilateral organizations and processes in which they participate which seek to promote sustainable forest management and/or combat illegal logging;

(f) issues referenced in Article X (Trade in Forest Products) of the Trade and Environment Chapter; and

(g) any other issue as may be agreed upon by the Parties.

2. The Parties agree that the Bilateral Dialogue on Forest Products shall meet within the first year of the entry into force of this Agreement, and thereafter in accordance with Article X.01(2) of this Chapter [Dialogues and Cooperation].

3. The Parties agree that discussions taking place in the Bilateral Dialogue on Forest Products can inform discussions in the Sustainable Development Committee.

Article X.05 Bilateral Dialogue on Raw Materials

1) Recognizing the importance of an open, non-discriminatory and transparent trading environment based on rules and science, the Parties agree to foster a dialogue on raw materials.

2) Raw materials is considered to include, but is not limited to, minerals and metals, and agricultural products with an industrial use.

3) The functions of the bilateral dialogue shall be to, inter alia:

(a) Provide a forum to discuss raw materials cooperation between Canada and the European Union, to contribute to market access for raw material goods and related services and investments and to avoid non-tariff barriers to trade;
(b) Enhance mutual understanding in the field of raw materials with a view to exchange information on best-practices and on the Parties' regulatory policies vis-à-vis raw materials;
(c) Encourage activities that support corporate social responsibility in accordance with internationally recognized standards such as the OECD Guidelines for Multinational Enterprises and Due Diligence Guidance.
(d) Facilitate, as appropriate, consultation on the Parties' positions in multilateral or plurilateral fora where issues related to raw materials may be raised and discussed.

4) Without prejudice, and as a complement to paragraph 1, the Parties will endeavour to establish and maintain effective cooperation on raw materials issues through a dialogue, at the request of either Party.

Article X.06: Enhanced Cooperation on Science, Technology, Research and Innovation

1. The Parties acknowledge the interdependence of science, technology, research and innovation, and international trade and investment in increasing industrial competitiveness and social and economic prosperity.

2. Building on this shared understanding, the parties agree to strengthen their cooperation in the areas of science, technology, research and innovation.

3. The Parties shall endeavour to encourage, develop and facilitate cooperative activities on a reciprocal basis in support of, or supplementary to the Agreement for Scientific and Technological Cooperation between Canada and the European Union. The Parties agree to conduct these activities on the basis of the following principles:

(a) The activities are of mutual benefit to the Parties;
(b) The Parties agree on the scope and parameters of the activities;
(c) The activities should take into account the important role of the private sector and research institutions in the development of science, technology, research and innovation, and commercialization of goods and services thereof.

4. The Parties also recognize the importance of enhanced cooperation on science, technology, research and innovation including activities initiated, developed or undertaken by a variety of stakeholders, including the Canadian federal government, Canadian Provinces and Territories, the European Union and its Member States.

5. Each Party, according to its own laws, shall encourage the participation of the private sector, research institutions and civil society within its own territory in activities to enhance cooperation.

30. ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

Chapter X: Administrative and Institutional Provisions

Article X.01: The CETA Joint Committee

1. The Parties hereby establish a CETA Joint Committee comprising representatives of the European Union, on the one hand, and representatives of Canada, on the other. The CETA Joint Committee shall be co-chaired by the Minister for International Trade of Canada and the Member of the European Commission responsible for Trade, or their respective designees.

2. The CETA Joint Committee shall meet once a year, or at the request of either Party. The CETA Joint Committee shall agree on its meeting schedule and its agenda.

3. The CETA Joint Committee is responsible for all questions concerning EU-Canada trade and investment and the implementation and application of the CETA. Either Party may refer to the CETA Joint Committee any issue relating to the implementation and interpretation of the CETA, or any other issue concerning EU-Canada trade and investment.

4. The CETA Joint Committee shall:

    a. Supervise and facilitate the implementation and application of the CETA and further its general aims;
    b. Supervise the work of all specialized committees and other bodies established under the CETA;
    c. Without prejudice to Chapter X (Dispute Settlement), Y (Labour), Z (Environment), A (Sustainable Development) and B (Investment), seek appropriate ways and methods of forestalling problems which might arise in areas covered by the CETA, or of resolving disputes that may arise regarding the interpretation or application of the CETA;
    d. Adopt its own rules of procedure;
    e. Take decisions as set out in Article X.04 Decision Making;
    f. Consider any matter of interest relating to an area covered by the CETA;

5. The CETA Joint Committee may:
    a. Establish and delegate responsibilities to Specialized Committees ;
    b. Communicate with all interested parties including private sector and civil society organizations;
    c. Consider or agree on amendments as provided in this Agreement;
    d. Study the development of trade between the Parties and consider ways to further enhance trade relations between the Parties;
    e. Adopt interpretations of the Provisions of the CETA, which shall be binding on tribunals established under Chapter X (Dispute Settlement) and Chapter X (Investment) as it relates to investor-state dispute settlement;
    f. Make recommendations suitable for promoting the expansion of trade and investment as envisaged in the Agreement;
    g. Take such other action in the exercise of its functions as the Parties agree;
    h. Change or undertake the task assigned to a specialized committee or dissolve any specialized committees;

i. Establish other committees, specialized committees and dialogues in order to assist it in the performance of its tasks.

Article X.02 Specialized Committees

Negotiators note for legal scrub: if necessary, Canada and EU to review committee nomenclature (i.e., name of "specialised committee" vs. just "committees") in article x.02

1. The specialized committees mentioned under paragraphs (a) to (h) below are hereby established or, in the case of paragraph (c), is granted authority to act under the auspices of the CETA Joint Committee. They shall operate according to the provisions of paragraphs 2 to 5 of this Article.
   a. The Committee on Trade in Goods, which will address matters arising in any of the following areas: Trade in Goods; Tariffs ; Technical Barriers to Trade; the Protocol on the Mutual Acceptance of the Results of Conformity Assessment; Intellectual Property Rights related to goods.
   The following committees shall also be established under the Committee on Trade in Goods and shall report to that Committee: Committee on Agriculture; Committee on Wines and Spirits; Joint Sectoral Group on Pharmaceuticals.

   At the request of a Party, or upon a reference from the relevant specialized Committee, or when preparing a discussion in the CETA Joint Committee, the Committee on Trade in Goods may address matters arising in the areas of Rules of Origin, Origin Procedures, Customs and Trade Facilitation, and Border Measures; Sanitary and Phytosanitary Measures; Government Procurement; Regulatory Cooperation; if doing so could facilitate the resolution of a matter that cannot otherwise be resolved by the relevant specialized Committee.

   b. The Committee on Services and Investment, which will address matters arising in any of the following areas: Cross-Border Trade in Services; Investment; Temporary Entry; E-commerce; Intellectual Property Rights related to Services.
   A Committee on Mutual Recognition of Professional Qualifications shall also be established under the Committee on Services and Investment and shall report to that Committee.

   At the request of a Party, or upon a reference from the relevant specialized Committee, or when preparing a discussion in the CETA Joint Committee, the Committee on Services and Investment may address matters arising in the areas of Financial Services; Government Procurement; if doing so could facilitate the resolution of a matter that cannot otherwise be resolved by the relevant specialized Committee.

   c. The Joint Customs Cooperation Committee (JCCC), established pursuant to the 1998 Agreement between the European Community and Canada on Customs Cooperation and Mutual Assistance in Customs Matters, which shall, for the purpose of CETA, address matters arising in any of the following areas: Rules of origin, Origin Procedures, Customs and Trade Facilitation, Border Measures, as well as Temporary Suspension of Preferential Tariff Treatment.

   d. The Sanitary and Phytosanitary Committee, which will address matters arising in the area of Sanitary and Phytosanitary Measures.

e. The Government Procurement Committee, which will address matters as set out in the Government Procurement Chapter (Article X).

f. The Financial Services Committee, which will address matters as set out in the Financial Services Chapter

g. The Sustainable Development Committee, which will address matters arising in any of the following areas: Sustainable Development (Article X), Labour (Article X), and Environment (Article X).

h. The Regulatory Cooperation Forum, which will address matters as set out in the Regulatory Cooperation Chapter (Article X).

2. The remit and tasks of the above mentioned specialized committees are further defined in the relevant chapters and protocols of this Agreement.

3. Unless otherwise provided for in this Agreement, the specialized committees shall normally meet once a year, or at the request of either Party or of the CETA Joint Committee and shall be co-chaired by representatives of Canada and the European Union. The specialized committees shall agree on their meeting schedule and set their agenda by mutual consent. They shall set and modify their own rules of procedures, if they deem it appropriate to do so. The specialized committees may propose draft decisions to be adopted by the CETA Joint Committee, or take decisions when the Agreement so provides.

Negotiators note: the reference to "when the agreement so provides" to be verified at legal scrubbing.

4. Each Party shall ensure that when a specialized committee meets, all the competent authorities for each issue on the agenda will be represented, as each Party deems appropriate, and that each issue can be discussed at the adequate level of expertise.

5. The specialized committees shall inform the CETA Joint Committee of their schedules and agenda sufficiently in advance of their meetings and shall report to the CETA Joint Committee on results and conclusions from each of their meetings. The creation or existence of a specialized committee shall not prevent either Party from bringing any matter directly to the CETA Joint Committee.

As agreed, Dialogues and Cooperation Article to be moved into the Cooperation chapter.

Article X.03 Decision Making

1. The CETA Joint Committee shall, for the purpose of attaining the objectives of this Agreement, have the power to take decisions in respect of all matters in the cases provided by this Agreement.

2. The decisions taken shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken. The CETA Joint Committee may also make appropriate recommendations.

3. The CETA Joint Committee shall make its decisions and recommendations by agreement between the Parties.

Article X.04 Sharing of Information

1. When a Party submits to the CETA Joint Committee or any committee established under this Agreement, information considered as confidential or protected from disclosure under its laws and regulations, the other Party shall treat that information as confidential.

Article X.05 Contact Points

1. Each Party shall promptly appoint a Contact Point and notify the other Party within 60 days following the entry into force of this Agreement.

2. The Contact Points shall jointly:
    a. Monitor the work of all institutional bodies established under this Agreement, including communications relating to successors to those bodies;
    b. Coordinate preparations for Committee meetings;
    c. Follow up on any decisions taken by the CETA Joint Committee, as appropriate;
    d. Except as otherwise provided in this Agreement, receive all notifications and information provided pursuant to this Agreement and, as necessary, facilitate communications between the Parties on any matter covered by this Agreement;
    e. Respond to any information requests pursuant to Article X.02 Notification and Provision of Information of Chapter X – Transparency; and
    f. Consider any other matter that may affect the operation of this Agreement as mandated by the CETA Joint Committee.

3. The Contact Points shall communicate as required.

Article X.06 Meetings

1. Meetings referred to in this chapter should be in person. Parties may also agree to meet by videoconference or teleconference.

2. The Parties agree that they shall endeavour to meet within 30 days of the receipt of a request to meet by either Party.

31. TRANSPARENCY

TRANSPARENCY

Section A- Publication, Notification and Administration of Laws

Article X.01: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. To the extent possible, each Party shall:

   (a) publish in advance any such measure that it proposes to adopt; and

   (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.

Article X.02: Notification and Provision of Information

1. To the extent possible, on request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any existing or proposed measure materially affecting the operation of this Agreement, whether or not the other Party has been previously notified of that measure.

2. A notification or information provided under this Article is without prejudice for the purposes of determining whether the measure is consistent with this Agreement.

Article X.03: Administrative Proceedings

In order to administer a measure of general application affecting matters covered by this Agreement, in a consistent, impartial and reasonable manner, each Party shall ensure that in its administrative proceedings applying measures referred to in Article X.01 (Publication) to particular persons, goods or services of the other Party in specific cases:

   (a) whenever possible, a person of the other Party who is directly affected by a proceeding is given reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of the issues in controversy;

(b) a person referred to in subparagraph (a) is afforded a reasonable opportunity to present facts and arguments in support of its position prior to any final administrative action, when permitted by time, the nature of the proceeding, and the public interest; and,

(c) its procedures are in accordance with its domestic law.

Article X.04: Review and Appeal

1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Each Party shall ensure that its tribunals are impartial and independent of the office or authority entrusted with administrative enforcement and that they do not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in its tribunals or procedures, the parties to the proceeding are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions are implemented by, and govern the practice of, the offices or authorities with respect to the administrative action at issue.

Article X.05: Cooperation on Promoting Increased Transparency

The Parties agree to cooperate in bilateral, regional and multilateral fora on ways to promote transparency in respect of international trade and investment.

Article X-06: Definitions

For purposes of this Section:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

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

(b) a ruling that adjudicates with respect to a particular act or practice.

32. EXCEPTIONS

EXCEPTIONS

Negotiators' note for legal scrubbing: Confirm coherence of the exceptions and definitions in this chapter with the other chapters of the Agreement.

Article X.01: Definitions

For purposes of this Chapter:

competition authority means:

(a) for Canada, the Commissioner of Competition or a successor notified to the other party through the Coordinators; and

(b) for the European Union, the Commission of the European Union as to its responsibilities pursuant to the competition laws of the European Union.

competition laws means:

(a) for Canada, the *Competition Act*; and

(b) for the European Union, Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union ("TFEU"), Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, and their implementing regulations or amendments.

cultural industries means a person engaged in:

(a) the publication, distribution or sale of books, magazines, periodicals or newspapers in print or machine-readable form, except when printing or typesetting any of the foregoing is the only activity;

(b) the production, distribution, sale or exhibition of film or video recordings;

(a) the production, distribution, sale or exhibition of audio or video music recordings;

(b) the publication, distribution or sale of music in print or machine-readable form; or

(c) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services.

information protected under its competition laws means:

(a) for Canada, information within the scope of Section 29 of the *Competition Act*, R.S. 1985, c.34, or any successor provision; and

(b) for the European Union this means information within the scope of Article 28 of Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty or Article 17 of Council Regulation No 139/2004 on the control of concentrations between undertakings, or any successor provisions.

residence means residence for tax purposes;

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and

tax and **taxation measure** includes an excise duty, but does not include:

(a) a "customs duty", or

(b) a measure listed in exceptions (b), (c), or (d) in the definition of "customs duty" in Article 1.01 (Initial Provisions and General Definitions – Definitions of General Application).

Article X.02: General Exceptions

1. For the purposes of Chapters X through Y and Chapter Z (National Treatment and Market Access for Goods, Rules of Origin, Origin Procedures, Customs and Trade Facilitation, Wines and Spirits, Sanitary and Phytosanitary Measures, Investment Section 2 (Establishment of Investments) and Investment Section 3 (Non-discriminatory Treatment)), GATT 1994 Article XX is incorporated into and made part of this Agreement. The Parties understand that the measures referred to in GATT 1994 Article XX (b) include environmental measures necessary to protect human, animal or plant life or health**.** The Parties further understand that GATT 1994 Article XX (g) applies to measures for the conservation of living and non-living exhaustible natural resources.

Negotiators' Note for legal scrubbing: The application of GATT Article XX to various CETA chapters will need to be reviewed in light of the actual content of these chapters. Text will also need to be revised to reflect the fact that the Rules of Origin and Wines and Spirits texts are not Chapters.

2. For the purposes of Chapters X, Y, and Z (Cross-Border Trade in Services, Telecommunications, and Temporary Entry and Stay of Natural Persons for Business Purposes, Investment Section 2 (Establishment of Investments) and Investment Section 3 (Non-Discriminatory Treatment), a Party may adopt or enforce a measure necessary:

(a) to protect public security or public morals or to maintain public order (x);
(b) to protect human, animal or plant life or health;
(c) to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:
(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;
(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
(iii) safety;

(x) The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

Article X.03: Temporary safeguard measures with regard to capital movements and payments

Where, in exceptional circumstances, capital movements and payments, including transfers, cause or threaten to cause serious difficulties for the operation of the economic and monetary union of the European Union, safeguard measures that are strictly necessary and do not constitute a means of arbitrary or unjustified discrimination between a Party and a non-Party may be taken by the European Union with regard to capital movements and payments, including transfers, for a period not exceeding six months. The European Union shall inform Canada forthwith and present, as soon as possible, a time schedule for the removal of such measures.

Article X.04: Restrictions in Case of Balance of Payments and External Financial Difficulties

1. Where Canada or a Member State of the European Union that is not a member of the European Monetary Union experiences serious balance-of-payments or external financial difficulties, or threat thereof, it may adopt or maintain restrictive measures with regard to capital movements or payments, including transfers.

2. Measures referred to in paragraph 1 shall:
   a) not treat a Party less favourably than a non-Party in like situations;
   b) be consistent with the Articles of the Agreement of the International Monetary Fund, as applicable;
   c) avoid unnecessary damage to the commercial, economic and financial interests of any other Party;
   d) be temporary and phased out progressively as the situation specified in paragraph 1 improves and not exceed six months; however, if extremely exceptional circumstances arise such that a Party seeks to extend such measures beyond a period of six months , it will consult in advance with the other Party concerning the implementation of any proposed extension.

3. In the case of trade in goods, a Party may adopt restrictive measures in order to safeguard its balance-of-payments or external financial position. Such measures shall be in accordance with the General Agreement on Tariffs and Trade (GATT) and the Understanding on Balance of Payment Provisions of the GATT 1994.

4. In the case of trade in services, a Party may adopt restrictive measures in order to safeguard its balance-of-payments or external financial position. Such measures shall be in accordance with the General Agreement on Trade in Services (GATS).

5. Any Party maintaining or having adopted measures referred to in paragraph 1 or 2 shall promptly notify the other Party of them and present, as soon as possible, a time schedule for their removal.

6. Where the restrictions are adopted or maintained under this Article, consultations shall be held promptly in the Trade Committee, if such consultations are not otherwise taking place outside of this Agreement. The consultations shall assess the balance-of-payments or external financial difficulty that led to the respective measures, taking into account, *inter alia*, such factors as:

(a) the nature and extent of the difficulties;
(b) the external economic and trading environment; or
(c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 1 to 4. All findings of statistical and other facts presented by the IMF relating to foreign exchange, monetary reserves and balance-of-payments shall be accepted and conclusions shall be based on the assessment by the IMF of the balance-of-payments and the external financial situation of the Party concerned.

Article X.05: National Security

This Agreement does not:

(a) require a Party to furnish or allow access to information if that Party determines that the disclosure of this information would be contrary to its essential security interests;

(b) prevent a Party from taking an action that it considers necessary to protect its essential security interests:

(i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology undertaken, and to economic activities,

carried out directly or indirectly for the purpose of supplying a military or other security establishment[66];

(ii) taken in time of war or other emergency in international relations; or

(iii) relating to fissionable and fusionable materials or the materials from which they are derived; or

(c) to prevent a Party from taking any action in order to carry out its international obligations for the purpose of maintaining international peace and security.

Article X 06: Taxation

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining any taxation measure that distinguishes between persons who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.

2. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining any taxation measure aimed at preventing the avoidance or evasion of taxes pursuant to its tax laws or tax conventions.

3. This Agreement does not affect the rights and obligations of a Party under a tax convention. In the event of inconsistency between this Agreement and a tax convention, that convention prevails to the extent of the inconsistency.

4. Nothing in this Agreement or in any arrangement adopted under this Agreement shall apply:

(a) to a taxation measure of a Party that provides a more favourable tax treatment to a corporation, or to a shareholder of a corporation, on the basis that the corporation is wholly or partly owned or controlled, directly or indirectly, by one or more investors who are residents of that Party;

(b) to a taxation measure of a Party that provides an advantage relating to the contributions made to, or income of, an arrangement providing for the deferral of, or exemption from, tax for pension, retirement, savings, education, health, disability or other similar purposes, conditional on a requirement that that Party maintains continuous jurisdiction over such arrangement;

(c) to a taxation measure of a Party that provides an advantage relating to the purchase or consumption of a particular service, conditional on a requirement that the service be provided in the territory of that Party;

(d) to a taxation measure of a Party that is aimed at ensuring the equitable and effective imposition or collection of taxes, including a measure that is taken by a Party in order to ensure compliance with the Party's taxation system;

[66] The expression "traffic in arms, ammunition and implements of war" in this Article is considered equivalent to the expression" trade in arms, munitions and war material".

(e) to a taxation measure that provides an advantage to a government, a part of a government, or a person that is directly or indirectly owned, controlled or established by a government;

(f) to an existing non-conforming taxation measure not otherwise covered in paragraphs 1, 2, 4(a) to (e), to the continuation or prompt renewal of such a measure, or an amendment of such a measure, provided that the amendment does not decrease its conformity with the provisions of this Agreement as it existed immediately before the amendment.

5. For greater certainty, the fact that a taxation measure constitutes a significant amendment to an existing taxation measure, takes immediate effect as of its announcement, clarifies the intended application of an existing taxation measure, or has an unexpected impact on an investor or covered investment, does not, in and of itself, constitute a violation of Article X.9 (Treatment of Investors and of Covered Investments).

6. Article x (Investment - Most-Favoured Nation obligation), Article x (CBTS - Most-Favoured Nation obligation) and Article X (Financial Services- Most-Favoured Nation obligation) do not apply to an advantage accorded by a Party pursuant to a tax convention.

7.

[***Note to Scrub:*** *The following paragraphs are part of paragraph 7 of the taxation article. As such, they should be renumbered as 7 (a) through (d)*. References to "paragraph 1" should appear as "subparagraph 7(a)".]

(1) Where an investor submits a request for consultations pursuant to Article x-4 (Consultations - ISDS) claiming that a taxation measure breaches an obligation under Section 3 (Non-discriminatory Treatment) or Section 4 (Investment Protection) of Chapter x (Investment Rules), the respondent may refer the matter for consultation and joint determination by the Parties as to whether:

(a) the measure is a taxation measure;

(b) the measure, if it is found to be a taxation measure, breaches an obligation under Section 3 (Non-discriminatory Treatment) or Section 4 (Investment Protection);

(c) there is an inconsistency between the obligations in this Agreement that are alleged to have been breached and those of a tax convention.

(2) A referral pursuant to paragraph 1 cannot be made later than the date the Tribunal fixes for the respondent to submit its counter-memorial. Where the respondent makes such a referral the time periods or proceedings specified in Section 6 of Chapter X (Investor-to-State Dispute Settlement) shall be suspended. If within 180 days from the referral the Parties do not agree to consider the issue, or fail to make a joint determination, the suspension of the time periods or proceedings shall no longer apply and the investor may proceed with its claim.

(3) A joint determination by the Parties pursuant to paragraph 1 shall be binding on the Tribunal.

(4) Each Party shall ensure that its delegation for the consultations to be conducted pursuant to paragraph 1 shall include persons with relevant expertise on the issues covered by this Article, including representatives from the relevant tax authorities of each Party. For Canada this means officials from the Department of Finance.

8. For greater certainty,

(a) **taxation measure of a Party** means a taxation measure adopted at any level of government of a Party.

(b) For measures of a sub-national government, **resident of a Party**, means either resident of that sub-national jurisdiction or resident of the Party of which it forms part.

Article X.07: Disclosure of Information

1. This Agreement does not require a Party to furnish or allow access to information which if disclosed would impede law enforcement or the disclosure of which is prohibited or restricted under its law.

2. In the course of a dispute settlement procedure under this Agreement:
   (a) a Party is not required to furnish or allow access to information protected under its competition laws;
   (b) a competition authority of a Party is not required to furnish or allow access to information that is privileged or otherwise protected from disclosure.

Article X.08: Cultural Industries

The parties recall the exceptions applicable to culture as set out in the relevant provisions of Chapters X, Y and Z (Cross-Border Trade in Services, Domestic Regulation, Government Procurement, Investment, Subsidies).

Article X.09: World Trade Organization Waivers

If a right or obligation in this Agreement duplicates one under the WTO Agreement, the Parties agree that a measure adopted by a Party in conformity with a waiver decision adopted by the WTO pursuant to Article IX of the WTO Agreement is deemed to be also in conformity with the present Agreement.

33. DISPUTE SETTLEMENT

DISPUTE SETTLEMENT

SECTION 1

GENERAL PROVISIONS

ARTICLE 14.1: COOPERATION

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

ARTICLE 14.2: SCOPE

1. Except as otherwise provided in this Agreement, this Chapter applies to any dispute concerning the interpretation or application of the provisions of this Agreement.

2. Proposed measures may be the subject of consultations under Article 14.4. but not mediation under Article 14.5 or the dispute settlement procedures under Section 3 of this Chapter.

ARTICLE 14.3: CHOICE OF FORUM

1. Recourse to the dispute settlement provisions of this Chapter shall be without prejudice to any action in the WTO framework, including dispute settlement action.

2. Notwithstanding paragraph 1, a Party shall not seek redress for the breach of an obligation which is equivalent in substance under the [CETA] and under the WTO Agreement in the two fora. In such case, once a dispute settlement proceeding has been initiated, the Party shall not bring a claim seeking redress for the breach of the substantially equivalent obligation under the other agreement to the other forum, unless the forum selected fails, for procedural or jurisdictional reasons other than termination under paragraph XX (b) of Annex I, to make findings on that claim.

3. For the purposes of paragraph 2:

Kommentiert [TS-19]: Under the WTO Agreement?

Kommentiert [AL20]: Agreed under the package with the deletion of paragraph 14.18.

Kommentiert [TS-21]: Can agree to drop in exchange for the EU dropping para. 14.18.

Kommentiert [TS-22]: There may still be some value in retaining the first sentence to deal with the situation where the WTO and the CETA disputes are not about a "breach of the substantially equivalent obligation" and we don't want both to proceed at the same time. However, I am happy to discuss further.

(a) dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes contained in Annex 2 of the WTO Agreement (hereinafter referred to as the "DSU"); and

(b) dispute settlement proceedings under this Chapter are deemed to be initiated by a Party's request for the establishment of an arbitration panel under Article 14.4.1.

4. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorised by the DSB. A Party may not invoke the WTO Agreement to preclude the other Party from suspending obligations under this Chapter.

SECTION 2
CONSULTATIONS AND MEDIATION

ARTICLE 14.4: CONSULTATIONS

1. A Party may request in writing consultations with the other Party regarding any matter referred to in Article 14.2.

2. The requesting Party shall transmit the request to the responding Party, and shall set out the reasons for the request, including the identification of the specific measure at issue and an indication of the legal basis for the complaint.

3. Subject to paragraph 4, the disputing Parties shall enter into consultations within 30 days of the date of receipt of the request by the responding Party. Consultations shall take place in the territory of the responding Party unless the Parties agree otherwise.

4. In cases of urgency, including those involving perishable or seasonal goods or services that rapidly lose their trade value, consultations shall commence within 15 days of the date of receipt of the request by the responding Party.

5. The disputing Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter through consultations. To this end, each disputing Party shall:
   (a) provide sufficient information to enable a full examination of the matter at issue;
   (b) protect any confidential or proprietary information exchanged in the course of consultations as requested by the Party providing the information; and
   (c) make available the personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to the consultations.

6. Consultations are confidential and without prejudice to the rights of the disputing Parties in proceedings under this Chapter.

7. Consultations may be held in person or by any other means agreed to by the disputing Parties.

ARTICLE 14.5: MEDIATION

The Parties may have recourse to mediation, with regards to measures as set out in Article 14.2 where the measures adversely affect trade and investment between the Parties. Mediation Procedures are set out in Annex III of this Chapter.

SECTION 3
DISPUTE SETTLEMENT PROCEDURES

SUB-SECTION 1 – DISPUTE SETTLEMENT PROCEDURES

ARTICLE 14.6: INITIATION OF THE DISPUTE SETTLEMENT PROCEDURE

1. Unless the disputing Parties agree otherwise, if a matter referred to in Article 14.4 has not been resolved within:
   (a) 45 days of the date of receipt of the request for consultations; or
   (b) 25 days of the date of receipt of the request for consultations for matters referred to in Article 14.4(4);

   the requesting Party may refer the matter to a dispute settlement panel by providing written notice to the responding Party.

2. In the notice referred to in sub-paragraph 1, the requesting Party shall identify the specific measure at issue and it shall explain how such measure constitutes a breach of the provisions referred to in Article 14.2.

ARTICLE 14.7: COMPOSITION OF THE DISPUTE SETTLEMENT PANEL

1. The panel shall comprise three individuals.
2. The Parties shall consult with a view to reaching an agreement on the composition of the arbitration panel within 10 working days of the date of receipt by the responding Party of the request for the establishment of an arbitration panel.
3. In the event that the Parties are unable to agree on the composition of the arbitration panel within the time frame laid down in paragraph 2, either Party may request the Chair of the [CETA institutional body], or the Chair's delegate, to draw by lot the members of the arbitration panel from the list established under [Article 14.*6bis*]. One member shall be drawn from sub-list of the complaining Party, one from the sub-list of the responding Party and one from the sub-list of chairperson. If the Parties have agreed on one or more of the members of the arbitration panel, any remaining members shall be selected by the same procedure in the applicable sub-list of panellists. If the Parties have agreed on a

member of the arbitration panel, other than the chairperson, who is not a national of either Party, the chairperson and other member shall be selected from the sub-list of chairpersons.

4. The Chair of the [CETA institutional body], or the Chair's delegate, shall select the arbitrators as soon as possible and normally within five working days of the request referred to in paragraph 3 by either Party. The Chair, or the Chair's delegate, shall give a reasonable opportunity to representatives of each Party to be present when lots are drawn. [One of the chairpersons can perform the selection by lot alone if the other chairperson was informed about the date, time and place of the lot and did not accept to participate in the lot within five working days of the request referred to in paragraph 3]

Kommentiert [AL23]: EU proposal made on 14 March 2014. Canada and EU agreed on checking the numbering and references to Chair/chairpersons during legal scrubbing.

5. The date of establishment of the arbitration panel shall be the date on which the last of the three arbitrators is selected.
6. Should the list provided for in Article 14.8 not be established or not contain sufficient names at the time a request is made pursuant to paragraph 3 the three arbitrators shall be drawn by lot from the individuals who have been proposed by one or both of the Parties in accordance with paragraph 1 of Article 14.8 [list of arbitrators].
7. Replacement of arbitrators shall take place only for the reasons and according to the procedures detailed in rules 22 to 26 of the Rules of Procedure.

ARTICLE 14.8 – Lists of arbitrators

1. The [CETA institutional body] shall, at its first meeting after the entry into force of this Agreement, establish a list of at least 15 individuals, chosen on the basis of objectivity, reliability and sound judgment, who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party to act as chairpersons. Each sub-list shall include at least five individuals. The [CETA institutional body] may review the list at any time and shall ensure that the list conforms with this article.

2. The arbitrators must have specialised knowledge of international trade law. The individuals acting as chairpersons must also have experience as counsel or panelist in dispute settlement proceedings on subject matters within the scope of this Chapter. Arbitrators shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the Code of Conduct annexed to this Chapter.

ARTICLE 14.9: INTERIM PANEL REPORT

1. The panel shall present to the disputing Parties an interim report within [150] days after the last panel member is appointed. The report shall contain:
   a) findings of fact; and
   b) determinations as to whether the responding Party has conformed with its obligations under this Agreement.

2. Each Party may submit written comments to the panel on the interim report, subject to any time limits set by the panel. After considering any such comments, the panel may:

   a) reconsider its report; or
   b) make any further examination that it considers appropriate.

3. Notwithstanding any other provision of this Chapter, the interim report of the panel shall be confidential.

ARTICLE 14.10: FINAL PANEL REPORT

1. Unless the disputing Parties agree otherwise, the panel shall issue a report in accordance with the provisions of this Chapter. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the basic rationale behind any findings and conclusions that it makes. The ruling of the arbitration panel shall be binding on the Parties.

2. The panel shall present to the Parties a final report within 30 days of presentation of the interim report.

3. Each Party shall make publicly available the final report of the panel after it is presented to the disputing Parties, subject to rule 40(confidentiality).

4. In cases of urgency, including those involving perishable or seasonal goods or services that rapidly lose their trade value, the arbitration panel and the parties shall make every effort to accelerate the proceedings to the greatest extent possible. The Panel shall aim at presenting an interim report to the parties within 75 days after the last panel member is appointed, and a final report within 15 days of the presentation of the interim report. Upon request of a party, the arbitration panel shall make a preliminary ruling within 10 days of the request on whether it deems the case to be urgent.

5. The panel shall interpret the provisions referred to in Article 14.2 in accordance with customary rules of interpretation of public international law, including those set out in the *Vienna Convention on the Law of Treaties*. The panel shall also take into account relevant interpretations in reports of Panels and the Appellate Body adopted by the WTO DSB. The rulings of the arbitration panel cannot add to or diminish the rights and obligations provided for in the provisions referred to in Article 14.2.

SUB-SECTION 2: COMPLIANCE

ARTICLE 14.11: Compliance with the arbitration panel ruling

The responding Party shall take any measure necessary to comply with the arbitration panel ruling. No later than 20 days after the receipt of the arbitration panel ruling by the Parties, the responding Party shall inform the other party and the [institutional body] of its intentions in respect of this.

ARTICLE 14.12: The reasonable period of time for compliance

1. If immediate compliance is not possible, no later than 20 days after the receipt of the notification of the arbitration panel ruling by the Parties, the responding Party shall notify the complaining Party and the [institutional body] of the time it will require for compliance (reasonable period of time).

2. In the event of disagreement between the Parties on the reasonable period of time in which to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of the receipt of the notification made under paragraph 1 by the responding Party, request in writing the arbitration panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the [institutional body]. The arbitration panel shall notify its ruling to the Parties and to the [institutional body] within 30 days from the date of submission of the request.

3. The reasonable period of time may be extended by mutual agreement of the Parties.

4. At any time after the midpoint in the reasonable period of time and at the request of the complaining party, the responding party shall make itself available to discuss the steps it is taking to comply with the arbitration panel ruling.

5. The responding Party shall notify the other Party and the [institutional body] before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.

ARTICLE 14.13: Temporary remedies in case of non-compliance

1. If:

   a) the responding Party fails to notify its intention to comply with the panel ruling under Article 14.11 or the time it will require for compliance under Article 14.12.1, or

   b) at the expiry of the reasonable period of time:
   - the responding Party fails to notify any measure taken to comply with the arbitration panel ruling, or

- it is otherwise established[67] that the responding Party has not taken any measure to comply with the arbitration panel ruling, or any measure taken to comply is inconsistent with that Party's obligations under the provisions referred to in Article 14.2,

the complaining Party shall be entitled to suspend obligations or receive compensation.

2. (a) Before suspending obligations, the complaining Party shall notify the responding Party and the [institutional body] of its intention to do so, including in the notification the level of obligations it intends to suspend.

(b) [Except as otherwise provided in this Agreement,] The suspension of obligations may concern any provision referred to in Article 14.2 and shall be limited at a level equivalent to the nullification or impairment caused by the violation.

(c) If at the expiry of the reasonable period of time the measure taken to comply does not exist or does not comply with the arbitration panel ruling, the level of the nullification and impairment shall be calculated starting from the date of notification of the arbitration panel report to the Parties.

(d) The complaining Party may implement the suspension 10 working days after the date of receipt of the notification by the responding Party, unless a Party has requested arbitration under paragraphs 3 and 4.

3. Any disagreement between the Parties concerning the existence of any measure taken to comply or its consistency with the provisions referred to in Article 14.2 ("disagreement on compliance"), or on the equivalence between the level of suspension and the nullification or impairment caused by the violation ("disagreement on equivalence"), shall be referred to the arbitration panel.

4. The panel shall be reconvened in writing through a request notified to the panel, the other Party and the [institutional body]. In case of a disagreement on compliance, the panel shall be reconvened by the complaining Party. In case of a disagreement on equivalence, the panel shall be reconvened by the responding Party. In case of disagreements on both compliance and on equivalence, the Panel shall rule on the disagreement on compliance before ruling on the disagreement on equivalence.

5. The panel shall notify its ruling to the Parties and to the [institutional body]:
- within 90 days of its request, in case of a disagreement on compliance;
- within 30 days of its request, in case of a disagreement on equivalence;
- within 120 days of its request, in case of a disagreement on both compliance and equivalence.

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67 By admission or through a ruling of the arbitration panel on compliance referred to in paragraph 5.

6. Obligations shall not be suspended until the arbitration panel has delivered its ruling, and any suspension shall be consistent with the arbitration panel ruling.

7. The suspension of obligations shall be temporary and shall be applied only until any measure found to be inconsistent with the provisions referred to in Article 14.2 has been withdrawn or amended so as to bring it into conformity with those provisions, as established under Article 14.14, or until the Parties have settled the dispute.

8. At any time, the complaining party may request the responding party to provide an offer for temporary compensation and the responding party shall present such offer.

ARTICLE 14.14: Review of any measure taken to comply after the suspension of obligations

1. The responding Party shall notify the other Party and the [institutional body] of any measure it has taken to comply with the ruling of the arbitration panel and of its request for an end to the suspension of obligations applied by the complaining Party.

2. If the Parties do not reach an agreement on the compatibility of the notified measure with the provisions referred to in Article 14.2 within 60 days of the date of receipt of the notification, the complaining Party shall request in writing the arbitration panel to rule on the matter. Such request shall be notified simultaneously to the other Party and to the [institutional body]. The arbitration panel ruling shall be notified to the Parties and to the [institutional body] within 90 days of the date of submission of the request. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions referred to in Article 14.2, the suspension of obligations shall be terminated.

SECTION 4
FINAL PROVISIONS

ARTICLE 14.15: RULES OF PROCEDURE

Dispute settlement procedures under this Chapter shall be governed by the Rules of Procedure annexed to this Agreement, unless the Parties agree otherwise.

ARTICLE 14.16: PRIVATE RIGHTS

1. Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law, nor as permitting this Agreement to be directly invoked in the domestic legal systems of the Parties.

2. No Party may provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

ARTICLE 14.17: MUTUALLY AGREED SOLUTIONS

The Parties may reach a mutually agreed solution to a dispute under this Chapter at any time. They shall notify the [institutional body] and the arbitration panel of any such solution. Upon notification of the mutually agreed solution, the arbitration panel shall terminate its work and the procedure shall be terminated.

Kommentiert [AL24]: EU agreed to the deletion as part of a deal between Chief negotiators in February 2014

Kommentiert [TS-25]: Suggest dropping in exchange for deletion of Canada's para. 2 and given agreement on extent of obligation provision

RULES OF PROCEDURE AND CODE OF CONDUCT

ANNEX I

RULES OF PROCEDURE
FOR ARBITRATION

GENERAL PROVISIONS

1. In [Chapter 14 (Dispute Settlement)] and under these rules:

   "adviser" means a person retained by a Party to advise or assist that Party in connection with the arbitration panel proceeding;

   "member" or "arbitrator" means a member of an arbitration panel established under Article 14.7;

   "assistant" means a person who, under the terms of appointment of an arbitrator conducts research for or provides assistance to the member;

   "complaining Party" means any Party that requests the establishment of an arbitration panel under Article 14.6;

   "responding Party" means the Party that is alleged to be in violation of the provisions referred to in Article 14.2

   "arbitration panel" means a panel established under Article 14.7; *[joint comment: we may revise terminology on panel and panelists at a later stage]*

   "representative of a Party" means an employee or any person appointed by a government department or agency or any other public entity of a Party who represents the Party for the purposes of a dispute under this Agreement;

   "day" means a calendar day, unless otherwise specified;

   "legal holiday" means every Saturday and Sunday and any other day designated by a Party as a holiday for the purposes of these rules.

2. The responding Party shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organisation of hearings, unless otherwise agreed. However, the Parties shall bear equally the administrative expenses of the dispute settlement proceedings as well as the remuneration and all travel, lodging and general expenses of the panellists and their assistants.

NOTIFICATIONS

3. Unless agreed otherwise, the Parties and the arbitration panel shall transmit any request, notice, written submission or other document by e-mail, with a copy submitted on the same day by facsimile transmission, registered post, courier, delivery against receipt or any other means of telecommunication that provides a record of its sending. Unless proven otherwise, an e-mail message shall be deemed to be received on the same date of its sending.

4. When communicating in writing, a Party shall provide an electronic copy of its communications to the other Party and to each of the arbitrators.

5. Before the entry into force of this Agreement, each Party shall inform the other of its designated point of contact for all notifications.

6. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitration panel proceeding may be corrected by delivery of a new document clearly indicating the changes.

7. If the last day for delivery of a document falls on an official holiday or rest day in Canada or in the European Union, the document may be delivered on the next business day. No documents, notifications or requests of any kind shall be deemed to be received on a legal holiday.

8. [Depending on the object of the provisions under dispute, all requests and notifications addressed to the [institutional body to be defined] in accordance with [Chapter X (Dispute Settlement)] shall also be copied to the other relevant [institutional bodies]] *[EU comment: depending on the institutional set up of the agreement and of the chapter]*.

COMMENCING THE ARBITRATION

9. Unless the Parties agree otherwise, they shall meet the arbitration panel within seven working days of its establishment in order to determine such matters that the Parties or the arbitration panel deem appropriate, including the remuneration and expenses to be paid to the arbitrators, which shall be in accordance with WTO standards. Remuneration for each arbitrator's assistant shall not exceed 50% of the total remuneration of that arbitrator. Members of the arbitration panel and representatives of the Parties may take part in this meeting via telephone or video conference.

10. (a) Unless the Parties agree otherwise, within five working days of the date of the selection of the arbitrators, the terms of reference of the arbitration panel shall be:
"to examine, in the light of the relevant provisions of the Agreement, the matter referred to in the request for establishment of the arbitration panel, to rule on the compatibility of the measure in question with the provisions referred to in Article 2 of [Chapter X (Dispute Settlement)] and to make a ruling in accordance with Article 8 of [Chapter X (Dispute Settlement)]."

(b) The Parties shall notify the agreed terms of reference to the arbitration panel within three working days of their agreement.

(c) The panel may rule on its own jurisdiction.

INITIAL SUBMISSIONS

11. The complaining Party shall deliver its initial written submission no later than 10 days after the date of establishment of the arbitration panel. The responding Party shall deliver its written counter-submission no later than 21 days after the date of delivery of the initial written submission.

WORKING OF ARBITRATION PANELS

12. The chairperson of the arbitration panel shall preside at all its meetings. An arbitration panel may delegate to the chairperson authority to make administrative and procedural decisions.

13. Hearings shall take place in person. Unless otherwise provided in [Chapter 14 (Dispute Settlement)] and without prejudice to paragraph 31, the arbitration panel may conduct its other activities by any means, including telephone, facsimile transmissions or computer links.

14. Only arbitrators may take part in the deliberations of the arbitration panel, but the arbitration panel may permit its assistants to be present at its deliberations.

15. The drafting of any ruling shall remain the exclusive responsibility of the arbitration panel and must not be delegated.

16. Findings, determinations and recommendations of the panel under Articles [14.9] and [14.10] should be made by consensus, but if consensus is not possible then by a majority of its members.

17. Panel members may not furnish separate opinions on matters not unanimously agreed.

18. Where a procedural question arises that is not covered by the provisions of [Chapter 14 (Dispute Settlement)] and its annexes, the arbitration panel, after consulting the Parties, may adopt an appropriate procedure that is compatible with those provisions and that ensures equal treatment between the Parties.

19. When the arbitration panel considers that there is a need to modify any time-limit applicable in the proceedings or to make any other procedural or administrative adjustment as may be required for the fairness or efficiency of the proceedings, it shall inform the Parties in writing of the reasons for the modification or adjustment and of the period or adjustment needed. The arbitration panel may adopt such modification or adjustment after having consulted the Parties.

20. Any time-limit referred to in this chapter may be modified by mutual agreement of the Parties. Upon request of a Party, the arbitration panel may modify the time-limits applicable in the proceedings.

21. The panel shall suspend its work:

    a) at the request of the complaining Party for a period specified in the request but not to exceed 12 consecutive months, and shall resume its work at the request of the complaining Party;
    b) after it has issued its interim report or in the case of proceedings on a disagreement on equivalence under Article 14.13 or proceedings under Article 14.14, only upon the request of both Parties, for a period specified in the request, and shall resume its work at the request of either Party.

If there is no request for the resumption of the panel's work by the end of the period specified in the request for suspension, the procedure shall be terminated. The termination of the panel's work is without prejudice to the rights of either Party in another proceeding on the same matter under this Chapter.

REPLACEMENT

22. If an arbitrator is unable to participate in the proceeding, withdraws, or must be replaced, a replacement shall be selected in accordance with [Article 14.7.3].

23. Where a Party considers that an arbitrator does not comply with the requirements of the Code of Conduct and for this reason must be replaced, that Party shall notify the other Party within 15 days from the time at which it came to know of the circumstances underlying the arbitrator's material violation of the Code of Conduct.

24. Where a Party considers that an arbitrator other than the chairperson does not comply with the requirements of the Code of Conduct, the Parties shall consult and, if they so agree, replace the arbitrator and select a replacement following the procedure set out in [Article 14.7.3].

If the Parties fail to agree on the need to replace an arbitrator, any Party may request that such matter be referred to the chairperson of the arbitration panel, whose decision shall be final.

If, pursuant to such a request, the chairperson finds that an arbitrator does not comply with the requirements of the Code of Conduct, she or he shall draw a new arbitrator by lot from the names on the list referred to in [Article 14.8.1] and on which the original arbitrator was included. If the original arbitrator was chosen by the Parties pursuant to [Article 14.7] of [Chapter X (Dispute Settlement)], the replacement shall be drawn by lot from the individuals proposed by the complaining Party and by the responding Party under [Article 14..8.1 . The selection of the new arbitrator shall be made within five working days of the date of the submission of the request to the chairperson of the arbitration panel.

25. Where a Party considers that the chairperson of the arbitration panel does not comply with the requirements of the Code of Conduct, the Parties shall consult and, if they so agree, shall dismiss the chairperson and select a replacement following the procedure set out in [Article 14.7.3.

If the Parties fail to agree on the need to replace the chairperson, any Party may request that such matter be referred to the two remaining members of the arbitration panel. The decision by these persons on the need to replace the chairperson shall be final.

If these persons decide that the original chairperson does not comply with the requirements of the Code of Conduct, they shall draw a new chairperson by lot among the remaining names on the list referred to in [Article 14.8.1 to act as chairperson. The

selection of the new chairperson shall be made within five working days of the date of the submission of the request referred to in this paragraph.

If these persons cannot reach a decision within 10 days of the matter being referred to them, the procedures set out in Article 14.7 shall apply.

26. The arbitration panel proceedings shall be suspended for the period taken to carry out the procedures provided for in rules 22, 23, 24 and 25.

HEARINGS

27. The chairperson shall fix the date and time of the hearing in consultation with the Parties and the other members of the arbitration panel, and confirm this in writing to the Parties. This information shall also be made publicly available by the Party in charge of the logistical administration of the proceedings, subject to rule 40 (confidentiality).

28. Unless the Parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is Canada and in Ottawa if the complaining Party is the European Union.

29. As a general rule there should be only one hearing. The panel may on its own initiative or on the request of a Party convene one additional hearing when the dispute involves issues of exceptional complexity. No additional hearing shall be convened for the procedures established under Articles 14.13 and 14.14, except in the case of a disagreement on compliance and equivalence.

30. All arbitrators shall be present during the entirety of the hearing.

31. The following persons may attend the hearing, irrespective of whether the proceedings are open to the public or not:

(a) representatives of the Parties;

(b) advisers to the Parties;

(c) administrative staff, interpreters, translators and court reporters; and

(d) arbitrators' assistants.

Only the representatives of and advisers to the Parties may address the arbitration panel.

32. No later than five working days before the date of a hearing, each Party shall deliver to the arbitration panel and to the other Party a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

33. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the responding Party are afforded equal time:

Argument

(a) argument of the complaining Party

(b) argument of the responding Party

Rebuttal Argument

(a) argument of the complaining Party

(b) counter-reply of the responding Party

34. The arbitration panel may direct questions to either Party at any time during the hearing.

35. The arbitration panel, after having received the comments of the Parties, shall issue to the parties a final transcript of each hearing.

36. Each Party may deliver to the arbitrators and to the other Party a supplementary written submission concerning any matter that arose during the hearing within 10 working days of the date of the hearing.

QUESTIONS IN WRITING

37. The arbitration panel may at any time during the proceedings address questions in writing to one or both Parties. Each of the Parties shall receive a copy of any questions put by the arbitration panel.

38. Each Party shall also provide the other Party with a copy of its written response to the questions of the arbitration panel. Each Party shall be given the opportunity to provide written comments on the other Party's reply within five working days of the date of receipt.

TRANSPARENCY AND CONFIDENTIALITY

39 Subject to paragraph 40, each party shall make its submissions publicly available and, unless the Parties decide otherwise, the hearings of the arbitration panel shall be open to the public.

40. The arbitration panel shall meet in closed session when the submission and arguments of a Party contain confidential business information. The Parties shall maintain the confidentiality of the arbitration panel hearings where the hearings are held in closed session. Each Party and its advisers shall treat as confidential any information submitted by the other Party to the arbitration panel which that Party has designated as confidential. Where a Party's submission to the arbitration panel contains confidential information, that Party shall also provide, within 15 days, a non-confidential version of the submission that could be disclosed to the public.

EX PARTE CONTACTS

41. The arbitration panel shall not meet or contact a Party in the absence of the other Party.

42. No member of the arbitration panel may discuss any aspect of the subject matter of the proceedings with a Party or the Parties in the absence of the other arbitrators.

INFORMATION AND TECHNICAL ADVICE

43. On request of a disputing Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, subject to any terms and conditions agreed by the Parties. Any information obtained in this manner must be disclosed to each Party and submitted for their comments.

AMICUS CURIAE SUBMISSIONS

44. Non-governmental persons established in a Party may submit amicus curiae briefs to the arbitration panel in accordance with the following paragraphs.

45. Unless the Parties agree otherwise within five days of the date of the establishment of the arbitration panel, the arbitration panel may receive unsolicited written submissions, provided that they are made within 10 days of the date of the establishment of the arbitration panel, and in no case longer than 15 typed pages, including any annexes, and that they are directly relevant to the issue under consideration by the arbitration panel.

46. The submission shall contain a description of the person making the submission, whether natural or legal, including the nature of that person's activities and the source of that person's financing, and specify the nature of the interest that that person has in the arbitration proceeding. It shall be drafted in the languages chosen by the Parties in accordance with Rules 49 and 50 of these Rules of Procedure.

47. The arbitration panel shall list in its ruling all the submissions it has received that conform to the above rules. The arbitration panel shall not be obliged to address in its ruling the arguments made in such submissions. The arbitration panel shall submit to the Parties for their comments any submission it obtains under this rule.

URGENT CASES

48. In cases of urgency referred to in Article 14.10.4, the arbitration panel, after consulting the Parties, shall adjust the time limits referred to in these rules as appropriate and shall notify the Parties of such adjustments.

TRANSLATION AND INTERPRETATION

49. During the consultations referred to in Article 14.7.2, and no later than the meeting referred to in Rule 9 of these Rules of Procedure, the Parties shall endeavour to agree on a common working language for the proceedings before the arbitration panel.

50. If the Parties are unable to agree on a common working language, each Party shall arrange for and bear the costs of the translation of its written submissions into the language chosen by the other Party. The responding Party shall arrange for the interpretation of oral submissions into the languages chosen by the Parties.

51. Arbitration panel rulings shall be issued in the language or languages chosen by the Parties.

52. Any costs incurred for translation of an arbitration ruling into the language or languages chose by the Parties shall be borne equally by the Parties.

53. A Party may provide comments on the accuracy of the translation of any translated version of a document drawn up in accordance with these rules.

CALCULATION OF TIME-LIMITS

54. All time-limits laid down in this chapter including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days from the day following the act or fact to which they refer, unless otherwise specified.

55. Where, by reason of the application of rule 7 of these Rules of Procedure, a Party receives a document on a date other than the date on which this document is received by the other Party, any period of time that is calculated on the basis of the date of receipt of that document shall be calculated from the last date of receipt of that document.

OTHER PROCEDURES

56. These Rules of Procedure are also applicable to procedures established under Articles 14.13 and 14.14. However, the time-limits laid down in these Rules of Procedure shall be adjusted in line with the special time-limits provided for the adoption of a ruling by the arbitration panel in those other procedures.

57. In the event of the original panel, or some of its members, being unable to reconvene for the procedures established under Article 14.13 and 14.14, the procedures set out in Article 14.7. The time limit for the notification of the ruling shall be extended by 15 days.

ANNEX II

CODE OF CONDUCT FOR MEMBERS OF ARBITRATION PANELS AND MEDIATORS
DEFINITIONS

1. In this Code of Conduct:

(a) "member" or "arbitrator" means a member of an arbitration panel effectively established under [Article 14.7];

[(b) "mediator" means a person who conducts a mediation in accordance with [Article 14.5];]

(c) "candidate" means an individual whose name is on the list of arbitrators referred to in Article [14.8] and who is under consideration for selection as a member of an arbitration panel under Article 14.7];

(d) "assistant" means a person who, under the terms of appointment of a member, conducts, researches or provides assistance to the member;

(e) "proceeding", unless otherwise specified, means an arbitration panel proceeding under [Chapter 14 (Dispute Settlement)];

(f) "staff", in respect of a member, means persons under the direction and control of the member, other than assistants.

RESPONSIBILITIES TO THE PROCESS

2. Every candidate and member shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement mechanism is preserved. Former members must comply with the obligations established in paragraphs 16, 17, 18 and 19 of this Code of Conduct.

DISCLOSURE OBLIGATIONS

3. Prior to confirmation of her or his selection as a member of the arbitration panel under [Chapter 14 (Dispute Settlement)], a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

4. Without limiting the generality of the foregoing, candidates shall disclose the following interests, relationships and matters:

(1) any financial interest of the candidate:

(a) in the proceeding or in its outcome, and

(b) in an administrative proceeding, a domestic court proceeding or another panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;

(2) any financial interest of the candidate's employer, partner, business associate or family member

(a) in the proceeding or in its outcome, and

(b) in an administrative proceeding, a domestic court proceeding or another panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;

(3) any past or existing financial, business, professional, family or social relationship with any interested parties in the proceeding, or their counsel, or any such relationship involving a candidate's employer, partner, business associate or family member; and

(4) public advocacy or legal or other representation concerning an issue in dispute in the proceeding or involving the same goods.

5. A candidate or member shall communicate matters concerning actual or potential violations of this Code of Conduct only to the [institutional body to be defined] for consideration by the Parties.

6. Once selected, a member shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in paragraph 3 of this Code of Conduct and shall disclose them. The disclosure obligation is a continuing duty which requires a member to disclose any such interests, relationships or matters that may arise during any stage of the proceeding. The member shall disclose such interests, relationships or matters by informing the [institutional body to be defined], in writing, for consideration by the Parties.

DUTIES OF MEMBERS

7. Upon selection a member shall be available to perform and shall perform her or his duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence.

8. A member shall consider only those issues raised in the proceeding and necessary for a ruling and shall not delegate this duty to any other person.

9. A member shall take all appropriate steps to ensure that his or her assistant and staff are aware of, and comply with, paragraphs 2, 3, 4, 5, 6, 17, 18 and 19 of this Code of Conduct.

10. A member shall not engage in ex parte contacts concerning the proceeding.

INDEPENDENCE AND IMPARTIALITY OF MEMBERS

11. A member must be independent and impartial and avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.

12. A member shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of her or his duties.

13. A member may not use her or his position on the arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence her or him.

14. A member may not allow financial, business, professional, family or social relationships or responsibilities to influence her or his conduct or judgement.

15. A member must avoid entering into any relationship or acquiring any financial interest that is likely to affect her or his impartiality or that might reasonably create an appearance of impropriety or bias.

OBLIGATIONS OF FORMER MEMBERS

16. All former members must avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decision or ruling of the arbitration panel.

CONFIDENTIALITY

17. No member or former member shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding except for the purposes of that proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

18. A member shall not disclose an arbitration panel ruling or parts thereof prior to its publication in accordance with [Chapter 14 (Dispute Settlement)].

19. A member or former member shall not at any time disclose the deliberations of an arbitration panel, or any member's view.

EXPENSES

20. Each member shall keep a record and render a final account of the time devoted to the procedure and of her or his expenses as well as the time and expenses of his or her assistant.

MEDIATORS

21. The disciplines described in this Code of Conduct as applying to members or former members shall apply, *mutatis mutandis*, to mediators.

ANNEX III

MEDIATION PROCEDURE

ARTICLE 1: OBJECTIVE

1. The objective of this Annex is to facilitate the finding of a mutually agreed solution through a comprehensive and expeditious procedure with the assistance of a mediator.

SECTION A
MEDIATION PROCEDURE

ARTICLE 2: INITIATION OF THE PROCEDURE

1. A Party may request, at any time, that the Parties enter into a mediation procedure. Such request shall be addressed to the other Party in writing. The request shall be sufficiently detailed to present clearly the concerns of the requesting Party and shall:

(a) identify the specific measure at issue;
(b) provide a statement of the alleged adverse effects that the requesting Party believes the measure has, or will have, on trade or investment between the Parties; and
(c) explain how the requesting Party considers that those effects are linked to the measure.

2. The mediation procedure may only be initiated by mutual agreement of the Parties. When a Party requests mediation pursuant to paragraph 1, the other Party shall give good faith consideration to the request and reply in writing within 10 days of receiving it.

ARTICLE 3: SELECTION OF THE MEDIATOR

1. Upon launch of the mediation procedure, the Parties shall agree on a mediator, if possible, no later than 15 days after the receipt of the reply to the request.

2. A mediator shall not be a citizen of either party, unless the parties agree otherwise.

3. The mediator shall assist, in an impartial and transparent manner, the Parties in bringing clarity to the measure and its possible trade effects, and in reaching a mutually agreed solution. The [code of conduct of the dispute settlement chapter] shall apply to mediators. Rules 3 through 8 (notifications) and 49 through 55 (translation and calculation of time limits) of the [Rules of Procedure of the Dispute Settlement Chapter] shall also apply, *mutatis mutandis*.

ARTICLE 4: RULES OF THE MEDIATION PROCEDURE

1. Within 10 days after the appointment of the mediator, the Party having invoked the mediation procedure shall present, in writing, a detailed description of the problem to the mediator and to the other Party, in particular of the operation of the measure at issue and its trade effects. Within 20 days after the date of delivery of this submission, the other Party may provide, in writing, its comments to the description of the problem. Either Party may include in its description or comments any information that it deems relevant.

2. The mediator may decide on the most appropriate way of bringing clarity to the measure concerned and its possible trade-related impact. In particular, the mediator may organize meetings between the Parties, consult the Parties jointly or individually, seek the assistance of or consult with relevant experts[68] and stakeholders and provide any additional support requested by the parties. However, before seeking the assistance of or consulting with relevant experts and stakeholders, the mediator shall consult with the Parties.

3. The mediator may offer advice and propose a solution for the consideration of the Parties which may accept or reject the proposed solution or may agree on a different solution. However, the mediator shall not advise or give comments on the consistency of the measure at issue with this Agreement.

4. The procedure shall take place in the territory of the Party to which the request was addressed, or by mutual agreement in any other location or by any other means.

5. The parties shall endeavour to reach a mutually agreed solution within 60 days from the appointment of the mediator. Pending a final agreement, the parties may consider possible interim solutions, especially if the measure relates to perishable goods.

6. The solution may be adopted by means of a decision of the [FTA joint body]. Either Party may make such solution subject to the completion of any necessary internal procedures. Mutually agreed solutions shall be made publicly available. However, the version disclosed to the public may not contain any information that a Party has designated as confidential.

7. On request of the Parties, the mediator shall issue to the parties, in writing, a draft factual report, providing a brief summary of (1) the measure at issue in these procedures; (2) the procedures followed; and (3) any mutually agreed solution reached as the final outcome of these procedures, including possible interim solutions. The mediator shall provide the parties 15 days to comment on the draft report. After considering the comments of the parties submitted within the period, the mediator shall submit, in writing, a final factual report to the parties within 15 days. The factual report shall not include any interpretation of this Agreement.

[68] Neither Party may object to an expert being consulted in a dispute settlement proceeding under this Chapter or under the WTO Agreement solely on the ground that the expert has been consulted under this paragraph.

8. The procedure shall be terminated:

(a) by the adoption of a mutually agreed solution by the Parties, on the date of adoption.

(b) by a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail;

(c) by a written declaration of a Party after exploring mutually agreed solutions under the mediation procedure and after having considered any advice and proposed solutions by the mediator. Such declaration may not be issued before the period set out in Article 4.5 has expired; or

(d) at any stage of the procedure by mutual agreement of the Parties.

SECTION B
IMPLEMENTATION

ARTICLE 5: IMPLEMENTATION OF A MUTUALLY AGREED SOLUTION

1. Where the Parties have agreed to a solution, each Party shall take the measures necessary to implement the mutually agreed solution within the agreed timeframe.

2. The implementing Party shall inform the other Party in writing of any steps or measures taken to implement the mutually agreed solution.

SECTION C
GENERAL PROVISIONS

ARTICLE 6: CONFIDENTIALITY AND RELATIONSHIP TO DISPUTE SETTLEMENT

1. Unless the Parties agree otherwise, and without prejudice to Article 4(6), all steps of the procedure, including any advice or proposed solution, are confidential. However, any Party may disclose to the public that mediation is taking place. The obligation of confidentiality does not extend to factual information already existing in the public domain.

2. The mediation procedure is without prejudice to the Parties' rights and obligations under the provisions on Dispute Settlement in this Agreement or any other agreement.

3. Consultations under the Dispute Settlement Chapter are not required before initiating the

mediation procedure. However, a Party should normally avail itself of the other relevant cooperation or consultation provisions in this Agreement before initiating the mediation procedure.

4. A Party shall not rely on or introduce as evidence in other dispute settlement procedures under this Agreement or any other agreement, nor shall a panel take into consideration:

(a) positions taken by the other Party in the course of the mediation procedure or information gathered under Article 4.2;
(b) the fact that the other Party has indicated its willingness to accept a solution to the measure subject to mediation; or
(c) advice given or proposals made by the mediator.

5. A mediator may not serve as a panellist in a dispute settlement proceeding under this Agreement or under the WTO Agreement involving the same matter for which he or she has been a mediator.

ARTICLE 7: TIME LIMITS

Any time limit referred to in this Annex may be modified by mutual agreement between the Parties.

ARTICLE 8: COSTS

1. Each Party shall bear its costs of participation in the mediation procedure.

2. The Parties shall share jointly and equally the costs of organisational matters, including the remuneration and expenses of the mediator. Remuneration of the mediator shall be in accordance with that of the Chairperson of an arbitration Panel in [Rule 9 of the Rules of Procedure]

ARTICLE 9: REVIEW

Five years after the date of entry into force of this Agreement, the Parties shall consult each other on the need to modify the mediation mechanism in light of the experience gained and the development of any corresponding mechanism in the WTO.

34. FINAL PROVISIONS

FINAL PROVISIONS

Article X.01: Annexes, Appendices and Footnotes

The Annexes, Appendices, Protocols and footnotes to this Agreement constitute integral parts of this Agreement.

Negotiators' Note for legal scrubbing: if used, add also binding "Joint Declarations"

Article X.02: Amendments

1. The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable internal requirements and procedures, on such date as the Parties may agree.

2. The Trade Committee may decide to amend the Annexes, Appendices, Protocols and Notes of this Agreement. The Parties may approve the decision subject to their respective applicable internal requirements and procedures. The decision shall enter into force on such date as the Parties may agree.

Article X.03: Preference Utilization

For a period of 10 years after the entry into force of this Agreement, the parties shall exchange quarterly figures at the tariff line level for HS chapters 1 to 97, on imports of goods from the other Party that are subject to i) MFN-applied tariff rates, and ii) tariff preferences under this Agreement. This period will be renewed by 5 years unless the Parties jointly decide otherwise. After that, the period may be further extended by mutual agreement of the Parties.

Article X.04: Current account

The Parties shall authorise, in freely convertible currency and in accordance with the provisions of Article VIII of the Articles of the Agreement of the International Monetary Fund, any payments on the current account of the balance of payments between the Parties.

Article X.05: Movement of Capital

The Parties shall consult each other with a view to facilitating the movement of capital between them by continuing the implementation of their policies regarding the liberalisation of the capital and financial account, supporting a stable and secure framework for long term investment.

[Article X.06: Entry into Force

1. The Parties shall approve this Agreement in accordance with their own procedures.

2. This Agreement shall enter into force on the first day of the second month following the date on which the Parties have notified each other that the procedures referred to in the first paragraph have been completed. The Parties may by mutual agreement fix another date.

3. (a) This Agreement shall be provisionally applied from the first day of the month following the date on which the parties have notified each other that their respective relevant procedures have been completed. The Parties may by mutual agreement fix another date.

(b) If a Party cannot provisionally apply certain provisions of this Agreement, it shall so notify the other Party. If the other Party objects to this notification, the Agreement shall not be provisionally applied. If the other Party does not object to this notification within 10 days, the provisions of this Agreement which have not been notified by either Party shall be provisionally applied by both Parties from the first day of the month following this notification, provided the Parties have exchanged notifications under sub-paragraph (a).

(c) The provisional application of the Agreement may be terminated by written notice of either Party. Such termination shall take effect on the first day of the second month following notification.

(d) If this Agreement, or certain provisions thereof, is provisionally applied, the term "entry into force of this Agreement" shall be understood to mean the date of provisional application. The [Trade Committee] and other bodies established by this Agreement may exercise their functions during the provisional application of the Agreement. If the provisional application of the Agreement is terminated under sub-paragraph (c), any decisions adopted in the exercise of these functions will cease to be effective.

4. The Parties shall submit notifications under this article to the General Secretariat of the Council of the European Union and Canada's Department of Foreign Affairs, Trade and Development or their respective successors.]

Negotiators' note: article to be reviewed once term 'Party' has been defined.

Article X.07: Relationship with Other Agreements

1. This Agreement replaces the agreements between Member States of the European Union and Canada listed in Annex (Y). The provisions of such agreements shall cease to apply from the date of entry into force of this Agreement.

2. In the event of the provisional application in accordance with [paragraph 3(a) of Article X:06 (Entry into Force)] of this Agreement, the application of the provisions of the agreements listed in Annex (Y), as well as the rights and obligations derived therefrom, shall be suspended as of

the date of provisional application. In the event the provisional application of this Agreement is terminated, the suspension shall cease and the agreements listed in Annex Y shall have effect.

3. Notwithstanding paragraphs 1 and 2, a claim may be submitted pursuant to the provisions of an agreement listed in Annex (Y), regarding treatment accorded while the said agreement was in force, pursuant to the rules and procedures established in the agreement, and provided that no more than three (3) years have elapsed since the date of suspension of the agreement pursuant to paragraph 2 or, if the agreement is not suspended pursuant to paragraph 2, the date of entry into force of this Agreement.

4. Notwithstanding paragraphs 1 and 2, if the provisional application of this Agreement is terminated and it does not enter into force, a claim may be submitted pursuant to the provisions of this Agreement, regarding any matter arising during the period of the provisional application of this Agreement, pursuant to the rules and procedures established in this Agreement, and provided no more than three (3) years have elapsed since the date of termination of the provisional application.

5. For the purposes of this Article, the definition of "entry into force of this Agreement" provided for in [paragraph 3(d) of Article X.06 (Entry into Force)] shall not apply.

Article X.08: Termination

1. This Agreement may be terminated by either Party by giving notice in writing under this article to the General Secretariat of the Council of the European Union and Canada's Department of Foreign Affairs, Trade and Development or their respective successors. It shall cease to be in force 6 months after the date of the notice. The Party giving a notice of termination shall also provide the Joint Committee with a copy of the notice.

2. Notwithstanding paragraph 1, in the event that the present Agreement is terminated, the provisions of [Chapter X Investment] shall continue to be effective for a further period of 20 years from that date in respect of investments made before the date of termination of the present Agreement. This paragraph shall not apply in the case of the provisional application of this Agreement.

Article X.09: Accession of new Member States of the European Union

1. The EU shall notify Canada of any request by a state for accession to the EU.

2. During the negotiations between the EU and the state seeking accession, the EU shall:

   (a) provide, upon request of Canada, and to the extent possible, any information regarding any matter covered by this Agreement; and

   (b) take into account any concerns expressed by Canada;

3. The EU shall notify Canada of the entry into force of any accession to the EU.

4. Sufficiently in advance of the date of accession of a state to the EU, the Joint Committee shall examine any effects of such accession on this Agreement and shall decide on any necessary adjustment or transition measures.

Negotiators' note for legal scrubbing: Verify the link with amendments and decisions.

[5. For matters within its competence, any new Member State of the EU shall accede to this Agreement from the date of its accession to the EU by means of a clause to that effect in the act of accession to the EU. If the act of accession to the EU does not provide for such automatic accession of the EU Member State to this Agreement, the EU Member State concerned shall accede to this agreement by depositing an act of accession to this agreement with the General Secretariat of the Council of the European Union and Canada's Department of Foreign Affairs, Trade and Development, or their respective successors.]

Comment: this paragraph depends on whether this agreement will include matters under Member States' competence

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at _____, this _____ day of 20XX in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish languages, each version being equally authentic.

_____	_____
For Canada	For the EU

ANNEX (Y)
LIST OF EU MEMBER STATES BILATERAL INVESTMENT TREATIES WITH CANADA

Agreement between the Government of the Republic of Croatia and the Government of Canada for the Promotion and Protection of Investments - signed on 03/02/1997.

Agreement between the Czech Republic and Government of Canada for the Promotion and Protection of Investments - signed on 06/05/2009.

Agreement between the Government of the Republic of Hungary and the Government of Canada for the Promotion and Reciprocal Protection of Investments - signed on 03/10/1991.

Agreement between the Government of the Republic of Latvia and the Government of Canada for the Promotion and Protection of Investments - signed on 05/05/2009.

Foreign Investment Insurance Agreement between Canada and Malta – signed on 24/05/1982.

Agreement between the Government of the Republic of Poland and the Government of Canada for the Reciprocal Promotion and Protection of Investments - signed on 06/04/1990.

Agreement between the Government of Romania and the Government of Canada for the Promotion and Reciprocal protection of investments – signed on 08/05/2009.

Agreement between the Slovak Republic and the Government of Canada for the Promotion and Protection of Investments - signed on 20/07/2010.

35. SERVICES AND INVESTMENT

Note: Services and Investment Reservations are attached separately

36. Joint Declarations Concerning the Principality of Andorra and the Republic of San Marino

JOINT DECLARATION concerning the Principality of Andorra

1. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonized System shall be accepted by Canada as originating in the EU within the meaning of this Agreement, provided that the customs union established by the Council Decision of 26 November 1990 on the conclusion of an agreement in the form of an exchange of letters between the European Economic Community and the Principality of Andorra remains in force.

2. The [Protocol/Chapter] on Rules of Origin shall apply mutatis mutandis for the purpose of defining the originating status of the above-mentioned products.

JOINT DECLARATION concerning the Republic of San Marino

1. Products originating in the Republic of San Marino shall be accepted by Canada as originating in the EU within the meaning of this Agreement, provided that the Agreement on Cooperation and Customs Union of 16 December 1991 concluded between the European Economic Community and the Republic of San Marino remains in force.

2. The [Protocol/Chapter] on Rules of Origin shall apply mutatis mutandis for the purpose of defining the originating status of the above-mentioned products.

3. Paragraph 1 does not apply to products that were covered by the *Treaty establishing the European Coal and Steel Community*.

   [Joint negotiators note: This paragraph can be removed upon confirmation by the EU during the legal review that its Customs Union with the Republic of San Marino covers on a duty free basis trade in goods that were covered by the Treaty establishing the European Coal and Steel Community].

37. Declarations on TRQ Administration

DECLARATION ON TARIFF RATE QUOTA ADMINISTRATION

EU TRQ administration for beef, veal and pork under CETA:

General overall principle that tariff quota administration should be as conducive to trade as possible. More specifically, it must not impair or nullify the market access commitments negotiated by Parties, it must be transparent, predictable, minimize transactional costs for traders, maximize fill rates and aim to avoid potential speculation.

1. Structure of Import Licensing System

A Quarterly sub periods with carryover between periods for unused quantities

- In each of the four quarters of the marketing year, 25% of the annual TRQ volume will be made available for license applications.
  - Any quantities remaining available at the end of one quarter will be automatically rolled over into the subsequent period until the end of the marketing year.

B Application period for import licenses

  - Applications for import licenses will be accepted up to 45 calendar days preceding the beginning of each quarter and import licenses shall be issued no less than 30 calendar days before the quarter begins.
- Should demand for licenses during the application period exceed the quantities available for that quarter, licences will be attributed on a prorata basis.
  - Should the available quantity for any quarter not be fully subscribed during the application period, then the remaining quantity will be made available for eligible applicants to apply for on demand for the rest of that quarter. Import licenses will be issued automatically on demand until the available quantity has been fully subscribed for that period.

C Validity of licenses

- Import licenses will be valid for 5 months from the date of the beginning of the quarter for which the import license is issued, or the date of issue, whichever is later, and up to the end of the marketing year
  - Import licenses may be used at any EU customs entry point and for multiple shipments.

2. Eligibility Criteria:

The eligibility criteria/allocation method should result in the quota going to those that are most likely to use it and must not create barriers to imports.

- **For the application period**, eligible applicants would include historical importers of beef, bison and veal for beef imports and beef, bison, veal and pork for pork imports.
- **In any quarter following the application period when licenses are made available on demand** the eligible applicants criteria will be expanded to include wholesalers and accredited meat processors (establishments approved under EC Reg 853/2004 or equivalent).

3. Securities:

A Securities tied to import licenses applications

- A security of not more than 95 euro per tonne of beef and 65 euro per tonne of pork will be lodged with the application for a license.

B Transfer of license and corresponding security

- Unused license shall not be transferred.

C Return of license and corresponding security

- Unused license quantities may be returned before expiration and up to 4 months prior to the end of the marketing year. Each license holder may return up to 30% of their individual license quantity. When such a quantity is returned, 60% of the corresponding security is released.
- All returned quantities will be immediately made available to other eligible applicants to apply for on demand for the rest of that quarter, and will be rolled-over to subsequent quarters if not requested.

D Release of Security and release of full security when 95% of imports occur

- Securities shall be proportionally released each time physical imports have taken place.
- Once 95% of an importer's individual license quantity is physically imported the full security shall be released.

Final 1 August 2014

DECLARATION ON TARIFF RATE QUOTA ADMINISTRATION

CANADIAN TRQ Administration for cheese under CETA

General overall principle that tariff quota administration should be as conducive to trade as possible. More specifically, it must not impair or nullify the market access commitments negotiated by Parties, it must be transparent, predictable, minimize transactional costs for traders, maximize fill rates and aim to avoid potential speculation.

The eligibility criteria/allocation method should result in the quota going to those that are most likely to use it and must not create barriers to imports.

Structure of Import Licensing system

1) The annual TRQ access quantity will be allocated each year amongst eligible applicants.

2) The TRQ allocation method will allow for new entrants each year. During the implementation period, at least 30% of the TRQ will be available to new entrants every year. After that period, at least 10% of the TRQ access quantity will be available for new entrants.

3) The TRQ will be allocated on a calendar year basis. Applications from all interested parties will be received and processed according to the provisions of the Bali Declaration, with a period of four to six weeks to submit applications. Imports will be able to start from the first day of the year.

4) In the event that the TRQ is not fully allocated following the application process, available quantities will immediately be offered to eligible applicants on the basis of a prorata of their allocation, or on demand if quantities still remain after the first offer.

Eligibility criteria

5) To be eligible, an applicant would at a minimum have to be a Canadian resident and be active in the Canadian cheese sector regularly during the year.

6) During the implementation period, a new entrant would be an eligible applicant who is not an allocation holder under Canada's WTO cheese TRQ.

7) After that period, a new entrant would be an eligible applicant who is not an allocation holder under Canada's WTO cheese TRQ or did not receive an allocation of the CETA TRQ in the preceding year. A new entrant would be considered as such for a period of three years.

8) Once an applicant is no longer considered to be a "new entrant", he would be treated on an equal footing as all other applicants.

9) Canada may consider capping the size of the allocations to a specific percentage if it is deemed necessary to foster a competitive, fair, and balanced import environment.

Use of import allocations and Import permits

10) Allocations will be valid for a year (from January 1 to December 31).

11) To ensure that imports are aligned with domestic market conditions and to minimize barriers to trade, allocation holders will normally be free to use their allocation to import any product covered by the TRQ at any time during the year.

12) On the basis of their allocation, importers will submit an import permit request for each shipment of product covered by the TRQ that they wish to bring into Canada. Import permits are normally issued automatically upon request through the Government of Canada electronic permitting system. Under current policies, import permits may be requested up to 30 days before the planned date of entry and are valid for a period of five days before and 25 days from the date of entry. Permits are not transferable. Permits may be amended and/or cancelled.

13) Transfers of allocations may be authorized.

14) A company that uses less than 95% of its allocation in any one year may be subject to an underutilization penalty in the next year, whereby it will receive an allocation which reflects the actual level of use. Those companies affected will be advised prior to the final allocation of the TRQ.

15) Allocation holders will be able to return any unused portion of their allocation up to a given date. Returned quantities are considered used for the purpose of the application of the underutilization penalty. Chronic returns may be penalized.

16) Returned quantities will normally be made available to interested allocation holders who have not returned the day after the return deadline. If quantities remain after that, they may be offered to other interested parties.

17) The return deadline will be set at a date that is early enough to give sufficient time for use of the returned quantities, while being late enough to allow allocation holders to establish their import needs until the end of the year (potentially around the middle of the quota year).

38. Declaration Concerning Rules of Origin for Textiles and Apparel

Canada-EU Declaration

Concerning Rules of Origin for Textiles and Apparel

[To be appended to the CETA]

Under this agreement, trade in textiles and apparel between the Parties is based on the principle that double transformation confers origin, as reflected in Annex 1(Product-Specific Rules of Origin).

Nevertheless, for a number of reasons, including the absence of a negative cumulative effect on EU producers, the Parties have agreed, by derogation, to limited, reciprocal origin quotas to the otherwise applicable CETA rules of origin for textiles and apparel. The origin quotas are expressed in terms of volumes classified by product category, and includes considering dyeing as equivalent to printing, for a limited and clearly identified range of product categories. The Parties hereby affirm that the origin quotas, which have an exceptional character, will be applied in strict adherence to the CETA Rules of Origin Protocol.

39. Declaration by Canada on the ICA

"Upon implementation of the Canada-European Union Comprehensive Economic and Trade Agreement ("CETA"), Canada will increase the threshold for review under the *Investment Canada Act* ("*ICA*") to CAD $1.5 billion.

Any future amendments to the *ICA* would be subject to the requirement that such amendments could not decrease the conformity of the *ICA* with CETA investment obligations.

As set out in Canada's ICA reservation, the higher threshold will apply to an acquisition of a Canadian enterprise by a EU investor that is not a state enterprise. The determination of whether the acquirer is an EU investor would be based on whether an EU national controls the acquirer in law, or in the absence of a majority ownership, whether EU nationals control the acquirer in fact such as through the ownership of voting interests or the nationality of members of the board of directors. Moreover EU enterprises that are controlled by nationals from Canada's existing FTA partners with which Canada has taken investment commitments would also benefit from the higher threshold.

Canada will be amending its *ICA* to provide for changes necessary to provide for the higher review threshold upon entry into force of the CETA."

40. Joint Declaration

Joint Declaration

1. The European Union recalls the obligations of those states that have established a Customs Union with the European Union to align their trade regime to the one of the European Union, and for certain of them, to conclude preferential agreements with countries having preferential agreements with the European Union.

2. In this context, Canada shall endeavour to start negotiations with those states which as of the date of entry into force of this Agreement

a) have established a Customs Union with the EU, and

b) whose products do not benefit from the tariff concessions under this Agreement,

with a view to concluding a comprehensive bilateral agreement establishing a free trade area in accordance with the relevant WTO provisions on goods and services provided that those states are willing to negotiate an ambitious and comprehensive agreement comparable to CETA in scope and ambition. Canada shall endeavour to start negotiations as soon as possible with a view to having such agreement enter into force as quickly as possible after the entry into force of this Agreement.

41. Declaration on Wines and Spirits

***Declaration on Wine and Spirits*:**

Canada and the European Union acknowledge the effort and progress that has been made on Wines and Spirits in the context of the CETA negotiations. These efforts have led to mutually agreed solutions on a number of issues of high importance.

Parties agree to discuss through the appropriate mechanisms, without delay and in view to find mutually agreed solutions, any other issue of concern related to Wines and Spirits, and notably the EU's desire to seek the elimination of the differentiation of provincial mark-ups applied on domestic wines and wines bottled in Canada in private wine outlets.

At the end of the fifth year following the entry into force of this agreement, Parties agree to review the progress made on the elimination of the differentiation referred to in the previous paragraph, based on the examination of all developments in the sector, including the consequences of any granting to third parties of a more favourable treatment in the framework of other trade negotiations involving Canada.

42. Understanding on Courier Services

Understanding on article 1, paragraph 2 (e) of Chapter XX on Cross-border Trade in Services and article 1, paragraph 2 (a) of Chapter XX on Investment

The Parties confirm that courier services are subject to the provisions of Chapter XX on Cross-border Trade in Services and Chapter XX on Investment, subject to applicable reservations as set out in the Parties' schedules. For greater certainty, this does not include the grant of air traffic rights to courier service suppliers. Such rights are subject to the *Agreement on Air Transport between Canada and the European Community and its Member States*.